



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

Hornsea Project Four Offshore Wind Farm

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Business, Energy & Industrial Strategy

VOLUME 3

Examining Authority

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13. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

13.1. INTRODUCTION

Overview

13.1.1. This Chapter sets out the Examining Authority's (ExA) analysis and conclusions in relation to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State (SoS) to perform the duties of the Competent Authority under the Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017 ('the Habitats Regulations').

13.1.2. This Chapter is structured as follows:

- Section 13.2: Findings in relation to Likely Significant Effects (LSE);
- Section 13.3: Conservation objectives for sites and features;
- Sections 13.4 to 1.8: Findings in relation to Adverse Effects on Integrity (AEoI);
- Section 13.9: Engaging with the HRA derogations;
- Section 13.10: Consideration of alternative solutions;
- Section 13.11: Imperative Reasons of Overriding Public Interest (IROPI);
- Section 13.12: Compensatory measures; and
- Section 13.13: HRA conclusions.

13.1.3. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s)¹ and no reasonable scientific doubt remains².

13.1.4. Policy considerations and the legal obligations under the Habitats Regulations are described in Chapter 3 of this Report.

¹ For the purposes of this Chapter, in line with the Habitats Regulations and relevant Government policy, the term 'European sites' includes Special Areas of Conservation (SAC), candidate SACs, possible SACs, Special Protection Areas (SPA), potential SPAs, Sites of Community Importance, listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites. For ease of reading, this Chapter also collectively uses the term 'European site' for 'European sites' defined in the Conservation of Habitats and Species Regulations 2017 and 'European Marine Sites' defined in the Conservation of Offshore Marine Habitats and Species Regulations 2017, unless otherwise stated.

² CJEU Case C-127 / 02 Waddenzee 7 September 2004.

- 13.1.5. The ExA has been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out the duties of the Competent Authority. It has sought evidence from the Applicant and the relevant Interested Parties (IPs), including Natural England (NE) as the Appropriate Nature Conservation Body (ANCB³), through written questions and Issue Specific Hearings (ISH).
- 13.1.6. A number of the HRA matters discussed during the Examination were also relevant to the Environmental Impact Assessment (EIA). Therefore, this Chapter should be read alongside the following chapters of this Report:
- Chapter 7 - Findings and conclusions in relation to marine and coastal processes and sediments;
 - Chapter 8 - Findings and conclusions in relation to marine and coastal ornithology; and
 - Chapter 9 - Findings and conclusions in relation to other marine ecology matters.

RIES and consultation

- 13.1.7. The ExA produced a Report on the Implications for European Sites (RIES) [PD-015], which documented and signposted HRA-relevant information provided in the DCO application and Examination representations up to Deadline (D) 5a (4 July 2022). The RIES was issued to set out the ExA's understanding of HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Development on European sites at that point in time. It also posed a number of questions, predominantly targeted at the Applicant and NE, seeking clarifications on HRA matters.
- 13.1.8. Consultation on the RIES took place between 28 July 2022 and 18 August 2022. Comments were received from the Applicant [REP8-011] and NE [REP8-029]. These comments have been taken into account in the drafting of this Chapter.
- 13.1.9. A number of Examination submissions at D6, D7 and D8 included HRA-relevant information. NE [REP8-029] noted that the RIES did not take account of this information and advised that consultation on the RIES did not adequately discharge the statutory requirement to consult NE on appropriate assessments.
- 13.1.10. Given the amount of information submitted following publication of the RIES, the ExA's recommendation is that the SoS should undertake further consultation to fulfil the duties under Regulation 63(3) of the

³ For the purposes of this Chapter the term 'Appropriate Nature Conservation Body' (ANCB) is used, consistent with the Regulation 5 of The Conservation of Habitats and Species Regulations 2017. The term SNCB has been used elsewhere in this Report to refer to the Statutory Nature Conservation Body which for the purposes of this report means the same as ANCB.

Habitats Regulations and Regulation 28(4) of the Offshore Habitats Regulations.

Relevant application documents

- 13.1.11. The Applicant's HRA application documents comprised a Report to Inform Appropriate Assessment (RIAA) [APP-167 to APP-178], information to support the derogation case and proposed compensation measures [APP-181 to APP-201] and a stand-alone HRA of the proposed derogation and compensatory measures [APP-179 to APP-180]. A number of these documents were revised during pre-Examination and Examination, as detailed in the Applicant's Guide to the Application [REP8-010].
- 13.1.12. These documents are hereafter referred to as 'the Applicant's HRA Report' and specific Examination Library references are provided as appropriate.

Summary of the Applicant's assessment

- 13.1.13. The Applicant's screening conclusions are presented in Section 8 of the RIAA [APP-167, amended by AS-014] and [REP5-012]. Table 4 of the RIAA summarises the sites and features for which LSE from the Proposed Development alone were identified. Section 8.2 detailed the screening undertaken for the Proposed Development in combination with other plans or projects. These sites were assessed by the Applicant to determine if they could be subject to an AEoI as a result of the Proposed Development alone or in combination with other plans and projects, in view of their conservation objectives.
- 13.1.14. The application version of the RIAA [APP-167, amended by AS-014] concluded that the Proposed Development would not result in an AEoI of any European site. Despite this conclusion, the application documents contained derogation information [APP-182, amended by AS-017] and compensation proposals [APP-179] for the kittiwake, gannet, guillemot and razorbill interest features of the Flamborough and Filey Coast Special Protection Area (SPA) on a 'without-prejudice' basis [APP-179 to APP-202], as NE had indicated during pre-application consultation that it could not agree to no AEoI of a number of sites [APP-167, amended by AS-014] and [REP5-012, Table 1].
- 13.1.15. During the pre-Examination phase, the Applicant submitted a position paper concluding that there would be an AEoI due to collision risk to kittiwake in combination with other plans or projects during operation [AS-023]. This conclusion was reflected in the updated RIAA [REP5-012]. The Applicant updated its derogation information and proposed compensatory measures during the Examination.
- 13.1.16. The Applicant's updated RIAA [REP5-012] concluded that the Proposed Development would not result in an AEoI of any other European site.

Summary of HRA matters considered during the Examination

- 13.1.17. The conclusions of the Applicant's assessment were not agreed with the ANCB, NE. The main HRA matters raised by the ExA, NE and the RSPB and discussed during the Examination included:
- subtidal and intertidal benthic ecology:
 - indirect effects from impacts on Smithic Bank⁴; and
 - changes to the hydrodynamic regime as a result of impacts on the Flamborough Front⁵;
 - marine mammals:
 - the need for further noise mitigation;
 - the Applicant's approach to the in-combination assessment;
 - the use of a Site Integrity Plan (SIP) to address in-combination underwater noise impacts;
 - indirect effects on prey availability from impacts on the Flamborough Front; and
 - collision risk with vessels in transit to and from ports;
 - offshore and intertidal ornithology:
 - characterisation of the ornithological baseline;
 - the Applicant's assessment methodology for collision risk, disturbance, displacement and barrier effects;
 - apportionment of baseline bird numbers to the Flamborough and Filey Coast SPA; and
 - indirect effects on prey availability from impacts on the Flamborough Front.
- 13.1.18. These matters are discussed in the Sections below, as appropriate.

13.2. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS (LSE)

- 13.2.1. Under Regulation 63 of the Habitats Regulations (and Regulation 28 of the Offshore Habitats Regulations), the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' and the activities, sites or plans and projects to be included for further consideration within it.
- 13.2.2. The Applicant also submitted a screening exercise for LSE in HRA terms in relation to sites selected by the Applicant as potential HRA

⁴ See Chapter 7 of this Report for a description of Smithic Bank.

⁵ See Chapter 7 of this Report for a description of the Flamborough Front.

compensatory measures [APP-179] and [APP-180]. The screening exercise undertaken is discussed in Section 13.11 of this Report and is not discussed further here.

Relevant UK European sites

- 13.2.3. Section 5 of the HRA Screening Report [REP2-005] detailed the initial selection process undertaken by the Applicant to identify relevant European sites and features for consideration in the LSE screening assessment. The selection process was dependent on the nature of the qualifying feature considered.
- 13.2.4. The Applicant's HRA Report identified 40 European sites (and their qualifying features) in the UK National Site Network⁶ for inclusion in the assessment. These are listed in Table 3 of the HRA Screening Report [REP2-005].
- 13.2.5. The spatial relationship between the Order limits of the Proposed Development and the European sites is shown in Figures A-1 to A-4 of the Report to Inform Appropriate Assessment Part 2: Appendix A: Habitat Regulations Assessment Screening Report ('the HRA Screening Report') [APP-168], as amended [AS-015] and updated [REP2-005]. Table A3 in this document provides a list of the sites illustrated on Figure A-2, as confirmed by the Applicant in its response [REP2-038] to the ExA's first written questions (ExQ1) [PD-006, HRA 1.7]. The proposed locations of the offshore export cable corridor (ECC) and array area are within the Southern North Sea Special Area of Conservation (SAC). The proposed Order limits do not overlap with any other European site, either onshore or offshore.
- 13.2.6. The Proposed Development is not directly connected with, or necessary to, the management of a European site, therefore the relevant SoS must make an appropriate assessment of the implications of the Proposed Development on potentially affected European sites in light of their conservation objectives.

Potential impacts

- 13.2.7. The Applicant's HRA Report grouped the qualifying features of the identified European sites into the following receptor types:
- subtidal and intertidal benthic ecology;
 - marine mammals;
 - offshore and intertidal ornithology;
 - onshore ecology⁷; and

⁶ The network of European sites in the UK.

⁷ Table 2 of the Applicant's HRA Screening Report [REP2-005] identifies a number of European sites located within a 15km buffer of the onshore Order limits. However, for clarity, the reference to 'onshore' receptor type should be

- migratory fish.

- 13.2.8. This Chapter has a structure reflecting these receptor types for the purposes of reporting, where appropriate. It should be noted that some European sites assessed fall under more than one receptor type.
- 13.2.9. Table 5 of the HRA Screening Report [REP2-005] provided a detailed account of the potential impacts from the Proposed Development on the different receptor types, along with the potential geographical extent of effects. Tables 6 and 7 of [REP2-005] and Table 1 of the HRA Screening Matrices [AS-012] then confirmed which potential impact related to which European site and qualifying feature.
- 13.2.10. The Applicant considered that all potential impacts during the decommissioning phase would be similar to, and potentially less than, those outlined in the construction phase [REP2-005, Tables 5 and 6].
- 13.2.11. In respect of onshore ecology, the Applicant considered effects during the operation and maintenance phase would be similar to, but less than those outlined in the construction phase due to their lesser extent and shorter duration, for example repairing a short section of cable [REP2-005, Table 7].
- 13.2.12. The information relating receptor types to potential impacts is summarised in Table 13.1 below. Not all potential impacts were considered by the Applicant for each qualifying feature, with reasoning provided in the Applicant’s HRA Report. For simplicity, European sites are listed in Table 13.1 if any of the potential impacts were assessed for any of their qualifying features.

Table 13.1: Impact-effect pathways considered by the Applicant’s assessment by receptor type

Receptor type	Potential impacts⁸	Relevant European sites assessed (for LSE alone or in combination)
Subtidal and intertidal benthic ecology	Temporary habitat loss/disturbance	Flamborough Head SAC
	Temporary increase in suspended sediment/smothering	Humber Estuary SPA Humber Estuary SAC Humber Estuary Ramsar site
	Accidental pollution	Moray Firth SAC

inferred as impacts from the onshore elements of the Proposed Development rather than the location of the European site. The only European sites falling into this category are Humber Estuary SPA and Ramsar site.

⁸ Impact is relevant to all phases of the Proposed Development unless explicitly stated. C = Construction. O&M = Operation and Maintenance. D = Decommissioning.

Receptor type	Potential impacts⁸	Relevant European sites assessed (for LSE alone or in combination)
	Spread of invasive non-native species (INNS) through introduction of hard substrate	The Wash and North Norfolk Coast SAC Berwickshire and North Northumberland Coast SAC
	Increased nitrogen deposition ⁹ (C & D)	
	Changes to physical processes (O & M)	
	Long-term physical loss of habitat (O & M)	
	Electromagnetic Fields (EMF) (O & M)	
Marine mammals	Increase in underwater noise	Southern North Sea SAC Moray Firth SAC The Wash and North Norfolk Coast SAC Humber Estuary SAC Humber Estuary Ramsar site Berwickshire and North Northumberland Coast SAC
	Vessel disturbance	
	Vessel collision risk	
	Changes in prey availability and behaviour	
	Accidental pollution	
	Temporary increase in suspended sediment/ smothering (C & D)	
	Long-term physical loss of habitat (O & M)	
Offshore and intertidal ornithology	Direct disturbance and displacement	Greater Wash SPA Flamborough and Filey Coast SPA Coquet Island SPA Farne Islands SPA Hornsea Mere SPA Humber Estuary SPA Humber Estuary Ramsar site Northumbria Coast SPA
	Changes in prey availability and behaviour	
	Risk of collision (O & M)	
	Barrier effect (O & M)	

⁹ Whilst the Applicant's assessment is focussed on qualifying features of European sites, the Applicant also identified a potential LSE on saltmarsh, as a supporting habitat of designated features of the Humber Estuary SPA, due to increased nitrogen deposition during construction. Conversely, the Applicant provided a rationale for not screening for potential effects on habitats supporting designated features of the Greater Wash SPA in Section 8.1.2 of [APP-167]: this was due to factors including lack of connectivity, distance between works and that SPA, and the scale and extent of works along the cable corridor.

Receptor type	Potential impacts ⁸	Relevant European sites assessed (for LSE alone or in combination)
		Teesmouth and Cleveland Coast SPA Northumberland Marine SPA St Abb's Head to Fast Castle SPA Forth Islands SPA Outer Firth of Forth and St Andrew's Complex SPA Fowlsheugh SPA Buchan Ness to Collieston Coast SPA Troup, Pennan and Lion's Heads SPA East Caithness Cliffs SPA North Caithness Cliffs SPA Copinsay SPA Hoy SPA Marwick Head SPA Rousay SPA Calf of Eday SPA West Westray SPA Fair Isle SPA Sumburgh Head SPA Noss SPA Fetlar SPA Hermaness, Saxa Vord and Valla Field SPA Lindisfarne SPA Lindisfarne Ramsar site Tips of Corsemaul and Tom Mor SPA
Onshore Ecology	Temporary habitat loss Temporary disturbance/damage to habitats Habitat fragmentation or severance Visual disturbance to species Noise disturbance to species INNS Accidental release of contaminants	Humber Estuary SPA Humber Estuary Ramsar site

Receptor type	Potential impacts ⁸	Relevant European sites assessed (for LSE alone or in combination)
Migratory fish	Temporary increase in suspended sediment/ smothering	River Derwent SAC Humber Estuary SAC Humber Estuary Ramsar site
	Increase in underwater noise	
	Temporary habitat loss/ disturbance	
	Accidental pollution	

The Applicant's assessment approach

- 13.2.13. The Applicant described how it determined what would constitute a 'significant effect' in Section 6 of its HRA Screening Report [REP2-005]. The Applicant's screening conclusions were presented in Section 8 of the RIAA [APP-167, amended by AS-014] and [REP5-012]. The detail behind this summary was presented in the HRA Screening Matrices [APP-169, superseded by AS-012] and HRA Screening Report [APP-168, amended by AS-015].
- 13.2.14. The Applicant addressed potential in-combination effects arising from the Proposed Development in Section 8.2 of the RIAA [APP-167, amended by AS-014] and [REP5-012], which set out the methodology applied. Section 8.2 was supported by the HRA Screening Matrices [APP-169, amended by AS-012] and HRA Screening Report [APP-168, amended by AS-015].
- 13.2.15. In respect of subtidal benthic ecology, marine mammals and offshore ornithology, the other plans and projects included in the in-combination assessment were set out in Tables 6, 7 and 9 of the RIAA [APP-167, amended by AS-014] and [REP5-012]. In respect of onshore ecology, Section 8.2.5 confirmed that nine projects had been identified for inclusion on the shortlist of projects to be assessed cumulatively for effects on onshore ecology and nature conservation and refers to ES Volume A3, Chapter 3: Ecology and Nature Conservation [APP-027, amended by AS-008] for further information.
- 13.2.16. The projects included in the in-combination assessment carried out by the Applicant were presented in Section 7 of Appendix A of the RIAA [REP2-005] for each of the receptor types assessed. The Applicant applied a 'tiered' approach to the assessment in order to reflect uncertainties around the other projects assessed. All impact-effect pathways identified were considered for their potential contribution to in-combination effects, regardless of whether potential LSE from the Proposed Development alone were identified at the screening stage.

- 13.2.17. The other projects included in the in-combination assessment had been agreed with NE [RR-029] and no comments to the contrary had been submitted by any other IPs. The Applicant updated the scope of the in-combination assessment for the assessment as a whole at D5 in the updated RIAA [REP5-012] to acknowledge the submission of an EIA scoping request for the Northern Endurance Partnership Carbon Storage project. This found no change to the information used in the in-combination assessment for the Proposed Development or to the conclusions drawn.
- 13.2.18. The conclusions of the Applicant's screening exercise from the Proposed Development in combination with other plans or projects were subsequently summarised in Section 8 of the RIAA [APP-167, amended by AS-014] and [REP5-012].

LSE from the Proposed Development alone

- 13.2.19. Table 4 of the RIAA [APP-167, amended by AS-014] and [REP5-012] summarised the sites and features for which LSE from the Proposed Development alone were identified. The Examination matters pertaining to the screening exercise and the ExA's screening conclusions are detailed below.

ExA's consideration of sites for which the Applicant concluded no LSE on all qualifying features

- 13.2.20. The RIAA [APP-167] and [REP5-012] concluded that the Proposed Development would not be likely to give rise to significant effects, either alone or in combination with other plans or projects, on all qualifying features of:
- The River Derwent SAC [AS-012, Matrix 5];
 - Lindisfarne SPA;
 - Lindisfarne Ramsar site; and
 - Tips of Corsemal and Tom Mar SPA.
- 13.2.21. NE [REP8-029] agreed there would be no LSE on the Lindisfarne SPA and Ramsar site and noted that the tips of Corsemal and Tom Mor SPA is in Scotland and therefore not in its remit. The Applicant [REP8-011] confirmed that it had made repeated attempts to consult with NatureScot but had not received a response. The ExA is content that a LSE on these sites can be excluded and therefore they are not considered further in this Chapter.
- 13.2.22. The River Derwent SAC qualifying features include river and sea lamprey. The Applicant [REP2-005] assessed the effects of temporary increases in suspended sediments and smothering, increases in underwater noise, temporary habitat loss or disturbance, and accidental pollution to these features and concluded no LSE [REP2-005, Table 6] [AS-012, Matrix 5]. However, NE [REP8-029] submitted it would expect these features to be considered in the appropriate assessment (ie for there to be a LSE) with

underwater noise, barrier effects and EMF impact pathways being explored.

- 13.2.23. NE also considered [REP8-031], [REP3-015] and [REP8-029] there to be a LSE on the sea lamprey qualifying feature of the Tweed Estuary SAC (a European site not assessed by the Applicant) and on the river and sea lamprey of the Humber Estuary SAC (for which a LSE was excluded for these qualifying features [REP2-005, Table 6], [AS-012, Matrix 6b] and [REP8-029]).
- 13.2.24. The ExA notes that the closest distance between the mouth of the Humber (the access point for lamprey migration) and the ECC is 47 kilometres (km) and the distance between the mouth of the Humber and the array area is 74km [REP2-005]. The ExA is content that, given the zones of influence for potential impacts assessed by the Applicant, there would not be a LSE on lamprey leaving or entering the mouth of the Humber Estuary.
- 13.2.25. The ExA notes NE's advice [REP8-029] that whilst there is considerable information available about the biology of river and sea lamprey in freshwater and estuaries, very little is known about their habits in estuaries and the sea. Consequently, a pathway for impact cannot be ruled out. Nevertheless, no credible evidence was presented to demonstrate that lamprey could be affected out at sea, and the ExA also notes NE's statement [REP8-029] that it considers the risk to these species to be low given the distance between these designated sites and the project. The ExA also agrees with NE that it is not possible to undertake a meaningful assessment of the impacts on migrating lamprey at this time.
- 13.2.26. In respect of EMF, which NE considered to be a key impact pathway to be explored, the ExA notes that this impact pathway was scoped out of the EIA [APP-015, Table 3.8] for fish receptors on the basis that, "*The spatial extent of EMFs will be limited to the immediate vicinity of the cable, and where possible cable burial will be the preferred option for cable protection*". The ExA is content that sea and river lamprey from European sites would not be significantly affected by EMF and considers that LSE can be ruled out for this impact pathway.
- 13.2.27. The ExA is satisfied with the Applicant's conclusions of no LSE to the river and sea lamprey of the River Derwent SAC and Humber Estuary SAC, and the sea lamprey of Tweed Estuary SAC. It considers that the concerns of NE amount to a hypothetical risk without corroborative evidence and does not consider there to be a LSE. Impacts on migratory fish qualifying features are therefore not considered further in this Chapter.

ExA's consideration of sites for which the Applicant concluded LSE on some or all qualifying features

- 13.2.28. The RIAA [APP-167, amended by AS-014] and [REP5-012] concluded that the Proposed Development would be likely to give rise to significant effects on one or more of the qualifying features of the remaining 36 European sites assessed (in the subtidal and intertidal benthic ecology, marine mammal or offshore and intertidal ornithology receptor types).
- 13.2.29. Of these sites, the Applicant concluded there would be no LSE in respect of impacts from the onshore elements of the Proposed Development. This was agreed with NE in its Statement of Common Ground (SoCG) for onshore matters [REP7-062]. The ExA therefore concludes that a LSE on the Humber Estuary SPA and Ramsar site from the onshore works can be excluded and is not considered further in this Chapter.
- 13.2.30. The ExA's consideration of matters debated during the Examination for marine mammals and offshore and intertidal ornithology receptor types are detailed in Tables 13.2 and 13.3 below.

Table 13.2: The ExA’s conclusions regarding screening of LSEs for marine mammals qualifying features for the Proposed Development alone

European site and qualifying feature(s)	Potential impact	Relevant information and ExA consideration	LSE or no LSE?
Southern North Sea SAC - harbour porpoise	Increases in suspended sediment – harbour porpoise (construction)	<p>The Applicant screened out a LSE to harbour porpoise of the Southern North Sea SAC from increases in suspended sediment [REP2-005, Table 6] and [AS-012, Matrix 1]. This was on the basis that harbour porpoise frequently occur in relatively turbid environments and because construction and decommissioning activities will be localised and intermittent in nature. The Applicant cited evidence in the ES [APP-016] for harbour porpoise foraging in low light levels and noted that the species also uses senses other than vision when foraging. NE [REP8-029] stated that “<i>the Hornsea 4 Array lies wholly within the Southern North Sea SAC, and the MDS would permit a large volume of sediment to be disposed within the area during construction</i>”. It expected the impact of increases in suspended sediment to be considered in the HRA.</p> <p>The Applicant’s Marine Processes Technical Report identifies a Zone of Influence for sediment dispersal of 15km for the offshore ECC and 10km for the offshore array [APP-067, Figure 1]. The ExA acknowledges harbour porpoise are a mobile species, however, it considers that a clear LSE impact pathway exists.</p>	LSE
Southern North Sea SAC – harbour porpoise	Changes in prey availability and behaviour - indirect effects on prey availability (herring) from piling noise (construction)	<p>A LSE to harbour porpoise of the Southern North Sea SAC from changes in prey availability was screened out by the Applicant.</p> <p>NE [REP8-029] noted that herring is a key prey item of harbour porpoise. It had concerns that the impacts of piling on herring would result in less food for protected bird and marine mammal species off Flamborough Head and in the North Sea [REP5-112] and [REP8-029].</p> <p>The Applicant assessed the potential impacts of piling on herring in the ES [APP-015] and concluded no significant effect from piling on herring, taking account of a proposed seasonal piling restriction at the offshore High Voltage Alternating</p>	LSE

European site and qualifying feature(s)	Potential impact	Relevant information and ExA consideration	LSE or no LSE?
		<p>Current (HVAC) booster stations (Work No. 3) (secured in the draft DCO through Schedule 12, Part 2 – Condition 23).</p> <p>As detailed in Chapter 9 of this Report, the appropriateness of this restriction was subject to discussion during the Examination. The ExA considers that such a restriction to protect the spawning herring should be considered as mitigation in accordance with case law (People Over Wind and Sweetman v Coillte Teoranta (Case C-323/ 17)).</p> <p>This matter is also applicable to the Flamborough and Filey Coast SPA – see Table 3 below.</p>	
The Wash and North Norfolk SAC – harbour seal	Vessel collision (all phases)	The Applicant initially screened out a LSE to harbour seal from construction collision risk [AS-012, Matrix 4]. However, it later confirmed [REP8-011] that a LSE should be screened in.	LSE

Table 13.3: The ExA’s conclusions regarding screening of LSEs for offshore and intertidal ornithology qualifying features for the Proposed Development alone

European site and qualifying feature (s)	Potential impact	Relevant information and ExA consideration	LSE or no LSE?
Flamborough and Filey Coast SPA – all features	Changes in prey availability and behaviour - indirect effects on prey availability (herring) from piling noise (construction)	NE [REP8-029] noted that herring is a key prey item of all the Flamborough and Filey Coast SPA birds. See Table 2 re Southern North Sea SAC.	LSE
Flamborough and Filey Coast SPA – gannet and kittiwake	Barrier effects (operation and maintenance)	<p>The Applicant [AS-012, Matrix 24] screened out a LSE from barrier effects on gannet and kittiwake during the operation and maintenance phase.</p> <p>NE [REP2-083], [REP3-015] and [REP5-111, HRA 2.5] queried why the RIAA only considers barrier effects on auks and only during the construction phase.</p> <p>The Applicant [REP5-074, HRA 2.5] explained that an assessment of potential barrier effects on gannet and kittiwake for the operation and maintenance phase was presented in ES Volume A2 Chapter 5 Offshore and Intertidal Ornithology [APP-017] and concluded negligible magnitude of impact and therefore neither species were screened in for assessment in the RIAA. It explained that the current (2022) Statutory Nature Conservation Body (SNCB) interim displacement advice note states there is not enough evidence available to separate out and quantify barrier effects separately to displacement effects. Therefore, barrier effects are accounted for in the displacement assessments revised during the Examination [REP5-078], which cover all phases of the Proposed Development.</p> <p>In its response to the RIES [PD-015], NE [REP8-029] reiterated its position that LSE cannot be screened out for all phases of the Proposed Development,</p>	LSE

European site and qualifying feature (s)	Potential impact	Relevant information and ExA consideration	LSE or no LSE?
		however, it was content that barrier effects are accounted for in the displacement assessment for these species.	
Flamborough and Filey Coast SPA – guillemot and razorbill	Impacts on supporting habitat (operation and maintenance)	<p>The Applicant did not assess impacts on supporting habitat. NE suggested [RR-029] that the proximity of the project area to the Flamborough and Filey Coast SPA and the high densities of guillemot and razorbill that appear to be present in August and September, could indicate functional linkages between the area array and the SPA colony that warrant consideration of SPA conservation objectives beyond population abundance (ie in relation to supporting habitats). It considered that the exclusion of birds from the array area would reduce the extent and distribution of their supporting habitat [REP7-104].</p> <p>The ExA notes the Applicant’s response [REP1-038], [REP5-085] and [REP5a-018] that the most important areas of sea for this species are not located in the Hornsea Four array area and in particular are closer to the Flamborough and Filey Coast SPA colony during the breeding period and to a considerable distance to the south of the array area during the post-breeding period. However, given the clear usage of the site, the ExA considers there to be a credible impact pathway.</p>	LSE
Flamborough and Filey Coast SPA – seabird assemblage	Direct disturbance and displacement/ changes in prey availability and behaviour/ collision mortality/ combined collision	<p>The Applicant’s screening matrix [AS-012, Matrix 24] considered impacts on herring gull and puffin of the seabird assemblage only. NE [RR-029, Appendix B] requested full consideration be given to the potential impacts on the seabird assemblage feature of the Flamborough and Filey Coast SPA.</p> <p>The Applicant explained [REP1-038] that it had not addressed impacts on the component species of the seabird assemblage which had already been assessed in the species-specific assessment.</p>	LSE

European site and qualifying feature (s)	Potential impact	Relevant information and ExA consideration	LSE or no LSE?
	and displacement/ barrier effects	The ExA considers that the LSE impact pathways which have been screened in for the component species assessed in the species-specific assessment should also be screened in for the Flamborough and Filey Coast SPA seabird assemblage.	
Greater Wash SPA	Impacts from works in the ECC – marine processes (construction)	<p>The Applicant did not assess effects of changes to physical processes on the Greater Wash SPA [AS-012, Matrix 23].</p> <p>NE considered [RR-029] and [REP8-029] that impacts on the Greater Wash SPA from works in the ECC giving rise to effects on marine processes should be screened in to inform the overall assessment of LSE. However, it confirmed it had no specific concerns.</p> <p>The ExA notes the Applicant’s response [REP1-038] that changes to physical processes from landfall activities would be localised and that works along the ECC would result in short-lived and localised elevated suspended sediment concentrations; as such, no impacts are predicted on the supporting habitats in the Greater Wash SPA. The ExA has considered the evidence presented by the Applicant and NE’s confirmation that it does not have any specific concerns about LSE and is content that further consideration of LSE is not required.</p>	No LSE
Farne Islands SPA - Razorbill (component of the seabird assemblage)	Disturbance and displacement	<p>Table 1 of the RIAA [APP-167, amended by AS-014] and [REP5-012] stated that razorbill, as a component of the seabird assemblage feature of Farne Islands SPA, was not included in the RIAA as it is outside the ‘mean maximum plus 1 standard deviation’.</p> <p>However, NE [RR-029, Appendix B] advised that a LSE from disturbance and displacement of razorbill (a component of the seabird assemblage feature) should be screened in, as for the other auk species, or further evidence provided to clarify why LSE were not triggered.</p>	LSE

European site and qualifying feature (s)	Potential impact	Relevant information and ExA consideration	LSE or no LSE?
		<p>The Applicant reiterated the conclusion of no LSE in 'Razorbill Assessment: Alone and In combination Farne Islands SPA' [REP2-047] and [REP8-011]. It stated that the Farne Islands SPA population of razorbill would be an extremely minor component of the overall North Sea and English Channel Biologically Defined Minimum Population Scale across the wider non-breeding season (an apportionment rate of 0.08% during the migratory seasons and 0.20% during the winter season). Applying NE's range of displacement mortality rates, it predicted mortality of less than one breeding adult bird from the Farne Islands SPA across the non-breeding season. The Applicant concluded that this is so low as to be considered no material contribution to the natural baseline mortality rates at this colony and would not provide any meaningful contribution to in-combination effects.</p> <p>Nevertheless, NE [REP7-071] and [REP8-029] stated there is a clear impact pathway for razorbill and advised that a LSE should be identified.</p> <p>Despite the low numbers of razorbill from the Farne Islands SPA potentially present in the array area, the ExA agrees that there is a potential impact pathway as some individuals may be present in the array area.</p>	

- 13.2.31. The potential for indirect effects as a result of impacts on the Flamborough Front and Smithic Bank was discussed in addition to the matters detailed in Tables 13.2 and 13.3 above. These indirect effects were considered potentially to affect qualifying features of subtidal and intertidal benthic ecology, marine mammals and offshore and intertidal ornithology receptor types.
- 13.2.32. Flamborough Front: the Applicant had excluded the potential for any LSEs resulting from impacts on the Flamborough Front. However, NE and the Marine Management Organisation (MMO), advised by Cefas, [RR-029] and [REP5-107] stated that the Flamborough Front is a 'biodiversity hotspot' and thus the potential for changes resulting from the Proposed Development could have long-term effects on marine primary production and the wider marine ecosystem. They advised that further consideration be given to potential impacts in the context of the HRA, specifically in relation to the Flamborough Head SAC, the Flamborough and Filey Coast SPA, the Humber Estuary SAC, SPA and Ramsar site and the Southern North Sea SAC. Their concerns were that foundation structures could generate turbulent wakes and cold-water plumes in the array that could impact on the form and function of the Flamborough Front and have indirect effects on the hydrodynamic regime and primary productivity.
- 13.2.33. Chapter 7 of this Report provides further details of the concerns relating to impacts on the Flamborough Front discussed during the Examination, which are not repeated here. It is evident, given the extensive debate during Examination, that there are many uncertainties in this area, and it is clearly a matter that the statutory advisors have key concerns about. The ExA considers there to be a credible impact pathway and on this basis the ExA cannot exclude LSE. The European sites and qualifying features for which a LSE is screened in from potential effects on prey availability during operation and maintenance are therefore:
- Southern North Sea SAC – harbour porpoise;
 - Humber Estuary SAC and Ramsar site – grey seal; and
 - Flamborough and Filey Coast SPA – all features (including the seabird assemblage).
- 13.2.34. NE also advised [RR-029] that impacts on the Flamborough Head SAC from changes to the hydrodynamic regime (as a result of potential impacts on the Flamborough Front) should be screened in. The ExA also considers there to be a credible impact pathway and, on this basis, cannot exclude LSE.
- 13.2.35. Smithic Bank: NE [RR-029] raised concerns that changes in elevation of Smithic Bank from cable installation and cable protection, along with alterations to sediment transport due to the Dogger Bank A and B cable crossing, could modify the Holderness shoreline morphology. This could indirectly affect other marine process receptors including the Humber Estuary SAC, SPA and Ramsar site and the Flamborough Head SAC. Furthermore, NE noted the importance of Smithic Bank for sandeel and

other fish species, which are key prey for marine mammals [REP8-029]. This position was refuted by the Applicant [REP1-038].

13.2.36. Chapter 7 of this Report provides further details on the concerns regarding the impacts from the installation of the offshore export cable on Smithic Bank that formed a key part of the Examination discussions, and they are not repeated here. As with the effects on Flamborough Front, the ExA considers there to be a credible impact pathway and on this basis the ExA cannot exclude LSE. The ExA therefore concludes there to be LSEs as follows:

- effects of changes to physical processes on;
 - Flamborough Head SAC;
 - reefs
 - Humber Estuary SAC and Ramsar site;
 - Atlantic salt meadows;
 - *Salicornia* and other annuals colonising mud and sand;
 - sandbanks which are slightly covered by seawater at all times;
 - mudflats and sandflats not covered by seawater at low tide;
 - estuaries; and
 - impacts on the above features in the context of their function as supporting habitat for SPA and Ramsar site features.
- effects of changes to physical processes on supporting habitats of the qualifying features of;
 - Humber Estuary SAC – grey seal.
- effects on primary production and prey availability for;
 - Southern North Sea SAC – harbour porpoise; and
 - Humber Estuary SAC – grey seal.

13.2.37. No further matters relevant to subtidal and intertidal benthic ecology receptor type qualifying features were discussed during the Examination.

LSE from the Proposed Development in combination

13.2.38. The RIAA [APP-167, amended by AS-014] and [REP5-012] concluded that there would be no in-combination effects where an effect from the Proposed Development alone is insufficient to result in potential LSE. Section 8.2.6 confirmed that LSEs for migratory fish have been screened out given the lack of any viable pathway, therefore there would be no in-combination LSE.

13.2.39. In all cases, where the Applicant's screening exercise [APP-168, amended by AS-015] established the potential for LSE to arise from the Proposed Development alone, the potential for in-combination effects was also considered and discussed in the Applicant's RIAA [APP-167, amended by

AS-014] and [REP5-012]. This approach as far as it has a bearing on the screening for LSE was not a matter of dispute during the Examination.

- 13.2.40. The Applicant did not identify any additional LSEs as a result of in-combination effects than those identified as a result of the Proposed Development alone.
- 13.2.41. The ExA, as a matter of principal, disagrees that combining effects that are not LSE automatically means that there can be no in-combination LSE, unless all are trivial and inconsequential. However, in looking at the specifics of this case, and noting that no concerns were raised with the approach, the ExA is content that there are no additional LSEs when the Proposed Development is considered in combination with other plans or projects, compared to the Proposed Development alone.

LSE assessment outcomes

- 13.2.42. The ExA concludes that there are a number of additional LSEs to those identified by the Applicant. The sites, features and impact pathways for which the ExA concludes there to be a LSE from the Proposed Development alone or in combination are provided in Tables 13.4 to 13.7 of this Chapter (see Sections 13.4 to 13.8). These tables consider whether sites and features could be subject to AEOI, in view of their conservation objectives.
- 13.2.43. The ExA also notes that the RIES [PD-015] detailed the following potential impact pathways that were initially screened out by the Applicant and queried by NE, these being:
- impacts from the coastal access ramp [PD-015, Table 3.3, 3.1.4 and 3.3.10]; and
 - impacts on fulmar [PD-015, Table 3.3, 3.3.5].
- 13.2.44. By the close of Examination, NE [REP8-029] had confirmed its agreement that a LSE could be excluded for these pathways, as per the Applicant's original conclusions. Therefore, the ExA is content that further consideration does not need to be given to these matters.
- 13.2.45. The RIES also noted that effects on breeding and non-breeding bittern of the Humber Estuary SPA were not assessed by the Applicant. NE subsequently confirmed [REP8-029] that a LSE can be excluded for bittern in the Humber Estuary SPA.

Non-UK European sites

- 13.2.46. The Applicant's screening assessment also considered European sites outside the UK National Site Network [AS-014, Table 3]. The Applicant identified LSE for twelve sites in European Economic Area (EEA) States, all in relation to potential impacts on grey seal, harbour seal, or both. These are addressed further in Section 13.6 of this Chapter.

- 13.2.47. The Applicant did not identify potential transboundary effects on any other receptor type in non-UK European sites. The Applicant's Transboundary Screening Report [APP-055] explained that this was because it considered there to be no pathway for effects on benthic or intertidal ecology in other EEA States, nor for there to be any connectivity between ornithological sites in other EEA States and the Proposed Development that was significant enough to be considered in the assessment. This conclusion was not disputed by any IPs.
- 13.2.48. The Applicant's Screening Report [AS-014] confirmed that NE had stated during pre-application that it would not be responding on transboundary effects. However, NE confirmed [REP7-071] that it was satisfied that the Applicant had identified all relevant ornithological transboundary sites. The RSPB confirmed in its SoCG [REP1-050] that it agreed with the Applicant's transboundary conclusions in the RIAA.
- 13.2.49. Section 5.2 of the HRA Screening Report [APP-168, amended by REP2-005] described the transboundary consultation undertaken by the Applicant.
- 13.2.50. Under Regulation 32 of the EIA Regulations, eight EEA States were notified by the Planning Inspectorate of the potential for impacts on European sites. These impacts included matters of relevance to European designated sites. The notified sites were Belgium, Germany, France, Ireland, Sweden, the Netherlands, Denmark and Norway.
- 13.2.51. Three EEA States (Denmark, Belgium and Ireland) requested further involvement in the transboundary consultation process and all three provided consultation responses. In its consultation response, the Irish Government noted that it was unlikely that there was a linkage between the Proposed Development and marine mammal populations in Ireland. The Belgian Government responded that it had no comments on the transboundary consultation and did not participate further. The Danish Government's consultation response gave advice on mitigation measures for impacts on marine mammals and offshore ornithology, but it did not specifically refer to impacts on European sites.

13.3. CONSERVATION OBJECTIVES

- 13.3.1. Appendix D of the RIAA [APP-171 to APP-173] summarised site-specific information for all designated sites screened in by the Applicant along with their conservation objectives. Equivalent 'conservation targets' were provided for non-UK European sites. The application documents make reference to NE supplementary advice throughout the assessment.
- 13.3.2. NE [REP8-029] confirmed that the conservation objectives presented in the RIAA were correct, with the exception of Northumberland Marine SPA. The RIAA stated that the conservation objectives for the Northumberland Marine SPA were:

- *"To ensure for the qualifying species that the following are maintained in the long term:*
 - *Population of the species as a viable component of the site;*
 - *Distribution of the species within site;*
 - *Distribution and extent of habitats supporting the species;*
 - *Structure, function and supporting processes of habitats supporting the species; and*
 - *No significant disturbance of the species."*

13.3.3. NE [REP8-029] confirmed that the conservation objectives for the Northumberland Marine SPA have been revised. The ExA notes that these are now to:

- *"Maintain or restore:*
 - *the extent and distribution of the habitats of the qualifying features;*
 - *the structure and function of the habitats of the qualifying features;*
 - *the supporting processes on which the habitats of the qualifying features rely;*
 - *the populations of each of the qualifying features; and*
 - *the distribution of qualifying features within the site."*

13.3.4. The ExA is satisfied that the differences are minor enough to mean that the Applicant's assessment in respect of this site can be relied on to inform the SoS's conclusion. Furthermore, it notes that no concerns were raised in relation to the conclusions drawn in the assessment for the Northumberland Marine SPA.

13.3.5. NE [REP8-029] also highlighted an update to Supplementary Advice on Conservation Objectives (SACOs) for some European sites, as well as SACOs for sites not identified in the RIAA.

13.3.6. The ExA did not identify LSEs for any additional European sites not screened in by the Applicant, therefore is content that all relevant conservation objectives have been presented.

13.4. FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY (AEoI) - INTRODUCTION

Overview of Applicant's assessment

13.4.1. The European sites and qualifying features for which the Applicant identified a LSE were further assessed by the Applicant to determine if they could be subject to AEoI from the Proposed Development, either alone or in combination. The assessment of AEoI was made in light of the conservation objectives for the European sites and relied on the project

commitments detailed in Table 3 of the RIAA [APP-167, amended by AS-014] and [REP5-012]¹⁰.

13.4.2. The application version of the RIAA [APP-167, amended by AS-014] concluded that the Proposed Development would not result in an AEoI of any European site. However, the Applicant reconsidered its RIAA conclusions in light of the SoS's decisions on the Norfolk Boreas and Norfolk Vanguard offshore wind farm projects [REP1-010], [REP2-038] and [AS-023] and concluded that the Proposed Development could result in AEoI of the Flamborough and Filey Coast SPA due to:

- in-combination effects of collision on kittiwake.

13.4.3. This conclusion was reflected in the updated RIAA [REP5-012] and was agreed with NE as the ANCB [REP3-018]. It was not disputed by any other IP.

Approach to in-combination assessment

13.4.4. The Applicant's methodology for the assessment of in-combination effects on integrity is set out in Section 11 of the RIAA [APP-167, amended by AS-014] and [REP5-012]. As with the LSE screening, the in-combination assessment adopts a tiered system to the projects considered, to address differing levels of certainty about their contribution to in-combination effects.

13.4.5. Table 29 lists the other projects considered for each receptor type, excluding ornithology, which is addressed in Section 11.4. Section 8.2 sets out the approach to tiering the projects considered. Comments were received from NE on the tiering approach [RR-029] for marine mammals, as noted in Section 13.6 below.

13.4.6. Where effects from the Proposed Development alone were considered by the Applicant to be trivial and inconsequential, in-combination effects were excluded as the contribution of the Proposed Development would be imperceptible. NE raised concerns about the use of this approach in relation to offshore ornithology [RR-029], as detailed in Section 13.7 of this Chapter.

ExA's consideration of AEoI

13.4.7. The ExA's consideration of AEoI is presented in the following Sections:

- Section 13.5 – subtidal and intertidal benthic ecology;
- Section 13.6 – marine mammals;
- Section 13.7 – offshore and intertidal ornithology; and
- Section 13.8 – AEoI assessment outcomes.

¹⁰ Project commitments included design measures as well as the production of specific management plans.

- 13.4.8. In reaching its conclusions, the ExA has had regard to NE's comment [REP8-029] that a conclusion on AEOI should be made at a feature level, based on all potential impacts on that feature. It acknowledges NE's comment that, "*it is possible that an individual pathway might be considered to have insufficient impact to drive a conclusion of AEOI for a given feature when considered in isolation, but an overall conclusion of AEOI could still be reached when it is considered with all other impact pathways*". Nevertheless, where there has been clear agreement or disagreement for a specific impact pathway, the ExA has identified this in the Report.
- 13.4.9. As with the screening exercise, a number of the debated AEOI spanning different receptor type groups related to the potential for indirect effects as a result of impacts on the Flamborough Front and Smithic Bank. These are discussed below.

The Flamborough Front

- 13.4.10. As noted in Section 13.2 of this Chapter, the ExA screened in the potential for indirect effects on prey availability for qualifying features of the Southern North Sea SAC, Humber Estuary SAC and Ramsar site and the Flamborough and Filey Coast SPA as a result of impacts on the Flamborough Front.
- 13.4.11. Chapter 7 of this Report details the key matters discussed during the Examination regarding the Flamborough Front. In terms of implications for the HRA, the Applicant did not agree that further consideration in the context of HRA was required as the mitigation proposed in its application would reduce impacts and that no new impacts arose that invalidated the HRA submitted with the application [REP5a-017].
- 13.4.12. The Applicant considered [REP5-066] that the quantity of nutrients in the area would not change, therefore it could not see how the primary production would change.
- 13.4.13. In respect of birds, the Applicant's Indirect Effects of Forage Fish and Ornithology [REP5-085] identified Atlantic herring, sandeel and sprat as key forage fish of relevance to qualifying features of the Flamborough and Filey Coast SPA. It stated that nursery grounds for these fish are located across the North Sea, rather than focused on a particular area near the Front system. It concluded that any nutrient and plankton upwelling is associated with the interaction between background hydrodynamic processes and bathymetry and not a function discrete to the Flamborough Front. It acknowledged that the distributions of forage fish and seabird density may be linked to the position of the Flamborough Front at certain times of the year (summer): however, outside the summer, the distributions of forage fish and seabird density may be linked to water depth (bathymetry) and benthic ecology. It noted that the higher seabird density areas to the south of the array area coincide with shallower depth waters, where more of the water column is accessible to seabirds to exploit forage fish more easily than other areas

that have deeper waters. Furthermore, it noted the spatial and temporal aspects of the Flamborough Front are highly variable, thereby making it difficult to conclude strong relations between post-breeding auk dispersal and the formation and extent of the Front. The Applicant concluded that any impacts would not alter biological functioning at a regional sea scale (North Sea), but it would be limited to tens or hundreds of metres around the location of individual foundations.

- 13.4.14. In respect of impacts on marine mammals, the Applicant's response [REP8-011] to the RIES [PD-015] highlighted their large foraging ranges and considered NE had not provided any scientific evidence to counter the Applicant's conclusions.
- 13.4.15. NE [REP6-060] agreed with the Applicant that there was limited direct evidence to explain how important the Flamborough Front is for forage fish, and how it drives the distribution and abundance of forage fish at a more detailed scale. Therefore, it contended that the distinctions made by the Applicant of the relative importance of the proposed array area compared to other locations in the vicinity of the Front should be given limited credence.
- 13.4.16. NE [REP6-060], [REP7-103] and [REP8-029] did not believe the Applicant has provided sufficient evidence to rule out the potential for changes to oceanographic processes that govern the occurrence of the Flamborough Front and more localised but still extensive marine processes. Such processes may have a significant influence on the distribution and abundance of forage fish in the area, which in turn could drive the distribution, abundance and, potentially, survival of piscivorous seabirds and in particular the survival of guillemot and razorbill during the chick rearing and moult period.
- 13.4.17. It considered [REP5-114] there to be, "*the potential for large-scale changes to annual primary productivity due to the presence of the Hornsea Four array, either alone and/ or in-combination with a cluster of OWFs, due to impacts on the Flamborough Front*".
- 13.4.18. The RSPB supported NE's position [REP7-099].

Smithic Bank

- 13.4.19. As noted in Section 13.2 above, NE raised concerns that changes in the elevation of Smithic Bank from cable installation and cable protection, along with alterations to sediment transport due to the Dogger Bank A and B cable crossing, could modify the morphology of the Holderness shoreline and indirectly affect the Humber Estuary SAC, SPA and Ramsar site and the Flamborough Head SAC.
- 13.4.20. Impacts on Smithic Bank were discussed during the Examination, as detailed in Chapter 7 of this Report, alongside information on changes

made by the Applicant to the maximum design scenario (MDS)¹¹. The MMO and NE [REP5-107] and [REP8-031] stated that considerable uncertainty remained in relation to the baseline characterisation of Smithic Bank and advised that further consideration be given to potential impacts in the context of the HRA; however, specific potential impacts in an HRA context were not discussed.

- 13.4.21. Furthermore, NE [REP7-103] highlighted the potential for in-combination effects as a result of cable installation with other developments (listed by NE as Dogger Bank A and B, Scotland England Green Link 2 Cable and Dogger Bank South). It advised that successive cable installations could act cumulatively to alter the morphology of the sandbank through the combined influence of sediment removal and changes to transport pathways and sought a detailed assessment of the cumulative impacts of multiple developments. It also highlighted concerns relating to in-combination impacts from the placement of cable protection.
- 13.4.22. The Applicant [REP8-016] responded that NE's comments lacked specificity, supporting analysis and evidence. It stated that it was unclear what sites, features, pathways and impacts NE was referring to, or why such effects were likely to be significant. It reiterated its conclusion of no AEOI from the Proposed Development alone or in combination in relation to impacts on marine processes.

ExA conclusion on marine processes

- 13.4.23. By the close of Examination, NE remained of the view that it could not rule out AEOIs from indirect effects resulting from impacts of the Proposed Development (alone or in combination with other plans or projects) on both the Flamborough Front and Smithic Bank.
- 13.4.24. As detailed in Chapter 7 of this Report, the ExA agrees that the science is imprecise, and that post-construction monitoring would be appropriate to establish the accuracy of assumptions made in the ES. It is aware of the more stringent requirements of the HRA Regulations as explained in NE's statement [REP8-029] that a HRA, "*needs to be thorough, based on the best available evidence, with no lacunae, and that there needs to be certainty beyond reasonable scientific doubt in its conclusions*". However, it also acknowledges the extensive work undertaken by the Applicant during the Examination to address NE's concerns. The Applicant [REP8-016] stressed that it had exhausted all evidence gathering and presentational avenues and provided far greater detail on the topic than for other projects in the vicinity of the Proposed Development.
- 13.4.25. The ExA agrees with the Applicant that some of NE's comments on marine processes, particularly regarding Smithic Bank, lack specificity on

¹¹ Primarily a 25.8% reduction in maximum volumes for bedform clearance, a reduction in cable protection across Smithic Bank from 10% to 5%, and a reduction in the maximum number of gravity base structures from 110 of the 180 turbine locations to 80.

the features and pathways of effect. The ExA sought clarity on some matters in the RIES [PD-015] but NE did not provide further explicit details about what the exact indirect effects on habitat qualifying features of European sites from impacts on Smithic Bank could be, for example, habitat damage or loss. As such, the ExA has struggled to afford weight to generalised comments.

- 13.4.26. The ExA saw no compelling evidence of likely marine processes or other direct or indirect pathways between Smithic Bank and sensitive European sites in this respect. It sought clarity through questions in the RIES but received no further detail. Similarly, the ExA was not presented with any credible evidence that supporting habitats for any SPA or Ramsar site would be significantly affected by impacts resulting from any changes to Smithic Bank.
- 13.4.27. In respect of the Flamborough Front, the ExA notes that impacts would not occur annually as the Front's location is not fixed. It cannot be concluded with certainty how often, whether or what proportion of the Front would be affected. The ExA notes that the science is imprecise but is satisfied that the impacts would be of a local scale and temporary nature in the context of the whole length of the Front. It saw no compelling evidence to demonstrate that any impacts would substantially exceed the average, long-term annual variability of the Front, that marine mammal and seabird foraging range is defined by the location of the Flamborough Front, or that their food resource as a whole would be affected to such a degree that the integrity of the European site would be compromised.
- 13.4.28. Ultimately, due to the nature of the qualifying features and the imprecise science, the ExA considers that it was not possible for the Applicant to demonstrate with absolute surety that there would be no indirect effects from changes to the Flamborough Front and Smithic Bank. However, given the evidence presented by the Applicant and the independent expert review¹², it considers it most unlikely that any such effects would be of sufficient magnitude to affect the integrity of any European site.
- 13.4.29. Whilst NE highlighted the potential for in-combination effects as a result of marine processes, this was not explored in detail during the Examination as the Applicant found no potential for individual AEoI. The ExA is content with the conclusion.
- 13.4.30. The ExA notes that NE suggested a way forward to address any impacts on European sites from marine process effects whilst acknowledging that it may present some legislative challenges [REP7-103]. As noted above, the ExA finds no likely prospect of AEoI, so it does not accept the need for such steps. In any case, it considers that the acknowledged legislative challenges make the suggestion untenable at this time.

¹² See Chapter 7 of this Report for details of the independent peer review by Professor Mike Elliott [REP5-066].

- 13.4.31. The ExA also notes that the ANCB would be involved in the process of discussing and approving final versions of the various management plans through deemed marine licence (DML) conditions in the recommended DCO, providing further opportunity to influence mitigation and monitoring measures, providing further reassurance about this conclusion.

13.5. FINDINGS IN RELATION TO AEoI – SUBTIDAL AND INTERTIDAL BENTHIC ECOLOGY

- 13.5.1. Sections 10.2 and 11.2 of the RIAA [APP-167, amended by AS-014] and [REP5-012] assessed the LSE pathways on subtidal and intertidal benthic qualifying features of European sites from the Proposed Development alone and in combination, respectively¹³. Impacts were assessed for the:

- Flamborough Head SAC;
- Humber Estuary SAC; and
- Humber Estuary Ramsar site.

AEoI from the Proposed Development alone

Introduction

- 13.5.2. The Applicant concluded that the Proposed Development alone would not result in an AEoI of any of these European sites. This relied on RIAA project commitments [APP-167, Table 3] and [REP5-012] which, alongside design measures, included the production of the following:

- Construction Environmental Management and Monitoring Plan (CEMMP) with a Marine Biosecurity Plan¹⁴;
- Marine Pollution Contingency Plan (MPCP)¹⁵;
- Scour Protection Management Plan¹⁶; and
- Offshore Decommissioning Programme¹⁷.

- 13.5.3. The Applicant maintained this position throughout the Examination.

- 13.5.4. Each qualifying feature and LSE pathway screened in for the above sites is detailed in Table 13.4 below, along with a summary of relevant Examination matters. Pathways denoted with an asterisk (*) are those screened in by the ExA (see Section 13.2 of this Chapter).

¹³ See also Matrices 2, 5b and 6b of [REP1-012].

¹⁴ Secured in the draft DCO through Schedule 11, Part 2 - Condition 13(1)(d)(iii) and Schedule 12, Part 2 - Condition 13(1)(d)(iii).

¹⁵ Secured in the draft DCO through Schedule 11, Part 2 - Condition 13(1)(d)(i) and Schedule 12, Part 2 - Condition 13(1)(d)(i).

¹⁶ Secured in the draft DCO through Schedule 11, Part 2 - Condition 13(1)(e) and Schedule 12, Part 2 - Condition 13(1)(e).

¹⁷ Draft DCO Schedule 11, Part 1(6) states that this would need to be approved by the SoS at the time of decommissioning under section 106 of the Energy Act 2004.

Table 13.4: LSE pathways screened in for subtidal and intertidal benthic ecology qualifying features and relevant Examination matters

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/discussion
Flamborough Head SAC (1.4km from the offshore ECC and 60.2km from the array) [REP1-012, Matrix 2]		
Reefs	Temporary increase in suspended sediment or smothering (all phases)	No concerns raised during the Examination
	Changes to physical processes (from impacts on Smithic Bank) *	See Section 13.4 of this Chapter
	Changes to the hydrodynamic regime as a result of impacts on the Flamborough Front *	See Section 13.4 of this Chapter
	Spread of INNS through introduction of hard substrate (all phases)	No concerns raised during the Examination
	Accidental pollution (all phases)	
Submerged or partially submerged sea caves	Temporary increase in suspended sediment or smothering (all phases)	No concerns raised during the Examination
	Spread of INNS through introduction of hard substrate (all phases)	
	Accidental pollution (all phases)	
Humber Estuary SAC (79.7km from the array area and 32.2km from the offshore ECC) [REP1-012, Matrix 5b]		
Atlantic salt meadows	Nitrogen deposition (construction, decommissioning)	No concerns raised during the Examination
	Changes to physical processes (from impacts on Smithic Bank) *	See Section 13.4 of this Chapter
<i>Salicornia</i> and other annuals colonising mud and sand	Nitrogen deposition (construction, decommissioning)	No concerns raised during the Examination

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/discussion
	Changes to physical processes (from impacts on Smithic Bank) *	See Section 13.4 of this Chapter
Atlantic salt meadows; <i>Salicornia</i> and other annuals colonising mud and sand - as supporting habitat for SPA and Ramsar site features	Nitrogen deposition (construction, decommissioning)	No concerns raised during the Examination
Sandbanks which are slightly covered by seawater at all times	Changes to physical processes (from impacts on Smithic Bank) *	See Section 13.4 of this Chapter
Mudflats and sandflats not covered by seawater at low tide		
Estuaries		
Atlantic Salt Meadows; <i>Salicornia</i> and other annuals colonising mud and sand; Sandbanks which are slightly covered by seawater at all times; Mudflats and sandflats not covered by seawater at low tide; and Estuaries - as supporting habitat for SPA and Ramsar site features	Changes to physical processes (from impacts on Smithic Bank) *	See Section 13.4 of this Chapter
Humber Estuary Ramsar site (77.9km from the array area and 32.2km from the offshore ECC) [REP1-012, Matrix 6b]		
Saltmarsh	Nitrogen deposition (construction, decommissioning)	No concerns raised during the Examination
Saltmarsh - as supporting habitat for SPA and Ramsar site features		
Impacts on the habitat features listed for the Humber Estuary Ramsar site in the context as supporting habitat for designated ornithological features	Changes to physical processes (from impacts on Smithic Bank) *	See Section 13.4 of this Chapter

ExA conclusion on AEoI from the Proposed Development alone

- 13.5.5. No concerns were raised during the Examination in relation to the following LSE pathways which were screened in for one or more of the European site subtidal and intertidal benthic ecology qualifying features:
- spread of INNS through introduction of hard substrate;
 - accidental pollution; and
 - nitrogen deposition.
- 13.5.6. Indirect effects as a result of changes to the Flamborough Front or Smithic Bank remained a matter of dispute at the close of Examination. However, the ExA is content that subtidal and intertidal benthic ecological receptors would not be significantly adversely affected (see Section 13.4 of this Chapter).
- 13.5.7. On the basis of the above, the ExA is satisfied that the Proposed Development alone would not affect the ability of any of the European sites with subtidal and intertidal benthic ecology qualifying features to achieve their conservation objectives. Specifically, it does not consider that the extent, distribution, structure or function of qualifying features would be negatively affected. In addition, it does not identify any potential for the supporting processes on which qualifying natural habitats rely to be significantly affected.
- 13.5.8. Furthermore, the ExA does not consider that the combination of the LSE pathways from the Proposed Development would result in an AEoI of European site subtidal and intertidal benthic features.
- 13.5.9. As a result, the ExA concludes there to be no AEoI of European sites as a result of impacts on any subtidal or intertidal benthic qualifying features from the Proposed Development alone.
- 13.5.10. The ExA is satisfied that all mitigation relied on to reach this conclusion is adequately secured in the recommended DCO.

AEoI from the Proposed Development in combination

Introduction

- 13.5.11. The Applicant assessed in-combination effects in Section 11.2 of the RIAA [APP-167, amended by AS-014] and [REP5-012] on the screened-in LSE impact pathways. It concluded that the Proposed Development alone or in combination with other plans and projects would not result in an AEoI of any European sites due to impacts on subtidal and intertidal benthic ecology qualifying features. The Applicant maintained this position throughout the Examination.
- 13.5.12. The Examination matters relating to the assessment of changes to physical processes and impacts on Smithic Bank and the Flamborough Front are also relevant to the in-combination assessment [REP5-012]. As

noted in Section 13.4 of this Chapter, the ExA concludes there would be no AEoI from this LSE impact pathway as a result of in-combination effects.

13.5.13. No concerns were raised in relation to all other LSE impact pathways.

ExA conclusion on AEoI from the Proposed Development in combination

13.5.14. The ExA is content that there would be no AEoI of any European site as a result of impacts from any other LSE pathway on any subtidal or intertidal benthic ecology qualifying feature from the Proposed Development in combination with other plans or projects.

13.6. FINDINGS IN RELATION TO AEoI – MARINE MAMMALS

13.6.1. Sections 10.3 and 11.3 of the RIAA [APP-167, amended by AS-014] and [REP5-012] assessed the LSE pathways on marine mammal qualifying features of European sites from the Proposed Development alone and in combination, respectively¹⁸. Impacts on the following sites were assessed:

- Southern North Sea SAC;
- Moray Firth SAC;
- The Wash and North Norfolk Coast SAC;
- Humber Estuary SAC;
- Humber Estuary Ramsar site; and
- Berwickshire and North Northumberland Coast SAC.

AEoI from the Proposed Development alone

Introduction

13.6.2. The Applicant concluded that the Proposed Development alone would not result in an AEoI of any of the above European sites. This relied on the project commitments detailed in Table 3 of the RIAA [APP-167] and [REP5-012] which, alongside design measures, included the production of the following plans:

- Marine Mammal Mitigation Protocol (MMMP)¹⁹(as well as an anticipated requirement for an Unexploded Ordnance (UXO) MMMP, if a UXO clearance marine licence is applied for);
- Southern North Sea SAC SIP (see below for further information);

¹⁸ See also Matrices 1, 3, 4, 5a, 6a and 7 [REP1-012].

¹⁹ The MMMP would reduce the risk of Permanent Threshold Shift auditory injury from driven or part-driven pile driving. Its implementation would be secured through Condition 13(1)(g) of the draft DCO Schedule 11 and 12. The outline MMMP [APP-241] establishes the principles that would be implemented during construction.

- Vessel management plan²⁰;
- CEMMP;
- MPCP;
- Offshore Decommissioning Programme; and
- Decommissioning MMMP (subject to a separate marine licence at the point of decommissioning).

13.6.3. The Applicant maintained this position throughout the Examination.

13.6.4. Each qualifying feature and LSE pathway screened in for the above sites is detailed in Table 13.5 below, along with a summary of relevant Examination matters. Pathways denoted with an asterisk (*) are those screened in by the ExA (see Section 13.2 of this Chapter).

²⁰Secured in the draft DCO through Schedule 11, Part 2 - Condition 13(1)(d)(v) and Schedule 12, Part 2 - Condition 13(1)(d)(v).

Table 13.5: LSE pathways screened in for marine mammal qualifying features and relevant Examination matters

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/ discussion
Southern North Sea SAC – overlaps with the array area and part of the ECC. [REP1-012, Matrix 1]		
Harbour porpoise	Increase in underwater noise (all phases)	<p>NE [RR-029] and [REP8-029] agreed with the conclusion of no AEOI from the Proposed Development alone with respect to mortality and injury when taking into account the measures in the piling outline MMMP. However, it requested amendments to the draft DCO to ensure that simultaneous and concurrent piling would not occur [RR-029]. It also sought further details on mitigation in the MMMP [RR-029], however, not specifically in the context of European sites. These matters are detailed in Chapter 9 of this Report, but in summary, were resolved by the close of Examination.</p> <p>NE [RR-029] initially agreed with the conclusion of no AEOI from the Proposed Development alone with respect to mortality and injury when taking into account the measures in the piling outline MMMP. However, as detailed in Chapter 9 of this Report, it requested that the number of individuals within the area of Permanent Threshold Shift (PTS) from piling noise be presented [RR-029]. Further to the Applicant’s presentation of this information [REP1-038], NE advised [REP3-015] that the number of individuals at risk of PTS had increased and the current mitigation would not mitigate the full PTS zone and should be revisited. NE’s concerns were resolved [REP8-031] further to the Applicant updating the outline MMMP [REP6-012] to commit to mitigating cumulative PTS impact ranges using the latest research and methods available at the time of the final MMMP.</p>
	Vessel disturbance (all phases)	No concerns raised during the Examination.
	Vessel collision risk (all phases)	

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/ discussion
	Accidental pollution (all phases)	
	Changes in prey availability and behaviour - indirect effects on prey availability (herring) from piling noise (construction) *	Herring is a prey species of the harbour porpoise of the Southern North Sea SAC. Discussions relating to the Applicant's proposed seasonal restriction of piling at the offshore HVAC booster stations (Work No. 3) to mitigate effects on the Banks herring spawning ground are detailed in Chapter 9 of this Report. There, the ExA concludes that the piling restriction would mitigate significant effects on herring. See Section 13.4 of this Chapter regarding indirect effects on prey availability resulting from impacts on the Flamborough Front or Smithic Bank.
	Increases in suspended sediment *	Matter not explored at depth during the Examination in relation to the HRA. The Applicant [REP5-085] reiterated its position that there would be no LSE.
Moray Firth SAC - 522.5km from the array area and 522.1km from the offshore ECC. [REP1-012, Matrix 3]		
Bottlenose dolphin	Increase in underwater noise (construction and decommissioning)	No concerns raised during the Examination. NE [RR-029] deferred to NatureScot to comment on the suitability of the assessment of impact to the Moray Firth SAC. The Applicant [REP1-038] and [REP8-011] confirmed that Scottish Natural Heritage (now NatureScot) was issued with the draft HRA Screening Report and the draft RIAA during the pre-application phase and that no comments were received from NatureScot in relation to these communications.
	Vessel disturbance (all phases)	
	Vessel collision risk (all phases)	
The Wash and North Norfolk Coast SAC - 105.4km from the array area and 100.1km from the offshore ECC. [REP1-012, Matrix 4]		
Harbour seal	Increase in underwater noise (construction and decommissioning)	No concerns raised during the Examination. NE agreed an AEoI could be excluded for The Wash and North Norfolk Coast SAC [REP8-029].

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/ discussion
	Vessel disturbance (all phases)	No concerns raised during the Examination. NE agreed an AEoI could be excluded for The Wash and North Norfolk Coast SAC [REP8-029].
	Vessel collision risk (all phases) *	NE [RR-029, Appendix D], [AS-029 HRA 1.6] and [REP2-082] raised concerns about collision risk whilst vessels were in transit to or from ports and requested information on likely or confirmed locations of ports for construction and operation, anticipated vessel transit routes, vessel density, seal densities and estimates of number of individuals impacted. The Applicant presented the information requested by NE in [REP4-045] and stated [REP1-038] and [REP3-046] that a vessel management plan would determine vessel routing to and from construction areas and ports to minimise encounters with marine mammals as far as reasonably practicable (secured in the draft DCO through Schedule 11, Part 2 - Condition 13(1)(d)(v) and Schedule 12, Part 2 - Condition 13(1)(d)(v)). This provided the assurance to NE that there would be no AEoI as a result of impacts on marine mammal qualifying features from transiting vessels [REP7-068] and [REP8-029].
<p>Humber Estuary SAC - 79.7km from the array area and 32.2km from the offshore ECC. [REP1-012, Matrix 5a] Humber Estuary Ramsar site - 77.9km from the array area and 32.2km from the offshore ECC. [REP1-012, Matrix 6a] Berwickshire and North Northumberland Coast SAC - 201.4km from the array area and 171.0km from the offshore ECC. [REP1-012, Matrix 7]</p>		
Grey seal	Increase in underwater noise (construction and decommissioning)	No concerns raised during the Examination. NE explicitly agreed an AEoI could be excluded for Berwickshire and North Northumberland Coast SAC [REP8-029].
	Vessel disturbance (all phases)	

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/ discussion
	Vessel collision risk (all phases)	
<p>Humber Estuary SAC - 79.7km from the array area and 32.2km from the offshore ECC. [REP1-012, Matrix 5a].</p> <p>Humber Estuary Ramsar site - 77.9km from the array area and 32.2km from the offshore ECC. [REP1-012, Matrix 6a]</p>		
Grey seal	Changes to physical processes – effects on supporting habitats *	See Section 13.4 of this Chapter regarding indirect effects on supporting habitats resulting from impacts on the Flamborough Front or Smithic Bank.
	Changes in prey availability and behaviour *	<p>NE confirmed [REP8-029] that it considered there to be a pathway for impacts on prey availability from impacts on the Flamborough Front and Smithic Bank. Whilst it did not agree an AEoI could be excluded from this LSE pathway for Southern North Sea SAC, it confirmed that an AEoI could be excluded for grey seal of the Humber Estuary SAC. However, it did not specifically mention grey seal with respect to the Humber Estuary Ramsar site.</p> <p>See Section 13.4 of this Chapter regarding indirect effects on prey availability resulting from impacts on the Flamborough Front or Smithic Bank.</p>

Non-UK European sites

13.6.5. As noted in Section 13.2 of this Chapter, the Applicant identified a LSE on the marine mammal qualifying features of non-UK European sites from an increase in underwater noise and vessel disturbance. The relevant sites and features are:

- Harbour seal from Doggersbank (Dutch) SAC and Klaverbank Site of Community Importance (SCI); and
- Grey seal from Doggersbank (Dutch) SAC, Klaverbank SCI, Bancs des Flandres SCI, Vlaamse Banken SCI, SBZ 1 SCI, SBZ 2 SCI, SBZ 3 SCI, Vlakte vander Raan SCI, Westerschelde & Saeftinghe SCI, Voordelta SCI, Noordzeekustzone SCI and Waddenzee SCI.

13.6.6. The Applicant subsequently concluded no AEoI of all of the above sites [APP-167, amended by AS-014] and [REP5-012]. This conclusion was not disputed by any IPs.

ExA conclusion for the Proposed Development alone

13.6.7. The ExA notes explicit confirmation from NE that it agrees an AEoI can be excluded for The Wash and North Norfolk Coast SAC and Berwickshire and North Northumberland Coast SAC [REP8-029]. It also notes that no IPs disputed the conclusion of no AEoI in respect of the Moray Firth SAC.

13.6.8. No concerns were raised during the Examination in relation to the following LSE pathways that had been screened in for one or more of the marine mammal European sites:

- vessel disturbance; and
- accidental pollution.

13.6.9. The ExA considers that matters relating to underwater noise impacts on harbour porpoise of the Southern North Sea SAC were resolved during the Examination.

13.6.10. Whilst changes in prey availability and behaviour for the harbour porpoise of the Southern North Sea SAC and the grey seal of the Humber Estuary SAC from impacts on the Flamborough Front or Smithic Bank remained a matter of dispute, the ExA is confident that the availability of prey would not be significantly negatively affected (see Section 13.4 of this Chapter).

13.6.11. Similarly, it considers that only a small part of the Banks herring spawning ground would be temporarily affected by piling at the offshore HVAC booster stations (Work No. 3). Furthermore, whilst the final piling restriction proposed by the Applicant did not cover the complete period recommended by the MMO, the ExA considers that any effect would be restricted to a small portion of the spawning period in the shoulder months. Harbour porpoise of the Southern North Sea SAC forage widely

on numerous food sources and thus the ExA does not consider that the conservation objective to maintain prey availability would be hindered.

- 13.6.12. In respect of an increase in suspended sediment and impacts on the harbour porpoise of the Southern North Sea SAC, NE [RR-029] stated that it expected the impact to be considered in the HRA. However, NE did not identify it as an impact pathway in its consideration of AEoI of the site [REP8-029, Appendix 2]. Furthermore, NE did not provide any specific details of its concerns. The ExA has not been presented with persuasive evidence that harbour porpoise would be adversely affected by the sediment disposal activities, particularly given its large foraging range.
- 13.6.13. On the basis of the above information, the ExA is satisfied that the Proposed Development alone would not affect the achievement of any European site conservation objectives for marine mammal qualifying features. Specifically, it does not consider that there would be significant disturbance of any marine mammal qualifying feature, or that the availability of prey would be significantly negatively affected. The ExA does not consider that the population or distribution of qualifying species would be affected.
- 13.6.14. Furthermore, given their short-term and minor nature, the ExA does not consider that the LSE pathways from the Proposed Development alone would combine to result in an AEoI of any European site marine mammal feature.
- 13.6.15. As a result, the ExA concludes there to be no AEoI of any European site from impacts on marine mammal qualifying features from the Proposed Development alone.
- 13.6.16. The ExA is satisfied that all mitigation relied on to reach this conclusion is adequately secured in the recommended DCO.

AEoI from the Proposed Development in combination

Introduction

- 13.6.17. The Applicant assessed in-combination effects on the screened-in LSE impact pathways in Section 11.3 of the RIAA [APP-167, amended by AS-014] and [REP5-012]. It concluded that the Proposed Development alone and in combination with other plans and projects would not result in AEoI of any European site due to impacts on marine mammal qualifying features. The Applicant maintained this position throughout the Examination.
- 13.6.18. Concerns regarding the approach to the assessment and the potential for in-combination noise impacts were discussed during the Examination, as detailed below. In addition, the potential for in-combination effects on marine processes and resulting impacts on supporting habitats and prey

availability were relevant to marine mammals. As noted in Section 13.4 of this Chapter, the ExA has concluded there would be no AEOI from this LSE impact pathway as a result of in-combination effects. No concerns were raised in relation to all other LSE impact pathways.

Approach to the assessment - tiers

- 13.6.19. NE [RR-029] and [REP3-015] noted that different tiers were used in the RIAA in-combination assessment and the Cumulative Effects Assessment in the ES. The Applicant [REP3-046] explained that the RIAA tiering structure was more detailed than for the ES cumulative effects assessment and considered a wider scope of projects. It provided a side-by-side comparison, which NE [REP5-112] was subsequently content with.

Underwater noise - Site Integrity Plan

- 13.6.20. The Applicant's conclusion of no AEOI of the Southern North Sea SAC was made subject to the implementation of the Southern North Sea SAC SIP21. The SIP process was proposed by the Applicant to address uncertainty with regard to potential in-combination disturbance impacts from multiple projects, specifically in relation to the risk of an exceedance of the ANCB defined underwater noise disturbance thresholds.
- 13.6.21. The Applicant submitted an Outline Southern North Sea SAC SIP [APP-246] that identified potential mitigation measures that could be implemented if required. It stated that it "*provides a framework for further consultation and discussion...to reach agreement on the final details of any required project related mitigation measures through the drafting and approval of the Southern North Sea SAC SIP.... A final detailed Southern North Sea SAC SIP will be produced closer to the time...*"
- 13.6.22. NE [RR-029], [REP3-015] and [REP5-111, HRA 2.1] supported the Applicant's suggested approach to reducing noise impacts. However, it considered there to be various scenarios whereby underwater noise thresholds would be exceeded on an in-combination basis. NE noted that mitigation measures would be managed post-consent through the SIP process and raised concerns over the feasibility of adding mitigation at this late stage when decisions around cost, equipment type and so on had already been made. It therefore recommended that a commitment to delivering mitigation (including noise abatement systems (NAS)) should be secured at this stage, with the later outcomes of the SIP determining if mitigation measures can be removed.

²¹ Schedule 11, Part 2 and Schedule 12, Part 2 Condition 13(1)(j)) of the draft DCO requires a Southern North Sea SAC SIP to be submitted to the MMO for approval prior to the commencement of driven or part-driven foundations.

- 13.6.23. Whilst the MMO deferred to NE on matters relating to the HRA [RR-020], it also advised the Applicant to commit to reduce noise at source in the first instance rather than relying on mitigation in the event that an AEOI arose.
- 13.6.24. The Applicant [REP1-038] did not consider it necessary to include commitments at this stage on the basis that specific mitigation measures would be determined, in consultation with the relevant ANCB, following confirmation of final hammer energies and foundation types, collection of additional survey data and information on emerging technologies: this would include at-source mitigation if required. It also provided a Clarification Note on Underwater Noise Abatement Systems [REP2-050] to demonstrate that wind speed, wave heights, water depths and current speeds at the Proposed Development site would not be limiting factors for NAS. NE [REP5-112] agreed the Proposed Development site was suitable for NAS but maintained that mitigation should be committed to at this stage.
- 13.6.25. Ultimately, NE [RR-029] could not rule out an AEOI of the Southern North Sea SAC as a result of in-combination disturbance impacts due to what it considered to be an over-reliance on the SIP process to manage in-combination impacts. NE explained this issue was not unique to the Proposed Development and advised that a mechanism to manage, monitor and review multiple SIPs over varying timescales needed to be developed and put in place by regulators. The Applicant [REP1-038] noted NE's comment but considered the SIP process to be the most appropriate mechanism for managing in-combination impacts. NE's position regarding the implementation of SIPs was maintained until the close of Examination [REP8-029] and [REP8-031], with NE stating that it will not be possible to rule out in-combination AEOI until the post-consent SIP is provided for assessment.
- 13.6.26. The Wildlife Trusts shared NE's concerns regarding the lack of a regulatory mechanism to manage underwater noise impacts. Its Relevant Representation (RR) [RR-039] was supported by the Yorkshire Wildlife Trust [RR-043].
- 13.6.27. Notwithstanding its objection in principle, NE made a number of comments on the outline SIP [RR-029], which the Applicant responded to [REP1-038]. The Applicant updated the outline SIP at D7 [REP7-054] and included text detailing the process for determining mitigation. Whilst NE continued to advocate that committing to mitigation would have been preferable, it considered the Applicant's approach to be an acceptable compromise [REP8-031].
- 13.6.28. The MMO [REP3-052] and [REP5-107, HRA 1.16] stated it was confident in the current SIP process, following a Review of Consents (RoC) process. It confirmed that it utilises the Offshore Petroleum Regulator for Environment and Decommissioning Southern North Sea SAC Tracker to ensure that all projects proposed to be undertaken within the Southern North Sea SAC for each season every year are taken into account when

discharging a SIP condition. However, it requested a standard stand-alone condition be applied in relation to designated sites for harbour porpoise, to be in line with the RoC, as this would enable efficient management of SIPs. The Applicant [REP5-074, HRA 2.1] did not consider it necessary to amend the drafting of condition 13(1)(j) of Part 2 of Schedules 11 and 12, which it considered to be more precise and enforceable, and which specifically required the MMO to be satisfied that mitigation avoids AEOI. The MMO maintained its position at the close of Examination [REP8-004].

- 13.6.29. The MMO [REP8-022] also considered the D7 version of the SIP to be robust and to contain the necessary information required at this stage, though it sought clarity over terminology regarding concurrent and simultaneous piling. The Applicant [REP7-083] confirmed that the MMO's understanding was correct, and that "*concurrent piling refers to up to two piles being installed within a 24-hour period, one after the other. Simultaneous piling, which may also occur, refers to two piles being installed at the same time within a 24-hour period*".

Underwater noise - Seismic surveys and UXO clearance

- 13.6.30. NE [RR-029] and [REP3-015] advised that seismic surveys, which the Applicant proposed to capture in the Southern North Sea SAC SIP, should be included in the in-combination assessment. The Applicant [REP3-046] explained that the exclusion of seismic surveys was because of the difficulty in undertaking an illustrative in-combination assessment in the absence of detailed information. However, NE advised [REP5-112] that a nominal seismic survey should be included to ensure the potential avenue of impact is accounted for. It also advised that a high-order UXO detonation be included in the in-combination assessment [REP5-112].
- 13.6.31. The Applicant submitted a Clarification note on Seismic Surveys [REP5a-020]. It acknowledged that the in-combination assessment had already concluded that there is a risk that the 20% disturbance thresholds for the Southern North Sea SAC would be exceeded even without the seismic surveys and UXO detonation being included, and thus the Applicant had committed to mitigation through the SIP. Nevertheless, it assessed a worst-case scenario of all Tier 1c offshore wind farm projects being constructed simultaneously alongside at least one seismic survey and one high-order UXO operation, which again concluded there is a risk of exceeding the disturbance thresholds. The Applicant stated that the SIP would require consideration of all known activities at the time of production of the final version, therefore it would capture any relevant UXO or seismic surveys with relevant details available and would ensure on a case-by-case basis that the threshold was not exceeded.
- 13.6.32. Whilst NE [REP8-031] considered the assessment did not determine a realistic assessment scenario, as it assessed a static source, it was content that assessing the seismic survey as a mobile source would not change the assessment conclusions. It noted that the assessment

highlighted the risk of threshold exceedances should all identified projects and plans go ahead at the same time.

ExA conclusion for the Proposed Development in combination

- 13.6.33. The ExA notes that NE's outstanding concerns in respect of in-combination noise impacts relate to mechanisms for strategic regulatory control, rather than further actions required by the Applicant. This matter is common to a number of recently proposed wind farm developments in the North Sea, and the ExA is aware that the SoS has been satisfied with the approach on recently consented offshore wind farms, including the East Anglia ONE North and East Anglia TWO Offshore Wind Farms. The ExA acknowledges the MMO's confidence in the process and considers that it has been provided with sufficient assurance that all plans or projects will be taken into account when the final SIP is submitted. The ExA therefore concludes an AEoI from in-combination noise impacts can be excluded.
- 13.6.34. The ExA is content that the terminology 'concurrently' and 'simultaneously' used by the Applicant has been adequately explained in its comments on other submissions received at D6 [REP7-083].
- 13.6.35. With regard to MMO's request for a standard RoC condition, the ExA notes that the new standard condition has been used in recent comparable DCOs (eg the East Anglia ONE North and East Anglia TWO Offshore Wind Farm Orders). The ExA agrees with the MMO's suggestion to use this to facilitate the efficient management of SIPs and has recommended that Condition 13(1)(j) be deleted and that a standalone Condition be inserted into Schedules 11 and 12, Part 2.
- 13.6.36. The ExA is content that there is no AEoI of any European site due to impacts from any other LSE pathway on marine mammal qualifying features from the Proposed Development in combination with other plans or projects.

13.7. FINDINGS IN RELATION TO AEoI – OFFSHORE AND INTERTIDAL ORNITHOLOGY

- 13.7.1. Sections 10.4 and 11.4 of the RIAA [APP-167, amended by AS-014] and [REP5-012] assessed the LSE pathways to offshore and intertidal ornithological qualifying features of European sites from the Proposed Development alone and in combination, respectively. Impacts on the following sites were assessed:

- European sites in England:
 - Flamborough and Filey Coast SPA;
 - Greater Wash SPA;
 - Hornsea Mere SPA;
 - Humber Estuary SPA;
 - Humber Estuary Ramsar site;
 - Northumbria Coast SPA;

- Teesmouth and Cleveland Coast SPA;
 - Coquet Island SPA;
 - Farne Islands SPA; and
 - Northumberland Marine SPA.
- European sites in Scotland:
 - St Abb's Head to Fast Castle SPA;
 - Forth Islands (UK) SPA;
 - Outer Firth of Forth and St Andrew's Complex SPA;
 - Fowlsheugh SPA;
 - Buchan Ness to Collieston Coast SPA;
 - Troup, Pennan and Lion's Heads SPA;
 - East Caithness Cliffs SPA;
 - North Caithness Cliffs SPA;
 - Copinsay SPA;
 - Hoy SPA;
 - Marwick Head SPA;
 - Rousay SPA;
 - Calf of Eday SPA;
 - West Westray SPA;
 - Fair Isle SPA;
 - Sumburgh Head SPA;
 - Noss SPA;
 - Foula SPA;
 - Fetlar SPA; and
 - Hermaness, Saxa Vord and Valla Field SPA.

13.7.2. The RIAA [APP-167, amended by AS-014] and [REP5-012] explained that the Applicant had progressively refined the developable area of the Proposed Development from 846km² at scoping stage to 468km² for the DCO application. Table 3 noted that the developable area was selected to avoid areas with the highest concentrations of birds that were more likely to be displaced by construction activities or fly within the rotor swept zone and hence be at risk of collision.

13.7.3. The Applicant's assessment also relied on the project commitments detailed in Table 3 of the RIAA [APP-167, amended by AS-014] and [REP5-012] which, alongside design measures, included the production of the following:

- a vessel management plan; and
- an Offshore Decommissioning Programme.

Highly Pathogenic Avian Influenza

13.7.4. As discussed in Chapter 8 of this Report, the ExA is aware of the outbreak of Highly Pathogenic Avian Influenza (HPAI), and that the scale and geographical extent of the epidemic was unknown at the close of the Examination, resulting in uncertainty regarding likely population sizes and growth rates in the future. Whilst this appeared to be developing into a nationwide epidemic, NE [REP7-104] specifically highlighted concerns

in relation to the Flamborough and Filey Coast SPA seabird populations, noting that HPAI would reduce the level of confidence in growth rate predictions.

- 13.7.5. The RSPB [REP6-067], [REP6-068] and [REP7-098] considered the scale of the impact to mean that seabird populations would be much less robust to any additional mortality arising from offshore wind farm developments and questioned whether the population can continue to be considered in favourable conservation status.
- 13.7.6. The ExA considers this matter in Chapter 8. In summary, the ExA agrees with the Applicant's submission [REP8-013] that a reduced number of birds in the area as a consequence of the outbreak would lead to a reduction in the numbers of birds affected by the Proposed Development, though it considers the suggestion that this would be a proportionate reduction may be an oversimplification. The ExA accepts in principle that the assessments considered during the Examination and discussed below present a worse case than would corresponding assessments based on significantly reduced populations as a consequence of a major HPAI outbreak. However, it is also aware that, if there was to be a sustained and catastrophic crash in bird numbers as a result of the outbreak, then the Proposed Development could place an additional strain on the viability of the SPA. The ExA considers this an additional reason for taking a precautionary position when reaching its overall recommendation.

AEoI from the Proposed Development alone – European sites except the Flamborough and Filey Coast SPA

Introduction

- 13.7.7. The Applicant concluded that the Proposed Development alone would not result in an AEoI of any European site (except the Flamborough and Filey Coast SPA) as a result of impacts on offshore and intertidal ornithological qualifying features. Impacts on the Flamborough and Filey Coast SPA are reported on separately below due to the extensive discussions about this site during Examination.
- 13.7.8. The Applicant maintained this position throughout the Examination.
- 13.7.9. Each qualifying feature and LSE pathway screened in for the above sites, except the Flamborough and Filey Coast SPA, is detailed in Table 13.6, along with a summary of relevant Examination matters. Pathways denoted with an asterisk (*) are those screened in by the ExA (see Section 13.2 of this Chapter).

Table 13.6: LSE pathways screened in for offshore and intertidal ornithology qualifying features (except the Flamborough and Filey Coast SPA) and relevant Examination matters

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/ discussion
Greater Wash SPA (63.4km from the array area and 0.4km from the offshore ECC). [REP1-012, Matrix 10]		
Red-throated diver	Disturbance and displacement (all project phases)	The Applicant submitted an Assessment of Common Scoter and Red Throated Diver in the ECC [REP2-049], assessing disturbance effects from cable laying activities during construction. This stated that the overlap between the 2km cable buffer zone and the SPA would be a maximum of 0.4% of the entire SPA. It also stated that applying NE's maximum advised mortality rate of 10% would lead to a maximum predicted increase in mortality relative to baseline mortality of 0.13% for red throated diver and 0.12% for common scoter. NE subsequently agreed that AEoI from disturbance and displacement of these species could be excluded from the Proposed Development alone [REP8-029].
Common scoter		
Little gull	Collision (operation and maintenance)	No concerns raised during the Examination.
Humber Estuary SPA and Ramsar site (77.9km from the array area and 32.2km from the offshore ECC). [REP1-012, Matrices 6c and 12]		
Shelduck	Collision risk (operation and maintenance)	No concerns raised during the Examination.
Hen harrier		
Avocet		
Golden plover		
Knot		

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/ discussion
Dunlin		
Ruff		
Black-tailed godwit		
Bar-tailed godwit		
Redshank		
Waterbird assemblage		
All qualifying features	Physical processes – impacts on supporting habitat due to impacts on Smithic Bank	See Section 13.4 of this Chapter regarding indirect effects on supporting habitats resulting from impacts on Smithic Bank.
Hornsea Mere SPA (12.9km from the offshore ECC). [REP1-012, Matrix 13]		
Gadwall	Collision (operation and maintenance)	No concerns raised during the Examination.
Northumbria Coast SPA (144km from the array area). [REP1-012, Matrix 14]		
Arctic tern	Collision (operation and maintenance)	No concerns raised during the Examination.
Teesmouth and Cleveland Coast SPA (144km from the array). [REP1-012, Matrix 15]		
Common tern	Collision (operation and maintenance)	No concerns raised during the Examination.
Sandwich tern		
Coquet Island SPA (167km from the array area). [REP1-012, Matrix 16]		
Sandwich tern		No concerns raised during the Examination.

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/ discussion
Common tern	Collision (operation and maintenance)	NE confirmed that AEoI of the Coquet Island SPA from the Proposed Development alone could be ruled out [REP8-029].
Arctic tern		
Roseate tern		
Kittiwake (unnamed component of seabird assemblage)		
Puffin (component of seabird assemblage)	Disturbance and displacement (all phases)	
Farne Islands SPA (198km from the array area). [REP1-012, Matrix 17]		
Sandwich tern	Collision (operation and maintenance)	No concerns raised during the Examination. NE confirmed that AEoI of the Farne Islands SPA from the Proposed Development alone could be ruled out [REP7-071] and [REP8-029].
Arctic tern		
Common tern		
Kittiwake (component of seabird assemblage)		
Guillemot	Disturbance and displacement (all phases) *	
Puffin (component of seabird assemblage)		
Razorbill (an unnamed component of seabird assemblage)		
Northumberland Marine SPA (187km from the array area and 144km from the offshore ECC). [REP1-012, Matrix 38].		
Common tern	Collision (operation and maintenance)	No concerns raised during the Examination.
Arctic tern		

Qualifying feature(s) assessed	LSE impact pathway	Examination matters/ discussion
Roseate tern		
Sandwich tern		
Kittiwake (unnamed component of seabird assemblage)		
Guillemot	Disturbance and displacement (all phases)	
Puffin		
Scottish SPAs²²: St Abb's Head and Fast Castle SPA; Forth Islands SPA; Outer Firth of Forth and St Andrew's Complex pSPA; Fowlsheugh SPA; Buchan Ness to Collieston Coast SPA; Troup, Pennan and Lion's Heads SPA; East Caithness Cliffs SPA; North Caithness Cliffs SPA; Copinsay SPA; Hoy SPA; Marwick Head SPA; Rousay SPA; Calf of Eday SPA; West Westray SPA; Fair Isle SPA; Sumburgh Head SPA; Noss SPA; Foula SPA; Fetlar SPA; Hermaness, Saxa Vord and Valla Field SPA		
Relevant ornithological features screened in [APP-167, amended by AS-014] and [REP5-012]	Collision (operation and maintenance)	No concerns raised during the Examination.
	Disturbance and displacement (operation and maintenance)	The Applicant [REP1-038] and [REP8-011] confirmed that Scottish Natural Heritage (now NatureScot) was issued with the draft HRA Screening Report and the draft RIAA during the pre-application phase and that no comments were received.

²² For brevity, the distance to site and qualifying features screened in for Scottish sites have not been included in this table. See Annex C of the RIAA [REP1-012, Matrices 18 to 37] for the relevant information.

ExA conclusion for the Proposed Development alone

- 13.7.10. On the basis of the information above, the ExA is satisfied that the Proposed Development alone would not affect the ability of any European site (excluding the Flamborough and Filey Coast SPA) offshore and intertidal ornithology qualifying feature to achieve its conservation objective. Specifically, it does not consider that there would be any effect on the population and distribution of each qualifying feature, nor on the supporting habitats or processes upon which they rely, including the availability of prey.
- 13.7.11. Furthermore, the ExA does not consider that the combination of the LSE pathways from the Proposed Development alone would combine to result in an AEoI of any European site ornithological feature.
- 13.7.12. The ExA notes that this is supported by NE's End of Examination Position on Offshore Ornithology [REP7-104] and that the RSPB [REP8-005] confirmed its agreement that the conclusion of no AEoI as a result of the Proposed Development alone was appropriate for all sites except the Flamborough and Filey Coast SPA.
- 13.7.13. As a result, the ExA concludes there to be no AEoI of any European site (excluding the Flamborough and Filey Coast SPA) due to impacts on offshore and intertidal ornithology qualifying features from the Proposed Development alone.
- 13.7.14. The ExA is satisfied that all mitigation relied on to reach this conclusion is adequately secured in the recommended DCO.

AEoI from the Proposed Development in combination – European sites except the Flamborough and Filey Coast SPA

Introduction

- 13.7.15. The Applicant [APP-167, amended by AS-014] and [REP5-012] assessed in-combination effects in Section 11.4 of the RIAA from the LSE impact pathways screened into the assessment. It concluded that the Proposed Development, in combination with other plans or projects, would not result in an AEoI of any of the above European sites. The Applicant maintained this position throughout the Examination.
- 13.7.16. Concerns regarding the approach to the assessment were raised during the Examination, as detailed below.

Approach to assessing effects

- 13.7.17. For a number of the impact-effect pathways on qualifying features, the Applicant concluded that the effects from the Proposed Development alone were trivial or within what could be expected as a result of natural variation in baseline mortality, and that they could make no perceptible, consequential contribution to effects in combination [APP-167, amended

by AS-014] and [REP5-012]. For this reason, an in-combination assessment for those features in relation to those impact-effect pathways was excluded. It is noted that the precise rationale and justification for the approach varies with the feature and impact pathway being assessed and is set out in the RIAA in each case.

- 13.7.18. NE raised a concern with this rationale in relation to offshore ornithology [RR-029] and [REP5-112], advising that even non-significant levels of predicted mortality at the project alone level should be added to the in-combination totals for a species.
- 13.7.19. NE specifically requested an in-combination assessment be undertaken for red-throated diver and common scoter from the Greater Wash SPA, despite the assessment for the Proposed Development alone concluding that there was no potential for a material contribution to baseline mortality [RR-029]. The Applicant confirmed in its Assessment of Common Scoter and Red Throated Diver in the ECC [REP2-049] that it did not deem such an assessment to be appropriate as there would be no material contribution from the Proposed Development to any in-combination displacement effects. NE [REP3-054] subsequently agreed there would be no in-combination effects.
- 13.7.20. The ExA requested NE to identify any additional features and relevant impact-effect pathways where it disagreed with the rationale for excluding an in-combination assessment in the RIES [PD-015], but no response was received.
- 13.7.21. NE [RR-029] also noted that the minimum and maximum in-combination predicted impacts (based on central values for other projects and the range for the Proposed Development) had not been provided (for all species) to allow consideration of uncertainty. The Applicant [REP1-038] explained it provided central estimates in order to provide 'a level playing field approach' to assessing in-combination impacts. It considered this allowed for a reliable assessment that reduced inherent bias from including minimum and maximum values that could lead to under- or over-inflated results.
- 13.7.22. Further to the Applicant's revised assessment, NE noted [REP8-031] that whilst it disagreed with the Applicant's approach to present a single value, it based its conclusions on the range of values calculated using its own bespoke approach.

ExA conclusion for the Proposed Development in combination

- 13.7.23. The ExA welcomes NE's [RR-029] confirmation that all relevant offshore wind farm projects were considered for the ornithological in-combination assessment. It also notes NE's [REP8-029] confirmation that it agreed an AEoI could be excluded for:
- Coquet Island SPA; and
 - Farne Islands SPA.

- 13.7.24. The RSPB [REP8-005] confirmed that the conclusion of no AEOI, either alone or in combination as a result of the proposed activities, was appropriate for all sites except the Flamborough and Filey Coast SPA.
- 13.7.25. The ExA notes NE's concerns regarding the approach to assessing in-combination effects. However, it understands that this approach has been accepted practice where the effects can be shown to be imperceptible. It welcomes the Applicant's revised assessment for the Greater Wash SPA and is content with the approach.
- 13.7.26. As noted above, NE agreed at D3 [REP3-054] that an AEOI could be excluded for impacts on red-throated diver and common scoter from the Greater Wash SPA for the Proposed Development alone or in combination with other consented plans and projects. However, at D7 and D8 [REP7-104] and [REP8-029], it stated that it was unable to rule out an AEOI with the inclusion of Sheringham and Dudgeon Extension Projects in the in-combination assessment, due to the lack of detailed information available regarding these projects.
- 13.7.27. The ExA acknowledges NE's concerns but notes that the Applicant did include these projects to the extent possible in its in-combination assessment [APP-167, amended by AS-014] and that that NE did not expand on its concerns or provide its own assessment of effects for the Greater Wash SPA. NE did not address this site in detail in its End of Examination Position on Offshore Ornithology [REP7-104].
- 13.7.28. The ExA notes that a DCO application was due to be made for the Sheringham and Dudgeon Extension Projects shortly after the Examination for the Proposed Development closed. The application would be accompanied by a RIAA. It was not possible for this information to be taken into account during the Examination. The ExA considers that, on the basis of information available to it, there would not be an AEOI from the Proposed Development in combination with other plans or projects. However, the SoS may wish to reconsider the potential for in-combination effects based on this additional information in respect of Sheringham and Dudgeon Extension Projects should it become available before a decision is made.
- 13.7.29. With regard to Humber Estuary SPA and Ramsar site, NE could not rule out an AEOI from the Proposed Development alone for ornithological features, and consequently did not comment on in-combination effects. Its concerns related to indirect effects from changes to physical processes [REP7-103]. As noted in Section 13.4 of this Chapter, the ExA has concluded there would be no AEOI from this impact pathway as a result of in-combination effects.
- 13.7.30. NE did not raise any concerns regarding the in-combination assessment for any of the other SPA and Ramsar sites assessed by the Applicant. The ExA is therefore content that AEOI as a result of impacts from the Proposed Development alone and in combination can be excluded for all

European site offshore and intertidal ornithology qualifying features, excluding the Flamborough and Filey Coast SPA.

AEoI from the Proposed Development alone – the Flamborough and Filey Coast SPA

Introduction

- 13.7.31. The Flamborough and Filey Coast SPA is located a minimum of 63km from the array area and 2.5km from the offshore ECC. Sections 10.4 and 11.4 of the RIAA [APP-167, amended by AS-014] and [REP5-012] assessed the LSE pathways of collision mortality, disturbance and displacement and barrier effects on the Flamborough and Filey Coast SPA from the Proposed Development alone and in combination, respectively. The Applicant concluded that the Proposed Development alone would not result in an AEoI of the Flamborough and Filey Coast SPA, a position maintained throughout the Examination [REP1-012, Matrix 11].
- 13.7.32. Extensive discussions about the offshore ornithology baseline characterisation and assessment methodology during the Examination resulted in the Applicant's submission of a number of revised assessments that were commented on by NE and the RSPB. The overarching ornithological methodological issues are detailed in Chapter 8 of this Report, with those specific to the HRA considered below.
- 13.7.33. Whilst the concerns were discussed in relation to the Flamborough and Filey Coast SPA, it should be noted that some of the species for which concerns were raised (see below) are also qualifying features at Coquet Islands SPA, Farne Islands SPA, Northumberland Marine SPA and a number of the sites in Scotland. However, concerns were not specifically raised for these sites during the Examination and NE confirmed [REP8-029] that AEoI could be excluded for the English sites. Due to its proximity to the Proposed Development, the ExA considers the issues to be specific to the Flamborough and Filey Coast SPA.

Characterisation of the ornithological baseline

- 13.7.34. As detailed in Chapter 8 of this Report, NE advised [RR-029] that it could not agree with the characterisation of the ornithological baseline using the model-based methods (MRSea)²³ to estimate abundance and density for several species of birds in place of design-based methods. The species of relevance to the Flamborough and Filey Coast SPA were

²³ MRSea was developed by the Centre for Research into Ecological and Environmental Modelling (CREEM) at the University of St Andrews to look at animal survey data to detect changes in abundance and distribution following marine renewables development. See [APP-079] for further details. The Applicant's approach to extrapolating survey data using 'design-based' methods was detailed in Section 3.4.2 of [APP-074].

gannet, kittiwake, guillemot, razorbill and puffin. The RSPB made similar comments [RR-033] and [REP2-089].

- 13.7.35. Consequently, neither NE nor the RSPB could agree with the conclusions drawn from the assessments that were based on these estimates, including the implications for any AEOI of the affected sites [RR-029] and [REP2-089]. NE asked for validation of MRSea via a comparison with raw data or design-based estimates [RR-029].
- 13.7.36. The Applicant responded to NE's and the RSPB's points in Annex 5 and Annex 7, respectively, of its Comments on Relevant Representations [REP1-038]. It submitted a MRSea Baseline Sensitivity Report (Gannet) [REP2-046, superseded by REP3-029] and a Comparative Gannet Assessment [REP4-047] with revised baseline estimates. These suggested a difference of less than one breeding adult for impacts apportioned to the Flamborough and Filey Coast SPA compared to the assessment presented in the RIAA. The Applicant therefore concluded that revised estimates were not required for other species [REP4-040].
- 13.7.37. However, NE [REP4-055] identified concerns with the analysis and did not consider a reworking of the data for just one species to be reliably representative of all species. It advised that the original model-based estimates were not fit-for-purpose and that revised baselines were required for key species. It provided advice to the Applicant on the baselines [REP5-080] and [REP5a-030] but agreed that puffin did not need to be included and that 'design-based' estimates of abundance and density would be appropriate.
- 13.7.38. The RSPB [REP4-057] and [REP5-120] similarly noted concerns that the model had been run contrary to ANCB advice on the assessment of displacement impacts.
- 13.7.39. The Applicant's revised baseline was presented in its Revised Ornithology Baseline [REP5a-009] alongside a Clarification Note, Revised Ornithology Baseline [REP5a-024]. NE [REP6-057] and [REP7-104] and the RSPB [REP6-067] and [REP7-099] subsequently confirmed that the baseline data characterisation was fit for purpose.
- 13.7.40. Further to the revision of the baseline, the Applicant submitted an Ornithology EIA and HRA Annex [REP5-078] revising the HRA displacement, disturbance and collision outputs for gannet, kittiwake, guillemot, razorbill and puffin from the Flamborough and Filey Coast SPA using both the Applicant's preferred approach to assessment and NE's advised bespoke assessment approach (see below for further details). This was subsequently superseded [REP5a-011]²⁴ and [REP6-028]. The

²⁴ The Applicant [REP8-020] confirmed the density estimates in Table 126 of [REP6-028] have been presented in the incorrect order with minor differences in rounding the correct monthly values, but that those used with the collision risk modelling were in the correct order.

revised assessment also included, where possible, statistical confidence intervals requested by NE [RR-029].

Auk displacement and mortality rates

- 13.7.41. The RIAA presented a range of impact scenarios at the request of NE, utilising displacement and mortality ranges up to 70% displacement and 10% mortality. Discussions regarding displacement and mortality rates are detailed in Chapter 8 of this Report. However, in summary, the Applicant [REP1-069] advocated a displacement rate of 50% and mortality rate of 1%. NE [REP2-085], [REP6-059] and [REP7-104] advised a range-based approach with a displacement range of 30 to 70% and mortality range of 1 to 10%, where a mortality rate of 10% represented a worst-case scenario in extreme cases [REP6-059]. It confirmed [REP7-104] that it would not provide an opinion on specific rates that should be generally adopted for displacement and mortality. However, it did go on to provide assessments of effects on the qualifying features of the Flamborough and Filey Coast SPA based on illustrative examples of 70% displacement and 5% mortality rates.
- 13.7.42. The RSPB [REP3-055] concurred with NE that a range of rates should be considered [REP6-068] to allow for scientific uncertainty. It suggested that the appropriate 'probable' values were a displacement rate of 60% and a mortality rate of 3% to 5% for the breeding season and 1% to 3% for non-breeding season.
- 13.7.43. All parties maintained their positions in relation to displacement and mortality rates until the end of Examination [REP6-059], [REP6-068], [REP7-085], [REP7-104], [REP8-031] and [REP8-017].

Auk displacement – bespoke approach and apportionment

- 13.7.44. NE [RR-029] highlighted the proximity of the Flamborough and Filey Coast SPA colony to the Proposed Development and considered that there could be substantial functional links between the array area and the Flamborough and Filey Coast SPA colony over this period. It advocated a bespoke approach to assessing the displacement of auks during August and September to account for the potential importance of the array area to these species during a sensitive stage in its annual life-cycle. Discussions relating to NE's proposed adoption of an August and September bio-season and other overarching methodological concerns (including the exclusion of birds in flight) are detailed in Chapter 8 of this Report.
- 13.7.45. In addition, and of specific relevance to the Flamborough and Filey Coast SPA, was NE's disagreement with the Applicant's approach to apportioning impacts to adult auks from the Flamborough and Filey Coast SPA. The Applicant's method for apportionment to the Flamborough and Filey Coast SPA was detailed in Appendix H, Offshore Ornithology, Flamborough and Filey Coast SPA Population Viability Analysis [APP-177]. Section 4 confirmed that the Applicant had presented two apportionment

approaches: (i) evidence-led apportionment (based on the Scottish Natural Heritage apportionment tool); and (ii) NE's worst-case scenario.

- 13.7.46. NE [RR-029] and [REP5-115] stated that the Applicant's second approach incorporated some, but not all, of its pre-application advice. It disagreed with the approach to apportioning adults in both methods. With regards to guillemot, NE stated that the Applicant's method effectively reduced the impacts assigned to the Flamborough and Filey Coast SPA by placing less weight on the months with large peaks in the abundance of guillemot (August and September), when a higher proportion of birds in the Hornsea Project Four area were likely to be from the Flamborough and Filey Coast SPA. It advised that the non-breeding season be split, with the August-September bio-season being assessed separately (in a similar fashion to razorbill).
- 13.7.47. For razorbill, NE noted that there had been no consideration of the higher connectivity between the Flamborough and Filey Coast SPA and the Proposed Development area during the 'post-breeding migration season', when there are also large numbers of razorbill present. It advised that site-specific survey data be used to estimate adult apportioning rates, or a precautionary approach of 'all adult type' birds be applied.
- 13.7.48. The RSPB [RR-033], [REP2-089] and [REP4-057] also disagreed with the Applicant's approach to apportioning predicted mortalities, and likewise advised that the site-specific age classification be presented alongside that derived from stable age structure models. It supported NE's bespoke approach [REP8-024].
- 13.7.49. NE's preferred approach for apportionment of predicted impacts to guillemot of the Flamborough and Filey Coast SPA were as follows [REP5-115]:
- Breeding season (March to July), 100%;
 - Chick rearing/ moult (August and September), 60%;
 - Non-breeding (October to February), 4.41%.
- 13.7.50. The Applicant confirmed [REP5a-018] that it had applied an overall apportionment of 35% of all guillemots to breeding adults from the Flamborough and Filey Coast SPA during August and September, which was said to be significantly higher than the typical 4.41% used by all other impact assessments for guillemot displacement in other consented offshore wind farms in the North Sea. It stated [REP8-012] that there was no empirical evidence such as GPS tagging data to confirm that nearly all the guillemots recorded in the Proposed Development site for the months of August and September were from the Flamborough and Filey Coast SPA. The overall apportionment value for the entire non-breeding season was 13.12%, which the Applicant said was nearly three times greater than the standard apportionment approach used by other consented offshore wind farms (ie 4.41%).

- 13.7.51. NE's preferred approach for apportionment of predicted impacts to razorbill of the Flamborough and Filey Coast SPA were as follows [REP5-115]:
- Breeding season (April to July); 100%;
 - Chick rearing/ moult (August to October); 66%;
 - Non-breeding (November to December); 4.41%;
 - Pre-breeding (January to March); 2.74%.
- 13.7.52. The Applicant [REP5a-018] confirmed that the apportionment method used for razorbill followed the standard apportionment method used for all other UK offshore wind farms. It noted [REP5-085] that the vast majority of offshore wind farms in the southern North Sea showed the same pattern of distributional change during the months of July to October, with razorbills pulsing through different sites on migration to wintering grounds, and that NE did not request a higher apportionment value be used for those projects. It believed that NE had not provided evidence to substantiate that razorbill are particularly vulnerable to wind farms during the post-breeding dispersal months. The Applicant stated [REP8-012] that there was no empirical evidence to suggest that the majority of razorbills within the Proposed Development site during the post-breeding migration bio-season would be from the Flamborough and Filey Coast SPA to any greater degree than for any other North Sea wind farm projects.
- 13.7.53. The Applicant provided further detailed justification for its apportionment rates in [REP6-026] and presented its own seasonal apportioning rates for all qualifying features of the Flamborough and Filey Coast SPA [REP6-028, Table 2]. It considered that using site-specific data for calculating adult and immature proportions would lead to the over-estimation of impacts apportioned to the Flamborough and Filey Coast SPA. This was due to a lack of specific records, difficulties in distinguishing juvenile and adult birds and the presence of 'sabbatical' adult birds taking a break from breeding activities.
- 13.7.54. Ultimately, the Applicant considered NE's approach would significantly over-estimate predicted impacts apportioned to the Flamborough and Filey Coast SPA and noted that it would greatly increase the quantum of compensation required [REP5a-018], [REP7-085] and [REP8-012].
- 13.7.55. NE [REP6-056] and [REP6-059] responded that its:
- "guidance is in line with the Joint SNCB interim displacement advice. We consider that it is appropriate and proportional given the proximity of the site to the Flamborough and Filey Coast SPA as the largest nearby seabird colony and the very high numbers of guillemot and razorbill recorded in the Hornsea 4 array area + 2 km buffer immediately after breeding compared to other Project areas".*
- 13.7.56. The Applicant provided a detailed account of the different approaches to apportionment in its Ornithology EIA and HRA Annex [REP5-078, Section

2.4], superseded by [REP5a-011] and [REP6-028]. It presented impacts for guillemot and razorbill from the Flamborough and Filey Coast SPA in Sections 5.3 and 5.4 respectively, applying both approaches. However, it continued to disagree with NE's recommendations for a bespoke approach until the close of Examination.

Gannet and kittiwake bio-seasons

- 13.7.57. As noted in Chapter 8 of this Report, NE disagreed with the Applicant's approach to calculate breeding seasons for assessing displacement impacts. NE [RR-029] and the RSPB raised concerns [REP2-089], [REP4-057] and [REP7-098] about the Applicant's use of the 'migration-free' breeding season for gannet and kittiwake. They considered that excluding migrating adults passing through the area outside the migration-free breeding season from the breeding season mortality calculations would result in an underestimate of mortality.
- 13.7.58. The Applicant [REP3-031] considered that the presence of migrating adults at the beginning of the breeding season and immature birds towards the end of the breeding season would lead to an over-estimate of the mortality attributable to the Flamborough and Filey Coast SPA. It also noted [REP6-026] and [REP6-028] the acceptance of the migration-free breeding season by the ExA and the SoS for the consented Hornsea Three Offshore Wind Farm project, which it said was located in a similar area of the southern North Sea. Therefore, the Applicant applied the migration-free breeding season in its revised assessments, but also presented assessments using NE's preferred seasonal definitions. NE [REP8-031] concluded that the difference would only be likely to affect gannet displacement numbers and would be unlikely to make a material difference to its conclusions.
- 13.7.59. The RSPB [REP7-098] noted this as another reason to apply precaution in the assessment.

Gannet and kittiwake apportionment

- 13.7.60. The Applicant used generic ratios of adults to immature birds estimated from Appendix A of a paper published by Furness (2015) to apportion breeding season impacts to adult gannet and kittiwake from the Flamborough and Filey Coast SPA. NE [REP5-116] set out its preferred approach, which included the use of site-specific survey data to distinguish between breeding adult and immature proportions. It requested that all 'adult type' birds be considered breeding adult birds, that no sabbatical rate should be included, and that all impacts during the breeding season should be apportioned to the Flamborough and Filey Coast SPA.
- 13.7.61. The RSPB [RR-033] and [REP2-089] also disagreed with the Applicant's approach to apportioning predicted mortalities and likewise advised that the site-specific data on the age of birds recorded during surveys be used to inform the apportionment values.

- 13.7.62. The Applicant provided detailed responses in [REP5a-018] and [REP6-026]. It noted difficulties in distinguishing age categories for both species and suggested that relying on site-specific data would likely overestimate the proportion of breeding adult birds from the Flamborough and Filey Coast SPA using the area array. It confirmed that it agreed to apportion 100% of breeding gannet to Flamborough and Filey Coast SPA, but not kittiwake. It also did not agree with the breeding season component months advocated by NE for gannet.
- 13.7.63. The Applicant provided a detailed account of the different approaches to apportionment in its Ornithology EIA and HRA Annex [REP5-078, Section 2.4], superseded by [REP5a-011] and [REP6-028]. It presented impacts for gannet and kittiwake in Sections 5.1 and 5.2 respectively, applying both approaches.
- 13.7.64. NE subsequently confirmed [REP7-104] that the Applicant had provided an apportioning approach that follows its guidance for gannet and kittiwake. However, it refined the Applicant's estimates to the breeding season alone for gannet (87.2%) and kittiwake (96.8%) and used those values for apportioning in its own assessment.

Precaution

- 13.7.65. The Applicant's RIAA [APP-167, amended by AS-014] and [REP5-012] made a number of references to its evidence-led approach, particularly in respect of apportionment and displacement and mortality rates. NE [RR-029] considered its own approach was a different interpretation of the same evidence, which took account of the evidence-poor, high-uncertainty environment within which the assessments are carried out.
- 13.7.66. The issue of precaution is discussed in detail in Chapter 8 of this Report. In summary, the Applicant considered that NE's approach of seeking precaution in each parameter in the assessment leads to a compounding of precaution and a wholly unrealistic and significantly over-inflated impact value for project level assessments. It stated such an approach does not necessarily account for the latest evidence from academic and post-consent monitoring studies, significant changes in technology such as improved turbine designs, or differences between environmental variables between study sites. It identified sources of uncertainty and variability and the scale to which they affect the overall assessment in its Ornithological Assessment Sensitivity Report [REP4-041], superseded by [REP5-065] and subsequently [REP6-026].
- 13.7.67. NE [REP6-059] acknowledged the precaution in its advocated approach but considered this to reflect numerous sources of uncertainty that make assessing impacts of offshore wind farms problematic, and which can affect the level of confidence that can be placed on an AEoI conclusion. It commented on these sources in Annex I. The Applicant responded to NE's comments [REP8-012].

13.7.68. The RSPB [RR-033], [REP2-089], [REP4-057], [REP6-068] and [REP7-098] echoed NE's comments, noting that SNCB methods have been produced with leading experts and are designed to be suitably precautionary in the context of uncertainty inherent in the assessment process. It particularly identified the need for a high level of precaution as a result of the HPAI epidemic, and due to the Applicant's application of a migration-free breeding season for gannet and kittiwake, which it did not agree with.

13.7.69. All parties maintained their positions in relation to their methodologies for individual components of the impact assessment until the close of Examination.

Population Viability Analysis modelling and the use of counterfactuals

13.7.70. Chapter 8 of this Report explores the matters discussed in relation to population viability analysis (PVA) modelling and the use of counterfactuals. Matters relevant to the HRA are detailed below.

13.7.71. A PVA enables a comparison to be drawn between predicted population metrics (growth rate and population size) under impacted and non-impacted scenarios. The Applicant presented PVA modelling for HRA level impacts apportioned to the Flamborough and Filey Coast SPA [APP-177]. This used NE's Seabird PVA tool (Mobbs *et al* 2020) excluding density dependence, in accordance with NE's pre-application advice.

13.7.72. The Applicant revised the PVA for gannet, kittiwake, guillemot, razorbill and puffin from the Flamborough and Filey Coast SPA in Tables 42 to 48 of the Ornithological Assessment Sensitivity Report [REP5-065, revised in REP6-026] to take into account the suggestion from NE [RR-029] to include a burn-in period²⁵ and to account for an error in the PVA tool. The revised PVA modelling also included model validation steps comparing the model outputs with recent colony trends.

13.7.73. NE subsequently confirmed [REP7-104] it agreed with the PVA undertaken by the Applicant for gannet and supported that undertaken for guillemot and razorbill.

13.7.74. NE advised that the error it had identified in the PVA tool might have influenced the outputs from the kittiwake PVAs and suggested an interim solution. It considered that the issues with the tool would not influence conclusions in relation to HRA due to its existing position on in-combination effects, though it noted that it could affect the determination of final impact levels to inform compensation provision [REP5a-029] and [REP7-104].

²⁵ This is explained in Chapter 8 of this Report.

- 13.7.75. The Applicant [REP6-039] and [REP8-020] did not agree that there were implications for the quantum of compensation, stating that the PVA model is used to determine the 'tipping point' for when AEOI may be reached. It noted that the Proposed Development alone was nowhere close to the AEOI tipping point and that the level of compensation required for in-combination effects is informed by agreement on the most realistic predicted impacts. It considered there to be little merit in submitting a revised PVA model.
- 13.7.76. Discussions about the use of counterfactuals are described in Chapter 8 of this Report. The Applicant presented counterfactual of population growth rate (CPGR) outputs in the RIAA (as it did in the ES). Throughout the Examination, it maintained the position that the CPGR alone should be relied on. It presented the CPGR metrics for gannet, kittiwake, razorbill, guillemot and puffin from the Flamborough and Filey Coast SPA in its Ornithological Assessment Sensitivity Report [REP6-026].
- 13.7.77. However, NE advised throughout the Examination that the counterfactual of final population size (CFPS) should also be provided for the Flamborough and Filey Coast SPA qualifying features. Specifically in relation to the Flamborough and Filey Coast SPA, NE [REP7-104] stated that:
- "Where a specific feature of a designated site has a conservation objective to restore the population size to a given level, as is the case for kittiwakes at Flamborough and Filey Coast SPA, reductions in population growth rates and population size because of additional anthropogenic impacts may be counter to such conservation objectives. Whereas, if a specific feature has a conservation objective to maintain the population size at or above a given level, as is the case for gannet, guillemot and razorbill at the Flamborough and Filey Coast SPA, then consideration will need to be given to a range of plausible growth rates for the colony and whether the PVA metrics suggest that the population will be maintained at or be able to grow above the current population size over the lifetime of the predicted additional impact."*
- 13.7.78. NE based its conclusions in its End of Examination Position on Offshore Ornithology [REP7-104] on the CPGRs presented by the Applicant, considering these to be the best available evidence, although it stressed that it did not endorse the model outputs.
- 13.7.79. The RSPB also advocated the use of the CFPS throughout the Examination [RR-033] and [REP2-089]. It considered that omitting the CFPS had increased uncertainty and the need for precaution [REP7-098]. It calculated the mortalities and consequent CFPS apportioned to guillemot and razorbill from the Flamborough and Filey Coast SPA [REP6-068], using data from the Applicant's submissions [REP5-078]. This included graphical representations of the differences between the Applicant and NE's approaches and its own 'probable' displacement and mortality values. These 'probable' values have been used in referring to the RSPB's calculations below.

Reference to The Crown Estate Round 4 Plan Level HRA

- 13.7.80. The Crown Estate (TCE) completed a Plan Level HRA (dated April 2022) to assess the potential impacts of the Offshore Wind Leasing Round 4. The Applicant drew the plan to the attention of the ExA at ISH12 and in its subsequent summary [REP6-039], noting that it referred to similar parameters to those put forward by the Applicant for displacement and collision risk, and that it had been approved by the SoS. It noted that the Plan Level HRA stated that the advocated displacement range for auks was not applicable to offshore wind farms and that its displacement ranges were far lower than those recommended by NE. It submitted a copy of the Plan Level HRA into the Examination [REP6-032].
- 13.7.81. The Applicant's Ornithology Position Paper [REP7-085] provided a cross check on key ornithology parameters for collision risk modelling (CRM) and displacement with TCE Round 4 Plan Level HRA.
- 13.7.82. NE [REP7-101] considered that a conclusion of no AEoI at plan level is not a barrier to concluding adverse effects at a project level. It noted that the Proposed Development is a Round 3 project and was only factored into the in-combination assessments for the Flamborough and Filey Coast SPA guillemot qualifying feature at a late stage. It stated that it did not agree with the conclusion of the Plan Level HRA with respect to guillemot and razorbill of the Flamborough and Filey Coast SPA.
- 13.7.83. The RSPB [REP7-099] echoed NE's points and similarly did not support the comparison with Plan Level HRA, which draws conclusions at a strategic level. It did not consider the HRA to be consistent with the RSPB's position on the issue of precaution and advised that no weight be given to it.

AEoI threshold for auks

- 13.7.84. The Applicant [REP8-017] noted that the SoS, in the decisions for the Norfolk Boreas, Norfolk Vanguard and East Anglia ONE North Offshore Wind Farms, adopted a threshold below which it can be concluded there is unlikely to be a population decline, and that AEoI can be ruled out. That threshold was a reduction in population growth rate of 0.5% per annum. The Applicant considered it to be appropriate when considering impacts from the Proposed Development alone and in combination.
- 13.7.85. NE did not specifically confirm its agreement with this approach. However, it did go on in its own submitted calculations to identify when reductions in population growth rates of greater than 0.5% per annum would be reached [REP7-104].

Summary of key documents

- 13.7.86. The Applicant's key documents presenting its assessments were:
- Ornithological Assessment Sensitivity Report [REP4-041], superseded by [REP5-065] and subsequently [REP6-026]: presented the Applicant

and ANCB positions on all ornithology assessment parameters. It detailed how uncertainty and variability in assessment parameters affects the overall impact assessment process. It contained revised PVAs for gannet, kittiwake, guillemot, razorbill and puffin.

- Ornithology EIA and HRA Annex [REP5-078], superseded by [REP5a-011] and [REP6-028]: submitted following the revision of the baseline to revise the collision risk assessment (CRA) and displacement assessment for auks and gannet. It presented results using both the Applicant's and NE's preferred approach to the assessment.
- Ornithology Position Paper [REP7-085]: reiterated the Applicant's preferred auk displacement and kittiwake CRA parameters, which it compared to those advised by NE and those used in TCE Round 4 Plan Level HRA. It provided comparison tables presenting the predicted impacts when considering a mixture of different assessment parameters advocated by the three parties. Section 4 detailed the differences in assessment of impacts apportioned to the Flamborough and Filey Coast SPA compared to the application documents.
- Applicant's comments on Natural England's D7 Ornithology Submissions [REP8-017]: provided revised displacement matrices and assessments for auks.

13.7.87. NE set out its final position in its End of Examination Position on Offshore Ornithology [REP7-104]. This identified a number of outstanding issues with the Applicant's assessment [REP6-028] and presented NE's own assessment of effects alongside an integrity judgement for each feature.

13.7.88. The RSPB also set out a final position [REP8-024]. Its conclusions are based on annual mortalities and the CFPS values that it had previously calculated [REP6-068].

LSE impact pathways - discussion

13.7.89. The Applicant concluded that the Proposed Development alone would not result in an AEoI of the Flamborough and Filey Coast SPA.

13.7.90. Each qualifying feature and LSE pathway screened in for the Flamborough and Filey Coast SPA is detailed in Table 13.7 below, along with a summary of relevant Examination matters. The table identifies annual mortality rates and, where relevant, increases in baseline mortality, as calculated by the Applicant and NE using their respective preferred parameters²⁶. Pathways denoted with an asterisk (*) are those screened in by the ExA (see Section 13.2 of this Chapter).

²⁶ Note the table presents values calculated by NE itself, not the values calculated by the Applicant using NE's approach.

Table 13.7: LSE pathways screened in for the Flamborough and Filey Coast SPA and relevant Examination matters

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion														
Gannet	Displacement and disturbance (all phases)	<p>NE initially commented on the impacts of displacement and disturbance as a single LSE impact pathway. It did not agree with the displacement and mortality rates used by the Applicant and requested a full displacement matrix be provided [RR-029]. The Applicant submitted a Gannet Displacement and Mortality Evidence Review [REP2-045] advocating a 40 to 60% displacement rate during the breeding season and 60 to 75% rate during the non-breeding season with a 1% mortality rate. NE [REP7-104] and [REP8-031] did not consider the report to provide sufficient justification to diverge from its advised displacement range of 60 to 80% and a mortality range of 1 to 10%. The RSPB [REP2-045] also considered presenting a range of values to be the most appropriate approach for both displacement and mortality rates.</p> <p>The table below summarises the annual mortalities calculated by the Applicant, NE and the RSPB.</p> <table border="1" data-bbox="696 730 2009 1007"> <thead> <tr> <th data-bbox="696 730 1263 815"></th> <th data-bbox="1263 730 1659 815">Annual mortality</th> <th data-bbox="1659 730 2009 815">Mortality increase (expressed as a %)</th> </tr> </thead> <tbody> <tr> <td data-bbox="696 815 1263 906">Applicant [REP6-028, Tables 67 and 68] and [REP7-085, Tables 67 and 68]</td> <td data-bbox="1263 815 1659 906">2.0 to 2.6 (construction) 4.0 to 5.3 (operation)</td> <td data-bbox="1659 815 2009 906">Up to 0.39</td> </tr> <tr> <td data-bbox="696 906 1263 954">NE [REP7-104]</td> <td data-bbox="1263 906 1659 954">6 to 76</td> <td data-bbox="1659 906 2009 954">0.26 to 3.49</td> </tr> <tr> <td data-bbox="696 954 1263 1007">RSPB [REP7-098] ('probable' values)</td> <td data-bbox="1263 954 1659 1007">6.6 to 19.9</td> <td data-bbox="1659 954 2009 1007">Not stated</td> </tr> </tbody> </table> <p>NE did not comment specifically on any AEOI from this LSE pathway alone in its final position paper, rather it discussed the implications of combined displacement and collision mortality. This is discussed further below.</p>				Annual mortality	Mortality increase (expressed as a %)	Applicant [REP6-028, Tables 67 and 68] and [REP7-085, Tables 67 and 68]	2.0 to 2.6 (construction) 4.0 to 5.3 (operation)	Up to 0.39	NE [REP7-104]	6 to 76	0.26 to 3.49	RSPB [REP7-098] ('probable' values)	6.6 to 19.9	Not stated
		Annual mortality	Mortality increase (expressed as a %)													
Applicant [REP6-028, Tables 67 and 68] and [REP7-085, Tables 67 and 68]	2.0 to 2.6 (construction) 4.0 to 5.3 (operation)	Up to 0.39														
NE [REP7-104]	6 to 76	0.26 to 3.49														
RSPB [REP7-098] ('probable' values)	6.6 to 19.9	Not stated														
Collision mortality (operation and maintenance)	<p>NE initially commented on the impacts of collision mortality as a single LSE impact pathway. Discussions relating to CRM (including the RSPB's disagreement of the 98.9% avoidance rate for breeding gannets) are detailed in Chapter 8 of this Report.</p>															

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion														
		<p>The Applicant summarised its preferred parameters alongside those of NE in the Ornithology EIA and HRA Annex [REP6-028, Appendix A], along with a summary of predicted gannet monthly collision risk using both approaches [REP6-028, Appendices C and D]. It summarised the preferred parameters of NE, the Applicant and TCE Round 4 Plan Level HRA [REP7-085, Table 9]. The table below summarises the annual mortalities calculated by the Applicant, NE and the RSPB.</p> <table border="1" data-bbox="696 496 2011 794"> <thead> <tr> <th data-bbox="696 496 1263 580"></th> <th data-bbox="1263 496 1659 580">Annual mortality</th> <th data-bbox="1659 496 2011 580">Mortality increase (expressed as a %)</th> </tr> </thead> <tbody> <tr> <td data-bbox="696 580 1263 665">Applicant [REP6-028, Table 70] and [REP7-085, Section 4] *</td> <td data-bbox="1263 580 1659 665">7.1</td> <td data-bbox="1659 580 2011 665">Up to 0.97</td> </tr> <tr> <td data-bbox="696 665 1263 746">NE [REP7-104]</td> <td data-bbox="1263 665 1659 746">14 (range 2 to 59)</td> <td data-bbox="1659 665 2011 746">0.665 (range 0.09 to 2.72)</td> </tr> <tr> <td data-bbox="696 746 1263 794">RSPB [REP7-098] ('probable' values) *</td> <td data-bbox="1263 746 1659 794">26.4</td> <td data-bbox="1659 746 2011 794">Not stated</td> </tr> </tbody> </table> <p>* Using a 98% avoidance rate in the breeding season and 98.9% avoidance rate in the non-breeding season.</p> <p>NE did not comment specifically on AEoI from this LSE pathway alone in its final position paper, rather it discussed the implications of combined displacement and collision mortality. This is discussed further below.</p>				Annual mortality	Mortality increase (expressed as a %)	Applicant [REP6-028, Table 70] and [REP7-085, Section 4] *	7.1	Up to 0.97	NE [REP7-104]	14 (range 2 to 59)	0.665 (range 0.09 to 2.72)	RSPB [REP7-098] ('probable' values) *	26.4	Not stated
	Annual mortality	Mortality increase (expressed as a %)														
Applicant [REP6-028, Table 70] and [REP7-085, Section 4] *	7.1	Up to 0.97														
NE [REP7-104]	14 (range 2 to 59)	0.665 (range 0.09 to 2.72)														
RSPB [REP7-098] ('probable' values) *	26.4	Not stated														
	Combined collision and disturbance (operation and maintenance)	<p>The Applicant [REP5-078] and [REP6-026] explained it had assessed collision risk and disturbance and displacement impacts both separately and combined (ie add the two predicted impacts (or range of impacts) together). However, it explained that NE was producing new guidance on revised macro avoidance rates aimed to address the risk of assessing collision impacts on birds that may have already been subject to displacement and thus double count or over-inflate impacts.</p> <p>The Applicant presented a revised assessment in its Ornithology EIA and HRA Annex [REP5-078], updated as [REP5a-011] and subsequently [REP6-028], presenting a reduction of 60%, 65%,</p>														

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion													
		<p>70%, 75% and 80% to monthly density estimates used in the CRA; this resulted in a significant reduction in predicted impacts on the species.</p> <p>The table below summarises the annual mortalities calculated by the Applicant, NE and the RSPB.</p> <table border="1" data-bbox="696 432 2007 663"> <thead> <tr> <th></th> <th>Annual mortality</th> <th>Mortality increase (expressed as a %)</th> </tr> </thead> <tbody> <tr> <td>Applicant * [REP6-028, Table 71]</td> <td>2.1</td> <td>0.15</td> </tr> <tr> <td>NE * [REP7-104]</td> <td>6 to 93</td> <td>0.02 to 0.44</td> </tr> <tr> <td>RSPB [REP7-098] ('probable' values)</td> <td>33.0 to 46.3</td> <td>Not stated</td> </tr> </tbody> </table> <p>* Based on a macro avoidance rate of 70%.</p> <p>NE concluded that the colony would be able to increase from its current size of 24,594 adults for a growth rate of greater than or equal to 1%. It agreed [REP6-059] and [REP8-029] that an AEOI of the Flamborough and Filey Coast due to impacts on the gannet qualifying feature could be ruled out.</p> <p>The RSPB [REP7-098] did not accept the approach of accounting for macro avoidance, as it follows suggestions in Cook (2021) that had not been formally adopted by the SNCBs. It stated that the approach does not take into account the likely seasonal variation in macro avoidance. It also assumes that gannets have the same reactive flight response as gulls, whereas it believed that they have lower flight manoeuvrability. It concluded that the Flamborough and Filey Coast SPA population would be likely to be 5.2% to 7.2% lower after the lifetime of the Proposed Development. It considered that the SPA population may previously have been sufficiently robust to be maintained, even with the additional mortality associated with the project alone, however, in the context of the outbreak of HPAI, there was considerable uncertainty as to the continued viability of this population. As such, the RSPB could not rule out an AEOI due to impacts on the gannet qualifying feature from the Proposed Development alone.</p>			Annual mortality	Mortality increase (expressed as a %)	Applicant * [REP6-028, Table 71]	2.1	0.15	NE * [REP7-104]	6 to 93	0.02 to 0.44	RSPB [REP7-098] ('probable' values)	33.0 to 46.3	Not stated
	Annual mortality	Mortality increase (expressed as a %)													
Applicant * [REP6-028, Table 71]	2.1	0.15													
NE * [REP7-104]	6 to 93	0.02 to 0.44													
RSPB [REP7-098] ('probable' values)	33.0 to 46.3	Not stated													

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion														
	Barrier effects (operation and maintenance) *	No specific concerns raised during the Examination.														
Kittiwake	Collision mortality (operation and maintenance)	<p>Discussions relating to CRA are detailed in Chapter 8 of this Report.</p> <p>The Applicant summarised its preferred parameters alongside those of NE in the Ornithology EIA and HRA Annex [REP6-028, Appendix A], along with a summary of predicted gannet and kittiwake monthly collision risk using both approaches [REP6-028, Appendices C and D]. It summarised the preferred parameters of NE, the Applicant and TCE Round 4 Plan Level HRA [REP7-085, Table 9].</p> <p>The table below summarises the annual mortalities calculated by the Applicant, NE and the RSPB.</p> <table border="1" data-bbox="696 694 2007 991"> <thead> <tr> <th data-bbox="696 694 1263 778"></th> <th data-bbox="1263 694 1659 778">Annual mortality</th> <th data-bbox="1659 694 2007 778">Mortality increase (expressed as a %)</th> </tr> </thead> <tbody> <tr> <td data-bbox="696 778 1263 858">Applicant [REP6-028, Table 85] and [REP7-085, Section 4]</td> <td data-bbox="1263 778 1659 858">23.3</td> <td data-bbox="1659 778 2007 858">Not stated</td> </tr> <tr> <td data-bbox="696 858 1263 943">NE [REP7-104]</td> <td data-bbox="1263 858 1659 943">71 (range 22 to 152)</td> <td data-bbox="1659 858 2007 943">"... <i>only just exceeded a 1% increase</i>"</td> </tr> <tr> <td data-bbox="696 943 1263 991">RSPB [REP7-098] ('probable' values)</td> <td data-bbox="1263 943 1659 991">71.4</td> <td data-bbox="1659 943 2007 991">Not stated</td> </tr> </tbody> </table> <p>NE concluded no AEoI from the Proposed Development alone [REP7-104, Table 2].</p> <p>The RSPB [REP7-098] and [REP8-024] concluded that the Flamborough and Filey Coast SPA population would be likely to be 3.0% lower after the lifetime of the Proposed Development. Given the Flamborough and Filey Coast SPA 'restore' objective for this species' population and the vulnerability of the population, both locally and in the wider biogeographic region, it could not rule out an AEoI due to impacts on the kittiwake qualifying feature from the Proposed Development alone.</p>				Annual mortality	Mortality increase (expressed as a %)	Applicant [REP6-028, Table 85] and [REP7-085, Section 4]	23.3	Not stated	NE [REP7-104]	71 (range 22 to 152)	"... <i>only just exceeded a 1% increase</i> "	RSPB [REP7-098] ('probable' values)	71.4	Not stated
	Annual mortality	Mortality increase (expressed as a %)														
Applicant [REP6-028, Table 85] and [REP7-085, Section 4]	23.3	Not stated														
NE [REP7-104]	71 (range 22 to 152)	"... <i>only just exceeded a 1% increase</i> "														
RSPB [REP7-098] ('probable' values)	71.4	Not stated														

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion			
	Barrier effects * (operation and maintenance)	No specific concerns raised during the Examination.			
Guillemot	Displacement and disturbance (all phases)	Discussions relating to the approach to assessing displacement of auks are detailed above in this Section. The table below summarises the annual mortalities calculated by the Applicant, NE and the RSPB.			
			Annual mortality	Reduction in population growth rate per annum	
			Applicant (using the Applicant's preferred approach to assessment and a 50% displacement and 1% mortality rate) [REP6-028, Table 72]	39.5	Not stated
			Applicant (using the Applicant's preferred approach to assessment and a 70% displacement and 2% mortality rate) [REP8-017]	111	0.09%
			NE bespoke approach [REP7-104]	97 to 2,262 ²⁷	0.09 to 2.07%
			NE standard SNCB approach [REP7-104]	33 to 771	0.03 to 0.69%
		RSPB [REP7-098] ('probable' values)	450.3 to 694.1	Not stated	

²⁷ The ExA notes that NE stated an alternative figure of a maximum of 2,232 annual guillemot mortalities in [REP7-102]. The ExA has presented the higher of the two figures in this Table.

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion
		<p>The Applicant presented an annual displacement matrix [REP8-017, Table 3] and population modelling results [REP6-026, Table 45]. As the predicted reduction in growth rate would be less than 0.5% per annum, the Applicant concluded there would be no AEoI [REP8-017].</p> <p>NE noted that predicted displacement impacts based on its advice vary greatly from the Applicant's, due to the range in displacement and mortality rates assessed. It presented predicted impacts and associated percentage reductions in guillemot population growth rates for different displacement and mortality rates [REP7-104, Table B6]. It noted that a reduction in population growth rate of greater than 0.5% per annum is reached at mortality rates of 2% for its preferred bespoke approach and at 5% for the standard SNCB approach.</p> <p>NE considered a realistic mortality rate of 5% (displacement rate of 70%) would reflect the heightened sensitivity of the area: this would result in a Proposed Development alone impact of 1,131 adults per annum. This would lead to a population decline at a growth rate of 1% per annum, but a population increase at a growth rate of greater than 2%. It noted that impacts at these displacement and mortality rates are more than three times the in-combination impacts from other consented projects (at 70% displacement and 2% mortality, excluding Hornsea Project Three Offshore Wind Farm during the breeding season).</p> <p>NE stated that the current long-term annual growth rate is around 3.2% (1987-2017), with the most recent growth rate suggesting some improvement (3.9% between 2008-2017). However, it noted that productivity has been declining, indicating that population increase may be driven, at least in part, by immigration. It confirmed the conservation objective is to maintain the size of the breeding population, whilst avoiding deterioration from its current level.</p> <p>NE advised other factors and sources of uncertainty be taken into account when considering whether the Proposed Development would lead to AEoI due to impacts on the guillemot breeding feature, namely:</p> <ul style="list-style-type: none"> ▪ the importance of the area as key supporting habitat during the chick rearing moult period; ▪ the influence of other nearby consented projects on the importance and use of the area; ▪ uncertainty surrounding how birds will respond to the Proposed Development; ▪ the influence of indirect effects on prey resources during the chick rearing moult period;

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion
		<ul style="list-style-type: none"> ▪ climate change; and ▪ HPAI. <p>The Applicant responded to these matters [REP8-017, Table 11], suggesting that they had been taken into account or simply did not apply. NE [REP7-104] did not consider that the Flamborough and Filey Coast SPA annual guillemot growth rate would be sustained over the next 35 years at a level which would prevent the colony from being susceptible to the displacement impacts of Hornsea Project Four. This was a result of the sources of uncertainties, consideration of the colony's current and likely future growth rates (including evidence of declines in productivity at the colony), and the potential functional importance of the array area. Accordingly, it could not rule out beyond reasonable scientific doubt that, given the predicted impacts associated with Hornsea Project Four, the conservation objectives for the feature would not be met.</p> <p>The RSPB [REP6-068] calculated a 'probable' annual mortality of between 450.3 and 694.1 individuals. It concluded that the additional mortality predicted to arise through displacement would result in the population of guillemot being 13.9% to 20.6% lower after the lifetime of the Proposed Development than it would be without it. It could not rule out an AEoI.</p> <p>The Applicant provided a displacement matrix [REP8-017] for its preferred parameters and NE's parameters with standard SNCB apportioning. It maintained that, should the SoS rely on the parameters previously adopted for other decisions of 70% displacement and 2% mortality, there would still be no AEoI as the reduction in population growth threshold is not reached (0.5%) alone (or in combination) with either Applicant's or NE's approach.</p>
	Barrier effects (operation and maintenance)	Chapter 8 of this Report details the RSPB's criticism of the Applicant's assessment of barrier effects which only included birds in flight. The Applicant amended its assessment of impacts on auks in a revised version of the Offshore Ornithology Displacement Analysis [REP2-003].
	Impacts on supporting habitat (operation and maintenance)	<p>The importance of the array area to auks is discussed above in this Section.</p> <p>As noted in Section 13.2 of this Chapter, the Applicant [REP1-038], [REP5-085], [REP5a-018] and [REP8-017] considered the array area to be significantly outside the key foraging area for razorbill and guillemot from the Flamborough and Filey Coast SPA. It considered the most</p>

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion
		<p>important areas of sea for this species to be more distant from the proposed array area - in particular closer to the Flamborough and Filey Coast SPA colony during the breeding period, and at a considerable distance to the south of the array area during the post-breeding period. The Applicant [REP8-017] also noted that the Proposed Development is approximately 69km away from the Flamborough and Filey Coast SPA and therefore poses no risk to maintaining the extent, distribution, and availability of auk breeding habitat.</p> <p>The Applicant argued that all of the southern North Sea could be defined as functionally linked habitat to the Flamborough and Filey Coast SPA, that the array area is not unique and is a small constituent part of an extensive area [REP5-085].</p> <p>However, NE [REP7-104] considered the Proposed Development to have the potential to exclude significant numbers of birds from the array area²⁸. It acknowledged that the Applicant's refinement of the Proposed Development site had significantly reduced the impacts that could have arisen from the project. However, it noted that inter-annual variability could result in guillemot hotspots encroaching on the array area and 2km buffer to different degrees in different years. It noted that the importance of the area during August and September was short lived but that it was a critical time for flightless birds and attendant chicks. It raised concerns that displaced birds would be forced to compete with others in more important adjacent sea areas.</p>
Razorbill	Displacement and disturbance (all phases)	<p>Discussions relating to the approach to assessing displacement of auks are detailed above in this Section.</p> <p>The table below summarises the annual mortalities calculated by the Applicant, NE and the RSPB.</p>

²⁸ Note, this statement was made in respect of assemblage birds, but specifically referred to the exclusion of guillemot (as part of that assemblage).

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion		
			Annual mortality	Reduction in population growth rate per annum
		Applicant (using the Applicant's preferred approach to assessment and a 50% displacement and 1% mortality rate) [REP6-028, Table 81]	39.5	Not stated
		Applicant [REP8-017] (using the Applicant's preferred approach to assessment and a 70% displacement and 2% mortality rate)	5	0.01%
		NE bespoke approach [REP7-104]	10 to 228	Not stated
		NE standard SNCB approach [REP7-104]	2 to 39	Not stated
		RSPB [REP7-098] ('probable' values)	24.2 to 63.3	Not stated
		<p>The Applicant presented an annual displacement matrix [REP8-017, Table 7] and population modelling results [REP6-026, Table 46]. As the predicted reduction in growth rate would be less than 0.5% per annum, the Applicant concluded there would be no AEoI [REP8-017].</p> <p>NE [REP7-104] stated there was the potential to exceed a 1% increase in the baseline (latest count) mortality (Tables B2 and B7) with the range of predicted impacts using the bespoke approach, but not the SNCB standard approach. It noted that the Flamborough and Filey Coast SPA razorbill colony has exhibited strong growth in recent years and that it is currently very productive. It confirmed the conservation objective is to maintain the size of the breeding population, whilst avoiding deterioration from its current level. It considered that using both approaches, the colony would be predicted to continue to increase from its current size of 40,506 adults for a growth rate scenario of greater than 1% per annum.</p>		

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion
		<p>NE noted that, at 70% displacement and 2% mortality, the predicted impacts from the Proposed Development alone were 20% greater than in-combination impacts from other consented projects to date.</p> <p>Nevertheless, NE concluded that the Flamborough and Filey Coast SPA razorbill colony was sufficiently robust to maintain the population at its current level and sustain additional mortalities from the impacts of the Proposed Development alone. It therefore advised that an AEoI due to impacts on the razorbill feature from the Proposed Development alone could be ruled out.</p> <p>The RSPB [REP6-068] calculated a 'probable' annual mortality of between 24.2 and 63.3 individuals. It concluded that the additional mortality predicted to arise through displacement would result in the population of razorbill being 2.5% to 6.4% lower after the lifetime of the Proposed Development than it would be without it. It did not identify an AEoI due to impacts on razorbill as a result of the Proposed Development alone.</p>
	Barrier effects (operation and maintenance)	Chapter 8 of this Report details the RSPB's criticism of the Applicant's assessment of barrier effects which only included birds in flight. The Applicant revised its assessment of impacts to auks in a revised version of the Offshore Ornithology Displacement Analysis [REP2-003].
	Impacts on supporting habitat (operation and maintenance)	See above re guillemot.
Seabird assemblage	Collision mortality (operation and maintenance)	<p>See above re gannet and kittiwake.</p> <p>The Applicant presented annual herring gull CRM results [REP6-026, Tables 15 to 18]. It did not apportion these to the Flamborough and Filey Coast SPA. NE [REP7-104] noted the Applicant's calculated annual mortality of less than one individual per annum and its own figure of less than two individuals per annum. It advised that would not significantly affect the Flamborough and Filey Coast SPA herring gull population or the seabird assemblage.</p> <p>No concerns were raised regarding other component species of the seabird assemblage.</p>

Qualifying feature assessed	LSE impact pathway	Examination matters/ discussion
	Displacement and disturbance (all phases)	<p>See above re guillemot and razorbill.</p> <p>With regards to puffin, the Applicant calculated a total of 0.9 annual puffin mortalities using its preferred approach [REP7-085, Section 4]. This was an increase of 0.2 predicted annual mortalities compared to those calculated in the RIAA. It provided population modelling results [REP6-026, Table 48] and concluded there would be no AEoI [REP7-085, Table 11]. NE calculated an annual mortality of one to 14 per annum from the Proposed Development alone, resulting in a reduction in growth rate of 0.03% to 0.17% per annum. Using what it considered to be a more realistic displacement rate of 70% and mortality rate of 2% for puffin, it estimated three additional mortalities [REP7-104].</p> <p>There were no discussions regarding any of the other component species of the seabird assemblage during the Examination in respect of displacement and disturbance.</p>
	Barrier effects (operation and maintenance)	See above re guillemot and razorbill. No concerns were raised regarding other component species of the seabird assemblage.
	Combined collision and displacement mortality *	See above re gannet. No concerns were raised regarding other component species of the seabird assemblage.
All features (including seabird assemblage)	Changes in prey availability and behaviour - indirect effects on prey availability (herring) from piling noise (construction) *	<p>Herring is a prey species of some of the Flamborough and Filey Coast SPA qualifying features. Discussions relating to the Applicant's proposed seasonal restriction of piling at the offshore HVAC booster stations (Work No. 3) to mitigate effects on the Banks herring spawning ground are detailed in Chapter 9 of this Report. There, the ExA concludes that piling restrictions secured through the recommended DCO would mitigate significant effects on herring.</p> <p>See Section 13.4 of this Chapter regarding indirect effects on supporting habitats resulting from impacts on the Flamborough Front or Smithic Bank.</p>

ExA conclusion for the Proposed Development alone

- 13.7.97. The ExA is satisfied that the baseline characterisation was agreed and can be relied on to inform the assessment of effects.
- 13.7.98. The ExA notes that numerous disagreements about methodology remained at the close of Examination, particularly in relation to guillemot and razorbill. The ExA's conclusions that are relevant to both the EIA and HRA are detailed in Chapter 8 of this Report and summarised here.
- 13.7.99. In summary, the ExA considers that NE's bespoke approach to the definition of bio-seasons in the assessment of auk displacement is appropriate, given the proximity of the Proposed Development to the Flamborough and Filey Coast SPA and the particular importance of the area to vulnerable young and flightless birds during August and September. For similar reasons, the ExA considers it appropriate to apply NE's preferred rates of apportionment of impact to the Flamborough and Filey Coast SPA.
- 13.7.100. The ExA is aware that NE's bespoke approach for auks leads to high levels of precaution. However, it considers this to be appropriate given that the pulses of auk activity occur annually and that impacts over the operational lifetime of the Proposed Development could have implications for populations. The ExA is largely unconvinced that the alternative inputs generated by the Applicant from its sensitivity studies were based on sufficiently robust and reliable evidence to justify departure from the precautionary standard parameter values advocated by NE.
- 13.7.101. As noted in Chapter 8 of this Report, the ExA considers that the adoption of a 2% mortality rate is appropriate within the range of 1% to 10% advocated by NE, on the basis that the additional importance of the Proposed Development's array area to auks is accounted for in NE's bespoke approach to bio-season definition. It is also in line with recent SoS decisions.
- 13.7.102. The ExA notes that the parameters used in TCE Round 4 Plan Level HRA align more closely with those preferred by the Applicant than those advocated by NE. However, it further notes that NE and the RSPB are not in full agreement with their use in that Plan, and it considers that the approach and methodology used for each HRA should consider the individual circumstances of the plan or project being assessed. The ExA therefore affords little weight to what is a strategic level plan HRA that did not need to consider the specific locational circumstances of a Proposed Development, and whose approach has not been fully accepted by the SNCB and other relevant parties.
- 13.7.103. The ExA notes that an AEOI threshold of a reduction in population growth rate of 0.5% per annum was applied by the SoS for the decisions on the Norfolk Boreas, Norfolk Vanguard and East Anglia ONE North Offshore Wind Farms. The ExA considers this to be a reasonable threshold to apply when considering adverse effects, though it should be considered

alongside any implications for the population over time and in light of the specific conservation objectives.

- 13.7.104. In respect of PVA and the use of counterfactuals, the ExA is conscious of the caution that is required in respect of the statistical application of counterfactuals. It considers that it would have been helpful for the Applicant to provide the CFPS for context, even if it was not directly used in the final assessment. As such, the ExA was grateful for the RSPB's contribution of the calculations for the Flamborough and Filey Coast SPA populations in this regard.
- 13.7.105. **Kittiwake:** NE agreed there would be no AEoI due to kittiwake collision mortality from the Proposed Development alone. However, the RSPB disagreed due to the restore objective for the population. On balance, the ExA is content to accept the advice from NE in this respect, though the SoS may wish to review this in the light of any further information that becomes available in respect of the impact of HPAI on the population.
- 13.7.106. **Gannet:** NE agreed there would be no AEoI due to combined gannet collision and displacement impacts. Whilst the RSPB calculated a lower number of annual mortalities than NE, it disagreed that an AEoI can be excluded on the basis that the current outbreak of HPAI results in considerable uncertainty as to the continued viability of this population. The ExA acknowledges RSPB's comments, however it notes that the impacts of HPAI on the long-term viability of the gannet population were not known and did not consider it appropriate to take this into account at the time of the close of the Examination. Therefore, the ExA concludes that an AEoI can be excluded as a result of combined collision and displacement impacts on gannet from the Proposed Development alone.
- 13.7.107. **Guillemot:** NE [REP7-104, Table 2] did not agree that an AEoI could be excluded in relation to guillemot displacement. However, as noted above, whilst the ExA agrees that NE's bespoke assessment approach should be used, it considers it appropriate to apply a 70% displacement rate and a 2% mortality rate in that process. NE's calculations at those rates [REP7-104, Table B6] predict 452.3 annual mortalities and a reduction in population growth rate of 0.46% per annum.
- 13.7.108. As noted in Table 13.7 of this Chapter, NE stated that the current long-term annual growth rate is approximately 3.2%, with the most recent growth figures suggesting some improvement. However, it noted that productivity has been declining, indicating that the population increase may be driven by immigration. The ExA acknowledges that there is no guarantee that the population growth rate would be maintained over the next 35 years and that the implications of HPAI are not yet known. However, on the basis that the reduction in population growth rate would be less than 0.5% per annum, the ExA is content that an AEoI can be excluded as a result of displacement impacts on guillemot from the Proposed Development alone.

- 13.7.109. **Razorbill:** the ExA notes NE's [REP7-104] agreement that there would be no AEoI due to displacement of razorbill from the Proposed Development alone. NE drew this conclusion applying its own preferred parameters, which the Applicant asserts are overly precautionary. As such, the ExA sees no reason to disagree with these conclusions. It notes from NE's End of Examination Position on Offshore Ornithology [REP7-104, Table B8] that applying NE's preferred approach and a 70% displacement and 2% mortality rate would result in 45.6 annual razorbill mortalities (representing a 0.15% reduction in growth rate).
- 13.7.110. **Seabird assemblage:** the Applicant [REP6-039] concluded that an AEoI of the seabird assemblage feature of the Flamborough and Filey Coast SPA could be ruled out, as there were no significant adverse effects predicted for each of the individual components of the seabird assemblage, meaning that the population diversity would be maintained (ie no component species would be lost). The Applicant also concluded that the overall abundance of the assemblage would be maintained at the level specified in the conservation objectives (above 216,730 individuals), whilst also avoiding deterioration from its current level as indicated by the latest peak mean count or equivalent.
- 13.7.111. However, NE [REP7-104] identified an AEoI for guillemot, one of the component species. Whilst it did not expect species diversity to be affected, it could not conclude that the overall abundance of the assemblage would be maintained due to the predicted impact on individual species comprising the assemblage, particularly guillemot, and uncertainty regarding the impacts of the proposal on marine processes. Furthermore, it could not conclude that the extent, distribution and quality of supporting breeding habitat would be maintained. It therefore could not exclude an AEoI of the seabird assemblage. Similarly, the RSPB [REP7-098] could not exclude an AEoI from the Proposed Development alone due to the impact of combined collision and displacement mortality on the seabird assemblage.
- 13.7.112. The ExA has considered both species diversity and abundance and concludes that diversity would not be affected. It also considers that the impacts on abundance, across the suite of species, would not result in a significant percentage reduction in the overall number of seabirds in the assemblage. It notes that this was the approach taken by the SoS in the HRAs for the East Anglia ONE North and East Anglia TWO Offshore Wind Farms.
- 13.7.113. The ExA notes NE's advice [REP7-104] that the Flamborough and Filey Coast SPA herring gull, and thus its contribution to the assemblage feature, would not be significantly impacted and has not been presented with any evidence to the contrary. In respect of puffin, the ExA notes that a worst-case reduction in growth rate would be 0.17% per annum. Even under this scenario, the ExA is of the view that the level of puffin mortality from the Proposed Development alone would not significantly influence the Flamborough and Filey Coast SPA puffin population or its contribution to the seabird assemblage.

- 13.7.114. The ExA has taken account of NE's suggestion [REP7-104] that multiple pressures and all conservation objectives must be considered in reaching a conclusion regarding AEOI for all qualifying features. The ExA notes that one of the conservation objectives for the Flamborough and Filey Coast SPA is to maintain the distribution, abundance and availability of key food and prey items. NE's concerns relating to changes in prey availability and behaviour apply to all features of the Flamborough and Filey Coast SPA. The ExA's conclusions echo those drawn in respect of the Southern North Sea SAC (see Section 13.6 of this Chapter). That is, the ExA is confident that the availability of prey would not be negatively affected by impacts on the Flamborough Front or Smithic Bank or from piling at the offshore HVAC booster stations (Work No. 3).
- 13.7.115. The ExA further notes a second conservation objective for the Flamborough and Filey Coast SPA to maintain the extent, distribution and availability of supporting habitat during the breeding season, and connectivity with supporting habitats. The ExA is satisfied that there would be no direct habitat loss from the Flamborough and Filey Coast SPA itself. It has considered the possible ecological impacts on the population of potential exclusion from the array area in terms of supporting habitat, including the potential effect of displaced birds being forced to compete with others in adjacent sea areas. The ExA is content that this is already satisfactorily accounted for in the auk displacement assessment and that no further allowance is merited.

AEOI from the Proposed Development in combination – the Flamborough and Filey Coast SPA

Introduction

- 13.7.116. Section 11.4 of the application version of the RIAA [APP-167, amended by AS-014] concluded that the Proposed Development, in combination with other plans or projects, would not result in an AEOI of the Flamborough and Filey Coast SPA.
- 13.7.117. However, during the pre-Examination phase, the Applicant reconsidered its RIAA conclusions in light of the SoS's decisions on the Norfolk Boreas and Norfolk Vanguard Offshore Wind Farm projects [REP1-010], [REP2-038] and [AS-023] and concluded that the Proposed Development could result in AEOI of the Flamborough and Filey Coast SPA due to:
- in-combination effects of collision on kittiwake.
- 13.7.118. This conclusion was reflected in the updated RIAA [REP5-012] and is agreed with NE as the ANCB [REP3-018]. Indeed, NE's position from the start of the Examination [RR-029] was that there was already an AEOI of kittiwake across consented plans and projects, and so any additional mortality arising from the Proposed Development could only be concluded to be an additional adverse effect. The Applicant updated its derogation information and compensatory measures proposed during the

Examination. (See Sections 13.9 to 13.11 of this Chapter for further details.)

- 13.7.119. The application version of the RIAA [APP-167, amended by AS-014] acknowledged that NE had advised in the pre-application stage that it would be unable to conclude no AEoI of the Flamborough and Filey Coast SPA as a result of in-combination:
- collision risk to kittiwake and gannet; and
 - displacement of guillemot and razorbill.
- 13.7.120. However, the RIAA noted that the SoS's Hornsea Project Three Offshore Wind Farm decision had clarified that there was a need to consider derogation during the Examination where there was the potential for an AEoI. It therefore submitted derogation information on a without-prejudice basis for these features with its application, as discussed further in Sections 13.9 to 13.11 of this Chapter. Nevertheless, the Applicant maintained a position of no AEoI of these features (except kittiwake) throughout the Examination [REP7-085, Table 11].
- 13.7.121. The Examination matters raised by NE and the RSPB pertaining to the characterisation of the ornithological baseline and the assessment methodology were also relevant to the in-combination assessment, though they are not repeated here. Similarly, NE's concerns relating to the presentation of minimum and maximum predicted impacts were also relevant to the in-combination assessment.
- 13.7.122. The discussions relating to precaution in ornithological assessments, as detailed above in relation to impacts from the Proposed Development alone, were similarly relevant to the in-combination assessment. The Applicant [REP6-026] considered that the level of precaution is compounded further when including other projects during cumulative or in-combination assessments. NE [REP6-059] acknowledged that this is a potential risk, though highlighted that in-combination assessments typically use central impact values rather than worst case assessments as a reflection of this, confirming [REP8-031] that this had been its approach in this case.
- 13.7.123. The Applicant's assessment of in-combination displacement and disturbance effects on auks initially included mortality from Hornsea Three Offshore Wind Farm. NE confirmed [REP7-104] that these could be excluded as it is unlikely to be connected to the Flamborough and Filey Coast SPA in the breeding season. The Applicant [REP8-017] noted that the removal of these impacts resulted in an approximate 25% reduction in annual apportioned impacts for guillemot and 8% for razorbill. It provided revised displacement matrices to reflect this [REP8-017]. The Applicant's predicted mortality figures reported below are therefore those in its final submission [REP8-017].
- 13.7.124. The ExA presents the annual mortalities for the Flamborough and Filey Coast SPA qualifying features below, as calculated by the Applicant, NE

and the RSPB, where relevant. References to 'future projects' mean the Sheringham and Dudgeon Extension Projects and the Rampion 2 Offshore Wind Farm.

Kittiwake

- 13.7.125. As noted above, the Applicant agreed during the pre-Examination phase that there would be an AEOI due to in-combination kittiwake collision mortality [AS-023]. This was reflected in the revised RIAA [REP5-012], which calculated a total of 396.9 annual mortalities (Table 59) including consented and future projects, resulting in an increase in mortality of greater than 1%. The RIAA noted that continued growth in the population of kittiwake at the Flamborough and Filey Coast SPA was relied on initially to conclude there would be no AEOI. However, further to the HRA for the Norfolk Boreas Offshore Wind Farm, where this finding was not accepted by the SoS as a basis to exclude AEOI, the Applicant concluded there would be an AEOI as a result of in-combination kittiwake collision mortality.
- 13.7.126. The Applicant's revised calculations presented during the Examination (using its preferred approach) calculated a similar total of 344.8 annual kittiwake mortalities for consented projects and 364.3 including future projects²⁹ [REP6-028, Table 118]. It continued to conclude that the potential for AEOI in combination with other plans or projects could not be ruled out [REP7-085, Table 11].
- 13.7.127. NE provided its own assessment of effects [REP7-104]. This calculated an annual kittiwake mortality of 393 (assuming all consented and future projects from the Hornsea Three Offshore Wind Farm onwards have impacts compensated for in full³⁰), which exceeded the 1% threshold using the central values. NE noted that it had not received revised PVA outputs for kittiwake but considered that this would not have a material effect on its position.
- 13.7.128. NE confirmed [REP7-104] that its advice regarding in-combination collision impacts on the Flamborough and Filey Coast SPA kittiwake qualifying feature remained the same as that expressed in the East Anglia ONE North Wind Farm and East Anglia TWO Offshore Wind Farm examinations, as the feature has a 'restore' conservation objective requiring the population to be returned to previous levels, and there are

²⁹ Sheringham and Dudgeon Extension Projects, Rampion 2 Offshore Wind Farm, North Falls Offshore Wind Farm and Five Estuaries Offshore Wind Farm.

³⁰ NE confirmed [AS-028] that consented projects with compensatory measures (eg Hornsea Project Three Offshore Wind Farm, Norfolk Boreas and Norfolk Vanguard) could be discounted from the in-combination tables as the SoS is in the process of securing compensation. NE [REP7-104] also stated that it assumed any additions from further planned projects (eg SEP and DEP) would be fully compensated for. The RSPB [REP2-089 and REP2-090] on the other hand considered that due to uncertainty of the effectiveness of these compensatory measures, the in-combination effects could not be discounted.

indications that the predicted level of mortality would mean the population could decline from current levels should it currently be stable. Therefore, NE could not rule out AEOI from kittiwake collision mortality in combination with other plans and projects. This conclusion was drawn irrespective of whether fully compensated projects (eg Hornsea Project Three, Norfolk Boreas and Norfolk Vanguard Offshore Wind Farms) were taken into account, as the level at which predicted impacts resulted in AEOI had already been reached by that point.

13.7.129. As noted in Table 13.7 of this Chapter, the RSPB could not rule out an AEOI from the Proposed Development alone. It calculated [REP7-098] an in-combination annual mortality of 412.4 individuals. It concluded that the Flamborough and Filey Coast SPA population would be likely to be 16.4% lower after the lifetime of the Proposed Development, in combination with other developments.

Gannet

13.7.130. NE initially raised concerns regarding in-combination impacts on gannet from collision mortality [RR-029]. However, as noted in Table 13.7 of this Chapter, the Applicant presented a revised assessment of combined collision and displacement following NE’s updated advice on macro avoidance.

13.7.131. The Applicant’s Ornithology EIA and HRA Annex [REP6-028] did not include tables setting out predicted annual mortality taking into account the macro avoidance rate of 70% for in-combination effects. However, NE confirmed that it would take the correction factor into account when forming its own conclusions [REP8-031].

13.7.132. The annual gannet mortalities calculated by NE and the RSPB are provided in Table 13.8.

Table 13.8: Annual in-combination gannet mortalities calculated by NE [REP7-104, Table B3] and the RSPB [REP7-098]

	Annual mortality	Reduction in population growth rate per annum
NE (consented projects) *	145 to 791	0.66 to 3.53%
NE (including future projects) *	156 to 836	0.66 to 3.53%
RSPB ('probable' values)	527.5 to 664.6	Not stated

* Based on a macro avoidance rate of 70%

13.7.133. NE’s own assessment of effects [REP7-104] considered a range of impacts from 150 to 800 breeding adults. NE considered the impacts to be more likely to reflect the mortality levels towards the lower end of the range, with a rate for displacement of 80% and of 2% for mortality. This

would allow the colony to be maintained at, or increase, from its current size of 24,594 adults for a growth rate of less than or equal to 1%.

- 13.7.134. NE concluded [REP7-104] it could rule out adverse displacement and collision risk effects on gannet from the Flamborough and Filey Coast SPA when combined with other consented plans and projects. However, it was unable to rule out an AEoI when considering the effects in combination with the Sheringham and Dudgeon Extension Projects and the Rampion 2 Offshore Wind Farm due to the lack of detailed information about those projects. This position relating to the future projects was not reiterated in NE’s response [REP8-029] to the RIES [PD-015].
- 13.7.135. As noted in Table 13.7 of this Chapter, the RSPB could not rule out an AEoI from combined gannet displacement and collision from the Proposed Development alone [REP7-098]. It did not accept the use of a macro avoidance factor and concluded that the Flamborough and Filey Coast SPA population was likely to be 62.0% to 69.6% lower after the lifetime of the Proposed Development, in combination with other developments.

Guillemot

- 13.7.136. The annual guillemot mortalities calculated by the Applicant, NE and the RSPB are provided in Table 13.9.

Table 13.9: Annual in-combination guillemot mortalities calculated by the Applicant [REP8-017], NE [REP7-104, Table B5] and the RSPB [REP6-068]

	Annual mortality	Reduction in population growth rate per annum
Applicant (using the Applicant’s preferred approach to assessment and a 50% displacement and 1% mortality rate)	164	Not stated
Applicant (using the Applicant’s preferred approach to assessment and a 70% displacement and 2% mortality rate)	460	0.41%
NE bespoke approach (consented projects)	197 to 4,605	0.18 to 4.14%
NE bespoke approach (including future projects)	200 to 4,672	0.18 to 4.14%
NE SNCB standard approach (consented projects)	133 to 3,114	0.11 to 2.76%
NE SNCB standard approach (including future projects)	136 to 3,181	0.11 to 2.99%
RSPB (‘probable’ values)	824.5 to 1,625.4	Not stated

- 13.7.137. The Applicant presented an annual displacement matrix [REP8-017, Table 5] and population modelling results [REP6-026, Table 45]. On the basis that predicted reduction in growth rate would be less than 0.5% per annum, the Applicant concluded there would be no AEOI [REP8-017].
- 13.7.138. NE set out predicted impacts and associated percentage reductions in guillemot population growth rates for different displacement and mortality rates [REP7-104, Table B6]. It assumed an in-combination estimate of 1,600 adult mortalities per annum, based on a 70% displacement and 5% mortality rate for the Proposed Development and 70% displacement and 2% mortality rate for other projects in the assessment (assuming the majority of them occupy less important sea areas). NE [REP7-104] noted that excluding breeding season impacts from the Hornsea Three Offshore Wind Farm would reduce the in-combination total to approximately 1,500 birds.
- 13.7.139. As noted in Table 13.7 above, NE could not exclude an AEOI at an annual guillemot collision mortality rate of 1,131 from the Proposed Development alone, therefore the same conclusion applied for in-combination effects.
- 13.7.140. The RSPB [REP6-068] concluded that, in combination with other developments, the population of guillemot would be 24.0% to 41.7% lower after the lifetime of the Proposed Development than it would be without it. Consequently, the RSPB could not rule out in-combination AEOI due to impacts on the guillemot qualifying feature.

Razorbill

- 13.7.141. The annual razorbill mortalities calculated by the Applicant, NE and the RSPB are provided in Table 13.10.

Table 13.10: Annual in-combination razorbill mortalities calculated by the Applicant [REP8-017], NE [REP7-104, Table B7] and the RSPB [REP6-068]

	Annual mortality	Reduction in population growth rate per annum
Applicant (using the Applicant's preferred approach to assessment and a 50% displacement and 1% mortality rate)	33	Not stated
Applicant (using the Applicant's preferred approach to assessment and a 70% displacement and 2% mortality rate)	93	0.29%
NE bespoke approach (consented projects)	30 to 700	0.09 to 2.04%

	Annual mortality	Reduction in population growth rate per annum
NE bespoke approach (including future projects)	31 to 713	0.09 to 2.04%
NE SNCB standard approach (consented projects)	22 to 511	0.06 to 1.46%
NE SNCB standard approach (including future projects)	22 to 524	0.06 to 1.46%
RSPB ('probable' values)	111.6 to 234.8	Not stated

- 13.7.142. The Applicant presented an annual displacement matrix [REP8-017, Table 9] and population modelling results [REP6-026, Table 46]. On the basis that the predicted reduction in growth rate would be less than 0.5% per annum, its conclusion was that there would be no AEoI [REP8-017].
- 13.7.143. NE presented predicted impacts and associated percentage reductions in guillemot population growth rates for different displacement and mortality rates [REP7-104, Table B8]. NE noted that a reduction in population growth rate of more than 0.5% per annum would not be reached until mortality rates of 5% were considered for both its bespoke approach and the standard SNCB approach.
- 13.7.144. NE assumed an in-combination estimate of 208 adult mortalities per annum, based on a 70% displacement and 5% mortality rate for the Proposed Development and 70% displacement and 2% mortality rate for other projects in the assessment (assuming the majority of them occupy less important sea areas). It predicted the colony would continue to increase for growth rate scenarios greater than 1%.
- 13.7.145. NE considered it unlikely that the growth rate (currently 4.4% per annum) would fall to much below 1% to 2% per annum. It noted that mortalities from the Proposed Development alone would exceed those of all consented projects and result in a substantial increase in the in-combination total. Taking into account the key factors and uncertainties discussed in relation to guillemot (see Table 13.7 of this Chapter), it could not rule out the potential for AEoI (for consented and future projects), as a growth rate of less than 1% would potentially make the population susceptible to displacement impacts.
- 13.7.146. NE [REP7-104] stated that excluding breeding season impacts from the Hornsea Three Offshore Wind Farm would reduce the in-combination total by approximately seven birds but did not consider this would make a material difference to the outcome of the assessment.
- 13.7.147. As noted in Table 13.7 of this Chapter, the RSPB could not exclude an AEoI from the Proposed Development alone. It concluded [REP6-068] that, in combination with other developments, the population of razorbill

would be 11.1% to 21.9% lower after the lifetime of the Proposed Development than it would be without it. Therefore, it could not rule out AEOI. NE [REP7-104] noted that the RSPB's calculations reinforced its concerns.

Seabird assemblage

- 13.7.148. The Applicant [REP6-039] acknowledged there to be an in-combination AEOI for kittiwake but noted that the species would not be lost from the assemblage. It drew the same conclusion as for the Proposed Development alone, that the impacts on abundance, across the suite of species, would not result in a significant reduction of the overall number of seabirds in the assemblage given that the populations of the majority of the component species are increasing. The Applicant also concluded that the Proposed Development alone and in combination with other projects is unlikely to result in a significant risk to the species assemblage, as no one species is likely to be lost as a consequence. Therefore, the Applicant was confident an AEOI could be excluded.
- 13.7.149. However, neither NE [REP7-104] nor the RSPB [REP7-098] could exclude an AEOI due to impacts on the seabird assemblage from the Proposed Development alone, or in combination with other plans or projects.
- 13.7.150. NE [REP7-104] advised that the Flamborough and Filey Coast SPA herring gull population and thus its contribution to the seabird assemblage would not be significantly impacted. In respect of the puffin's contribution to the seabird assemblage, NE predicted a range of 4 to 86 mortalities per annum, resulting in a reduction in growth rate of 0.17 to 2.8% per annum. However, using what it considered to be a plausible 70% displacement and 2% mortality rate, it found 17 mortalities per annum. It concluded that in-combination displacement effects would exert pressure on the puffin population but would not be sufficient to trigger an AEOI of the seabird assemblage alone. It noted significant uncertainty in this conclusion due to difficulties monitoring the colony and the ability to predict future trends.

ExA conclusion for the Proposed Development in combination

- 13.7.151. As noted above, the ExA considers it appropriate to apply NE's precautionary assessment parameters. It acknowledges that the levels of precaution are amplified in the in-combination assessment but agrees with NE that such precaution is appropriate.
- 13.7.152. **Kittiwake:** the ExA agrees with the Applicant and NE that it is not possible to exclude an AEOI from in-combination kittiwake collision mortality. It notes that the SoS has drawn this conclusion for offshore wind farm projects from Hornsea Three onwards. The ExA is also of the view that the impacts on kittiwake from consented projects with compensatory measures can be removed from the in-combination assessment, as these impacts would be subject to compensation under the conditions of each project's consent. The ExA considers that the appropriateness and level of certainty around the consented projects'

compensation measures have been tested in the consenting process and secured in the DCOs made for those projects, and that confidence can be had that the effects will subsequently not contribute to an overall adverse effect on the favourable conservation status of the Flamborough and Filey Coast SPA. Similarly, it agrees with NE's assumption that future projects will also need to be compensated for.

- 13.7.153. **Gannet:** the ExA notes NE's agreement that there would be no AEoI from combined gannet collision and displacement mortality as a result of the Proposed Development in combination with other plans or projects [REP7-104], except when the Sheringham and Dudgeon Extension Projects and Rampion 2 Offshore Wind Farm are included. The ExA notes that the Sheringham and Dudgeon Extension Projects and Rampion 2 Offshore Wind Farm were considered by the Applicant in its in-combination assessment³¹, to the extent that was possible at that time. NE's own assessment of effects [REP7-104, Table B3] calculates the same reduction in growth rate per annum with or without these projects included (ie 0.66 to 3.53%), although it suggests that there would be uncertainty in the scale of the predicted impacts from these projects until they were submitted and examined.
- 13.7.154. The SoS may wish to reconsider this position in the light of any new information prior to making a final decision in relation to the gannet feature of the Flamborough and Filey Coast SPA.
- 13.7.155. Whilst the RSPB calculated a lower number of annual gannet mortalities than NE, it disagreed that an AEoI could be excluded alone or in combination due to the uncertainty associated with HPAI. As noted in respect of impacts from the Proposed Development alone, the impacts of HPAI on the long-term viability of the gannet population were unknown at the close of the Examination, and the ExA did not consider it appropriate to take it into account at this stage.
- 13.7.156. Therefore, on the basis of the information available to it, and noting that NE calculated the same reduction in population growth rates with or without the future projects, the ExA concludes that an AEoI can be excluded as a result of combined collision and displacement impacts on gannet from the Proposed Development in combination with other plans or projects.
- 13.7.157. **Guillemot:** NE [REP7-104, Table 2] considered that an AEoI could not be excluded as a result of guillemot displacement in combination with other plans or projects. As noted above, the ExA considers it appropriate to apply NE's bespoke assessment to the definition of bio-seasons, whilst applying a displacement rate of 70% and a mortality rate of 2%. NE's

³¹ Table 9 of the RIAA [APP-167, amended by AS-014] and [REP5-012] identified Sheringham and Dudgeon Extension Projects and Rampion 2 Offshore Wind Farm as tier 2 projects for the purposes of the in-combination assessment. These projects have the potential to temporally overlap with both the construction and operational phases of the Proposed Development.

calculations [REP7-104, Table B6] predict 921 annual mortalities and a reduction in population growth rate of 0.92% per annum for the Proposed Development in combination with consented projects. When the Sheringham and Dudgeon Extension and Rampion 2 Offshore Wind Farms are also included, the prediction is 934.4 annual mortalities and a reduction in population growth rate of 0.92% per annum. As the reduction in population growth rate is greater than 0.5%, the ExA concludes that an AEoI cannot be excluded as a result of displacement impacts on guillemot from the Proposed Development in combination with other plans or projects.

- 13.7.158. **Razorbill:** NE [REP7-104, Table 2] did not agree that an AEoI could be excluded as a result of razorbill displacement in combination with other plans or projects. As noted above, the ExA considers it appropriate to apply NE's bespoke assessment to the definition of bio-seasons, applying a displacement rate of 70% and a mortality rate of 2%. NE's calculations [REP7-104, Table B8] predict 139.9 annual mortalities and a reduction in population growth rate of 0.44% per annum for the Proposed Development in combination with consented projects. When the Sheringham and Dudgeon Extension and Rampion 2 Offshore Wind Farms are also included, the prediction is 142.7 annual mortalities and a reduction in population growth rate of 0.44% per annum for consented projects. On the basis that the reduction in population growth rate is less than 0.5% per annum, the ExA is content that an AEoI can be excluded as a result of displacement impacts on razorbill from the Proposed Development in combination with other plans or projects.
- 13.7.159. **Seabird assemblage:** the ExA concludes that the diversity of the seabird assemblage feature would not be affected when the effects of the Proposed Development are considered in combination with other plans and projects. When assessed against a background of an increasing total assemblage size, it considers that the in-combination impacts on abundance across the suite of species would not result in a significant percentage reduction in the overall number of seabirds in the assemblage, and that AEoI can be excluded in this respect.

13.8. EXA FINDINGS IN RELATION TO AEoI – ASSESSMENT OUTCOMES SUMMARY

Proposed Development alone

- 13.8.1. The ExA concludes that an AEoI of the Flamborough and Filey Coast SPA can be excluded as a result of impacts from the Proposed Development alone.

In combination

- 13.8.2. The ExA concludes that an AEoI of the Flamborough and Filey Coast SPA from the Proposed Development in combination with other plans and projects cannot be excluded beyond reasonable scientific doubt due to adverse effects on the following qualifying features:

- kittiwake, from in-combination collision mortality; and
- guillemot, from in-combination displacement and disturbance.

13.9. ENGAGING WITH THE HRA DEROGATIONS

- 13.9.1. If the Competent Authority cannot conclude the absence of an AEOI, such that no reasonable scientific doubt remains, then under the Habitats Regulations the project can proceed only if there are no alternative solutions and there are IROPI why the project must be carried out. Suitable compensatory measures must also be secured to ensure the overall coherence of the UK National Site Network.
- 13.9.2. At application, the Applicant submitted an assessment of alternative solutions and a case for IROPI in its Without Prejudice Derogation Case [APP-182, amended by AS-017]. The Applicant updated the without-prejudice derogation case [REP1-014] to capture its acceptance of an AEOI of the Flamborough and Filey Coast SPA due to operational collision effects on kittiwake in combination with other plans or projects [AS-023].
- 13.9.3. The Applicant proposed compensatory measures relating to the kittiwake, gannet, guillemot and razorbill qualifying features of the Flamborough and Filey Coast SPA. With the exception of kittiwake, these measures were submitted on a 'without-prejudice' basis as the Applicant had concluded no AEOI on the other qualifying features. The compensatory measures were presented in a suite of application documents, a number of which were updated during the Examination. An overview of the measures was provided in Compensation Measures for Flamborough and Filey Coast SPA Overview [REP7-017].
- 13.9.4. Sections 13.10 to 13.12 of this Chapter provide further discussion of derogation matters.

13.10. CONSIDERATION OF ALTERNATIVE SOLUTIONS

- 13.10.1. The ExA undertakes a wider examination of alternatives to the Proposed Development in terms of the National Policy Statements in Chapter 6 of this Report. This Chapter addresses the examination of the 'alternative solutions' test under the requirements of the Habitats Regulations.
- 13.10.2. Guidance from the Government, 'Habitats regulations assessments: protecting a European site' (Defra, Welsh Government, NE and Natural Resources Wales, 2021)³², states that alternatives must be financially, legally, and technically feasible. Alternatives must be capable of achieving the objectives of the Proposed Development and demonstrate a lesser adverse effect or avoid an AEOI of the European site in question. This guidance, as well as EU guidance, was referred to in the Applicant's

³² <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>

HRA Derogations Case [REP1-014, Part 2]. The Applicant also referred to UK planning decisions that influenced the development of its approach.

13.10.3. The Applicant's assessment applied a sequential process to the consideration of alternatives, first identifying the objectives of the Proposed Development, then the potential harm to European sites, followed by consideration of alternative solutions and their feasibility [REP1-014]. This comparison considered the 'do nothing' option, alternative locations, alternative design, and alternative means of operation. The Applicant did not make a comparison of the impacts of the identified alternatives on the UK National Site Network, as it considered [REP1-014, Section 13] there to be no feasible alternative solutions that would deliver the aims of the Proposed Development.

13.10.4. The ExA considered the alternatives solutions test in accordance with the requirements of the Habitats Regulations and with reference to the guidance and Examination submissions.

The 'Do Nothing' option, alternative energy generation projects, and alternative location

13.10.5. The ExA addresses the need case for the Proposed Development and alternatives, including other forms of energy generation to meet such needs, in Chapters 5 and 6 of this Report.

13.10.6. The ExA concludes that a compelling need for the Proposed Development has been established and that the 'do nothing' option is not a feasible alternative solution, as it would fail to meet the aim of the Proposed Development in meeting that compelling need.

13.10.7. The ExA has considered alternative forms of energy generation in the context of the alternative solutions test and is satisfied that, in line with the cross-agency guidance (2021) mentioned above, other forms of energy generation would not meet the aim of the Proposed Development. Furthermore, other wind farm proposals do not present an alternative solution as all available projects are required in order to meet UK 2030 targets for renewable energy. These conclusions are in line with those of the SoS's HRAs for the recently consented East Anglia ONE North and East Anglia TWO Offshore Wind Farm projects.

13.10.8. The consideration of alternative locations is intrinsically linked to the consideration of other available projects, given that site selection for all offshore wind proposals in the UK is bound by TCE's leasing process. Sites outside the zones identified by TCE or the lease area that the Applicant has secured through the bidding process are not legally available. The ExA is satisfied that there are no other locations or sites that would represent a feasible alternative. Layout considerations for the Proposed Development are addressed below.

Alternative designs and the Proposed Development Maximum Design Scenario

- 13.10.9. The ExA considered the Applicant's description of alternatives in the ES [APP-009] and [APP-010, amended by AS-006] and explored the potential for further, post-submission design changes or mitigation proposals that could reduce or avoid AEOI and could amount to alternative solutions (ExQ1 [PD-006, HRA 1.21] and ExQ2 [PD-012, HRA 2.2]).
- 13.10.10. The ExA notes that the Applicant refined the MDS for some parameters including: a reduction of sandwave clearance volumes; location of the Dogger Bank A and B cable crossing; and a restriction to a maximum of 80 gravity base structure foundations for turbines. These were described in the Clarification Note: Justification of Offshore Maximum Design Scenarios [REP3-035]. The Applicant considered that no implications for the information supporting its assessment of AEOI were anticipated and confirmed that no further design alternatives or mitigation options were under consideration [REP2-038] and [REP5-074]. The Applicant submitted its final updated ES project description chapter at D7 [REP7-002] to reflect the amendments to the MDS.

Indirect effects on designated sites from changes to marine processes

- 13.10.11. A prominent Examination matter was whether impacts on Smithic Bank and the Flamborough Front could result in an AEOI of designated sites, including through indirect effects to seabirds from designated sites. The ExA considered the evidence very carefully and, as reported in Section 13.7 above, came to the conclusion that while indirect effects may occur, they would be unlikely to give rise to an AEOI of the Flamborough and Filey Coast SPA or any other sites in the UK National Site Network. Nevertheless, a precis of considerations relevant to the alternative solutions test is provided below in case the SoS reaches a different conclusion.
- 13.10.12. In response to ExQ2 [PD-012], NE [REP5-111] commented that, at that time, the uncertainties around the ornithological baseline prevented it from providing further advice on the implications of the refined MDS for ornithological impacts. It also considered that the Applicant's refinements [REP3-035] did not exclude risks to Smithic Bank and the Flamborough Front and therefore did not exclude indirect effects to designated sites. Subsequently, NE and the MMO (advised by Cefas) provided advice on measures to reduce potential effects that were of relevance to the consideration of indirect impacts and consequent adverse effects on ornithological features [REP5-114].
- 13.10.13. These matters were discussed at ISH10 [EV-034] and the Applicant provided a clarification note [REP5a-017] and outline marine monitoring plan [REP7-058]. The Applicant confirmed no further mitigation measures were proposed in relation to effects on the Flamborough and Filey Coast

SPA and that no feasible alternatives existed. The clarification note submitted by the Applicant set out its position that the MDS was suitably conservative to enable a balance between engineering feasibility and environmental sensitivity.

- 13.10.14. The RIES published by the ExA [PD-015] invited further comment on the possibility of further refinements or mitigation in relation to the MDS, in particular seeking to understand if any specific refinements sought or advised by NE or any other parties were under consideration by the Applicant. In its response to the RIES, NE [REP8-029] considered that the mitigation hierarchy could be further explored, and this remained its position at the end of the Examination, as reflected in its D8 Action Log [REP8-030].
- 13.10.15. At the end of Examination, the MMO provided advice on the refinement and delivery of existing proposed mitigation and post-consent monitoring commitments, some of which are of relevance to adverse effects on European site features [REP8-022]. These comments and the final SoCG between the Applicant and the MMO [REP8-004] have been considered and the ExA is satisfied that none of the comments raised amount to the existence of alternative solutions.
- 13.10.16. The ExA is satisfied that there are no further implications for the alternative solutions test in terms of the construction or operation MDSs.

Proposed infrastructure layout and operation

- 13.10.17. As noted in Chapter 10 of this Report, British Petroleum Exploration Operating Company Ltd (bp), on behalf of the Endurance Carbon Capture project [REP1-057] sought protective provisions to ensure 'no overlap' between Endurance and the Proposed Development. The Applicant [REP5-074] and [REP5a-016] considered that the 'no overlap solution' would make no material difference to the conclusions of the HRA and would not result in lesser adverse effects than the development as proposed.
- 13.10.18. A discussion of the ExA's conclusions with respect to the protected provisions to be adopted in relation to the Endurance Project is provided in Chapter 10 of this Report. The ExA is satisfied that while the exclusion of overlap between the Endurance Carbon Capture project and the Proposed Development would reduce the area within the DCO boundary occupied by infrastructure, the MDS would not be affected. The ExA has concluded that in light of this there would be no implications for the assessments of effects on European sites and therefore the 'no overlap' alternative does not represent an alternative solution that would result in lesser harm to the Flamborough and Filey Coast SPA.
- 13.10.19. The Applicant considered alternative means of operation in its derogation case [REP1-014, Table 12-1] and concluded that none was feasible in light of the objectives of, and need for, the Proposed Development.

Operational alternatives were not raised as a major issue by any IPs during the Examination. The ExA is content with the conclusions.

ExA conclusions on alternative solutions

- 13.10.20. The ExA is satisfied that there are no alternative solutions that would deliver appreciable benefits in terms of reduced adverse effects on the integrity of the Flamborough and Filey Coast SPA.
- 13.10.21. This conclusion does not preclude further design refinements being made following the completion of further site investigations (in the post-decision stage), for example during the choice of foundation types. These refinements may result in reduced impacts, though no compelling evidence has been presented that they could avoid AEoI.

13.11. IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST

- 13.11.1. The need for the Proposed Development and the overall case for Development Consent are discussed in Chapters 5 and 14 of this Report, including the public benefits it would bring. This Section specifically tests whether there are any IROPI for the Proposed Development, as required by the Habitats Regulations.
- 13.11.2. The Applicant presented a case for IROPI [REP1-014]. Part 3 set out the Applicant's reasoning. It found an imperative need for the Proposed Development, that it would be in the public interest, and that the need overrides its predicted impacts on the Flamborough and Filey Coast SPA. Only impacts on the Flamborough and Filey Coast SPA were discussed in the Applicant's case.
- 13.11.3. Under the Habitats Regulations, there are restrictions on the grounds on which IROPI can be considered if the adverse effects of the project or plan affect a priority habitat or species (as identified in the Habitats Regulations). The Applicant's derogation case [REP1-014, Section 16.1] concluded that the identified affected features of the Flamborough and Filey Coast SPA were not priority species and therefore the case presented for IROPI included consideration of social and economic benefits.
- 13.11.4. With regard to the considerations of need in Chapter 5 and taking into account the case for IROPI put forward by the Applicant, the ExA is satisfied that an imperative need for the Proposed Development in both the short- and long-term public interest has been established.
- 13.11.5. In addition to the imperative and public interest aspects, the ExA must consider the 'overriding' element of the IROPI derogation test. Interwoven into this consideration are the difficulties presented by the conflicting information and opinion on the magnitude of predicted adverse effects.

- 13.11.6. The predicted adverse effects on the Flamborough and Filey Coast SPA are set out in Section 13.7 above. The ExA notes the conflicting opinions about the magnitude of the predicted adverse effects on the qualifying features of the Flamborough and Filey Coast SPA and the high degree of disparity between the Applicant's and NE's calculations, particularly with regard to guillemot and razorbill.
- 13.11.7. The Applicant set out its position in [REP5a-018] regarding NE advice on apportioning of seabirds to the Flamborough and Filey Coast SPA and the implications for the Proposed Development in the context of its contribution to offshore wind delivery targets. This point was reiterated in [REP8-017].
- 13.11.8. However, NE [REP4-056] and [REP8-029] stressed its view on the high significance of the Flamborough and Filey Coast SPA in terms of its value to UK seabird ecology and conservation, and - as the largest seabird colony in England - its context in the overall UK National Site Network. It advised that this should inform the overriding test.
- 13.11.9. While highlighting remaining areas of concern in the Applicant's assessment of adverse effects, NE has not commented on the IROPI case with respect to any other European sites, other than the Flamborough and Filey Coast SPA. The SoCG between the Applicant and the RSPB [REP8-005] confirmed agreement that AEoI could be excluded for other sites apart from the Flamborough and Filey Coast SPA. However, the RSPB considered that the derogations case should have included the seabird assemblage feature of the Flamborough and Filey Coast SPA.
- 13.11.10. Embedded in the Habitats Regulations and relevant case law is the 'precautionary principle', the concept that the application of precautionary methods is necessary to address inherent scientific uncertainty in the prediction of adverse effects. In line with the 'precautionary principle', the maximum predicted adverse effects must generally be considered against the need for the Proposed Development in the overriding test.
- 13.11.11. In this respect, the ExA notes that the Applicant generally applied a worst case in the assessments, and that the lack of accurate science and the variability of seabird populations and behaviour hindered precision in places in the assessment that was undertaken by the Applicant. Precaution was a major topic throughout the Examination, with the Applicant believing that the approach advocated by the SNCBs was highly over-precautionary. However, the ExA generally accepts the need for the precautionary stance taken by NE and the RSPB, though in some parts, most notably the bespoke approach to the guillemot displacement assessment (see Chapter 8), it did not believe that applying all 'layers' of precaution were reasonable. In considering whether the reasons for the project to proceed demonstrably outweighed the harm to the site, and the case for IROPI, the ExA therefore adopted what it considered to be the most reasonable precautionary position.

ExA conclusions on IROPI

- 13.11.12. As identified above, the case for Development Consent is addressed in Chapter 14 of this Report, which concludes that there is a compelling need for the Proposed Development. The ExA is in no doubt that there is an immediate need to increase energy supply from renewables for reasons of energy security and as a fundamental contributor to action on climate change. Moreover, offshore wind is an established technology that can be implemented in a defined and deliverable timescale.
- 13.11.13. On the basis of the reasonable precautionary approach that it has adopted in its assessment, the ExA is of the opinion that IROPI for the Proposed Development could indeed be established. However, it considers that the argument for IROPI would be considerably less compelling if considered against the greatest adverse effects predicted by IPs. On balance, the ExA is satisfied that the identified imperative reasons of public interest are sufficient to override the degree of impact that the ExA finds for the qualifying features of the Flamborough and Filey Coast SPA.
- 13.11.14. The IROPI test must be applied by the Competent Authority at the point of decision making, and the ExA recognises the possibility that circumstances, external factors such as progress with the applications for the Sheringham and Dudgeon Extension and Rampion 2 Offshore Wind Farms, and available evidence may change between the close of the Examination and the decision. The ExA recommends that the IROPI case is reconsidered at that time in the light of the recommendations made in this Report and any further evidence that the SoS considers important and relevant, in particular in understanding the likely magnitude and population implications of adverse effects arising from the Proposed Development on the Flamborough and Filey Coast SPA.

13.12. COMPENSATORY MEASURES

- 13.12.1. Compensatory measures proposed for the purposes of Habitat Regulations requirements must ensure the overall coherence of the UK National Site Network. While like for like compensation may not be possible, measures must compensate for the predicted adverse effects on an affected site's conservation objectives.
- 13.12.2. The Applicant submitted a suite of documents at application relating to proposed compensatory measures [APP-183 to APP-202]. The Applicant's proposed measures related only to the Flamborough and Filey Coast SPA and the qualifying features of kittiwake, gannet, guillemot and razorbill. With the exception of kittiwake, the measures were put forward on a without-prejudice basis as the Applicant maintained that an AEoI could be excluded for all other sites and qualifying features, as explained in Section 13.7 of this Chapter.
- 13.12.3. The Applicant submitted updated versions of compensatory measures documents and supporting information during the Examination. The final

compensatory measures were set out in Compensation Measures for FFC (Flamborough and Filey Coast) Special Protection Area (SPA) Overview [REP7-017] and Compensation Project Description [REP7-007]. The Applicant's final Compensation Plans were submitted in the Flamborough and Filey Coast SPA Kittiwake Compensation Plan [REP7-019], the Flamborough and Filey Coast SPA Guillemot and Razorbill Compensation Plan [REP7-027], and the Flamborough and Filey Coast SPA Gannet Compensation Plan [REP5-071].

- 13.12.4. Accompanying these plans was a series of 'roadmaps' in which the Applicant set out its intentions for how the compensation plans would be implemented. Final versions of these documents were submitted for artificial nesting structures (ANS), bycatch reduction, predator eradication and fish habitat enhancement ([REP7-023], [REP7-029], [REP7-031] and [REP7-033] respectively). The documentation explained that planning consent for any compensatory measures was not being sought through the DCO.
- 13.12.5. As noted in Section 13.7 of this Chapter, the Applicant revised its assessment of effects on gannet with the application of a 70% macro avoidance rate. It concluded there to be no AEOI of the Flamborough and Filey Coast SPA as a result of impacts on gannet from the Proposed Development alone or in combination, and it withdrew the without-prejudice compensatory measures for gannet [REP7-017]. This conclusion was agreed with NE [REP7-104], but not the RSPB [REP8-005] and [REP8-024].
- 13.12.6. As noted in Section 13.7 of this Chapter, the ExA is satisfied on the basis of the evidence presented that an AEOI in relation to gannets can be excluded for the Proposed Development alone and in-combination assessments. The ExA therefore agrees it is not necessary for any compensatory measures specifically devised to address adverse effects on gannet to be secured by the Competent Authority. Nevertheless, the Competent Authority must also be satisfied on this matter at the point of decision-making.
- 13.12.7. The ExA advises that, should the SoS conclude otherwise on an appropriate assessment for gannet, the compensation measures that were proposed have not been established as appropriate and feasible. Representations from both NE and the RSPB consider the gannet compensatory measures proposed by the Applicant to be experimental (NE, [RR-029]) and, in the case of ANS, not even theoretically feasible (RSPB, [REP6-069] and [REP8-005]). In the interests of clarity and proportionality, this Report does not explore compensatory proposals for gannet in detail.
- 13.12.8. The compensatory measures proposed by the Applicant for the kittiwake, guillemot and razorbill qualifying features of the Flamborough and Filey Coast SPA are summarised in Table 13.11. The ExA reports its consideration of the proposed razorbill measures despite finding no AEOI, in case the SoS determines otherwise and considers them necessary.

Table 13.11: Compensatory measures proposed by the Applicant³³

Compensatory Measure	Kittiwake	Guillemot	Razorbill
Offshore nesting –ANS <i>New structures in the southern North Sea</i>	✓		
<i>Repurposed structure in the southern North Sea (Wenlock platform)</i>	✓		
Onshore nesting –ANS <i>New structures at Cayton Bay to Newbiggin by the Sea; and Suffolk Coast</i>	✓		
Bycatch reduction <i>Implementation of technology/techniques - initially the use of Looming Eye Buoys (an above-water deterrent) at identified fishing operations off the south coast of England</i>		✓ Proposed 'without prejudice' by Applicant	✓ Proposed 'without prejudice' by Applicant
Predator eradication <i>Eradication of black and brown rats at target species' colonies on identified islands within the Bailiwick of Guernsey</i>		✓ Proposed 'without prejudice' by Applicant	✓ Proposed 'without prejudice' by Applicant
Fish habitat enhancement <i>Seagrass bed creation in the Humber Estuary</i>	✓ 'resilience' measure	✓ 'resilience' measure	✓ 'resilience' measure

³³ Without-prejudice measures for gannet were included at application, but subsequently withdrawn by the Applicant.

- 13.12.9. No compensatory measures have been proposed by the Applicant or put forward by any other IPs in relation to any other qualifying feature of the Flamborough and Filey Coast SPA or any other European site. However, at the close of the Examination, NE [REP8-029] and the RSPB [REP8-005] considered that compensation would also be required for the seabird assemblage feature of the Flamborough and Filey Coast SPA. The RSPB [REP8-005] also submitted that compensatory measures should be put forward for gannet from the Flamborough and Filey Coast SPA.
- 13.12.10. In its submissions, NE acknowledged the survey evidence from the Applicant [REP5-019] of nesting auks being present on some offshore platforms and suggested the possible merit of adapting a structure for use by auks as compensation [REP6-057] and [REP7-102]. The Applicant expressed willingness to consider this as part of the offshore structure design [REP8-017] and noted its commitments with regard to strategic compensation measures that may include such structures (see below for further details on strategic compensation). However, this did not form part of the compensatory measures at the close of Examination.
- 13.12.11. Throughout the Examination, matters relating to the proposed compensatory measures were raised by IPs, including NE, the RSPB, The Wildlife Trusts and East Suffolk Council. The key themes raised and examined are set out below.

HRA of the compensatory measures

- 13.12.12. To inform the selection process, the Applicant also undertook an assessment exercise in HRA terms for the compensatory measures themselves, which, in their implementation, could affect European sites [APP-179] and [APP-180]. It concluded that there was no potential for any AEOI.
- 13.12.13. The RSPB [RR-033] advised that the screening assessment of LSE should have included grey seal for the Isles of Scilly Complex SAC. In response to ExQ1 [PD-006, HRA 1.50], the Applicant agreed [REP2-038] and included this feature in an updated assessment [REP5-014].
- 13.12.14. The ExA explored other specific matters around the Applicant's assessment through ExQ1 [PD-006], at ISH6 [EV-029] and in the RIES [PD-015].
- 13.12.15. The Applicant [REP2-038], [REP4-040] and [REP7-015] confirmed that its conclusion of no AEOI of any European sites as a result of the implementation of the compensatory measures remained, subject to committed mitigation measures [REP7-015]. As development consent for any compensatory measures was not sought through the DCO, they would need to be considered for standalone EIA and HRA processes as part of their own consenting processes. It considered that a final assessment of in-combination effects would not be possible until the compensatory measures had been further refined [REP7-015].

- 13.12.16. In response to the RIES, NE [REP8-029] did not consider that the compensatory measures were sufficiently developed for HRA LSE conclusions to be drawn. However, it acknowledged that determination of LSE would occur under separate consenting process.
- 13.12.17. During Examination, the Applicant progressed the identification of a location for the proposed offshore kittiwake ANS, focussing on a platform in the Wenlock gas field in the southern North Sea that it proposed could be repurposed [REP5-019]. In its End of Examination Position on the Applicant's Proposed Compensatory Measures, NE [REP7-102] highlighted that this structure is located in the North Norfolk Sandbanks and Saturn Reef SAC and that the implications for this site had yet to be discussed. The Applicant acknowledged this [REP8-017] but noted that it had considered the North Norfolk Sandbanks and Saturn Reef SAC in its updated HRA assessment [REP7-015].

ExA conclusion on compensatory measures HRA

- 13.12.18. The ExA is satisfied with the Applicant's approach in principle but has also considered whether the potential impacts of proposed compensatory measures might ultimately mean that they cannot themselves be consented as a result of an adverse HRA outcome. In this case, taking into account all of the information provided by the Applicant and IPs, the ExA is satisfied that no evidence was presented that demonstrated that the proposed compensatory measures could not be delivered as a consequence of adverse effects on any European site, but it recommends that the SoS and any other relevant Competent Authority should consider the need for additional assessment prior to determining any further consent application for physical compensation measures.

Quantum of compensation required

- 13.12.19. As discussed above, the magnitude of effects on the ornithological features of the Flamborough and Filey Coast SPA remain subject to a degree of uncertainty. These uncertainties arise principally from the approach to, and robustness of the ornithological modelling used to predict effects. Both NE and the RSPB highlighted uncertainties regarding the assessment of indirect effects on seabirds from changes to marine processes, the seasonal importance of the Proposed Development site for auks, and the lack of assessment of effects on functionally-linked habitat for auks [REP7-099] and [REP8-031]. As a consequence, these IPs felt limited in their ability to advise on the quantum of compensation that was required [REP7-099] and [REP7-102].
- 13.12.20. In response to ExQ1 [PD-006], NE confirmed that determining the extent of compensation required was not possible until issues around the characterisation of the ornithological baseline and follow-on assessments were resolved [REP2-082, superseded by AS-028 and AS-029]. Subsequently, the Applicant submitted revised assessments [REP5a-009] and [REP5a-011] and agreement on the characterisation of the ornithological baseline was eventually reached [REP7-071]. However,

disagreement remained regarding the conclusions of the follow-on assessments, as reported above.

- 13.12.21. The Applicant's compensation calculation methodology for kittiwake, gannet, guillemot and razorbill was detailed in Calculation Methods of Hornsea Four Compensation Measures for Features of the FFC SPA [REP1-063], further to comments in NE's RR [RR-029].
- 13.12.22. The SoCG between the Applicant and NE on derogation and compensation matters [REP7-061] recorded agreement on the calculation methodology. However, NE questioned whether the calculated measures would principally benefit the wider species populations rather than those of the Flamborough and Filey Coast SPA. The RSPB did not agree with the Applicant's approach to calculating compensation requirements [REP5-120], [REP4-057] and [REP7-099], highlighting the need to consider connectivity between the measures and the UK National Site Network.
- 13.12.23. The Applicant reflected its updated calculations for the quantum of compensation in its compensation documents, including the overview document [REP7-017], which applied a 2:1 compensation to effects ratio for kittiwake, and a 1:1 ratio for guillemot and razorbill. The quantum calculations were based on the Applicant's predicted effects in the Ornithology EIA and HRA Annex [REP5-078]. For all species, disagreement remained on the quantum of compensation required, whatever its form, due to disagreement on whether these ratios were sufficient to overcome the uncertainties remaining in relation to the compensatory measures and in the quantification of adverse effects.

Kittiwake artificial nesting structure

- 13.12.24. The Applicant proposed a single ANS for kittiwake. Its preferred option was to repurpose an existing offshore platform, though it retained alternative options for a new offshore platform or an onshore ANS if required [REP7-019]. At the end of the Examination, the Applicant presented information on its ongoing work to secure the repurposing of the Wenlock platform [REP8-017].
- 13.12.25. Drawing on matters raised in NE's RR [RR-029], in ExQ1 [PD-006] the ExA explored the suitability of a single offshore nesting structure for kittiwake, considered 'very high risk' by NE. The Applicant was asked to consider the compensation accepted in the SoS's decisions for the Hornsea Three, Norfolk Boreas, and Norfolk Vanguard Offshore Wind Farms in its response. The Applicant [REP2-038] considered the provision of a single ANS to be adequate and proportionate to the predicted impacts and maintained this position at the end of Examination [REP8-017]. NE maintained concerns around risk and longevity of compensation if only a single structure was provided [REP7-102].
- 13.12.26. The Applicant predicted 23 annual kittiwake collision mortalities from the Proposed Development alone. It calculated that approximately 62

additional breeding pairs would be required to compensate for the potential effect and suggested that the repurposed offshore ANS could support approximately 750 breeding pairs [REP7-019].

- 13.12.27. NE preferred to rely on the maximum collision estimate (from the Proposed Development alone) of up to 152 adult kittiwake mortalities per annum [REP7-104]. NE noted [REP7-102] that, based on the Applicant's calculation methodology set out in [REP1-063] and using a 2:1 ratio, its calculated maximum predicted impact would equate to a need for provision of 712 nests. NE agreed that the provision of 750 nesting sites on the proposed ANS would be sufficient to counter the predicted adverse effects on kittiwake, while highlighting that NE and the Applicant did not agree on the final impact numbers. NE caveated its position by stating that it did not endorse the 2:1 ratio, and that full colonisation could not be assumed.
- 13.12.28. The Applicant responded to this position [REP8-017] restating its preferred impact numbers and referring back to its range-based approach [REP6-028]. The Applicant [REP8-017] disputed the use of the maximum values for the purpose of assessment, stating that the central estimate should be used as the basis of compensation, as had been the case in the Hornsea Three Offshore Wind Farm decision.
- 13.12.29. The ExA asked the Applicant to clarify its proposals for a repurposed onshore ANS [PD-006, HRA.1.31]. The Applicant [REP2-038] confirmed that the principle of a repurposed structure had been considered but no suitable structures had been identified. During the Examination, the Applicant presented a shortlist of locations north of the Flamborough and Filey Coast SPA in the Cayton Bay to Newbiggin by the Sea area for a purpose-built onshore ANS [REP7-007], [REP7-019] and [REP7-023]. East Suffolk Council submitted comments regarding the onshore ANS option. These did not address the necessary quantum directly but raised concerns around delivery, which are discussed below [REP7-094].

Guillemot and razorbill (predator eradication and bycatch reduction)

- 13.12.30. The Applicant proposed two primary measures for the guillemot and razorbill qualifying features. These were a predator eradication programme on islands where auk colonies had been reduced or eliminated by predation (especially by rats), and measures to reduce commercial fishing bycatch of auks. The Applicant described its proposed compensation measures as flexible and scalable, able to be delivered individually or as a suite of measures and at variable levels [REP7-027].
- 13.12.31. The Applicant submitted that, should the SoS determine that compensation was required and based on the ratios presented, capacity for an additional 175 guillemot and 12 razorbill would be required to compensate for the predicted 40 annual guillemot and 2 annual razorbill mortalities (applying a 50% displacement rate and 1% mortality rate)

[REP8-017]. It held its position that the proposed compensation [REP7-027] would be adequate to achieve this.

- 13.12.32. NE [REP7-104] disagreed with the quantification of maximum adverse effects put forward by the Applicant, as reported above in Section 13.7. In response to ISH12 Action Points [REP7-099], the RSPB agreed with NE's advocated apportioning approach but noted its understanding that the bespoke approach applied only to the 'project alone' assessment. The RSPB referred back to earlier comments [REP6-069] that signposted matters the SoS would need to be satisfied on with respect to lack of maturity in the proposals, which, in its view, undermined confidence in the adequacy of provision against the predicted adverse effects [REP7-099].
- 13.12.33. The Applicant [REP8-017] also maintained that, should the proposed predator eradication compensation be required, it would be sufficiently 'scalable' to address the greater adverse effects predicted under the parameters advocated by NE, and for any adaptive management that might become necessary. However, it noted that the ability to increase the scale of the compensation was dependent on revisiting its less-progressed 'long-list' of island options for delivery [REP8-017]. Following on from this, the Applicant clarified that the use of NE's parameters did not represent a cap or limit on the quantum of compensation that could be delivered. The Applicant maintained a position of no AEOI [AS-053].
- 13.12.34. NE's final position was that the proposed measures would not be of a scale that was adequate to compensate for its predicted maximum of 2,232 adult guillemot mortalities³⁴ and 228 adult razorbill mortalities per year, according to its preferred apportioning calculations and mortality parameters. This was compounded by its contention that functional habitat loss effects would not be addressed by the proposed form of compensation [REP7-102].

All bird species - fish habitat enhancement

- 13.12.35. The Applicant's submissions set out proposals for seagrass bed restoration as habitat enhancement for fish prey as a resilience measure to the compensation package for kittiwake, gannet, guillemot and razorbill [REP6-033]. The Applicant's later submissions provided further information on the implementation of these measures to date, noting that a target of 30 hectares of restoration prior to operation was already estimated to be on track. This was being undertaken as the Spurn Point trial seagrass restoration project, carried out by the Yorkshire Wildlife Trust on behalf of the Applicant [REP8-017].

³⁴ NE stated an alternative figure of a maximum of 2,262 annual guillemot mortalities in [REP7-104] but referred to the figure of 2,232 in its End of Examination Position on the Applicant's Proposed Compensatory Measures [REP7-102].

- 13.12.36. No substantive discussion of the adequacy of the quantum of seagrass restoration was held during Examination. Representations for NE and the RSPB agreed that this measure had conservation merit but that it could not be considered as a compensatory measure.

ExA conclusion on quantum of compensation

- 13.12.37. The ExA considered the information relating to the proposed provision of an ANS for kittiwake and was satisfied that NE's central impact value of 71 annual kittiwake mortalities was the most appropriate value to apply to the quantum of compensation. Using the Applicant's approach [REP1-063], which took account of recruitment age and productivity and survival rates, NE calculated [REP7-102] that this would require 380 nests at a ratio of 2 to 1.
- 13.12.38. In relation to auk compensation, the ExA notes that NE acknowledged that its maximum prediction would represent an extreme worst case [REP7-102]. The ExA's view is that the quantum of compensation should be based on the reasonable precautionary cumulative assessment set out earlier in this Chapter, which predicts an annual loss of 452 guillemot. Should the SoS determine that compensation was also necessary for razorbill, the equivalent figure would be 46 birds.
- 13.12.39. The ExA is concerned that, if it proved necessary for the Applicant to return to its 'long-list' of predator eradication island options to achieve a significantly increased quantum of compensation for auks, this would increase the level of uncertainty about the feasibility and delivery of sufficient measures. It considers it unclear at what point and how the 'scaling up' of predator eradication could be enacted and whether or not it would be achievable in practice.
- 13.12.40. In the ExA's view, such 'scaling up' would not amount to secured adaptive management and, if it does become relied on, the SoS should request the Applicant to demonstrate that the proposed increased quantum of measures, including capacity for any necessary future reactive measures, is achievable and adequate to address the revised adverse effect.
- 13.12.41. The ExA has noted the Applicant's proposal for seagrass bed restoration, but whilst agreeing that it has conservation merit it does not consider that it can be considered as a compensatory measure.

Appropriateness, effectiveness, and feasibility

- 13.12.42. Comments were received from NE [RR-029] and the RSPB [RR-033] about the overall need for sufficient detail on compensatory measures to be provided prior to consent in order to give the Competent Authority comfort that the integrity of the UK National Site Network could be protected. This remained a theme of the Examination, albeit matters were progressed by the Applicant and stakeholders to refine the measures. Nevertheless, submissions from NE [REP7-102] and [REP8-031], the final SoCG between the Applicant and the RSPB [REP8-005],

and RSPB's comments on D7 submissions [REP8-024] all reflected remaining disagreement about whether the measures were sufficiently evidenced in their appropriateness, efficacy, and security of delivery.

- 13.12.43. The ExA explored the evidence around the factors limiting seabird populations and the appropriateness of predator eradication, nesting habitat provision and restoration of seagrass beds as compensation for the effects of the proposals [PD-006, HRA 1.36 and 1.37]. The Applicant's response [REP2-038] drew on its interpretation of key literature on the subject and highlighted the influence of warming seas and changes in prey resource distributions on seabird populations.
- 13.12.44. Reflecting its previous submissions and in response to the RIES [PD-015], NE [REP8-029] advised that the proposed compensation did not address the potential loss of sea areas with functional importance to the Flamborough and Filey Coast SPA qualifying feature species, in particular guillemot and razorbill.
- 13.12.45. NE also disagreed with the Applicant's assumption that recruiting birds to the wider geographic population would benefit the Flamborough and Filey Coast SPA populations [REP3-032] and [REP3-034]. NE [REP4-056] provided detailed comments on the Applicant's evidence in this regard, explaining the implications of the limited evidence of connectivity for the affected species in the context of the importance of the Flamborough and Filey Coast SPA to the UK National Site Network. NE's final position supported compensation at a species bio-geographic scale but advised that the proposed compensatory measures were not certain to deliver the required benefits to the affected Flamborough and Filey Coast SPA qualifying features and, for this reason, their benefit to the UK National Site Network needed careful consideration [REP7-102].

Kittiwake artificial nesting structure

- 13.12.46. The Applicant proposed to repurpose the Wenlock platform or to create a new offshore or onshore structure in an ecologically suitable area brought forward from its options appraisal following consultation with NE [REP7-019] and [REP8-017].
- 13.12.47. NE [RR-029] commented that, while it considered the provision of offshore structures to be feasible for kittiwake, the suitability of this compensation measure would be dependent on its location. NE highlighted that the availability of nesting habitat had not been proven to be a limiting factor on kittiwake population growth in the southern North Sea. Nevertheless, it advised that the measure would be ecologically feasible [REP7-102] and [REP7-061]. The RSPB also agreed that offshore ANSs would be realistic for kittiwake, aligning with NE views on location [RR-033].
- 13.12.48. With regard to onshore structures, NE expressed concern throughout the Examination that there could be insufficient breeding recruits to provide the predicted benefits, particularly in light of the number and location of

onshore structures proposed by the developers of already consented offshore wind farm projects [RR-029] and [REP7-102]. It identified the difficulty associated with securing sites to deliver the measures and advised that the onshore ANS option should not be taken forward.

- 13.12.49. NE's initial advice was explored by the ExA [PD-006]. In response, NE [REP2-082, superseded by AS-028 and AS-029] advised that the provision of onshore ANSs where natural nesting is limited or non-existent would most likely bolster the kittiwake population and could deliver compensation. Bespoke structures could solve onshore conflicts with birds using buildings. It also advised that good design would be likely to increase productivity. However, it reiterated its views regarding the high number of artificial nest provision already proposed in the southern North Sea area (approximately 3,000 nests).
- 13.12.50. NE's position was that until these proposed ANSs were shown to be productive, the assumption that further provision would supply additional benefits was risky, and this risk was compounded by the difficulty in securing locations. NE further advised that it was not aware of any further research on nest limitation and that the Applicant should focus on determining reasons for colonisation or no colonisation to maximise success through design [REP2-082, superseded by AS-028 and AS-029]. The position regarding the effectiveness of the measure in recruiting to the population and benefitting the UK National Site Network, and concern regarding consenting risk was held by NE at the end of the Examination [REP7-102].
- 13.12.51. East Suffolk Council [RR-009] expressed interest in the design and implementation of any onshore structures proposed and noted the importance of technical input from the Council.
- 13.12.52. The Applicant submitted an update on onshore ANS site selection and evidence on nesting limitations [REP6-031]. This reported its progress in refining and securing suitable locations for an onshore structure. An onshore ANS site had not been confirmed by the close of Examination.
- 13.12.53. Advice from the RSPB through the Examination [REP7-099] and in its final SoCG with the Applicant [REP8-005] aligned with NE's concern around the number of wind farms proposing onshore structures, calling into question the feasibility and deliverability of effective measures. At the end of Examination, both NE [REP7-102] and the RSPB [REP8-005] recommended that the onshore ANS option was not taken forward for these reasons.
- 13.12.54. East Suffolk Council expressed concern around the feasibility of progressing the onshore ANS option post-consent, based on the consenting challenges that it had experienced while working with other wind farm promoters in East Suffolk [REP7-094].
- 13.12.55. The Applicant continued to state a preference for a repurposed or new offshore structure, while noting that it had confidence that there was

sufficient supporting evidence for the success of onshore structures [REP2-038], a position it still held at the end of the Examination [REP8-017]. It agreed with Natural England [REP7-102] that monitoring would be required and noted that the proposed structure would have over capacity to deal with any necessary adaptive management.

Guillemot and razorbill (predator eradication and bycatch reduction)

- 13.12.56. Predator eradication measures and bycatch reduction measures were proposed by the Applicant as without-prejudice compensatory measures for adverse effects on guillemot and razorbill, as set out in the Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Guillemot and Razorbill Compensation Plan [REP7-027].
- 13.12.57. NE [RR-029] advised that while predator eradication had theoretical merit, the evidence for predation being a limiting factor preventing successful auk breeding was not established, and the estimates of additional nesting capacity provided through predator control or eradication could not be relied upon without further evidence. It also expressed concern that community support for the measures had not been adequately demonstrated. The RSPB [RR-033] shared these views and provided detailed advice in Annex B (Compensation Proposals) of its comments on submissions received at D5 and D5a [REP6-069].
- 13.12.58. In its initial comments, the RSPB [RR-033] requested an expert study of the feasibility of predator control proposals and stressed its view that predator eradication, along with appropriate measures to prevent reinvasion, would be more effective than predator control. The ExA asked the Applicant about the risk of reinvasion [PDD-006, HRA 1.49] and whether this modified the Applicant's proposed options for compensation. The Applicant referred to its detailed response [REP1-038, entry RR-033-FF], noting that it considered predator control backed by biosecurity protocols to maintain a reduced predator population could be as effective as complete eradication, though its research was ongoing.
- 13.12.59. In ExQ1 [PD-006, HRA1.48] the ExA asked about the inclusion of Rathlin Island as a compensation site option following RSPB advice that a predator control project had already been funded and should be discounted [RR-033]. The Applicant confirmed that Rathlin Island had subsequently been removed from its options under consideration [REP2-038].
- 13.12.60. The Applicant responded to comments from IPs and submitted updated information throughout the Examination in response to ongoing work and discussions with NE and the RSPB. It provided a location suitability assessment [REP5-057] and [REP5a-019] and a Predator Eradication Implementation Study Update [REP5-082]. These submissions set out the Applicant's evidence that guillemot and razorbill could be affected by rat predation on most of the islands within the Bailiwick of Guernsey and confirmed its preference to focus on predator eradication on the Herm

Island complex, with locations in Alderney providing an adaptive management option [REP8-017].

- 13.12.61. As identified above, a key matter of discussion in the Examination was connectivity between the Applicant's preferred locations for predator control measures and the Flamborough and Filey Coast SPA. Both NE and the RSPB submitted advice throughout the Examination that insufficient evidence had been provided that the proposals would result in a demonstrable benefit to the UK National Site Network.
- 13.12.62. The Applicant maintained [REP8-017] that the proposed measures were suitable and deliverable. The Applicant [REP8-017] noted, "... *Natural England confirmation that there is connectivity between Bailiwick of Guernsey and UK National Site Network*" in reference to NE's End of Examination Position on the Applicant's Proposed Compensatory Measures [REP7-102]. However, while NE acknowledged that evidence for connectivity in the network had been provided, it remained of the view that the degree of connectivity of the locations presented for compensation for auks had not been demonstrated, and that sufficient benefit was uncertain [REP7-102].
- 13.12.63. NE's final position on the suitability of predator eradication as a compensatory measure was that it could theoretically benefit razorbill and, to a less certain extent, guillemot [REP7-102]. The SoCG between the Applicant and NE [REP7-061] identified that, whilst technically feasible, NE did not agree that the proposal had merit for guillemot or that evidence existed for efficacy and sufficient benefit to address the predicted adverse effects on the Flamborough and Filey Coast SPA.
- 13.12.64. The RSPB identified information it considered necessary for the Applicant to submit to the SoS before reliance was placed on the predator eradication proposals as compensation [REP6-069, Table 3].
- 13.12.65. Both NE and the RSPB advised that the proposals remained uncertain in terms of location, scale, effectiveness and feasibility in respect of their ability to ensure the coherence of the UK National Site Network.
- 13.12.66. The Applicant's proposals for auk bycatch reduction involved research into the adoption of Looming Eye Buoys (LEB) by fishing vessels. The RRs submitted by NE [RR-029] and the RSPB [RR-033] acknowledged the potential of LEBs but raised concern that the effectiveness of the proposed bycatch mitigation trial as compensation was highly uncertain, and that the practical use of available technology was not well known.
- 13.12.67. The ExA asked the Applicant, NE and the RSPB for updated information on the research and progress on reducing bycatch as a compensation measure [PD-006, HRA 1.43]. The Applicant referred to its Comments on Relevant Representations [REP1-038], in which it set out details of its bycatch reduction technique testing trials. The RSPB [REP2-092] responded with an outline of research it was involved in, for which results were awaited, and noted that it awaited further information from the

Applicant on its LEB trial. NE noted that it was awaiting the full report on bycatch reduction trials [REP2-082].

- 13.12.68. In response, the Applicant provided greater detail about its ongoing research into bycatch mitigation using LEB in 22 fishing enterprises, which it said had demonstrated the effectiveness of the measures [REP8-017]. The Applicant also highlighted its analysis presented in its Bycatch Reduction Technology Selection Phase Summary [REP5-068] and explained how its ongoing work aimed to increase the statistical power of the trial dataset. The Applicant's final position was that its work, in consultation with NE and bycatch experts, had led to the optimal design of bycatch reduction as a project level compensation measure [REP8-017].
- 13.12.69. In its comments on NE's D7 Ornithology Submissions, the Applicant [REP7-083] and [REP8-017] maintained that the proposed bycatch reduction measures would be sufficient and could be successfully implemented, stating that 22 fishers had committed to continuing to use the LEB technology in 2022-2023 (with a high likelihood these fishers would be included in the delivery of the compensatory measures, if required).
- 13.12.70. In accordance with established European guidance, compensatory measures must be additional to 'normal practice', which in this case would mean any measures already implemented or committed to in relation to the management of the Flamborough and Filey Coast SPA. The RSPB identified that bycatch reduction is a feature of existing and forthcoming policy and legislative commitments [REP6-069], calling into question the current and future 'additionality' of the Applicant's proposals. The Applicant's response [REP8-012] stressed that bycatch reduction had been supported as an appropriate measure during consultation with stakeholders including the RSPB, and that it was just part of a suite of measures that included an option for strategic compensation.
- 13.12.71. NE's submission at D7 [REP7-102] continued to reflect its concern around the lack of proven technology and limited evidence that the auk population of the Flamborough and Filey Coast SPA would benefit from bycatch reduction. It provided detailed concerns on the transparency and limited statistical verification of the data presented by the Applicant in relation to the efficacy of LEB, concluding that it was not possible to rely on the data presented. However, NE supported the LEB trial and agreed its theoretical merit [REP7-061] and acknowledged that further work may yield adequate information on efficacy in the post-consent period [REP7-102]. In the final SoCG between the Applicant and NE [REP7-061], the efficacy of bycatch reduction and its suitability as a compensation measure remained not agreed.
- 13.12.72. The final SoCG between the Applicant and the RSPB [REP8-005] noted the RSPB's view that bycatch reduction was not supported by adequate evidence that it could be of benefit to the target species of the

Flamborough and Filey Coast SPA. The RSPB [REP6-069] submitted advice on the further actions that could, in its view, be taken to increase confidence in this as a compensatory measure.

All bird species - fish habitat enhancement

- 13.12.73. NE [RR-029] welcomed seagrass bed restoration in general ecosystem resilience terms but did not consider it to be compensation as no link between it and the productivity of the affected bird species had been demonstrated or quantified. This view was supported by the RSPB [RR-033] and both IPs noted uncertainty around the successful implementation of the measure.
- 13.12.74. The Applicant provided further information on fish connectivity studies due to commence in late 2022 in the Humber Estuary, including the seagrass restoration areas, to establish recruitment into the North Sea fish populations [REP6-033]. The outcomes were not available during the Examination.
- 13.12.75. The positions of NE and the RSPB in relation to seagrass bed restoration remained unchanged at the end of Examination. NE [REP7-102] expressed support in broad terms but advised that it could not be considered compensation, either in itself or as a supporting measure. The reasons given centred on the absence of an evidenced link to a measurable benefit to the target seabird species and the experimental nature of the restoration process. In its SoCG with the Applicant [REP8-005], the RSPB echoed NE's position.

ExA's conclusions on the appropriateness, effectiveness, and feasibility of proposed compensation measures

- 13.12.76. The ExA is satisfied that sufficient evidence exists to demonstrate the ecological appropriateness of an offshore ANS as compensation for kittiwake, and that a new or repurposed offshore structure could feasibly be provided, based on the Applicant's submissions. The ExA is less convinced by the evidence supporting the ecological appropriateness and feasibility of an onshore ANS, given the commitments and consenting difficulties associated with offshore wind farm projects that are more advanced in the consenting and implementation process.
- 13.12.77. Risks and uncertainties remain in relation to the adoption of a structure by kittiwake, and there would be hurdles to be overcome with respect to securing the proposals, including a satisfactory location and appropriate consents. Nevertheless, taking into account the proposals put forward and the estimated quantum of nesting provision to be provided, the ExA is generally content that kittiwake numbers would eventually expand sufficiently to compensate for the predicted adverse effect on the Flamborough and Filey Coast SPA such that the coherence of the UK National Site Network was ensured.
- 13.12.78. In addition, the Applicant's commitments to monitoring and adaptive management provide further comfort that the risks could be

accommodated and that the adverse effects on the integrity of the Flamborough and Filey Coast SPA kittiwake feature could be adequately compensated.

- 13.12.79. The ExA recognises the merit in principle of auk compensation through predator control at previously productive nesting colonies that could be shown to have been reduced or eliminated by introduced predators such as rats. Before accepting the suitability of any individual sites proposed for compensation management, the ExA suggests that the SoS should request further evidence to demonstrate that predator pressure was the factor limiting auk nesting.
- 13.12.80. Given the progress made by the Applicant in negotiations with the relevant organisations in the Bailiwick of Guernsey, the ExA is content, subject to satisfactory progress to formal agreement, that a scheme could be implemented there. However, the ExA notes that the SoS would need to be satisfied that this location would offer ecological connectivity with the relevant UK auk flocks and that compensation implemented here would adequately protect the coherence of the UK National Site Network, as would be required. On the balance of evidence presented to the Examination, the ExA considers there to be material doubts about this.
- 13.12.81. Given the experimental and small-scale nature of the work undertaken so far, and the difficult circumstances in which the experimental trials have been conducted, the ExA has concerns about the feasibility of accepting bycatch reduction through the use of LEB as a compensation measure for auks.
- 13.12.82. The ExA suggests that the SoS would require considerable additional evidence to demonstrate its effectiveness and to prove benefits to the target auk flocks from the Flamborough and Filey Coast SPA before accepting it as a project-specific compensatory measure. The SoS would also need to be satisfied around the possible 'additionality' of the proposed measures in relation to existing and forthcoming policy and legislative commitments in relation to the reduction of commercial fishing bycatch.
- 13.12.83. Notwithstanding this view, the ExA recognises the potential for a nationally coordinated, large-scale bycatch reduction scheme to bring benefits to auk and other seabird populations. Such a strategic approach to compensation is considered later in this Chapter.
- 13.12.84. Whilst recognising the merit of seagrass bed restoration for general marine biodiversity purposes, the ExA does not consider it to be sufficiently evidenced as an appropriate and effective compensatory measure in the specific circumstances examined here.

Timing of implementation and long-term delivery

- 13.12.85. Included in the suite of documents provided by the Applicant were:
- Compensation measures for Flamborough and Filey Coast SPA: Kittiwake Offshore Artificial Nesting Roadmap [REP7-021];
 - Compensation measures for Flamborough and Filey Coast SPA: Kittiwake Onshore Artificial Nesting Roadmap [REP7-023];
 - Compensation measures for Flamborough and Filey Coast SPA: Guillemot and Razorbill Bycatch Reduction: Roadmap [REP7-029];
 - Compensation measures for Flamborough and Filey Coast SPA Predator Eradication Roadmap [REP7-031]; and
 - Compensation measures for Flamborough and Filey Coast SPA Fish Habitat Enhancement Roadmap [REP7-033].
- 13.12.86. These documents set out the Applicant's implementation programme for compensatory measures.
- 13.12.87. The Applicant also submitted outline compensation implementation and monitoring plans with the application [APP-192] and [APP-200]. These were updated during the Examination, with final versions for kittiwake [REP7-025], and guillemot and razorbill [REP7-035].
- 13.12.88. In ExQ1 [PD-006, HRA. 1.33], the ExA asked the Applicant how the proposed alternative, without-prejudice DCO Schedule 16 described in the documents (considered in more detail later in this Chapter and in Chapter 16) would secure the timing of the approval and implementation of the compensation measures. The Applicant's response [REP2-038] confirmed that timing of delivery would be specific to each measure and dependent on the outcomes of the work of the Offshore Ornithology Engagement Group (OOEG)³⁵.
- 13.12.89. The ExA addressed a similar question in ExQ2 to NE and the RSPB [PD-012, HRA.2.3]. NE agreed [REP5-111] with the measure-specific approach. However, it considered that the delivery of the implementation and monitoring plans should be required at a specified time prior to operation, as had been the approach for previous consents. The RSPB [REP5-119] also agreed with the overall approach but expressed concern about the lead-in times for the measures in ecological terms. The RSPB suggested that not only should measures be in place before the impact occurred, but they should also be ecologically functional, and stressed the importance of getting the detail of the implementation and monitoring plans right to achieve this.
- 13.12.90. Throughout the Examination, matters were raised in relation to uncertainties around securing land rights and other permissions for the

³⁵ The OOEG would assist, through consultation, the undertaker to deliver the compensation measures. It would be established through Schedule 16 of the final draft DCO [REP7-039] or its suggested without prejudice Schedule 16 [REP7-079].

compensation proposals and the implications for their long-term delivery. It was acknowledged that the Applicant had set out the ongoing workstreams to be progressed after the DCO consenting process in this regard.

Kittiwake artificial nesting structure

- 13.12.91. NE [RR-029] had concerns with the Applicant's proposal to implement the ANS mitigation one breeding season prior to operation for an existing colony or two years prior to operation for sites with no existing colony. It noted this to be a reduced lead-in time when compared to that agreed for the Hornsea Three Offshore Wind Farm and considered that compensation should be delivering and not just implemented prior to impact. In response, the Applicant committed to implementing the nesting structure three breeding seasons prior to operation [REP1-038] and [REP2-038]³⁶.
- 13.12.92. NE [REP7-102] welcomed this commitment but highlighted that implementation three years prior to operation was later than the four-year lead-in time applied to previous consents and expressed the view that this would not afford confidence that the compensation would be effective prior to the impacts occurring.
- 13.12.93. The Applicant was confident that the timing of ANS implementation was supported by evidence that had been set out in the application documents [APP-187] and [APP-189]. It considered that its commitment to allow three breeding seasons before operation should be balanced with the need case for the Proposed Development [REP8-017], stating that a specific timescale should not be included in the DCO (only the stipulation to have the compensation in place ahead of operation) to allow flexibility to accelerate the delivery of the Proposed Development. As noted above, NE [REP5-111] did not agree with this approach and preferred specified timing to be included in the DCO.
- 13.12.94. Advice from NE [REP7-102] stressed the importance of monitoring to establish the presence, abundance and productivity of existing nests on a repurposed structure, and whether an increase on this existing baseline could be demonstrated following repurposing. The Applicant [REP8-017] agreed that monitoring would be required and stated confidence in a continued increase in productivity based on 2021 and 2022 surveys of the existing kittiwake colony on the Wenlock platform.
- 13.12.95. The Applicant [REP8-017] confirmed that the ANS would be maintained for the lifetime of the Proposed Development and would be monitored for colony size and productivity.

³⁶ Secured through Schedule 16 Part 1(3)(c) of the Applicant's preferred DCO [REP7-039] and included in Part 2(c) of the Applicant's without prejudice Schedule 16 [REP7-079].

13.12.96. NE [REP7-102] and the RSPB [REP8-024] both expressed concern in relation to the vulnerability of an onshore structure to separate consenting risks following the DCO decision, and that greater certainty would be required on the legal security of compensation measures.

Guillemot and razorbill (predator eradication and bycatch reduction)

13.12.97. The Applicant proposed an indicative timescale for the implementation of predator eradication [REP7-031] and bycatch reduction [REP7-029] two years prior to construction of turbine foundations, and three years prior to operation. However, the Applicant confirmed that timing of delivery and the proposals for long-term delivery including monitoring and adaptive management would be determined by the OOEG [REP2-038].

13.12.98. Comments were submitted on this by NE throughout the Examination, with its final SoCG with the Applicant [REP7-061] reflecting its disagreement that delivery, 'at least one year prior to the operation of any wind turbine generator' was appropriate. It expressed concern that the time required for any benefits in terms of additional breeding recruits to be realised would likely result in accumulation of mortality debt.

13.12.99. During the Examination, the Applicant continued to refine its proposals for predator eradication, and at D5 [REP5-030] and D5a [REP5a-014] it explained progress with signing a Memorandum of Understanding (MoU) with the Alderney Wildlife Trust and with the States of Guernsey in relation to its preferred options. The Applicant explained that the MoU were intended to agree a methodology for initial implementation, monitoring, and long-term security of the measures. The Applicant submitted [REP7-081] a schedule of side agreements including details of the MoU.

13.12.100. Annex B (Compensation Proposals) of the RSPB's comments on other submissions received at D5 and D5a [REP6-069] set out its concerns with respect to the long-term implementation of the predator eradication proposals including the protection of the proposed sites. NE [REP7-061 and REP8-031] also noted that the sites were outside the protection of UK law and expressed concern that they would not be afforded the automatic protection applied to compensatory measures for European sites in the UK.

13.12.101. The ExA explored the future protection of the proposed predator eradication sites at ISH12 [EV-036]. The Applicant confirmed following the Hearing [REP6-039] that the preferred sites covered by the MoU were in existing Ramsar sites but that other, long-listed sites under consideration were not.

13.12.102. Following ISH12, the RSPB submitted [REP7-099] further concerns about the ongoing protection of predator eradication sites. Its final position at the end of Examination [REP8-024] referred back to its concerns in

earlier submissions. NE [REP8-031] also held its position that this matter undermined the long-term delivery of the compensation measure.

- 13.12.103. With regards to the long-term delivery of bycatch reduction measures, NE [REP7-061] and [REP7-102] expressed concern that measures would be difficult to implement in the long term due to the dynamic nature of fisheries, and, in the absence of outline adaptive management methods, this represented a risk. The RSPB [REP6-069] also made general comments on the absence of detail in monitoring and adaptive management proposals, making reliance on long-term delivery difficult.

All bird species - fish habitat enhancement

- 13.12.104. The Applicant [REP6-033] noted that the initial trial for seagrass bed restoration at the Humber Estuary site was due to be completed prior to determination of the DCO application. This would inform the subsequent delivery of 30 hectares (ha) within the Humber Estuary. It explained that Jacques Bay and Nacton in Essex had been identified as suitable locations for seagrass restoration, should adaptive management be required. The Applicant also described plans for ongoing monitoring and environmental evaluation between 2023 and 2029.

ExA conclusions on the timing of implementation and long-term delivery

- 13.12.105. The ExA has given careful consideration to lead-in times for the various compensation proposals.
- 13.12.106. The ExA's understanding is that, whilst the Habitats Regulations do not explicitly require measures to be demonstrably effective prior to a Proposed Development commencing, any necessary measures should be in place before impacts are realised and the Competent Authority should have confidence that they will be effective.
- 13.12.107. The ExA considers that the specific circumstances around kittiwake maturity and breeding, and the need for confidence that an ANS compensation measure would be effective prior to the impacts occurring, means that a four-year lead-in time prior to turbine operation is necessary. The ExA notes that this is broadly consistent with the made Orders for the Hornsea Project Three, Norfolk Vanguard and Norfolk Boreas Offshore Wind Farms.
- 13.12.108. Therefore, as set out in Chapter 16 of this Report, the ExA has recommended that the required lead-in time for an ANS in any made Order should be amended from, "*at least three full kittiwake breeding seasons prior to operation*" to, "*at least four full kittiwake breeding seasons prior to operation*".
- 13.12.109. The ExA is content that any ANS could be secured for the lifetime of the Proposed Development and would recommend that a detailed requirement was implemented through any future consent application for

a programme of appropriate lifetime monitoring of colony size and productivity.

- 13.12.110. For auk compensation measures, the ExA has concluded that the bycatch reduction proposal would not be appropriate at the individual project level. The ExA would suggest that the SoS would need to consider and specify appropriate lead-in times for, and the lifetime of, any strategic approach before its implementation.
- 13.12.111. The ExA notes that island predator eradication for auk compensation usually takes place over a period of up to two years, but that the Applicant would anticipate benefits in the first breeding season. However, the ExA considers that a precautionary approach would be appropriate, given the potential importance of this compensatory measure. As a result, the ExA considers a four-year lead-in period before the operation of the turbines to be appropriate and has recommended (Chapter 16) that the wording in any made Order be amended by replacing, "*no later than two years prior to operation*" to, "*no later than four breeding seasons prior to operation*".
- 13.12.112. If necessary, the ExA is satisfied that the alternative, without-prejudice Schedule 16 (as amended in Chapter 16) could be added to the recommended DCO to secure the implementation of the predator control measures prior to the operation of turbines. However, given that the proposed compensation sites lie outside the jurisdiction of the UK Government and regulators, the ExA would suggest that the SoS would wish to consider whether the Order could ensure adequate control over the ongoing predator management that would be necessary over the full lifetime of the Proposed Development.
- 13.12.113. The ExA notes that seagrass bed restoration trials are already underway, and that further work is planned. However, given that the ExA does not consider this to be a valid compensation measure for the Proposed Development, it does not consider it necessary to comment further on its timing or long-term delivery.

Strategic compensation

- 13.12.114. There was some general IP support during the Examination for a more strategic approach to the provision of compensation for offshore wind farms in the North Sea. East Suffolk Council [REP2-071] and [REP7-094] stressed its desire to see compensation measures addressed strategically. NE [RR-029] and [REP7-102], the RSPB [REP8-024] and The Wildlife Trusts [RR-039] expressed support for strategic compensatory measures, commenting that to be considered compensation they must deliver a benefit to impacted features and that measures to improve prey resources were most likely to offer success.
- 13.12.115. At D5, the Applicant submitted a summary of ongoing activities and workstreams in Ørsted's approach to strategic ecological compensation [REP5-086]. It suggested that the UK Government's British Energy

Security Strategy (April 2022) (BESS) provided clear support for strategic compensation. It explained that the BESS had introduced the Offshore Wind Environmental Improvement Package, which would generate a library of compensation measures that a developer could explore further on a project level, as well as the Marine Recovery Fund (MRF), which was intended for measures that would best be enabled collaboratively through a strategic fund held by Government.

- 13.12.116. The Applicant [REP5-086] suggested that there was an intention for the MRF to be established by the end of 2023, and it submitted amended compensation documents that included an option to contribute to the MRF as a strategic alternative to the proposed and without-prejudice practical compensation measures and any adaptive management measures identified as required by monitoring [REP7-015], [REP7-019] and [REP7-029]. The option to adopt the strategic compensation proposed was secured through Schedule 16 of the final draft DCO [REP7-039] and the Applicant's alternative, without-prejudice Schedule 16 [REP7-079].
- 13.12.117. The Applicant concluded [REP5-086] that the SoS would be able to rely on this strategic approach in any decision to grant development consent for the Proposed Development.
- 13.12.118. The delivery of collaborative or strategic compensation was explored at ISH12 [EV-036]. The Applicant explained the background to the development of strategic compensation options being put forward by the UK Government and its intended route for adoption of those options, including contributions to the MRF. The Applicant also further explained how the option to substitute financial contributions to strategic measures in place of project-level physical compensation measures was captured in Schedule 16 (of both its final draft DCO [REP7-039] and the alternative, without-prejudice Schedule 16 [REP7-079]), and how this allowed flexibility to adapt to the most ecological advantageous option available.
- 13.12.119. The RSPB [REP7-099] and [REP8-024] did not agree with the Applicant that the yet to be legislated and implemented MRF could be relied upon. It considered the assumption that measures would be available from the end of 2023 to be unrealistic, in particular taking into account the work required to establish the benefit to impacted species.
- 13.12.120. The Applicant [REP8-017] considered that strategic compensation would be the best option due to the potential for collaboration and delivery at scale, although it maintained that its package of project-level compensation could be relied upon.

ExA conclusion on strategic compensation

- 13.12.121. The ExA recognises the commitments in relation to strategic compensation set out by the Applicant and is satisfied that Schedule 16 of both the recommended DCO [REP7-039] and the alternative, without-prejudice Schedule 16 [REP7-079] make adequate provision to secure

those commitments and the further work required to agree the detail of measures both for both compensation and adaptive management.

- 13.12.122. The implementation of the MRF is set out in current policy, specifically the BESS, and the need for strategic compensation is recognised by the UK Government and TCE, as well as in the industry, and it has the general support of SNCBs and Non-Government Organisations. Nevertheless, neither the MRF nor any other appropriate vehicle for strategic compensation was in place at the end of the Examination.
- 13.12.123. The details of the strategic compensation in terms of locations, design, any necessary consents, timescales, and mechanism of implementation are as yet unknown. The SoS will need to be satisfied that this work could be in place at an appropriate juncture to compensate for the predicted AEOI of the Flamborough and Filey Coast SPA. If all such details can be finalised and secured, the ExA is content that, in principle, strategic compensation as proposed could ensure the overall coherence of the UK National Site Network.

Security and funding

- 13.12.124. The application DCO [APP-203] did not include provision for the proposed compensatory measures. The Applicant's compensation plans for the Flamborough and Filey Coast SPA bird species included suggested drafting for an applicable DCO schedule should it be required [APP-186] and [APP-193]. The security of the compensatory measures in terms of their inclusion in the DCO were a matter of discussion during the Examination.
- 13.12.125. In ExQ1, the ExA examined matters relating to securing the compensatory measures in the draft DCO, the timing of their delivery, and funding [PD-006, HRA 1.24, HRA 1.25, HRA 1.33 and HRA 1.51]. The ExA asked the Applicant to explain how it intended to provide details of its without-prejudice measures, such that they could be secured in the draft DCO if required, for example by suggesting a Requirement that could be activated as needed by the SoS or by submitting two versions of the DCO, one with and one without the measures. The ExA also explored the approaches taken for other DCOs in this regard.
- 13.12.126. Following its adoption of a revised position on the in-combination AEOI for kittiwake, the Applicant submitted a revised DCO [REP1-002] that included Article 49 and Schedule 16, which secured provision for the proposed compensatory measures for kittiwake and detailed the role, membership and plan of work of the OOEG. This was retained in Schedule 16, Part 1 of the final draft DCO [REP7-039], alongside fish habitat enhancement (Schedule 16, Part 2) and a contribution to the MRF (Schedule 16, Part 3).
- 13.12.127. The Applicant's position throughout the Examination was that no compensatory measures were required for other species. However, it suggested alternative drafting for Schedule 16 [AS-038], on a without-

prejudice basis, to secure additional compensatory measures for gannet, guillemot and razorbill, should the SoS determine otherwise. The final version of the Applicant's without-prejudice, alternative Schedule 16 [REP7-079] reflected the outcomes of drafting discussions held throughout the Examination following comments from NE and other IPs. It contained the same information as the final draft DCO [REP7-039], as well as provision for compensatory measures for guillemot and razorbill³⁷.

- 13.12.128. The precise design and details of the kittiwake and auk compensatory measures were not finalised at the close of Examination, therefore Schedule 16 of the final draft DCO [REP7-039] and the alternative, without-prejudice Schedule 16 [REP7-079] secure implementation after further design work. The measures would be finalised in the kittiwake compensation implementation and monitoring plan (KCIMP) (which must be based on the kittiwake compensation plan [REP7-019]) and the guillemot and razorbill compensation implementation and monitoring plan (GRCIMP), (which must be based on the guillemot and razorbill compensation plan [REP7-027]). The KCIMP and GRCIMP would have to be submitted to and approved by the SoS. Any development or works required to implement the compensatory measures would be subject to their own consents at a later date.
- 13.12.129. Schedule 16, Part 1(7) of the final draft DCO [REP7-039] and Part 2(5) of the Applicant's alternative, without-prejudice Schedule 16 [REP7-079] state that the kittiwake ANS must not be decommissioned without approval by the SoS in consultation with the relevant statutory nature conservation body. NE [REP7-061] was content with this.
- 13.12.130. The Applicant's compensation roadmaps made reference to the possibility of compulsory acquisition of compensation sites. The Applicant [REP2-038] confirmed in response to ExQ1 [PD-006] that no compulsory acquisition was being sought through the DCO.
- 13.12.131. The ExA also asked [PD-006] about the mechanism by which the proposed mitigation associated with the compensation would be secured. In its response, the Applicant set out that the mitigation described in the Compensation Commitments Register [APP-060] would be secured via the licensing and consenting processes which would apply to the compensation works and that the updated compensation roadmaps provided detail of these processes.
- 13.12.132. The Applicant submitted a Without Prejudice Derogation Funding Statement [APP-202] to set out the intended financial arrangements associated with the delivery of the Compensation Plans. The ExA asked [PD-006] what confidence could be placed on the estimated costs, given that, at that stage, no specific locations for the compensation measures

³⁷ Measures for gannet were removed following the Applicant's conclusion of no AEOI.

had been secured. The Applicant [REP2-038] provided a summary of the cost analysis undertaken and a statement of confidence in the outcomes presented. This was updated at D7 to take into account commodity price inflation and market changes at that time [REP7-037].

ExA conclusions on security and funding

- 13.12.133. The ExA is content that the combination of Schedule 16 of the final draft DCO, the alternative, without-prejudice Schedule 16 [REP7-079], and the Applicant's suite of supporting derogation and compensation documents provide a preliminary but secure mechanism to allow the SoS to require the implementation of any of the Applicant's proposed compensation measures for the kittiwake, guillemot and razorbill qualifying features of the Flamborough and Filey Coast SPA that are considered necessary to satisfy the HRA tests. However, this does not mean that the ExA found their applicability, suitability and maturity at the close of Examination to be sufficient, as detailed in the preceding sections.
- 13.12.134. In relation to the funding of the compensation measures, the ExA was satisfied with the information provided into the Examination but given the national and international economic circumstances that have prevailed since that time, the SoS may wish to revisit this at the point of decision-making. This would particularly be the case if a strategic option was chosen for any of the compensation requirements.

ExA's overall conclusions on compensatory measures

- 13.12.135. Various matters were discussed during the Examination, with substantial submissions made by the Applicant, NE, the RSPB and others. In response to the Applicant's confidence in its compensatory measure proposals, including those submitted without prejudice, NE and the RSPB were generally aligned in their concerns that the quantum of compensation needed was unknown and that there were significant uncertainties around their appropriateness, effectiveness, feasibility, and whether they could be secured.
- 13.12.136. Taking into account the evidence before the Examination, the ExA concludes that uncertainty remains as to whether the compensation measures, as currently proposed, would be successful in ensuring the overall coherence of the UK National Site Network. Whilst acknowledging the more advanced maturity of the offshore ANS proposal for kittiwake compensation, the ExA notes that siting and detailing were far from finalised or secured at the close of Examination.
- 13.12.137. The ExA appreciates that the remaining measures were provided without prejudice, but they were nevertheless far less mature and lacking in detail, and insufficient evidence was provided to demonstrate that they could be developed and secured in an appropriate manner to deliver an effective and sufficient quantum of compensation at a suitable location.

- 13.12.138. Before placing any reliance on the measure, the ExA suggests that the SoS should require the Applicant to undertake considerable additional work on the design and detailing of an ANS for kittiwake from the Flamborough and Filey Coast SPA, and to demonstrate a secure route to consenting, implementation and ensuring long-term management and monitoring.
- 13.12.139. In the ExA's view, if the SoS determines that some or all of the without-prejudice measures put forward by the Applicant are needed to compensate for any further AEOI of the Flamborough and Filey Coast SPA, a very considerable amount of detailing, design and forward planning would be required. The Applicant's alternative, without-prejudice Schedule 16 would also need to be inserted in part or as a whole into any made Order.
- 13.12.140. To help the SoS fulfill the duty of Competent Authority under the requirements of the Habitats Regulations, the ExA has summarised the principal actions that may need to be considered in Table 13.12 below.

13.13. HRA CONCLUSIONS

- 13.13.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoS.
- 13.13.2. Forty European sites in the UK National Site Network and their qualifying features were considered in the Applicant's assessment of LSE. LSE were identified for 36 of these sites as a result of the Proposed Development alone or in combination with other plans or projects.
- 13.13.3. The methodology and outcomes of the Applicant's screening for LSE on European sites was subject to some discussion and scrutiny, and the ExA identified a number of additional LSEs for which an appropriate assessment is required.
- 13.13.4. The Applicant concluded an AEOI for kittiwake from the Flamborough and Filey Coast SPA as a result of in-combination collision mortality. It found no AEOI for all other qualifying features and LSE impact pathways.
- 13.13.5. The Applicant submitted a derogation case that included an assessment of alternative solutions, a case for IROPI, and proposed compensation measures for kittiwake, guillemot and razorbill.
- 13.13.6. The derogations case for guillemot and razorbill was submitted on a without-prejudice basis, as the Applicant considered that an AEOI could be excluded for these features. NE and the RSPB did not believe that AEOI could be excluded for these qualifying features.
- 13.13.7. The ExA's findings are that, subject to the necessary mitigation measures being secured in any made Order, an AEOI can be excluded for all

European sites assessed, with the exception of the Flamborough and Filey Coast SPA. The ExA is unable to exclude an AEoI due to adverse effects on the following qualifying features of the Flamborough and Filey Coast SPA:

- kittiwake – from in combination collision mortality; and
- guillemot – in combination displacement and disturbance.

- 13.13.8. The ExA considers these findings to apply whether or not the Proposed Development was excluded from the Overlap Zone with the Endurance Project.
- 13.13.9. Alternative solutions, IROPI, and compensation were given substantial consideration during Examination. The ExA is satisfied that there is no feasible alternative solution with a lesser adverse effect than the Proposed Development. On the basis of available evidence, the ExA considers that a case can be established for IROPI for the Proposed Development.
- 13.13.10. However, the findings of the Examination are that the compensation package as proposed (including those measures presented on a without-prejudice basis) is insufficiently developed and unproven and, as such, the ExA is unable to recommend that development consent should be granted at this time.
- 13.13.11. With the exception of compensation, if required, the ExA considers that there is sufficient information before the SoS to enable an appropriate assessment to be undertaken. This includes the impact assessment and the alternative solutions and IROPI derogation tests. If the SoS were to take an alternative view to the Applicant or the ExA on the most appropriate parameters to be used in the various ornithological assessments, the ExA considers that the data and analyses provided in the application documents as supplemented during the course of the Examination can provide a reliable basis for decision making.
- 13.13.12. Should the SoS determine that there are no alternative solutions and that IROPI exist for carrying out the Proposed Development, the ExA advises that the SoS would require significant additional information in order to fulfil the duty of Competent Authority under the requirements of the Habitats Regulations, as noted above.
- 13.13.13. In this Chapter, the ExA has identified a number of matters that the SoS may wish to consider further in reaching its conclusions. For convenience, the principal matters are summarised in Table 13.12.

Table 13.12: Matters for consideration by the SoS

SoS consultation duties	Given the amount of information submitted following publication of the RIES, the ExA recommends that the SoS considers further consultation to ensure that the duties under Regulation 63(3) of the Habitats Regulations and Regulation 28(4) of the Offshore Habitats Regulations are properly fulfilled.
AEoI – layers of precaution	<p>This Chapter identifies differing views between parties in relation to the appropriate level of precaution in the consideration of impacts on ornithological qualifying features.</p> <p>The ExA considers high levels of precaution to be generally appropriate and necessary for this HRA. For guillemot and razorbill from the Flamborough and Filey Coast SPA, the ExA has set out its conclusions using NE’s bespoke assessment approach but applying 70% displacement and 2% mortality rates. Should the SoS consider it more appropriate to apply different assessment parameters, the ExA is confident that sufficient information is available in the Applicant’s and NE’s submissions to enable this. The SoS is particularly guided to NE’s End of Examination Position on Offshore Ornithology [REP7-104] and the Applicant’s Ornithology EIA and HRA Annex [REP6-028] in this regard.</p>
NE advice on marine processes	Should the SoS consider that an AEoI of any European site could not be excluded as a result of impacts on marine processes, the SoS is directed to NE’s advice in [REP7-103] on one potential course of action that could be taken.
In-combination effects with planned projects	The SoS may wish to consider any updated position since the close of the Examination in relation to ‘planned projects’ included in the in-combination assessment, but with little detail attached (notably the Sheringham and Dudgeon Extension Projects and the Rampion 2 Offshore Wind Farm).
Alternatives – further refinements	<p>The ExA is satisfied that no reasonable alternative solutions that would deliver appreciable benefits in terms of reduced adverse effects on the Flamborough and Filey Coast SPA were presented to the Examination.</p> <p>This conclusion does not preclude further design changes being made. If any refinements are made in the decision period, the SoS may wish to revisit whether these could affect the conclusions on AEoI.</p>
IROPI	The ExA recommends that the IROPI case is reconsidered at the time of the SoS’s decision in the light of the recommendations made in this Report and any further evidence that the SoS considers important and relevant, particularly in relation to the understanding of the likely magnitude and population implications of adverse effects arising from the Proposed Development on the Flamborough and Filey Coast SPA.

<p>Compensation – action on gaps</p>	<p>The SoS may need significant further information from the Applicant in relation to any of the proposed compensation measures that may be required. As noted in the Chapter, all were of insufficient maturity at the close of Examination to provide the ExA with sufficient confidence that they could be secured and would be effective.</p> <p>This would include the most mature of the compensation proposals, the adaptation of an existing offshore platform to create an ANS for kittiwake.</p> <p>If relevant, the SoS may also wish to explore the design and likely effectiveness of such an adaptation for use by auks.</p>
<p>Compensation – predator eradication</p>	<p>The SoS may wish to give consideration to the actions suggested by the RSPB [REP6-069, Table 3] in respect of providing further certainty on predator eradication as a compensatory measure.</p> <p>Before accepting the suitability of any individual sites proposed for compensation management, the ExA would suggest that the SoS should request further evidence to demonstrate that predator pressure is a significant factor in the limitation of successful auk nesting.</p> <p>The SoS would need to be satisfied that any location would offer ecological connectivity with the relevant UK auk flocks and that compensation implemented here would adequately benefit the coherence of the UK National Site Network.</p> <p>As the proposed compensation sites lie outside the jurisdiction of the UK Government and regulators, the ExA would suggest that the SoS would wish to consider whether any made Order could ensure adequate control over the ongoing predator management that would be necessary over the full lifetime of the Proposed Development. In addition, the SoS is advised to consider whether equivalent policy exists under the jurisdiction of the Bailiwick of Guernsey for the ongoing protection of HRA compensation sites.</p>
<p>Compensation – bycatch reduction</p>	<p>The ExA suggests that the SoS would require considerable further evidence about the effectiveness of LEBs in reducing bycatch, and proof of the benefits of the proposed compensation to the target auk flocks from the Flamborough and Filey Coast SPA before accepting it as a project-specific compensatory measure.</p> <p>The SoS would also need to be satisfied around the possible ‘additionality’ of this measure in relation to existing and forthcoming policy and legislative commitments in relation to the reduction of commercial fishing bycatch.</p>
<p>EIA and HRA</p>	<p>Prior to decision, the SoS may wish to take account of the ExA’s conclusions on the adequacy of the EIA and ES in Chapter 4 of this Report and earlier in this Chapter in relation to the HRA that were undertaken by the</p>

	Applicant for the proposed physical derogation compensation measures (including those offered without prejudice) and consider if and when any further assessment in EIA and HRA terms needs to be undertaken.
Compensation – strategic solutions	The details of a possible strategic compensation approach, in terms of locations, design, any necessary consents, timescales, and mechanism of implementation, are as yet unknown. The SoS should be satisfied that this work can be in place at an appropriate juncture to address the predicted adverse effects on the UK National Site Network.
Without-prejudice Derogation Funding Statement	The Derogation Funding Statement was updated to take into account market changes and increased commodity prices at that time [REP7-037]. The SoS may wish to revisit this at the point of decision-making, in the light of further market changes and commodity price increases.
Schedule 16	If the SoS determines that some or all of the without-prejudice measures put forward by the Applicant are needed to compensate for any further AEoI of the Flamborough and Filey Coast SPA, Schedule 16 of the recommended DCO would need to be adjusted accordingly. The Applicant’s alternative, without-prejudice Schedule 16 would provide a starting point for this, in part or as a whole, along with the ExA’s recommendations in Chapter 16 of this Report.
HPAI	The HPAI epidemic is ongoing and the ExA is aware that understanding is likely to have moved on since the close of the Examination. The SoS may wish to have regard to this during consideration of the HRA.

14. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

14.1. INTRODUCTION

- 14.1.1. The Examining Authority (ExA) has considered the case for Development Consent in the policy framework provided by the designated National Policy Statements (NPS) (NPS EN-1 (Overarching Energy), NPS EN-3 (Renewable Energy) and NPS EN-5 (Electricity Networks Infrastructure)) and the Marine Policy Statement (MPS). The ExA has also had regard to important and relevant considerations arising from other policy sources including the East Inshore and East Offshore Marine Plans and the East Riding Local Plan Strategy Document (the Local Plan). In reaching the conclusions set out in this Chapter, the ExA has considered all other relevant law and policy and the issues that were raised during the Examination by Interested Parties (IPs).
- 14.1.2. The ExA's conclusions are set out in this Chapter. Given its overarching relevance and importance to the decision-making process, the ExA considers it appropriate for this Chapter to consider matters relating to the Habitats Regulations Assessment (HRA) first.
- 14.1.3. Examination Library references are not included in this summary, but the full references are available from the corresponding sections of Chapters 5 to 13.

14.2. HABITATS REGULATIONS ASSESSMENT

- 14.2.1. The Secretary of State (SoS) is the Competent Authority for HRA purposes. The ExA has nevertheless given very careful consideration to HRA matters in the Examination and in its deliberations, and it provides observations and recommendations to help the SoS fulfil that role. Chapter 13 of this Report sets out the ExA's detailed HRA analysis.
- 14.2.2. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the Proposed Development with respect to Adverse Effects on Integrity (AEoI) of European sites must be assessed by the SoS.

Likely Significant Effects and Adverse Effects on Integrity

- 14.2.3. The Applicant identified 40 European sites in the United Kingdom (UK) National Site Network for inclusion in the assessment, all of which were coastal or offshore. The Applicant also considered twelve sites in European Economic Area States. The Likely Significant Effects (LSE) concluded by the Applicant, plus some additional LSE identified by the ExA, are set out in Tables 13.4 to 13.7 of Chapter 13.

- 14.2.4. The ExA went on to consider these LSE in more detail to determine if the Proposed Development might lead to an AEOI of any of the European sites.
- 14.2.5. Initially concluding that there would be no AEOI of any European site, the Applicant reviewed its conclusion and conceded that the Proposed Development could result in an AEOI of the Flamborough and Filey Coast Special Protection Area (SPA) due to in-combination collision effects on the breeding kittiwake qualifying feature.
- 14.2.6. The ExA concludes that an AEOI of all European sites can be excluded as a result of impacts from the Proposed Development alone, but that an AEOI of the Flamborough and Filey Coast SPA from the Proposed Development in combination with other plans and projects cannot be excluded due to adverse effects on the following qualifying features:
- breeding kittiwake, from in-combination collision mortality; and
 - breeding guillemot, from in-combination displacement and disturbance.

Imperative Reasons of Overriding Public Interest and compensation

- 14.2.7. If the Competent Authority cannot conclude the absence of an AEOI, such that no reasonable scientific doubt remains, then under the Habitats Regulations the project can proceed only if there are no alternative solutions and there are Imperative Reasons of Overriding Public Interest (IROPI) why the project must be carried out. Suitable compensatory measures must also be secured to ensure the overall coherence of the UK National Site Network.
- 14.2.8. The Applicant provided a derogation case for the AEOI of kittiwake from the Flamborough and Filey Coast SPA and a without-prejudice derogation case that could be used should the Competent Authority additionally find an AEOI of the gannet, guillemot or razorbill qualifying features of the Flamborough and Filey Coast SPA.
- 14.2.9. The Applicant also provided information about potential compensatory measures relating to the kittiwake, gannet, guillemot and razorbill qualifying features of the Flamborough and Filey Coast SPA. With the exception of kittiwake, these measures were submitted on a 'without-prejudice' basis.
- 14.2.10. The ExA considered the need, alternatives and IROPI tests of the HRA Regulations. It is satisfied that there are no alternative solutions that would deliver reduced adverse effects on the Flamborough and Filey Coast SPA. It also recognises, see Chapter 5 of this Report, the immediate need to increase energy supply from renewables for reasons of energy supply and energy security and as a fundamental contributor to action on climate change, and that the Proposed Development would make a valuable contribution to this.

- 14.2.11. On balance, the ExA is satisfied that the identified imperative reasons in the public interest are sufficient to override the degree of impact that the ExA finds for the qualifying features of the Flamborough and Filey Coast SPA.
- 14.2.12. The IROPI test must be applied by the Competent Authority at the point of decision making, and the ExA recognises the possibility that circumstances may change between the close of the Examination and the decision. As a result, the ExA recommends that the Competent Authority should reconsider the IROPI case at that time.
- 14.2.13. The ExA considers the Applicant's proposed compensatory measures in detail in Chapter 13 of this Report. It notes the wide variation in the conclusions of the Applicant, Natural England (NE) and the RSPB in terms of the quantum that would be required and has taken its own 'reasonable precautionary approach' in considering the measures that would, or might be, required to address any AEOI identified by the Competent Authority.
- 14.2.14. The ExA is satisfied that an impact value of 71 annual kittiwake mortalities is the most appropriate for determining the quantum of compensation. Using the Applicant's approach, this would require 380 compensation nests. The ExA is satisfied that sufficient evidence exists to demonstrate that a new onshore or a new or repurposed offshore artificial nesting structure could feasibly be provided for this number of nests.
- 14.2.15. However, the finalised details in terms of location, design, any necessary consents, timescales, and mechanism of implementation are as yet unknown, to the extent that the ExA believes that the HRA compensation test is not met. The SoS should be satisfied that more certainty is in place at the appropriate juncture to demonstrate that the predicted adverse effects on the UK National Site Network could be compensated.
- 14.2.16. In relation to auks, for guillemot, the ExA's view is that the quantum of compensation should be based on an annual loss of 452 birds. Should the SoS determine that compensation was also necessary for razorbill, the equivalent figure would be 46 birds.
- 14.2.17. The ExA believes that this would require the Applicant to return to a 'long-list' of predator eradication island options to achieve a suitable quantum of compensation for auks, and that this would significantly increase the level of uncertainty about the feasibility and delivery of sufficient measures. If it is needed, the SoS would need substantially more detail to demonstrate that the proposed compensation is achievable and adequate to address the AEOI.
- 14.2.18. Trials of the additional auk bycatch reduction measure have been experimental and small-scale so far, and the ExA has concerns about its feasibility at scale as a compensation measure for auks. The ExA suggests that the SoS would require considerable additional evidence to

demonstrate its benefits to the target auk flocks from the Flamborough and Filey Coast SPA before accepting it as a project-specific compensatory measure.

- 14.2.19. The suggested alternative approach of providing financial support through the Marine Recovery Fund or a similar vehicle for more strategic compensation measures at the regional or national level was raised by the Applicant during Examination. The benefits of strategic compensation are recognised by Government and the industry, and it has the general support of the Appropriate Nature Conservation Bodies and non-governmental organisations. Nevertheless, the Marine Recovery Fund was not in place at the end of the Examination. Whilst accepting that the approach could be appropriate, the ExA suggests that the SoS would need to be satisfied that a suitable mechanism was in place in sufficient time to address the predicted AEoI and the coherence of the UK National Site Network.

Conclusion

- 14.2.20. In relation to compensatory measures overall, the ExA is satisfied that Schedule 16 of the draft Development Consent Order (DCO) and the alternative Schedule 16 provided with the derogation case on a without-prejudice basis for qualifying features other than kittiwake make adequate provision to secure the commitments and the further work required to agree the detail of measures both for compensation and adaptive management.
- 14.2.21. The ExA concludes overall that, at the close of the Examination, there was insufficient information before the Competent Authority to demonstrate that the AEoI of the breeding kittiwake and guillemot qualifying features of the Flamborough and Filey Coast SPA would be fully compensated, or that the coherence of the UK National Site Network could be secured. As such, the ExA has no alternative other than to recommend to the SoS as the Competent Authority that the DCO should not be made pursuant to Regulations 63 and 64 of the Habitats Regulations.

14.3. SUMMARY OF THE PLANNING BALANCE AND COMPLIANCE WITH NATIONAL POLICY

- 14.3.1. Having concluded that an AEoI cannot be ruled out and that insufficient evidence had been submitted by the close of the Examination to demonstrate that adequate compensatory measures could be provided, the ExA recognises that the SoS may reach a different conclusion, or that additional information may become available to the SoS between the close of Examination and decision-making, such that HRA matters do not preclude making the DCO. Therefore, the ExA has considered all other material considerations and sets them out in the following planning balance.

Need

- 14.3.2. The ExA is satisfied that the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) under section (s)14(1)(a) and s15(3) of the Planning Act 2008 (PA2008) as the construction of an offshore generating station with a capacity of more than 100 megawatts (MW). This is a decision that falls to be determined under s104 of the PA2008 for which NPS EN-1, EN-3 and EN-5 are the designated NPSs, providing the primary basis for making decisions. Paragraph 3.1.5 of NPS EN-1 refers to the compelling need for new, and particularly low carbon, energy NSIPs to be brought forward as soon as possible.
- 14.3.3. The ExA is satisfied that the Proposed Development would contribute to the established need to provide a new low carbon energy source. These energy-related benefits and the resultant conformity with the NPSs weigh heavily in favour of the Proposed Development. The need for the Proposed Development therefore attracts positive weight in the Planning Balance.

Alternatives

- 14.3.4. Due to the nature of the project, the ExA considers that there are very limited alternatives in terms of the location of the array area or the route of the offshore Export Cable Corridor (ECC). Given the allocated National Grid connection point, the ExA is satisfied that for this Proposed Development no better alternatives are available in terms of the location of the proposed onshore ECC route and Onshore Substation and National Grid connection. The ExA is therefore satisfied that it has met the requirements regarding alternatives as prescribed in the Environmental Impact Assessment (EIA) Regulations.

Marine and coastal processes and sediments

- 14.3.5. The ExA is generally satisfied with information and assessments provided in the Environmental Statement (ES) in relation to marine and coastal processes. Although it was evident during the Examination that there were several gaps and uncertainties in the understanding of the science behind some of the important features such as the Flamborough Front.
- 14.3.6. There was a minor outstanding matter at the end of the Examination in relation to the validation of the laboratory that undertook the sediment sample particle size analysis, and the ExA recommends the addition of a new condition to each of the two deemed marine licences (DMLs) sought through the draft DCO to ensure that the Marine Management Organisation (MMO) is satisfied before work commences.
- 14.3.7. Otherwise, the ExA finds that the controls and monitoring that would be put in place following the finalisation and agreement of various management plans would provide adequate safeguards to allow the Proposed Development to go ahead in accordance with adopted policy in relation to marine and coastal processes and sediments matters.

- 14.3.8. Overall, the difficulties associated with making precise impact predictions, combined with some minor residual adverse effects, lead the ExA to a precautionary finding that matters relating to marine and coastal processes and sediments weigh against the case for the Proposed Development to a limited extent.

Marine and coastal ornithology

- 14.3.9. Marine and coastal ornithology took a great deal of Examination time. The ExA is aware that much of the meaningful discussion was compressed into the latter stages of the Examination as a result of the Applicant's need to rectify fundamental problems with the characterisation of the baseline in the application ES.
- 14.3.10. Nevertheless, the ExA is content that the ES, including the updates and additional material submitted during the course of the Examination, addresses the relevant impact types listed in NPS EN-3 paragraph 2.6.101, and that its recommendations on mitigation have been properly considered by the Applicant.
- 14.3.11. The ExA notes the dynamic nature of Statutory Nature Conservation Body (SNCB) advice and best practice guidance in the offshore wind farm industry. It recognises that many of the variables that feed into seabird assessments are location and project specific and contends that such factors should be pragmatically accounted for in the often formulaic and ever-more complex statistical modelling that is used.
- 14.3.12. For the most part, the ExA is unconvinced by the Applicant's rationale for varying from the SNCB's advocated approach to assessment modelling. Whilst it understands the frustrations caused by layered precaution, the ExA considers the evidence base on which the Applicant based its alternative approach to be less than compelling to warrant a major variation from the guidance.
- 14.3.13. The ExA does not agree with the Applicant's finding of no LSE on offshore ornithological receptors for the Proposed Development. It concurs with the finding of no significant adverse effects as a result of the Proposed Development alone but considers there to be a likelihood of significant adverse effects for kittiwake, guillemot, razorbill and great black-backed gull when the impacts of the Proposed Development are considered alongside those of the consented offshore wind farms used in the ES cumulative assessment.
- 14.3.14. The ExA considers impacts on marine and coastal ornithology to weigh heavily against the case for the Proposed Development.

Other marine ecology matters

- 14.3.15. The Examination considered the impacts of the Proposed Development on other marine ecology matters, including potential effects on benthic and intertidal habitats, fish and shellfish, and marine mammals.

- 14.3.16. The ExA is content that the ES, as supplemented during the Examination, adequately addressed these matters, including loss of habitat from the subtidal environment due to scour, protection measures and altered sedimentary processes.
- 14.3.17. The impact of underwater noise on marine mammals was an important matter in the Examination. Whilst noting that NE has concerns about the management of the increasing number of Site Integrity Plans used to control project-alone and cumulative underwater noise in the southern North Sea, the ExA is content that the MMO, which has the responsibility for coordinating these, believes that it could effectively manage underwater noise impacts through the Marine Mammal Mitigation Protocol and Southern North Sea Site Integrity Plan that would be secured through the DCO.
- 14.3.18. With one exception, the ExA finds that the mitigation and controls that would be put in place would provide sufficient safeguards to allow the Proposed Development to go ahead without significant effects, and in accordance with adopted policy relating to the marine environment.
- 14.3.19. The exception relates to potential impacts of underwater noise and the resettling of disturbed sediments on spawning herring, and the consequent implications for the population and indirect impacts on the marine mammals and seabirds that prey on herring. The ExA notes the differences between the Applicant, the MMO and NE, but considers the Applicant's approach to proportionate mitigation to be pragmatic. Nevertheless, as it carries a small residual risk of damage or disturbance to the herring spawning grounds and the population, the ExA considers the matter to weigh against the case for the Proposed Development to a limited extent.

The Endurance Store

- 14.3.20. The Examination considered the effect of the proposal on the Endurance Store and the implications for the Endurance Project of the location of Wind Turbine Generators (WTGs) and associated infrastructure within the Overlap Zone.
- 14.3.21. The ExA considers that if the two projects are to co-exist and be delivered in a timely manner then, in the absence of a tested, deliverable and affordable alternative technology, long towed seismic streamers would be the most established, reliable, tested and affordable means for the measurement, monitoring and verification activities required to monitor carbon dioxide plume development at the Endurance Store. The ExA accepts that this would not be possible, even using the wider spacing proposed by the Applicant if WTG and associated infrastructure were to be located within the Exclusion Area. As a result, the ExA conclude that for both projects to proceed then the Applicant would not be able to erect WTGs and associated infrastructure within the Exclusion Area located within the northern part of the proposed array area. Such an approach would be consistent with NPS EN-3 as it would minimise the negative

impacts and reduce the risks to both projects to a minimum. The ExA is of the opinion that this could be secured through the use of an appropriately worded protective provision.

- 14.3.22. The ExA acknowledges that this would result in a reduction in the size of the array area which has implications for both the number of potential WTGs and the amount of energy that could be generated. As a result, the ExA accepts that the Proposed Development might not be able to generate the same amount of electricity compared to the situation if it had full access to the whole array area. However, the ExA considers that the Proposed Development would still provide a significant contribution to meeting the Government's net zero and renewable energy targets. The Planning Balance in relation to this issue lies in the respective importance of both projects in national policy terms, and the ExA does not consider it appropriate to weigh the matter for or against the case for the Proposed Development.

Other marine planning issues

Aviation and radar

- 14.3.23. The ExA considers that the Applicant has, in consultation with the relevant IPs, made adequate provision to secure mitigation against the potential effects from the Proposed Development on both military and civilian radar operations.
- 14.3.24. The ExA considers that the Proposed Development would give rise to impacts on military aviation, civilian and military radar operations and on the safe access to platforms currently available to oil and gas platform operators within, or within close proximity to the Order Limits. The ExA notes that these impacts can be mitigated through measures secured by Schedules, Requirements and/ or protective provisions within the recommended DCO. With these in place, the ExA considers this would not weigh against the case for the Proposed Development.

Commercial fisheries and fishing

- 14.3.25. Based on the evidence presented, the ExA concludes that with the mitigation commitments secured by the DCO, the cumulative transboundary impact of the Proposed Development on UK, Dutch, Danish, French, German and Belgian demersal trawling fleets during construction, operation and decommissioning would not be significant. Similarly, impacts on the UK potting fleet during construction and decommissioning would not be significant.
- 14.3.26. In accordance with NPS EN-3 the ExA has considered the extent to which the Proposed Development would prevent or significantly impede protection of sustainable commercial fisheries and fishing activities during construction or operation. The ExA concludes that matters relating to commercial fisheries and fishing have negative weight of a limited extent against the case for the Proposed Development.

Historic environment matters offshore, primarily marine archaeology

- 14.3.27. The ExA is satisfied with the evidence presented that potential adverse effects on marine archaeology receptors during construction, operation, maintenance and decommissioning of the Proposed Development would be likely to be no more than 'slight'. Therefore, the ExA considers that after mitigation this would not be significant in EIA terms due to mitigation of risk of harm to archaeological assets, including pre-construction investigation, identification, recording and management according to agreed protocols which would be secured through the Applicant's final draft DCO.
- 14.3.28. The ExA also notes as a potential positive effect of the Proposed Development the potential for enhanced public understanding of the archaeological significance of submerged landscapes and of marine archaeological assets in the Southern North Sea through investigation and dissemination of findings that would be secured through the Applicant's final draft DCO.
- 14.3.29. The ExA also concludes from the evidence presented that no significant effects on historic seascape would be likely for the offshore elements of the Proposed Development alone or cumulatively.
- 14.3.30. The ExA is therefore satisfied that Historic Environment Matters Offshore (primarily marine archaeology) do not weigh against the case for the Proposed Development.

Other offshore infrastructure

- 14.3.31. The ExA considered the effect of the Proposed Development on oil and gas exploration and production and subsea cables. The ExA concluded that the potential impacts from construction, operation and maintenance activities would be limited and that the proposed mitigation measures, including the use of protective provisions, crossing and proximity agreements and co-existence plans would minimise negative impacts and would therefore not be significant. As a result, the ExA is satisfied that the effect of the Proposed Development on other offshore infrastructure does not weigh against the case for the Proposed Development.

Shipping and marine navigation

- 14.3.32. Based on the evidence presented, the ExA accepts the Applicant's assessment that an increase in navigation risk for shipping and other marine user receptors resulting from the Proposed Development can be reduced by mitigation commitments to 'As Low As Reasonably Practicable' and tolerable. The ExA is satisfied that commitments to mitigation of navigation risk would be secured through the Applicant's final draft DCO.
- 14.3.33. The ExA also accepts the Applicant's assessment that transboundary effects of deviation to main shipping routes as a consequence of the

Proposed Development during construction, operation and decommissioning phases would not be significant.

- 14.3.34. The ExA therefore consider that matters in relation to shipping and navigation would not weigh against the case for the Proposed Development.

Seascape and visual resources

- 14.3.35. Based on the evidence presented, the ExA considers that policy requirements with regard to seascape and visual resources within NPS EN-1 and NPS EN-3 have been met through consultation and assessment of the impact of the Proposed Development on seascape and visual resources during its construction, operation and decommissioning phases.
- 14.3.36. As a result of the consultation and assessment work carried out by the Applicant and described in its ES, the ExA considers that the Proposed Development would be in compliance with local plan policy relating to seascape and visual resources.
- 14.3.37. The ExA therefore concludes that the overall effects on seascape and visual resources would not weigh against the Proposed Development alone and cumulatively.

Onshore planning issues

Landscape and visual matters including good design

- 14.3.38. Based on the evidence presented, the ExA concludes that the Applicant has secured adequate provision for replacement landscaping and planting, as well as for maintenance of landscape and plants as part of the Proposed Development.
- 14.3.39. The ExA takes the view that, due to the overall size and massing of the onshore substation (OnSS) and energy balancing infrastructure (EBI) buildings and structures, it would not be possible to mitigate the impact of the OnSS through the use of planting and landscaping alone. The ExA considers that the Applicant's approach to the design and appearance of the structures and buildings proposed for the OnSS and EBI site and the landscape design strategy should, therefore, form part of a coordinated design response that meets the requirements set out in NPS EN-1 paragraphs 5.9.8 and 5.9.16.
- 14.3.40. Having particular regard to section 4.5 of NPS EN-1, the ExA does not consider that the Applicant has undertaken a design process that is sufficiently robust to fully meet the criteria for good design for energy infrastructure. The ExA does not, therefore, conclude that the Proposed Development fully complies with NPS EN-1 in this regard.
- 14.3.41. The ExA concludes that the Proposed Development would give rise to impacts on landscape character and visual amenity and does not fully

meet the criteria for good design. The ExA therefore considers this to weigh against the case for the Proposed Development.

- 14.3.42. To address this the ExA proposes additional wording is inserted into Requirement 7 (detailed design approval onshore) of the recommended DCO to ensure that the OnSS and EBI buildings and surrounding new landscape proposals are subject to an independent design review process to ensure that they meet the criteria for good design and mitigate, as fully as possible, any adverse impact on the character of the surrounding landscape.
- 14.3.43. With the additional wording inserted into Requirement 7 (detailed design approval onshore), the ExA is satisfied that that the Proposed Development would meet the criteria for good design set out in NPS EN-1 and would, therefore, not weigh against the Proposed Development. If the SoS considers that the additional wording is not necessary then the ExA takes the view that, for the reasons set out above, the effects of the Proposed Development on landscape and visual matters including good design would have negative weight in the planning balance.

Traffic and transport including public rights of way

- 14.3.44. It is the ExA's view that the Applicant has adequately assessed and justified the traffic and transport impacts of the Proposed Development. This includes the alternative access road to the OnSS and the alternative Primary Logistics Compound at Lockington that had been proposed by IPs.
- 14.3.45. The main traffic impacts would arise during the construction phase, with the decommissioning phase having impacts that would be, at worst, equal to construction. The operational phase would generate minimal additional traffic. Impacts on PRowS would mainly be temporary and would not be significantly detrimental.
- 14.3.46. The ExA considers that appropriate mitigation has been secured in the final draft DCO and that the Proposed Development would comply with NPS EN-1 in regard to traffic and transport impacts, including impacts on public rights of way (PRow). The ExA concludes that the Proposed Development alone and cumulatively would weigh against the Proposed Development to a limited extent.

Geology and ground conditions

- 14.3.47. The ExA considers that any impacts on geology and ground conditions would be localised, small-scale and limited to the construction period. The ExA considers that adequate mitigation is secured in the final draft DCO.
- 14.3.48. The ExA therefore concludes that the Proposed Development would accord with NPS EN-1 in this regard. The ExA concludes that the overall effects on geology and ground conditions for both the Proposed

Development alone and cumulatively would not weigh against the Proposed Development.

Historic environment

- 14.3.49. On the basis of the evidence and the proposed mitigation that would be secured through the Applicant's final draft DCO the ExA considers that all impacts have been addressed in a manner that complies with the historic environment elements of NPS EN-1 and NPS EN-3 such that the Proposed Development would not harm the historic environment. Furthermore, there is potential for public benefit to derive from archaeological investigation undertaken as part of the Proposed Development.
- 14.3.50. Accordingly, the ExA is satisfied that the Proposed Development would have no likely significant effects on the historic environment and is satisfied that mitigation would be adequately provided for and secured through the final draft DCO. In this respect the ExA considers that this would not weigh against the Proposed Development.

Onshore water environment

- 14.3.51. The ExA considers that the Applicant has taken reasonable steps to avoid as far as possible locating development in Flood Zone 3, and that the Exception Test has been passed. It is the ExA's view that whilst there would be some impacts on the onshore water environment during the construction phase these would be localised and minimal and that adequate mitigation measures have been secured in the final draft DCO. The ExA considers that the Proposed Development would be in accordance with NPS EN-1 in this regard.
- 14.3.52. The ExA concludes that the overall impact of the Proposed Development alone and cumulatively on the onshore water environment would not weigh against the Proposed Development.

Socio-economic and land use effects

- 14.3.53. It is the ExA's view that the impacts on best and most versatile agricultural land would not be significant as the area of permanent land loss would be less than 20 hectares and soil management measures have been secured in the final draft DCO. The ExA considers that there would be no adverse socio-economic effects and the Proposed Development would give rise to positive benefits in terms of job creation and/ or job retention.
- 14.3.54. The ExA concludes that the impacts of the Proposed Development on land use, including agriculture, would not weigh against the Proposed Development, and the impacts on socio-economic matters would weigh in favour of the Proposed Development.

Onshore ecology

- 14.3.55. The ExA considers that the Proposed Development would have the potential to give rise to minor adverse impacts on bat species, badger,

great crested newt, water vole and breeding and overwintering birds, primarily during the construction phase. However, the proposed mitigation and enhancement measures, including biodiversity net gain, would be appropriate and of positive benefit and have been adequately secured in the final draft DCO.

- 14.3.56. The Proposed Development would avoid significant harm to onshore ecological interests and therefore it is the ExA's view that it would accord with NPS EN-1 in this regard. Taking into account the mitigation and enhancement measures that have been secured, the ExA concludes that when considered as a whole the impact of the Proposed Development on onshore ecology would not weigh against the Proposed Development.

Noise and vibration

- 14.3.57. The ExA considers that the Applicant has adequately consulted and assessed the noise impact of the Proposed Development during its construction, operation and decommissioning phases in accordance with the requirements set out in NPS EN-1.
- 14.3.58. Having considered the information provided by both the Applicant and IPs, the ExA is satisfied that the Proposed Development would not result in significant adverse effects from noise and vibration.
- 14.3.59. Taking all of this into account, the ExA concludes that the overall noise and vibration effects associated with the Proposed Development for both the project alone and cumulatively would not weigh against the Proposed Development.

Air quality and health

- 14.3.60. The ExA considers that policy requirements with regard to air quality within NPS EN-1 have been met through consultation and assessment of the impact of air emissions associated with the Proposed Development during its construction, operation and decommissioning phases.
- 14.3.61. Through its consultation and assessment work, the ExA takes the view that the Applicant has demonstrated that the Proposed Development would be in compliance with local plan policy relating to air quality.
- 14.3.62. The ExA therefore concludes that the overall effects on air quality and health for both the project alone and cumulatively would not weigh against the Proposed Development.

Compliance with s104 of the Planning Act 2008

- 14.3.63. For the reasons set out at the beginning of this Chapter the ExA cannot recommend that the DCO as applied for is made on the basis of the evidence presented. The ExA has nevertheless conducted and reported on a planning balance that provides recommendations in the event that the SoS concludes that there are no AEOIs and consequently these matters should not preclude the Proposed Development coming forward,

or that the SoS is satisfied that all AEOI on the qualifying features of the Flamborough and Filey Coast SPA would be fully compensated, and the coherence of the UK National Site Network would be secured.

Overall conclusion on the general planning balance

- 14.3.64. The Proposed Development meets specific relevant Government policy as set out in NPS EN-1, NPS EN-3 and NPS EN-5. The Proposed Development is broadly compliant with the MPS and the ExA has had regard to the relevant Marine Plans.
- 14.3.65. The ExA has had regard to the Local Impact Report and all other and important and relevant policy, including but not limited to the Development Plan and to other important and relevant matters as identified in this Report.
- 14.3.66. In terms of the balance of benefits and adverse impacts required to be considered by s104(7), the ExA concludes that the Proposed Development, with or without the Exclusion Area meets the need for low carbon energy as established in NPS EN-1. There would be significant national benefits arising from the operation of the Proposed Development, in the generation of a significant amount of renewable energy in a timely manner to meet a recognised need. Economic benefits in terms of potential employment and investment opportunities also provide a minor positive weight in favour of the Proposed Development.
- 14.3.67. In terms of adverse impacts, the ExA has identified that harm would occur from the construction and operation of the Proposed Development as a result of the potential impacts on offshore ornithological receptors for the Proposed Development. Furthermore, when the impacts of the Proposed Development are considered alongside the consented offshore wind farms used in the ES cumulative assessment the ExA considers there to be a likelihood of significant adverse effects for kittiwake, guillemot, razorbill and great black backed gull.
- 14.3.68. The ExA has concluded that if the Applicant was allowed to locate WTG and associated infrastructure in the Overlap Zone it would, due to the issues with monitoring, prevent the capacity of the Endurance Store from being optimised. The ExA recognises that both projects contribute to the Government's net zero targets. The ExA therefore recommend that to resolve this conflict the Proposed Development be excluded from the Exclusion Area of the Overlap Zone which would enable both projects to proceed.
- 14.3.69. The ExA recognises that as a result the scheme it is recommending would differ from that which was applied for. However, the ExA is satisfied that the reduction in the proposed array area would not give rise to the need for any new or different environmental information to be provided from that which has been assessed in the ES and HRA.

- 14.3.70. Other matters bring both neutral and limited adverse effects, but none of those either individually or cumulatively, lead the ExA to a different conclusion in terms of the overall balance of benefits and adverse impacts.
- 14.3.71. Consequently, the ExA is satisfied that, with the exception of the marine and coastal ornithology matters, the identified adverse effects would be mitigated as far as reasonably possible. The ExA is content that the appropriate measures to do this could be properly secured through the recommended DCO and the associated control documents, such that the identified adverse effects would be appropriately managed.
- 14.3.72. In applying the overall planning balance, the ExA considers that, excepting marine and coastal ornithology matters, the large-scale generation of renewable energy and the contribution that the revised Proposed Development, incorporating the Exclusion Area, would make to meeting the relevant Government climate change and net zero targets substantially outweigh the limited harms that have been set out above. The Proposed Development would be in accordance with NPS EN-1, NPS EN-3 and NPS EN-5. Accordingly, s104(7) of the PA2008 would not apply.
- 14.3.73. Therefore, should the SoS conclude that the HRA considerations are not a barrier to development, the ExA concludes that for the reasons set out and summarised above, development consent should be granted, subject to the inclusion of the changes to the DCO recommended by the ExA and discussed in Chapter 16 of this Report.

15. COMPULSORY ACQUISITION AND RELATED MATTERS

15.1. INTRODUCTION

15.1.1. The application includes proposals for the compulsory acquisition (CA) of the freehold of land, the CA of rights (and restrictions) over land and temporary possession (TP) of land [Para 1.3.1.1, APP-227].

15.2. LEGISLATIVE REQUIREMENTS

15.2.1. CA powers can only be granted if the conditions set out in s122 and s123 of the Planning Act 2008 (PA2008), together with the relevant guidance contained in "Guidance related to Procedures for the Compulsory Acquisition of Land", DCLG, September 2013 (the former DCLG CA Guidance) (the 2013 Guidance) are met.

15.2.2. Section 122(2) of the PA2008 requires that land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate.

15.2.3. Section 122(3) of the PA2008 requires that there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss CA must be justified in its own right, but this does not mean that the CA proposal can be considered in isolation from the wider consideration of the merits of the project. There must be a need for the Proposed Development to be carried out and there must be a consistency and coherency in the decision-making process.

15.2.4. Section 123 of the PA2008 requires that one of three conditions must be met by the proposal namely:

- that the application for the Order includes a request for compulsory acquisition of the land to be authorised;
- that all persons with an interest in the land consent to the inclusion of the provision; or
- that the prescribed procedure has been followed in relation to the land.

15.2.5. A number of general considerations also need to be addressed, either as a result of following application guidance or in accordance with the legal duties on decision makers, namely that:

- all reasonable alternatives to CA must have been explored;
- the applicant must have a clear idea of how it intends to use the land subject to CA powers;

- the applicant must be able to demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
- the decision-maker must be satisfied that the purposes stated for CA are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

15.2.6. The PA2008 requires that if changes are sought to the application, whether material or non-material, then the ExA must consider whether to accept them into the Examination. If the changes require additional land, then if the consent of persons with an interest in that land is not obtained by the applicant, the procedures prescribed in regulations 5 and 19 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 would apply.

15.2.7. Further to part 1 of Schedule 5 of the PA2008 at paragraph 2, TP powers are capable of being within the scope of a DCO. The PA2008 and the 2013 Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interest in land.

15.2.8. The Neighbourhood Planning Act 2017 (NPA2017) has been enacted and contains provisions which amount to a codification of new TP practice. In recognition of the greater extent to which TP is being sought by scheme promoters and of the extended durations for which TP can be sought, the NPA2017 provisions in general terms provide for enhancements to the rights of Affected Persons (APs) subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice and to relevant compensation to those already available to APs subject to CA. However, at the submission of this Report to the Secretary of State (SoS), the relevant provisions had not yet commenced.

15.2.9. The ExA has taken all relevant legislation and guidance into account when considering this matter and relevant conclusions are drawn at the end of this Chapter.

15.3. THE REQUEST FOR CA AND TP POWERS

15.3.1. The Application for Development Consent [APP-004] states that the CA of land or an interest in land or right over land is relevant to this application. Articles in the submitted draft DCO [APP-203] seek both permanent and temporary powers to construct, operate and maintain the Proposed Development. Consequently, the Applicant is seeking the CA of both land and rights over land, and powers for the temporary use of land both for the construction and operation.

15.3.2. The Order limits of the draft DCO establish the extent of the land that would be affected by the CA and TP powers sought.

15.3.3. At the start of the Examination, the application was accompanied by:

- A Statement of Reasons (SoR) [APP-227];
- A Funding Statement [APP-224] and Annexes [APP-225 and APP-226];
- A Book of Reference (BoR) [APP-228, superseded by AS-002];
- Offshore Order Limits and Grid Co-ordinates Plan [APP-208];
- Onshore Order Limits [APP-209];
- Land Plan - Onshore [APP-210];
- Special Category Land - Onshore [APP-222];
- Crown Land – Onshore and Offshore [APP-221]; and
- Public Rights of Way Plans [APP-215].

15.3.4. Taken together, these documents set out the land and rights sought by the Applicant together with the reasons why it is needed and the basis under which compensation would be funded. Where the Examination and due diligence processes required changes to this documentation, new versions were submitted. By the close of the Examination the following documents had been updated or added to:

- Annex 1 SoR: Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities [REP7-047];
- Funding Statement [REP7-043] and Annex [REP7-045]; and
- BoR [REP7-049].

15.3.5. These documents taken together form the basis for the analysis in this Chapter. Reference to the BoR and the Land Plans in this Chapter from this point should be read as reference to the latest revisions cited above.

15.3.6. The ExA is satisfied that it has considered all APs who objected to CA or who have participated in the Examination.

15.3.7. Land over which CA and/ or TP powers are sought is referred to in this Chapter as Order land.

15.4. THE PURPOSES FOR WHICH LAND IS REQUIRED

15.4.1. The application is for development consent for the construction and operation of up to 180 wind turbine generators and all associated offshore and onshore infrastructure that would be necessary to enable the generation and transmission of electricity. The Applicant stated that if the SoS makes a DCO in respect of the scheme it would be necessary for that DCO to contain powers to enable the Applicant to acquire compulsorily land and rights over land, and to take possession of the land temporarily, to enable the construction and delivery of the scheme. This is because, whilst the Applicant already has voluntary agreements in place with the majority of landowners, land that is presently owned or occupied by persons other than the Applicant is needed for the carrying out of the works. The Applicant advocates that without acquisition and temporary use of the land, the scheme could not be delivered [APP-227, paragraphs 1.3.1.1 to 1.3.1.4].

- 15.4.2. The BoR [REP7-049] identifies all the plots of land required and these are shown on the Land Plan – Onshore [APP-210] comprising 28 Sheets.
- 15.4.3. The powers sought by the recommended DCO (Appendix C of this Report) relate to the acquisition of rights and the temporary possession of land. The Land Plan - Onshore [APP-210] identifies the various categories of rights which are being sought which are:
- the permanent acquisition of land (nine plots coloured pink on the Land Plan);
 - the permanent acquisition of new rights (including restrictions) in land (354 plots coloured blue on the Land Plan); and
 - the temporary possession of land for the purposes of construction (122 plots which are coloured yellow on the Land Plan).
- 15.4.4. The SoR [APP-227] describes the proposals for the use and development of the land and the purposes for which powers are sought. Tables 1 and 2 [APP-227] sets out on a plot-by-plot basis the nature and purpose of the proposed acquisition of interests in the land or the need for TP.
- 15.4.5. The SoR [APP-227, 9.2] explains that rights are sought over Crown land. Part 4 of the BoR [REP7-049] identifies the plots which the Crown has an interest in, and these are shown on the Crown Land – Onshore and Offshore plans in [APP-221]. The interests in this land are held by the Crown Estate.
- 15.4.6. The route of the onshore export cable corridor (ECC) would also require the CA and TP of land which falls into a 'special category'; land forming part of a common, open space, National Trust land or fuel or field garden allotment. Part 5 of the BoR [REP7-049] identifies 10 plots that fall within this definition.
- 15.4.7. Statutory Undertakers (SUs) land and electronic communication code operators land would be involved along the route of the proposed onshore ECC and around the proposed Onshore Substation (OnSS) and Energy Balancing Infrastructure (EBI) site and powers are sought to acquire land, interfere with interests and remove apparatus. All the land involved is listed in Parts 1 to 3 of the BoR [REP7-049].
- 15.4.8. The recommended DCO grants the power to acquire such land as is required for the Proposed Development, or to facilitate it, or is incidental to it (Article 18) and the power to acquire existing rights and restrictions to create new rights and restrictions over the Order land as described in the BoR [REP7-049] and shown on the Land Plan – Onshore [APP-210].
- 15.4.9. The recommended DCO (Article 23) incorporates the provisions of the Compulsory Purchase (General Vesting Declaration) Act 1981.

- 15.4.10. The recommended DCO (Article 28) seeks powers to take temporary possession of the land specified in Schedule 8 of the recommended DCO to enable the Applicant to:
- remove buildings and vegetation from the land;
 - construct temporary works (including the provision of the means of access), security fencing and buildings on that land;
 - use the land for the purpose of a working site;
 - construct such works as are mentioned in Schedule 8 (land of which TP may be taken and Part 1 of Schedule 1 (authorised development) of the recommended DCO; and
 - carry out mitigation works required pursuant to the Requirements in Part 3 of Schedule 1 (authorised development).
- 15.4.11. It also includes the powers of TP (Article 29) for the purposes of maintaining the authorised development.

15.5. EXAMINATION OF THE CA AND TP CASE

- 15.5.1. CA and TP were both identified by the ExA in the Initial Assessment of Principal Issues prepared under s88(1) of the PA2008 and set out in Annex C of the ExA's Rule 6 letter [PD-005] dated 24 January 2022.
- 15.5.2. In its letter of the 28 February 2022 [PD-007] the ExA set out its written questions and requests for information (ExQ1) [PD-006] which included a number of questions relating to CA and TP. Questions were not only asked of the Applicant, but of the SUs and a number of individual landowners. Responses including from the Applicant [REP2-038] were submitted at Deadline (D) 2.
- 15.5.3. In light of the response to ExQ1, other written submissions, and matters raised at hearings the ExA asked a number of further written questions (ExQ2) [PD-012] on CA and TP to which the Applicant responded at D5 [REP5-074].

Hearings

- 15.5.4. A Compulsory Acquisition Hearing (CAH1) was held on 13 April 2022 [EV-009]. At CAH1 representations were made by a number of APs. In addition, the ExA pursued a number of matters with the Applicant as set out on the agenda [EV-009]. The ExA published a list of action points that had arisen during the CAH [EV-009a]. A written summary of the oral case presented at CAH1 and a response to the action points was submitted by the Applicant at D3 [REP3-044].
- 15.5.5. Given the nature and small number of matters relating to CA outstanding after D5a, the ExA cancelled the CAH that had been scheduled for Monday 18 July 2022 in favour of a written request under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010(Rule 17 request) [PD-014, Annex A]. Responses to this request were received at D6 from the Applicant [REP6-044], the East Riding of Yorkshire Council (ERYC) [REP6-047] and Mr PS Goatley [REP6-053].

15.6. THE APPLICANT'S CASE

- 15.6.1. The Applicant's case is set out in the SoR [APP-227] which was accompanied by the Funding Statement [APP-224], Land Plan – Onshore [APP-210] and BoR [APP-228, superseded by AS-002].
- 15.6.2. Detailed supporting information is set out in the Planning Statement [APP-229] and the ES where in Chapters 3 and 4 site selection and consideration of alternatives and project description [APP-009 and AS-006] are set out.
- 15.6.3. During the course of the Examination the Applicant also provided additional information in response to ExQ1 [PD-006] and ExQ2 [PD-012]; responses to Interested Party (IP) and AP submissions and; submissions in response to s127, s135, s138 and s139 issues in relation to Crown land and SUs.

Requirement for the CA of land

- 15.6.4. The need for the Proposed Development is covered in detail in the SoR [APP-227, Section 8] and Chapter 5 of the Planning Statement [APP-229]. The need for the Proposed Development is assessed in Chapter 5 of this Report.
- 15.6.5. The Applicant is seeking the powers of CA and TP to enable it to acquire land and interests in land that would be needed to construct, operate and maintain the Proposed Development. The acquisition of the land is therefore needed for the purposes of the DCO as without this land the scheme could not be delivered to meet the need if at all [APP-227].
- 15.6.6. The application was supported by the Land Plan - Onshore [APP-210] which show the land and interests required and the Works Plans – Onshore [APP-212] which indicate the works to be carried out. Tables 1 and 2 of the SoR [APP-227] set out the nature and purpose of the proposed acquisition of interests in the land or the need for TP for each plot and why it is needed.

Alternatives

- 15.6.7. In Chapter 3 of the ES [APP-009, paragraph 3.2.1.3] the Applicant advised that it had considered reasonable alternatives throughout the process of developing the application and this was a fundamental driver for decision making within the project from the technical options within the engineering side to the micro-siting and route changes during the development of the proposed onshore ECC.
- 15.6.8. Consideration of the constraints, identification of the preferred options and comparison of the alternatives and the reasons for selecting the preferred option were set out in the Black Red Amber Green assessment [APP-009, paragraph 3.3.1.3 and the technical annexes listed in paragraph 3.1.1.4] that underpinned the Proposed Development site

selection process. Alternatives are considered in full in Chapter 6 of this Report.

- 15.6.9. The Applicant [APP-227, paragraph 12.1.1.2] advocated that the land required and the imposition of restrictions for the purposes of, to facilitate, or incidental to the Proposed Development would be no more than is reasonably necessary to enable the construction, operation and maintenance of the Proposed Development.

Funding

- 15.6.10. The Funding Statement [REP7-043] sets out how the Applicant proposes to fund the scheme. The cost estimate of the project in August 2022 was approximately £5 to £8 billion [REP7-043, paragraph 1.3.1.1]. This included construction costs, operational costs, project management costs, financing costs and land acquisition costs.
- 15.6.11. The precise funding mechanism for the Proposed Development has not been formally agreed [REP7-043, paragraph 1.4.2.1]. The Applicant advised it has the potential to be via a mix of funding from the Project Company's parent company combined with project funding from external investors, secured against revenue streams of the future wind farm. The Applicant advised that this model has been successfully deployed on past projects by the Applicant.
- 15.6.12. The Applicant estimates [REP7-043, page 17] that the total costs of payments for acquiring land, interests, rights and compensation would be £97.253 million. This includes not only the cost of acquisition of land and rights but payments for injurious affection and severance, blight, business loss claims, claims arising under Section 10 of the Compulsory Purchase Act 1965 and claims arising under Part 1 of the Land Compensation Act 1973.
- 15.6.13. Article 45 of the recommended DCO would ensure that adequate funding is in place before any CA liability arises.
- 15.6.14. As a result, the Applicant [REP7-043, paragraph 1.5] considered that the compensation arising from the exercise of CA powers under the DCO if made would be met and that the necessary funding for the Proposed Development would be secured.

Applicant's justification for seeking powers of CA

- 15.6.15. The need for the Proposed Development has been set out by the Applicant [APP-227, Section 8] and is supported by NPS EN-1 which refers (paragraph 3.3.15) to there being an urgent need for new (and particularly low carbon) energy Nationally Significant Infrastructure Projects (NSIPs) to be brought forward as soon as possible.
- 15.6.16. The Applicant advocated that the CA of land and rights would be necessary to deliver the Proposed Development and that the extent of

rights sought has been drawn with regards to avoiding any unnecessary interference with, or extinguishment of, third party rights [APP-227]. Consequently, the Applicant considered that it had taken a proportionate approach to the proposed acquisition of land and rights mindful of the potential impact on affected landowners.

15.6.17. Where possible the Applicant has sought to acquire the minimum rights necessary to enable the Proposed Development. Permanent land rights would be limited and would be proportionate with the expected design life of the scheme.

15.6.18. Wherever possible, particularly for short term activities such as those during construction, the Applicant has sought temporary possession.

Statutory Undertakers' land – s127 and s138

15.6.19. The Applicant's draft DCO proposes to acquire rights in land from a number of SUs many of which submitted representations in respect of the Proposed Development [RR-001], [RR-010], [RR-025], [RR-026], [RR-030] and [RR-042].

15.6.20. Throughout the Examination the Applicant sought to reach agreement with these undertakers and has included Protective Provisions for their benefit in the final draft DCO [REP7-039, Schedule 9]. By the end of the Examination all of the SUs, with the exception of the Environment Agency (EA) [RR-010], who had submitted a Relevant Representation (RR) or Written Representation (WR) had withdrawn their objections to the application [REP7-096], [AS-054], [REP7-110] and [REP6-064]. Consequently, s127 of the PA2008 applies. The outstanding objection along with the s127 position statement [REP7-093] submitted by the Applicant is considered later in this Chapter.

15.6.21. The Proposed Development would also result in the extinguishment of rights or the removal of SU's equipment. As a result, s138 of the PA2008 would also be engaged.

Special Category Land

15.6.22. Special Category Land is defined in Regulation 2 of the Infrastructure Planning (applications: Prescribed forms and Procedure) Regulations 2009 as "*land identified as forming part of a common, open space, National Trust land or fuel or field garden allotment*". The Applicant is seeking rights over Special Category land for open space. The affected plots are set out in Part 5 of the BoR [REP7-049] and shown on the Special Category Land Plan – Onshore [APP-222].

15.6.23. The Applicant considered that 10 plots within the Order limits are or could be viewed as open space as defined in the Acquisition of Land Act 1981. These plots form part of the foreshore, beach and public footpath at Fraisthorpe Sands.

- 15.6.24. For plots 1, 2, 2A, 3, 3A, 4 and 4A the Applicant is seeking the permanent acquisition of new rights (including restrictions) and the suspension or extinguishment of easements, servitudes and other private rights. For plots 5, 6 and 6A the Applicant is seeking only the temporary use and suspension of rights of this land.
- 15.6.25. The plots are located where the offshore ECC would make landfall and connect to the onshore ECC.
- 15.6.26. Plot 1 would be required for the landfall connection works (Work No. 5) consisting of up to six cable circuits and associated electrical circuit ducts between Work No. 2 and Work No. 6 and up to eight Horizontal Directional Drilling (HDD) exit pits (unless Work No. 2f is constructed).
- 15.6.27. Plots 2, 2A, 3, 3A, 4 and 4A would be required on a permanent basis for the onshore connection works (Work No. 6) and on a temporary basis for access tracks (Work No. 9a) and temporary logistics compounds (Work No. 9c).
- 15.6.28. Plots 5 and 6 would be needed for temporary access tracks (Work No. 9(a)) and Plot 6A would be needed for a temporary construction ramp (Work No. 9d) and access track (Work No. 9a).
- 15.6.29. The Applicant anticipated [APP-227, paragraph 9.1.1.7] that the onshore ECC located in the open space land would be constructed using HDD, auger boring or another form of trenchless technology. The Applicant considered that as a result there would be no restrictions on the availability of the open space for use by members of the public (save for temporary closure for health and safety reasons during drilling operations).
- 15.6.30. The Applicant considered that no works are proposed which would permanently affect the public recreational use of the open space land or its physical appearance as the cables would be located underground and the foreshore, beach and public footpath would be reinstated after construction of the onshore ECC. The public would only be temporarily excluded from using the area during construction and the land would then be available for its current use.
- 15.6.31. Furthermore [APP-227, paragraph 9.1.1.8] the Applicant highlighted that whilst there may be temporary interference with the use of the open space land within the Order limits during the construction period of the onshore ECC, access to the remainder of the open space at Fraisthorpe beach would be available. The Applicant [APP-227, paragraph 9.1.1.9] considers that once installed, future maintenance of the onshore ECC would be limited and temporary in nature
- 15.6.32. Therefore, the Applicant advocated [APP-227, paragraph 9.1.1.9] that the open space when burdened with the rights sought in the Order would be no less advantageous to the public than it was before and therefore the test set out in s132(3) of the PA2008 would be satisfied.

- 15.6.33. In respect of plots 5, 6 and 6A, the Applicant is seeking only TP and as such [APP-227, paragraph 9.1.1.11] it considered that the requirements of s131 or 132 of the PA2008 would not be triggered.

Crown land

- 15.6.34. The Applicant accepted [paragraph 9.2.1.1] that s135 of the PA2008 would apply to the articles of the DCO as they would include provision authorising the CA of an interest in Crown land owned by or on behalf of the Crown and the consent of the appropriate Crown Authority would be required.
- 15.6.35. Part 4 of the BoR [REP7-049] lists the six plots of land in which a Crown interest exists. The land, both offshore and onshore, in which the Crown holds an interest is also shown on the Crown land – Onshore and Offshore plans [APP-221].
- 15.6.36. Plots 1 to 4, where the Applicant is seeking the permanent acquisition of rights and imposition of restrictions, consist of foreshore seaward of Mean High Water Springs (MHWS) at Fraisthorpe Sands. For plots 5 and 6, which also consist of foreshore seaward of MHWS, the Applicant is only seeking temporary possession.
- 15.6.37. Throughout the Examination the Applicant was engaged in active discussions with the Crown Estate in order to reach an agreement to acquire the necessary interests in the land. At the end of the Examination [REP8-001] the Applicant advised that it had progressed an Agreement of Undertaking relating to s135 consent with the Crown Estate. At the close of the Examination [AS-051] the Applicant advised that the s135 consent was still under negotiation and that it was waiting for comments from the Crown Estate on a couple of outstanding points. Therefore, at the close of the Examination the Applicant had not secured the consent of the appropriate Crown Authority for the CA of Crown land.
- 15.6.38. In ExQ2 [PD-012, CA.2.9] the ExA had requested that should the matter of Crown Consent remain outstanding that it required a submission at D7 setting out how the Proposed Development could proceed without the use of Crown land.
- 15.6.39. At D7 [REP7-001] the Applicant advised that if Crown Consent was not issued, it would not be possible for the Applicant to be granted CA powers over any Crown land in respect of interests held by other persons. However, it considered that as the relevant plots only cover the foreshore any other interests in the land would be limited. Where such interests, other than those of the Crown, have been identified the Applicant has entered into a voluntary agreement with the relevant landowners and occupiers [REP5-041]. The Applicant acknowledged that the ExA would need to make a recommendation based on the status of the s135 consent but reiterated its position that s135 of the PA2008 only requires the Crown Estate Commissioners to provide consent prior to a decision being issued by the SoS. The Applicant advised that it was

aware that it was fairly typical, albeit not ideal, for such consent to be provided during the determination period.

The Human Rights Act 1998

- 15.6.40. The Applicant has considered [APP-227, 7.7] the potential infringement of the European Convention of Human Rights (as codified in the Human Rights Act 1998) as a consequence of the CA and TP powers included within the draft DCO.
- 15.6.41. The Applicant believed [APP-227, paragraph 7.7.1.8] that there would be very significant public benefit arising from the grant of development consent for the scheme. The benefit could only be realised if the development consent was accompanied by the grant of powers of CA or TP [APP-227, paragraph 7.7.1.8]. Moreover, those affected by the exercise of CA or TP would not be disproportionately burdened as they would be entitled to compensation for any loss suffered which the Applicant has proven that it would have the funding to provide. Consequently, the Applicant considers that for persons with property rights in land there would be no disproportionate interference with these rights under Article 8 and Article 1 of the First Protocol.
- 15.6.42. In relation to Article 6 the PA2008 provides for all persons affected by CA to be consulted; to make representations both in writing and orally at hearings and, should the SoS grant the Order, the ability to challenge in the courts and in the case of disputes about compensation the right to apply to the Upper Tribunal (Lands Chamber) for an independent tribunal. In accordance with Part 5 of the PA2008 [APP-227, paragraph 7.7.1.9] the Applicant consulted with the persons set out in the categories set out in s44.
- 15.6.43. For the above reasons the Applicant considered that the inclusion of powers of CA and TP in the DCO would not constitute any unlawful interference with the Convention Rights and further it would be appropriate and proportionate for the SoS to make the Order including the grant of CA powers [APP-227, paragraph 7.7.1.13].

Summary of Applicant's case

- 15.6.44. The Applicant considered that there was a compelling case in the public interest for the inclusion in the DCO of CA powers that would enable it to secure any outstanding land interests and rights, which it could not agree by voluntary agreement, and which would be required to facilitate the delivery of the Proposed Development. Its case was set out in detail in the SoR [APP-227] and is evidenced further in wider application documentation.
- 15.6.45. The Applicant advocated that there was also the justification for the inclusion of TP powers in the DCO to facilitate the works required to construct the Proposed Development.

15.7. ExA RESPONSE TO THE APPLICANTS CASE

- 15.7.1. The ExA's approach to the question of whether CA powers should be granted and if so, what it should recommend to the SoS to grant has been to seek to apply the relevant sections of the PA2008, notably s122 and s123, the 2013 DCLG Guidance and the Human Rights Act 1998. In addition, in light of the representations received and the evidence submitted the ExA has considered whether a compelling case has been made in the public interest, balancing the public interest against private loss.
- 15.7.2. There is one representation from an SU [RR-010] that was not withdrawn by the close of the Examination and therefore s127 of the PA2008 is engaged. There are also relevant SU rights and apparatus on land that is the subject of CA and new rights proposed under the draft DCO [REP7-039]. Section 138 of the PA2008 is therefore also engaged and the ExA has considered the application and representations accordingly.
- 15.7.3. The ExA recognises that the final draft DCO submitted at D7 [REP7-039] dealt with both the Proposed Development itself and CA powers. The case for CA powers cannot properly be considered unless and until the ExA has formed a view on the case for development overall and the case for CA issues must be consistent with that view. The ExA has shown in the conclusions to Chapter 14 of this Report that, for the reasons given, it has reached the view that development consent should not be granted. Consequently, the ExA is unable to conclude that there would be a compelling case in the public interest as is required to be demonstrated to justify the inclusion of CA and TP powers.
- 15.7.4. However, the ExA recognises that the SoS may conclude otherwise, that is to say that development consent should be granted. The ExA has therefore considered the case for CA and TP on that basis. Apart from the matters on which the ExA has recommended against the application the ExA would otherwise have concluded that a compelling case had been made in the public interest for the DCO to include CA and TP powers to facilitate the Proposed Development.
- 15.7.5. The question therefore that now needs to be considered is the extent to which, in light of the factors set out above, the case is made for CA powers that would be needed to enable the Proposed Development to be implemented.

Need

- 15.7.6. On the basis of what the ExA has read and heard it accepts that there is a national need for the provision of low carbon energy infrastructure that would help the United Kingdom (UK) achieve its net zero targets (NPS EN-1, paragraph 2.2.1). The ExA is satisfied that the provision of up to 180 Wind Turbine Generators and the means to connect them to the National Grid would contribute significantly to providing a source of clean

energy and enabling a shift away from fossil fuel-based energy generation.

Alternatives

15.7.7. The 2013 Guidance requires:

"the promoter should be able to demonstrate to the satisfaction of the decision maker that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored" (Paragraph 8)

15.7.8. The SoR [APP-227], Chapter 3 of the ES [APP-009] and Chapter 3 of the Planning Statement [APP-229] set out the alternative options that the Applicant considered, explaining how the Proposed Development that is the subject of this application was selected.

15.7.9. As discussed in Chapter 6 of this Report the Applicant considered a number of alternatives however all would require the acquisition of land either temporarily for construction or to enable development. As a result, these alternatives would not remove the need for the use of CA powers.

15.7.10. The ExA is satisfied following examination at CAH1 [EV-009] that the application that is before it would result in the minimum land take and therefore would require the least CA. Wherever possible the Applicant has sought to utilise existing land agreements or easements and to use TP rather than CA.

15.7.11. At the close of the Examination the Applicant [REP7-047] confirmed that it had entered into voluntary agreements or documentation was in an agreed form and awaiting signature or completion with 90.7% of the landowners (39 out of 43) and 100% of occupiers (25 out of 25) of the land needed for the Proposed Development (representing 99.8% and 100% of the length of the onshore ECC respectively). The Applicant advised that it had concluded all negotiations with private individuals and that it was continuing positive engagement and constructive commercial negotiations with the remaining four affected landowners and that they were confident the relevant land could be secured by negotiation.

15.7.12. The ExA is therefore satisfied that the land for which CA powers is being sought is no more than would be reasonably required to enable the construction, operation and maintenance of the Proposed Development. Therefore, the ExA accept that there would be no alternative to using the CA powers, where required.

Adequacy of funding

15.7.13. The ExA asked a number of questions with regards to funding at ExQ1 [PD-006, CA.1.6]. The matter was also discussed at CAH1 [EV-009]. In addition, the Applicant provided an updated funding statement [REP7-043] and supporting Annex [REP7-045].

- 15.7.14. Based on the evidence provided by the Funding Statement [REP7-043] the ExA is satisfied that the Applicant is of sound financial standing, and at the relevant time the necessary funds would be available to finance the project, including CA.
- 15.7.15. Furthermore, Article 45 of the draft DCO [REP7-039] would prevent the Applicant from exercising any of the CA and TP powers conferred by the provisions of the Order until either a guarantee or alternative form of security in respect of the liabilities to pay compensation in relation to CA has been put in place.
- 15.7.16. Consequently, should the SoS grant the Order the ExA consider that the Applicant would be able to meet the liabilities arising from acquisition of land and rights and compensation claims.

Justification for seeking powers of CA

- 15.7.17. The effect of s122(1) and s122(2) of the PA2008 is to provide that land to be subject to CA must among other things be required to facilitate or be incidental to that development to which the development consent relates. Effectively this means that land needs to be acquired, or rights over, or under it acquired or impediments removed, in order that the development can be carried out. However, this is conditional on there being a compelling case in the public interest for that land to be acquired compulsorily(s122(3)).
- 15.7.18. This was the subject of detailed discussions at CAH1[EV-009] where the ExA challenged the need for the proposed land take in relation to a number of plots. The ExA was satisfied with the explanations provided by the Applicant as to why the amount of land was needed.
- 15.7.19. On the basis of the evidence submitted by the Applicant the ExA is satisfied that in the event of the grant of a development consent for the Proposed Development, as applied for, there would be the need to acquire the rights and interests in the Order Land and the powers sought in the draft DCO would be required to implement the development.
- 15.7.20. With regards to s122(3), there are a number of issues to be considered in balancing the public interest against the private loss which would occur through the granting of CA.
- 15.7.21. The ExA is satisfied that the application aligns with the Government's strategic policy objectives which are set out in NPS EN-1, NPS EN-3 and NPS EN-5 to meet the UK's legally binding target to cut greenhouse gas emissions (NPS EN-1, paragraph 2.2.1) by moving away from fossil fuels (paragraph 3.13). To achieve this, NPS EN-1 (paragraph 3.3.15) acknowledges that there is an urgent need for new (and particularly low carbon) energy NSIPs to be brought forward.

- 15.7.22. The Applicant has set out in detail the need for the scheme [APP-227, Section 8] and the wider public benefits that it would deliver. The ExA agrees with this assessment.
- 15.7.23. Consequently, in accordance with NPS EN-1, the ExA is satisfied with the Applicant's case that the public benefits associated with the construction and operation of the Proposed Development would be clear, substantial and compelling.

15.8. CONSIDERATION OF OBJECTIONS AND ISSUES

- 15.8.1. Four objections [RR-005], [RR-008], [RR-023] and [RR-043] regarding the request to the grant of CA and TP powers were submitted to the ExA.
- 15.8.2. Although this section of the report specifically considers objections raised by these AP's, the ExA appreciates that this represents only a portion of the 360 plots of land that would be affected. Even though a specific objection may not have been raised in relation to a particular plot of land, the ExA has nevertheless applied the relevant tests to the whole of the land that would be subject to the powers of CA and TP in reaching its overall conclusions.

The Applicant's response to objections

- 15.8.3. The Applicant has responded to CA objections throughout the course of the Examination. It has actively pursued discussions with objectors to seek to address, where possible, specific issues and concerns. At various points throughout the Examination the Applicant provided the ExA with an update on progress on negotiations by submitting a Compulsory Acquisition Schedule [REP2-041], [REP4-034], [REP5-063], [REP6-024] and [REP7-077]. The CA Schedule recorded only those plots where the ExA had received an objection to CA, six of these were from SUs, three were from APs, three were from Category three parties and one was from ERYC.
- 15.8.4. The CA Schedule submitted at D7 [REP7-077] advised that there were:
- six cases where voluntary agreements had been completed;
 - three cases where negotiations were ongoing;
 - one case where agreement was no longer required; and
 - three cases where agreement was not applicable.

The objections and the ExA's response

- 15.8.5. The ExA has read through all the objections set out in the RRs and WRs, subsequent submissions and submissions made orally at CAH1. Many of the issues raised by objectors have been considered by the ExA in Chapter 12 when considering onshore planning issues. As a result, in this Chapter the objections are only considered in relation to the application for the grant of CA or TP powers.

RR-005 – Dee Atkinson and Harrison on behalf of Mr C W Foreman and Mrs C F Foreman

- 15.8.6. The objection related to the CA of plots 94 to 107 (inclusive) where the Applicant was seeking the permanent acquisition of new rights and the imposition of restrictions (plots 94, 95, 96, 98, 99, 100, 104, 106 and 107) and TP (plots 97, 101, 102, 103 and 105). The initial concerns [RR-005] related to the extent, application and impact of CA rights specifically in relation to rights in land required for the onshore ECC and unresolved issues associated with the Voluntary Agreement Process.
- 15.8.7. The ExA examined this matter at CAH1 [EV-009] and [EV-009A] and the ExA asked a further question at ExQ2 [PD-012, CA.2.7]. At D5 [REP5-092] the ExA were advised that following discussions and negotiations with the Applicant Mr and Mrs Foreman entered into an option agreement granting the Applicant the voluntary rights to install cables through their land and as a result Mr and Mrs Foreman withdrew their objections to the Proposed Development.
- 15.8.8. The ExA considers that there are no remaining objections to the CA and TP of these plots and in any event the public benefits of the Proposed Development would outweigh any private loss. The ExA therefore recommends the grant of CA and TP powers sought in relation to these plots.

RR-008 – ERYC

- 15.8.9. ERYC has an interest in 236 plots where the Applicant is seeking the CA or TP of land. The vast majority of these plots are in relation to ERYCs role as the local highway's authority.
- 15.8.10. ERYC in its RR [RR-008] raised specific concerns regarding the potential conflict between the Proposed Development and the East Riding of Yorkshire Council (A164 Castle Hill Roundabout to A164 Regiment Roundabout) Compulsory Purchase Order (CPO) 2021 and Side Order 2021 and the Proposed Development.
- 15.8.11. The ExA asked questions in relations to these concerns at ExQ1 [PD-006, CA.1.21 and TT.1.14] and ExQ2 [PD-012, CA.2.6]. The matter was also discussed at CAH1 [EV-009].
- 15.8.12. At D7 [REP7-095] ERYC wrote to advise that it had completed a co-operation agreement and as a result it withdrew its objection to the overlap between the Proposed Development and ERYC's Jock's Lodge Scheme and associated CPO and Side Road Order.
- 15.8.13. As a result, the ExA therefore considers that there are no remaining objections to the CA and TP of these plots and in any event the public benefits that would be delivered by the Proposed Development would outweigh any private loss. The ExA therefore recommend the grant of CA and TP powers in relation to the plots in which ERYC have an interest.

RR-023 – Mr P S Goatley

- 15.8.14. Mr Goatley advised [RR-023] that while he and his wife did not object to the Proposed Development in principle, he objected to the CA of plots 148 to 150 (inclusive) where the Applicant was seeking the permanent acquisition of new rights and the imposition of restrictions to enable the delivery of the onshore ECC.
- 15.8.15. The ExA asked questions in relation to these concerns in ExQ1[PD-006, CA.1.20] and ExQ2 [PD-012, CA.2.7]. The matter was also discussed at CAH1 [EV-009] in which the Applicant advised the ExA that Mr and Mrs Goatley had sold their property to ERYC and as a consequence their objection to CA had fallen away. The ExA sought confirmation of this via a Rule 17 request for further information [PD-014, Annex A]. At D6 [REP6-053] Mr Goatley confirmed that he had sold his property to ERYC. ERYC [REP6-047] confirmed that it bought the property on 8 April 2022.
- 15.8.16. The Applicant updated the BoR [REP7-049] to remove Mr and Mrs Goatley's interests as a result of them no longer being APs.
- 15.8.17. The ExA therefore consider that there are no remaining objections to the CA and TP of these plots and in any event the public benefits of the Proposed Development would outweigh any loss. The ExA therefore recommends the grant of TP and CA sought in relation to these plots.

RR-034 – Savills on behalf of the Hotham Family Trust

- 15.8.18. The ExA were advised [RR-034] that Savills client had an interest in the location of the compound at Lockington and wished to reserve the right to be able to make representations if necessary. The relevant plots were 171 to 175 (inclusive), 177 to 215 (inclusive), 218 and 219. With the exception of plots 202, 205, 208 and 210 where the Applicant was seeking TP the Applicant was seeking the permanent acquisition of new rights and the imposition of restrictions.
- 15.8.19. The matter was discussed at CAH1 [EV-009] and the ExA asked a further question at ExQ2 [PD-012, CA.2.7].
- 15.8.20. At D5 [REP5-121] the ExA were advised that the Hotham Family Trust wished to withdraw its representation.
- 15.8.21. The ExA therefore consider that there are no remaining objections to the CA and TP of these plots and in any event the public benefits of the Proposed Development would outweigh any loss. The ExA therefore recommends the grant of CA and TP powers in relation to these plots.

Category 3 parties

- 15.8.22. The ExA received three RR [RR-013], [RR-017] and [RR-019] from parties who were classified as Category 3 by the Applicant in the BoR [REP7-049]. These parties objected on a range of issues arising from the construction and implementation of the scheme. The concerns mainly

relate to noise and disturbance from the OnSS, the location of the OnSS access road and the impacts of construction.

- 15.8.23. For the reasons set out in Chapter 12 the ExA is satisfied that noise and disturbance from the OnSS and vehicles using the OnSS access road would not adversely affect the living conditions of the occupants of neighbouring residential properties. Furthermore, the ExA notes that Requirements 7 and 22 of the recommended DCO would control operational noise from Work No. 7 (the OnSS, EBI and vehicular access tracks) so that it would be no greater than 5dB above representative background (LA90, T) at the nearest identified noise sensitive receptors.
- 15.8.24. As set out in Chapter 12 of this Report the ExA has endeavoured throughout the Examination to ensure that adequate safeguards would be in place to manage construction impacts and this is reflected by the measures contained within the outline Code of Construction Practice (CoCP)[REP4-019], the outline Construction Traffic Management Plan (CTMP) [REP4-019, Appendix F] and the commitments register [REP6-008] which would all be secured through Requirements 18 and 19 of the recommended DCO.
- 15.8.25. The remedies of making a claim under s10 of the Compulsory Purchase Act 1965 or in due course under Part 1 of the Land Compensation Act 1973 would also be available to these objectors.

Statutory Undertakers

- 15.8.26. Throughout the Examination the Applicant has sought to reach agreement with affected SUs and to include Protective Provisions within the draft DCO to protect their interests.
- 15.8.27. The ExA received objections from:
- Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Ltd (NR) [RR-001];
 - the Environment Agency (EA) [RR-010];
 - National Grid Electricity Transmission plc (NGET) [RR-025];
 - National Grid Gas plc (NGG) [RR-026];
 - Northern Gas Networks Ltd (NGN) [RR-030];
 - Weightmans on behalf of Northern Powergrid (Yorkshire) Plc [RR-042].
- 15.8.28. By the close of the Examination the ExA had received submissions withdrawing objections from NR [REP7-096], NGET [AS-054], NGG [AS-054], NGN [REP7-110] and Northern Powergrid [REP6-064].
- 15.8.29. The ExA notes that Schedule 9 of the final draft of the DCO [REP7-039] contains provisions for the protection of NGET (Part 3A), NGG (Part 3B), railway interests (Part 4), Northern Powergrid Yorkshire Plc (Part 11). [REP7-110] notes that the Applicant has entered into a crossing agreement with NGN.

- 15.8.30. The EA has an interest in 25 plots (plots 78, 86, 106 to 109 (inclusive), 121 to 125 (inclusive), 128, 129, 145 to 147 (inclusive), 157 to 161 (inclusive), 196, 199, 200 and 346). The Applicant is seeking the permanent acquisition of new rights and the imposition of restrictions for all plots except 121, 122, 124 and 125 where only TP is sought.
- 15.8.31. In its RR [RR-010] the EA raised concerns regarding works which the Applicant seeks to carry out to Watton Beck and therefore advised that at that point it was unable to confirm that it consented to the protective provisions as drafted by the Applicant which would disapply the provisions of the Environmental Permitting Regulations (England and Wales) 2016.
- 15.8.32. The ExA asked questions on this matter at ExQ1 [PD-006, CA.1.10 and OWE.1.4], ExQ2 [PD-012, CA.2.5 and OWE.2.1] and at CAH1 [EV-009] and ISH7 [EV-031]. It was also the subject of a Rule 17 request for further information [PD-014].
- 15.8.33. At D7 in response to the Rule 17 request the EA confirmed [REP7-097] that it was satisfied with the protective provisions as written within the draft DCO. Furthermore [REP7-067] the final signed Statement of Common Ground between the Applicant and the EA confirmed that there were no outstanding areas of disagreement. However the EA had not advised that it withdrew its objection.
- 15.8.34. As the EA's objection to the CA and TP of its land has not been withdrawn, the tests of s127 and s138 of the PA2008 apply. The ExA is satisfied that the wording of the protective provisions contained within Part 5 of Schedule 9 of the final draft DCO [REP7-039] is acceptable to the EA and would form an appropriate form of protection for it. As a result, the ExA is satisfied that the rights sought by the Applicant could be acquired without serious detriment to the carrying out of the EAs undertakings. Therefore, the ExA considers that in relation to the EA the tests in s127(5) and s138(4) would be met. Consequently, the CA and TP of these plots is recommended.

Other Statutory Undertakers

- 15.8.35. A number of other SUs lodged objections to the application but these related to the offshore elements of the Proposed Development. The concerns regarding the wording of the protective provisions in relation to these objectors is considered in Chapter 16 of this Report.
- 15.8.36. A number of other SUs have lands and rights that would be affected by the Proposed Development.
- 15.8.37. With regards to those SUs whose rights and apparatus would be interfered with by the delivery of the Proposed Development but who have not made representations, Part 1 of Schedule 16 of the draft DCO includes provisions for the protection of all electricity, gas, water and sewerage undertakers and Part 2 provides protection for operators of

electronic communication code networks. However, as they have not made representations the provisions of s127 or s138 are not triggered.

ExA conclusion on Statutory Undertakers

- 15.8.38. On the basis of the evidence before the ExA, it is satisfied that the relevant provisions contained within Schedule 9 of the recommended DCO would ensure that an appropriate degree of protection would be given to the affected undertakers, such that there would be no serious detriment to the carrying out of those organisations' undertakings. The ExA is satisfied that the interference with apparatus and extinguishment of rights would be necessary and proportionate for the purposes of carrying out the development.
- 15.8.39. Accordingly having regard to s138(4) of the PA2008 the ExA recommends to the SoS that the Order may include provision for the extinguishment of the relevant rights or the removal of the relevant apparatus.

Special Category Land

Open space

- 15.8.40. The ExA is satisfied that in each case where the Applicant is seeking the CA of open space the land that would be required, when burdened with the Order right, would be no less advantageous than it was before for the persons to whom it is vested; other persons, if any entitled to rights of common or other rights; and the public.
- 15.8.41. The ExA is therefore satisfied that the exemptions provided by s132(3) of the PA2008 would apply. Consequently, the ExA recommends to the SoS that Special Parliamentary Procedure should not apply to this land and that the recommended DCO should record the SoS's satisfaction on this matter as required by s131(3) and s132(2) of the PA2008.

Crown land

- 15.8.42. A total of 14.86 hectares of land owned by the Crown Estate has been identified for CA by the Applicant. Details of the six individual plots are listed in Part 4 of the BoR [REP7-049] and shown on the Crown Land - Onshore plans [APP-221].
- 15.8.43. No objections to the CA of this land have been received from the Crown Estate. The need for the Applicant to obtain Crown Consent in order to satisfy s135 of the PA2008 was the subject of questions at ExQ1 [PD-006, CA.1.7] and ExQ2 [PD-012, CA.2.9]. The matter was also discussed at CAH1 [EV-009] and [EV-009a] and was the subject of a Rule 17 request [PD-014, Annex A].
- 15.8.44. The ExA acknowledges that throughout the Examination the Applicant has been actively engaged in discussions with the Crown Estate in order to obtain Crown Consent. However, by the end of the Examination the

Applicant had not obtained consent under s135(1) or s135(2) from the relevant Crown Authority. Despite the request of the ExA [PD-014, Annex A] the Applicant did not provide an explanation outlining how the Proposed Development could proceed if all of the Crown land had to be removed from the Order land.

- 15.8.45. The ExA considers that, in the absence of information from the Applicant, the transition from offshore to onshore, wherever it occurred, would require the ECC to transit through or under an area of the foreshore seaward of MHWS. As the majority of the foreshore in England is owned by the Crown Estate the ExA is of the opinion that wherever the offshore ECC made landfall along this stretch of coastline it would need to do so through land owned by the Crown Estate. As a result, Crown Consent would still be required. Consequently, given the lack of alternatives the ExA considers that the project would not be able to proceed without access to Crown land.
- 15.8.46. The ExA therefore concludes that the Proposed Development could not and cannot proceed without access to, and the CA of rights in Crown land. However, as consent has not been secured from the relevant Crown Authority, the ExA recommends that the SoS must ask the Applicant for an update on the progress with these negotiations. The SoS cannot make the Order without the necessary consent from the Crown in respect of CA and TP. If this is not forthcoming, then as the scheme could not proceed without this land the SoS must withhold consent for the Proposed Development.

15.9. TEMPORARY POSSESSION

- 15.9.1. In relation to the temporary possession powers sought pursuant to Articles 28 and 29 of the DCO, the Applicant sets out its justification for the grant of these powers in the SoR [APP-227, 6.3]. The powers sought are required for amongst other things access, site compounds, haul roads and space to carry out works. The powers would only be needed for a limited period of time during the construction phase and occasional maintenance in the operational phase of the Proposed Development.
- 15.9.2. The ExA is satisfied that the relevant land would be required for these purposes and is necessary to enable implementation of the Proposed Development. The exercise of these rights of temporary possession and use of land would infringe Convention rights under the Human Rights Act 1998, but the ExA considers that they are proportionate in relation to the scheme, legitimate and in the public interest. There is provision within the recommended DCO for compensation to be paid to affected persons and the significant public benefits that the scheme would deliver would, in the opinion of the ExA, outweigh any adverse impacts on those affected.

15.10. HUMAN RIGHTS ACT 1998 CONSIDERATIONS

- 15.10.1. In assessing whether there is a compelling case in the public interest for the land to be acquired compulsorily, it is necessary to consider the interference with human rights which would occur, if CA and TP powers were granted.
- 15.10.2. The Applicant acknowledges [APP-227, 7.7] that the DCO would engage a number of Articles of the Human Rights Act including:
- Article 1 of the First Protocol (the right to those whose property would be compulsorily acquired to the peaceful enjoyment of their possessions);
 - Article 6 of the First Protocol (which entitles those affected by the powers sought to a fair and public hearing); and
 - Article 8 of the First Protocol (which seeks to protect private and family life, home and correspondence).
- 15.10.3. No public authority is allowed to interfere with these rights except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country. The Applicant sets out in the SoR [APP-227] the considerations that arise in relation to the application and advises that it has carefully considered the balance to be struck between individual rights and the wider public interest.
- 15.10.4. Having regard to the relevant provision of the Human Rights Act, the ExA has considered the individual rights that would be interfered with, and the submissions made by the APs in this regard, and is satisfied that:
- In relation to Article 1 of the First Protocol that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest;
 - In relation to Article 6 the ExA is satisfied that all objections which were submitted to the Examination have either been resolved with the Objector, or the Objector has had the opportunity to present their case to the ExA in writing and/ or at the CAH; and
 - In relation to Article 8 the interference is in accordance with the law and is necessary in the interests of the economic well-being of the country.

15.11. THE EQUALITY ACT 2010

- 15.11.1. Section 149 of the Equality Act 2010 requires a public authority, in the exercise of its functions to:
- have due regard to the need to eliminate discrimination harassment and victimisation and any other conduct prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristics and persons who do not share it; and

- foster good relations between persons who do share it.
- 15.11.2. The protected characteristics are age, sex, gender reassignment, disability, pregnancy and maternity, religion and belief and race.
- 15.11.3. An Equalities Impact Assessment was prepared by the Applicant as part of the ES [REP2-044]. The report concludes that there would be no differentiated or disproportionate impacts on groups with protected characteristics under the Equalities Act 2010. Furthermore [REP2-044, paragraph 4.1.1.2] measures, including the outline Public Rights of Way Management Plan [REP4-019, Appendix C], the outline CoCP [REP4-019], the outline CTMP [REP4-019, Appendix F] and the outline Employment and Skills Plan [APP-253], have been developed (and would continue to be developed via the discharge of DCO requirements) through meaningful consultation with ERYC, who themselves are subject to Public Sector Equality Duty (PSED).
- 15.11.4. The ExA considers that there is no evidence that the Proposed Development would have any specific impact in relation to persons who share a protected characteristic as compared to persons who do not, or any indication that allowing the application would have any harmful equality implications.

15.12. ExA RECOMMENDATIONS ON THE GRANTING OF COMPULSORY ACQUISITION POWERS AND RELATED MATTERS

Section 115 – Associated Development

- 15.12.1. Section 115(2) of the PA2008 provides that, in addition to the development for which consent is required under Part 3 of the PA2008 (the principal development), consent may also be granted for Associated Development. The PA2008 defines Associated Development as development which is associated with the principal development.
- 15.12.2. The ExA is of the view, as set out in Chapter 2 of this Report, that the Associated Development in Schedule 1 of the recommended DCO, comprises development for which development consent is sought in accordance with the 2013 guidance. The land required for this Associated Development can therefore, in principle, be compulsorily acquired pursuant to s122(2) of the PA2008.

Section 122(2) – the purpose for which CA is sought

- 15.12.3. The ExA is satisfied that the legal interests in all plots described and set out in the BoR [REP7-049] and the Land Plan - Onshore [APP-210] would be required for, or to facilitate or incidental to, the Proposed Development to which the development consent relates. Both the principal development, and the Associated Development, identified in the application would be needed to enable the implementation, operation and

maintenance of the Proposed Development. Therefore, the requirements of s122(2)(a) and (b) of the PA2008 are met.

Section 122(3) – whether there is a compelling case in the public interest

- 15.12.4. The ExA has had regard to the objections raised by all APs. Nevertheless, the ExA concludes that the public benefits associated with the Proposed Development would outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation and maintenance of the Proposed Development.
- 15.12.5. The ExA is satisfied that the Applicant has explored all reasonable alternatives to CA, including modifications to the scheme. The objections raised do not convince the ExA that there are alternatives to the CA sought which ought to be preferred.
- 15.12.6. The ExA concludes that:
- the development for which the land is sought would be in accordance with national policy as set out in the NPS EN-1 and development consent should be granted;
 - NPS EN-1 identifies a need to move away from fossil fuels (paragraph 3.13) in order to meet the UKs targets to cut greenhouse gas emissions. The NPS (paragraph 3.3.15) refers to an urgent need for new (and particularly low carbon) energy NSIPs to be brought forward as soon as possible;
 - the need to secure the rights required and to construct the Proposed Development within the necessary time frame represents a significant public benefit to weigh in the balance;
 - the private loss of those affected has been minimised through the selection of the application land and the extent of the rights and interests proposed to be acquired being the minimum necessary;
 - the Applicant has explored all reasonable alternatives to the CA rights and interests sought, and there are no alternatives which ought to be preferred;
 - adequate and secure funding would be available to enable the CA within the statutory period following the making of the Order; and
 - that the Applicant will have sufficient funds to meet all obligations arising from CA and TP.
- 15.12.7. Taking these various factors together, the ExA considers that there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the Land Plan - Onshore [APP-210]. As a result, the ExA is satisfied that the proposal would comply with s122(3) of the PA2008.

Section 120(5) and s126 – the incorporation of other statutory powers

- 15.12.8. The recommended DCO seeks, in a number of instances, to apply s120(5)(a) of the PA2008 and apply, modify or exclude a statutory provision. Since the recommended DCO is in the form of a statutory instrument, the ExA considers that it would comply with s117(4) of the PA2008. Furthermore, no provision would contravene the provisions of s126 of the PA2008 which relate to the modification or exclusion of compensation provision.

Section 127 and s138 – Statutory Undertakers

- 15.12.9. Section 127 and s138 representations were submitted to the Examination and were not withdrawn by its close. These representations have been considered as set out above. In the case of the remaining s127 representation, the ExA concludes that the SoS can be satisfied that there would be no serious detriment caused by carrying on the undertaking of the SU in question should the CA or TP sought be granted. In the case of s138 the ExA is satisfied that the extinguishment of the relevant rights, or the removal of the relevant apparatus, would be necessary for the carrying out of the development to which the Order relates.

Section 131 and s132 – Open space

- 15.12.10. The ExA considers that the impact from the rights sought in the recommended DCO on land considered to be open space would make it no less advantageous for those to whom it is vested, any persons entitled to rights of common or other rights and the public. Consequently, the ExA considers that the tests in s131(2) and s132(3) of the PA2008 are satisfied and the SoS confirmation of this point is recorded in the preamble to the recommended DCO.

Section 135 – Crown land

- 15.12.11. The ExA inform the SoS that they must obtain s135(1) consent from the appropriate Crown authority, before any Order is made authorising the CA of the interests in Crown land that are held otherwise or on behalf of the Crown as set out in the BoR [REP7-049]. If this consent is not forthcoming, then consent should be withheld as it would not be possible to implement the consent without these plots.
- 15.12.12. The ExA notes that the SoS must also obtain s135(2) consent from the appropriate Crown authorities before the recommended Order is made. This consent is required for the provisions in the recommended DCO applying in relation to Crown land or rights benefiting the Crown outside of matters dealt with under s135(1). On the evidence before the ExA, there is no obvious impediment that such consent would not be obtainable or forthcoming.

- 15.12.13. In addition, the ExA recommend that the SoS request that the Applicant update the entries in the BoR [REP7-049] in relation to the plots where the Crown has an interest. Currently the qualifying person under Regulation 7(1)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 is listed as "*The Queen's Most Excellent Majesty In Right Of Her Crown*". Given the death of her Majesty, the ExA believes that, whilst remaining with the Crown Estate, the ownership of these plots has potentially changed and the BoR will need to be updated to reflect this.

Temporary Possession

- 15.12.14. The ExA is satisfied that, except in relation to Crown land, the TP powers sought are necessary to facilitate the implementation of the Proposed Development and that adequate compensation provisions are included in the recommended DCO.

Human Rights Act 1998 and Equality Act 2010

- 15.12.15. The ExA considers that any interference with human rights that would arise as a result of the inclusion of CA and TP powers in the recommended DCO would be for legitimate purposes, proportionate and justified in the public interest. The ExA has had due regard to s149 of the Equality Act 2010 during the Examination and in preparing this Report. The ExA is satisfied that the Proposed Development would not have any differential impacts on any person with a protected characteristic.
- 15.12.16. Furthermore, the ExA is satisfied that there is no evidence that the Proposed Development would not accord with s149 of the Equality Act 2010 and therefore the SoS can be confident that they are fulfilling their PSED.

Adequacy of Funding

- 15.12.17. The ExA is satisfied that the Applicant would have access to the necessary funds and the project would be implemented if granted consent.

15.13. ExA RECOMMENDATION

- 15.13.1. In the event that the SoS is minded to grant development consent for the Proposed Development, the ExA recommends that:
- The BoR be updated to reflect the potential change in ownership of Crown land.
 - CA included in the recommended DCO be granted, subject to matters set out below in relation to Crown land;
 - the TP included in the recommended DCO be granted, subject to the matters set out below in relation to Crown land;
 - the CA and TP sought in relation of Crown land should not be granted until the necessary consent from the appropriate Crown authority, namely the Crown Estate, has been obtained;

- The CA of Statutory Undertakers land and rights over land included in the recommended DCO be granted.
- The CA of rights over open space, subject to the matters set out above in relation to Crown land, included in the recommended DCO be granted;
- The SoS can be satisfied that the Order land in relation to open space land, when burdened with the Order right would be no less advantageous than it was before to persons in whom it is vested, other persons and the public; and
- The powers included in the recommended DCO to apply, modify or exclude a statutory provision be granted.

16. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

16.1. INTRODUCTION

- 16.1.1. This Chapter of the Report describes the Development Consent Order (DCO) as applied for and the changes made to it during the Examination. It sets out matters that remained in dispute at the end of the Examination, the Examining Authority's (ExA's) recommendation on those matters and the resultant changes that would need to be made to the Applicant's final draft DCO [REP7-039].
- 16.1.2. For the reasons set out in Chapters 7 to 14 of this Report the ExA is unable to recommend that consent be granted for the Proposed Development. However, the Secretary of State (SoS), having considered all matters, may nevertheless decide to grant such consent. In such circumstances and for the reasons set out below the ExA recommends that the DCO be made in the form contained within Appendix C of this Report (the recommended DCO).
- 16.1.3. The application draft DCO [APP-203] and the Explanatory Memorandum (EM) [APP-204] were submitted by the Applicant as part of the application for development consent. The EM describes the purpose of the draft DCO as originally submitted, with each of its articles and schedules. The EM and the draft DCO were updated at various points throughout the Examination.
- 16.1.4. The application draft DCO [APP-203] was broadly based on the (now withdrawn) Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 but departed from those clauses to draw upon drafting used in made Orders for similar development under the Planning Act 2008 (PA2008), the Transport and Works Act 1992 and other Acts authorising development.
- 16.1.5. Although there has been a change of approach to the use of model provisions since the Localism Act 2011, they remain a starting point for the consideration of the DCO. The Applicant has also considered precedent cases where appropriate. Because the draft DCO [APP-203] and subsequent versions of it seek to modify statutory provisions they are in the form of a Statutory Instrument as required by section (s)177(4) of the PA2008.
- 16.1.6. This Chapter provides a summary of the main changes made to the DCO during the course of the Examination, between the application draft DCO [APP-203] and a final draft DCO submitted by the Applicant at Deadline (D)7 [REP7-039]. This Chapter does not report on every change made in the updated versions. This is because many amendments were made as a result of: typographical or referencing errors; slight revisions of wording following either discussions between the Applicant and relevant Interested Parties (IPs) or from their Written Representations (WR); or

as a result of minor changes following the ExA's first written questions (ExQ1) [PD-006] and further written questions (ExQ2) [PD-012]. The recommended DCO in Appendix C of this Report incorporates these minor changes.

16.1.7. The draft DCO refers to the Applicant as the undertaker and for the benefit of this Chapter, where appropriate the ExA has used this term.

16.2. THE DCO AS APPLIED FOR

16.2.1. The DCO is structured as follows:

- Part 1, Article 1 sets out how the Order may be cited and when it comes into force. Article 2 defines the various terms used in the Order.
- Part 2, Articles 3 and 4 provide development consent for the Proposed Development and allow it to be constructed, maintained and operated. Article 5 sets out who has the benefit of the Order and how those powers can be transferred. Articles 6 and 7 relate, respectively, to application and modification of legislative provisions and deference to proceedings in statutory nuisance.
- Part 4, Articles 8 to 14 provide a suite of powers in relation to street works. The powers include the ability for the undertaker to be able to carry out works to and within streets, create or improve accesses, to temporarily stop up streets and to be able to divert and temporarily stop up public rights of way and access land.
- Part 4, Articles 15 to 17 set out three supplemental powers relating to discharge of water, protective work to buildings and authority to survey and investigate land onshore.
- Part 5, Articles 18 to 31 provide for the undertaker to be able to compulsorily acquire the Order land and rights over/ within it, and to be able to temporarily use parts of the Order land for the construction or maintenance of the Authorised Project. The provisions provide for compensation to be paid to affected persons (APs) in respect of these powers, where that is not already secured elsewhere. These articles also provide for powers in relation to equipment owned by statutory undertakers.
- Part 6, Articles 32 and 33 provide powers for the operation of the generating station and the provision of the deemed marine licences (DMLs) included in Schedules 11 and 12 of the Order.
- Part 7, Articles 34 to 48 include various general provisions in relation to the Order:
 - a. Articles 34 to 43 include provisions such as application of statutes relating to leases, that the Order land will be 'operational land', felling and lopping of trees and removal of hedgerows, certification of documents relevant to the Order, arbitration in case of disagreements under the Order, an ability to use the appeal mechanism in s78 of the 1990 Act where a party either refuses or withholds consent required under requirement attached to the DCO,

- abatement of works abandoned or decayed, saving provisions for Trinity House, and a provision on respect of Crown land;
- b. Article 44 provides protection for statutory undertakers through the protective provisions (set out in Schedule 9);
 - c. Article 45 provides a requirement for the undertaker to put in place a guarantee or alternative form of security in advance of exercising powers in relation to compulsory acquisition (CA) included in Part 5 of the Order;
 - d. Article 46 provides for modifications to the Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 (set out in Schedule 13);
 - e. Article 47 provides for methods of service of notices in relation to the DCO; and
 - f. Article 48 releases the undertaker from the obligations of certain agreements under s106 of the Town and Country Planning Act 1990 which relate to other development and would otherwise be automatically binding on the Applicant.

16.2.2. There are 16 Schedules to the Order. These are:

- Schedule 1 provides a description of the Authorised Development (Part 1) and lists the 30 Requirements (Part 3) applying to it.
- Schedules 2 to 5 deal with matters in relation to streets and public rights of way and accesses.
- Schedule 6 covers land in which new rights may be acquired.
- Schedule 7 deals with amendments to statutes to ensure that appropriate compensation is payable where new rights over land are acquired under the Order.
- Schedule 8 covers land which may be used temporarily for the Authorised Project.
- Schedule 9 sets out the provisions protecting statutory undertakers and their apparatus.
- Schedule 10 lists hedgerows that may be removed pursuant to Article 36.
- Schedules 11 and 12 include the DMLs.
- Schedule 13 sets out certain modifications that would be required to the Dogger Bank Creyke Beck Offshore Wind Farm Order 2015.
- Schedule 14 sets out the arbitration rules that would be employed in the case of a dispute.
- Schedule 15 lists the documents to be certified.
- Schedule 16 sets out the compensation to protect the coherence of the national site network in relation to kittiwake (Part 1), fish habitat enhancement (Part 2) and contribution to Marine Recovery Fund (Part 3).

16.2.3. The ExA asked 50 questions at ExQ1[PD-006] based on the version of the draft DCO that was submitted with the application [APP-203]. The ExA asked a further 18 questions on the DCO at ExQ2 [PD-012].

16.2.4. The draft DCO was also examined at Issue Specific Hearing (ISH) 1 [EV-008] and ISH7 [EV-031].

- 16.2.5. The draft DCO was updated at D1 [REP1-002], D2 [REP2-060], D3 [REP3-007], D4 [REP4-050], D5 [REP5-088], D5a [REP5a-002] and D7 [REP7-039].
- 16.2.6. Table 16.1 below shows the draft DCO [APP-203] and its main updates. Minor changes such as typos and amendments and deletions to improve clarity are not listed:

Table 16.1: Versions of the draft DCO post-submission

Deadline No	Examination Library reference	Notable changes made
D1	REP1-002	<p>Insertion of definition of bridge link in Article 2</p> <p>Refining of Article 3(2) (development consent etc. granted by this Order) to exclude those elements of Work No. 5(a) located landward of MHWS in order to connect with Work No. 6 and Work Nos. 9(a) and 9(d) located seaward of MHWS for foreshore access</p> <p>Deletion of reference to construct from Article 4</p> <p>Deletion in Article 5 (benefits of the Order) of reference to an 8-week time limit for the Secretary of State (SoS) to determine an application</p> <p>Deletion of reference to section 65 (noise exceeding registered level) of the Environmental Protection Act 1990 and the Control of Pollution Act 1974 in Article 7 (defence to proceeding in respect of statutory nuisance)</p> <p>Amendment to Article 39 (arbitration) to make it subject to Article 42 (saving provisions for Trinity House)</p> <p>Insertion of Article 49 (compensation provisions)</p> <p>Amendment to Schedule 1, Part 1 to delete up to eight horizontal directional drilling launch pits from Work No. 5 and add them to Work No. 6 – works which would occur in the East Riding of Yorkshire</p> <p>Addition of a clarification that the figures in relation to the removal and disposal of material in Work No. 10 (d) are a maximum, not an approximate upper figure</p> <p>Significant revisions to the grid coordinates for the part of the authorised project which would be seaward of MHWS (Schedule 1, Part 1, 2)</p>

Deadline No	Examination Library reference	Notable changes made
		<p>Schedule 9, Part 3, 4(1) insertion of additional wording to clarify that nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under Paragraph 7 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under Paragraph 9</p> <p>Insertion of definitions for cable protection replenishment, Defra, IHO S44ed5 Order 1a, JNCC, and marine noise registry in Schedules 11 and 12, Part 1, 1</p> <p>Updating of addresses and methods of communication for notifying relevant organisations as set out in Schedules 11 and 12, Part 1 and 4</p> <p>Clarification that the amount of inert material that could be deposited at sea was a maximum, not an approximate upper figure (Schedule 11, Part 1, 2 (a) and Schedule 12, Part 1, 2 (a) (i))</p> <p>Significant revisions to the grid coordinates that comprise Work No. 1 (Schedule 11, Part 1, 5)</p> <p>Increase to 624,000 square metres the amount of cable protection for Work No. 1 (c) (Schedule 11, Part 2, 3)</p> <p>Condition 10 (aviation safety) Schedules 11 and 12 amended to require that lighting installed specifically to meet Ministry of Defence (MoD) aviation safety requirements must remain operational throughout the life of the authorised development (unless otherwise agreed with the MoD)</p> <p>Condition 13 (pre-construction plans and documents) Schedules 11 and 12 amended to include reference to fibre optic cables (1)(c)(iii) and (h)(i); to define the maximum hammer energy used to drive or part drive pin pile foundations (4) and to set a maximum of 2 piled foundations within a 24-hour period (5)</p> <p>Additional clauses added to Condition 13 (Schedules 11 and 12) requiring liaison between the undertaker and any other undertaker to whom part of the benefit of the Order has been transferred or leased pursuant to Article 5 (7 and 8) and a requirement to attend liaison meetings with the Marine Management Organisation (MMO)(9)</p>

Deadline No	Examination Library reference	Notable changes made
		<p>Condition 14 (Schedules 11 and 12) amended to list documents which must be submitted to the MMO for approval at least six months prior to the intended commencement of the relevant stage of the licensed activities</p> <p>Schedule 11, Condition 24 (completion of construction) amended to require submission of the details of the installed wind turbine generator parameters relevant for ornithological collision risk modelling and the insertion of a clause that would allow no further construction activities to be taken following completion of construction</p> <p>Insertion of new Schedule 11, Condition 25 (deployment of cable protection) requiring any cable protection to be deployed within 15 years from the date of the grant of the Order</p> <p>Clarification that the cable corridor disposal site was a maximum, not an approximate upper figure (Schedule 12, Part 1, 2 (a) (ii))</p> <p>Deletion of reference to up to eight horizontal directional drilling launch pits from Work No. 5 (Schedule 12, Part 1, 3)</p> <p>Significant revisions to the grid coordinates that comprise Work Nos. 2, 3, 4 and 5 (Schedule 12, Part 1, 5)</p> <p>Reduction of dimensions from 100m to 90m for Schedule 12, Condition 1 (2) (b) and (c), (4) (b) and (c) and an increase from 90m to 100m for (5) (b)</p> <p>Reduction in the maximum number of cable crossings from 92 to 86 (Schedule 12, Condition 1 (11))</p> <p>Deletion of Condition 26 (completion of construction) from Schedule 12</p> <p>Insertion of new Schedule 12, Condition 26 (deployment of cable protection) requiring any cable protection to be deployed within 15 years from the date of the grant of the Order</p> <p>Schedule 15 was amended to include the kittiwake compensation plan and the onshore crossing schedule</p> <p>Insertion of Schedule 16 (Compensation to protect the coherence of the National Site</p>

Deadline No	Examination Library reference	Notable changes made
		Network) to provide kittiwake compensation (Part 1) and fish habitat enhancement (Part 2)
D2	REP2-060	<p>Insertion in Article 2 of definition for relevant highway authority</p> <p>Definition of outline written scheme of investigation and outline site integrity plan in Article 2 amended to 'outline written scheme of investigation for onshore archaeology' and 'outline southern north sea special area of conservation site integrity plan' for greater clarity</p> <p>Article 40 amended to remove reference to s78 (right to appeal against planning decisions and failure to take such decision) of the 1990 Act</p> <p>Requirement 7 amended to refer to Work Nos. 7 (a) and (b) rather than 'connection works in Work No. 7'</p> <p>Requirement 17 amended to exclude the outline construction traffic management plan where that document is being approved separately pursuant to Requirement 18</p> <p>Increase from 10 to 20 working days the deadlines for submission, response and determination of appeals (Schedule 1, Part 4, Paragraph 4 (2))</p> <p>Insertion in Schedule 9, Part 8, Paragraph 3 of the coordinates for the overlap zone</p> <p>Insertion in Part 1 of Schedules 11 and 12 of definitions for outline cable specification and installation plan and outline marine monitoring plan</p> <p>Addition of 'which accords with the principles set out in the outline ornithological monitoring plan' to Condition 13(4) of Part 2, Schedules 11 and 12</p> <p>Addition of section (5) to Condition 14 of Part 2, Schedules 11 and 12 requiring that any plans, protocols, statements, schemes and details submitted under condition 13 must ensure that any residual effects fall within the scope of those predicted in the environmental statement</p> <p>Schedule 12, Part 1, 1 'cable corridor disposal site' amended to exclude the overlap with Dogger Bank A and B disposal site</p>

Deadline No	Examination Library reference	Notable changes made
		<p>Schedule 12, Part 1, Paragraph 3 (3) reference to Mean High Water Springs (MHWS) replaced with Mean Low Water Springs (MLWS)</p> <p>Schedule 13 definition and reference to the Hornsea Four access road land removed</p> <p>Schedule 15 layout amended to separate documents to be certified as part of the Environmental Statement and addition of 'cable specification and installation plan'; 'outline fisheries coexistence and liaison plan' and 'ornithological monitoring plan' to the list of documents to be certified</p> <p>Schedule 16, Part 2 wording amended to provide greater clarity</p>
D3	REP3-007	<p>Article 2 amendment to definition of bridge link to provide further clarity</p> <p>Article 2 insertion of definition for 'intrusive environmental surveys' and refinement of definition for 'Marine Management Organisation'</p> <p>Addition of ecological mitigation works to definition of 'onshore site preparation works' in Article 2</p> <p>Increase from a 28 to 56-day notification period in Articles 10, 12 and 17</p> <p>Amendment from 2 months to 56-day notification period in Article 15(9)</p> <p>Deletion of reference to approval in writing for Requirements 7, 8, 9, 11, 12, 13, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28 and 30</p> <p>Addition to Requirement 9 for the submission of a landscape management and maintenance plan within 5 years of the completion of the landscape works comprising Work No. 7(f), which must include details of the maintenance and management of Work No. 7(f) until the connection works are decommissioned and that the landscape management and maintenance plans for work No. 7(f) must be carried out as approved</p> <p>Addition of lighting, signage and safety measures to Requirement 11 (2)</p> <p>Addition of operation to Requirement 13 (3)</p>

Deadline No	Examination Library reference	Notable changes made
		<p>Amendment of Requirement 16 (3) to exclude archaeological investigations carried out as part of onshore site preparation works and to refer to the written scheme of archaeological investigation rather than relevant scheme</p> <p>Amendment of Requirement 21 (1) to refer to Work Nos. 7(a), (b) and (c) rather than Work No. 7</p> <p>Refinement of wording of Requirement 23 to reflect discussions with the MoD</p> <p>Refinement of Schedule 1, Part 4, Paragraph 2(1) (a) regarding the validation of an application</p> <p>Schedule 6 addition of 'and restrictions imposed' to the title of the second column</p> <p>Schedule 9, Part 8 change in title from oil and gas to carbon storage licensee</p> <p>Schedule 9, Part 8, Paragraph 4 addition of the option that 'the Secretary of State has determined that a coexistence and proximity agreement is not required'</p> <p>Schedule 9, Part 8, Paragraph 5 increase in time from three to four months</p> <p>Schedule 9, Part 8 Paragraphs 8 to 11 reworded to cover what happens for both parties in the event of insufficient information being submitted and/ or dispute between them</p> <p>Schedule 9, Part 9 insertion of provision for the protection of NEO Energy (SNS) Limited (NEO)</p> <p>Insertion of definition for 'dropped object procedure form'; 'Kingfisher Information Service'; 'offshore renewables protocol for reporting archaeological discoveries'; 'the Order limits'; 'outline operation and maintenance plan'; 'pontoon gravity base type 1 structure'; 'pontoon gravity base type 2 structure'; 'Work No. 3(a)' and 'UK standard marketing schedule for Offshore Installations' into Part 1, Paragraph 1 of Schedules 11 and 12</p> <p>Refinement of definition of Maritime and Coastguard Agency (MCA) in Part 1, Paragraph 1 of Schedules 11 and 12</p>

Deadline No	Examination Library reference	Notable changes made
		<p>Addition of (6) to Condition 4 of Schedule 11 and (5) to Condition 5 of Schedule 12 requiring the submission of an operations and maintenance plan to the MMO for approval</p> <p>Insertion at end of Condition 6 of Schedule 11 and Schedule 12 of 'such an agreement not to be unreasonably withheld or delayed'</p> <p>Refinement of the wording of Condition 7 of Schedule 11 and 12 to improve clarity and to include alterations suggested by the MMO</p> <p>Condition 11, Schedule 11 and 12 refinement of wording to improve clarity and to include alterations suggested by the MMO</p> <p>Condition 13(1)(h), Schedule 11 and 12 amended to include consultation with Trinity House and to incorporate changes suggested by the MMO</p> <p>Condition 17(2)(c) to 17(5), Schedules 11 and 12 insertion of a requirement for the submission of a bathymetric survey that meets the requirements of IHO S44ed5 Order 1a and the provision of a report of the survey outcomes to the MMO, the relevant statutory nature conservation body, the MCA and UKHO as relevant</p> <p>Condition 18(2)(b), Schedule 11 amended to include Trinity House</p> <p>Condition 19(2), Schedule 11 and Schedule 12 amended to include vessel traffic monitoring by automatic identification system for three years post construction</p> <p>Insertion of new condition 25 to Schedule 11 and new condition 27 to Schedule 12 requiring the submission of a close out report to the MCA</p> <p>Part 1, Schedule 12 definition of 'authorised development' expanded to include 'and any other development authorised by this Order that is development within the meaning of s32 of the PA2008 and definitions for 'Mean Low Water Springs and 'transition piece' added</p> <p>Schedule 15 amended to include the NEO protective provisions plan; the outline operations and maintenance plan and the outline written scheme of investigation for onshore archaeology</p>

Deadline No	Examination Library reference	Notable changes made
D4	REP4-050	<p>Article 2 insertion of definition for Highest Astronomical Tide</p> <p>Schedules 11 and 12, Part 1, Paragraph 1(7) and Part 1 Paragraph 1(6) insertion of wording explaining conversion from Lowest Astronomical Tide to Highest Astronomical Tide</p> <p>Schedule 1, Part 1, Paragraph 1; Schedule 11, Part 1, Paragraph 2 and Schedule 12, Part 1, Paragraphs 2 and 3 reduction to 7,244,596 cubic metres and 4,105,735 cubic metres of disposal material</p> <p>Wording of Requirement 12 amended to improve clarity</p> <p>Requirement 18 amended to include a need to consult with Network Rail</p> <p>Requirement 23 amended to remove wording to correct a previous error</p> <p>Schedule 9, Part 4 addition of Paragraph 24 to the protective provision following discussions with Network Rail</p> <p>Schedule 9, Part 10 insertion of a provision for the protection of the licensee of the United Kingdom Petroleum Production License P.380</p> <p>Condition 11(10), Schedules 11 and 12 reducing the notification period for a dropped object from 48 to 24 hours</p> <p>Condition 20, Schedules 11 and 12 deleting reference to MMO and replacing with 'relevant body' to reflect that reports referred to need to be submitted to other bodies in addition to the MMO</p> <p>Condition 25, Schedule 11 and 12 insertion of reference to UKHO</p> <p>Condition 19(2), Schedule 12 deletion of (c) and amendment to (d) to provide greater clarity</p> <p>Deletion of Condition 27 of Schedule 12</p> <p>Schedule 15 updated to refer to revision 4 of the project description and revision 3 of the pro-rata annex.</p> <p>Perenco protective provision plan added</p>

Deadline No	Examination Library reference	Notable changes made
D5	REP5-088	<p>Insertion of new text for Articles 28 and 29 in relation to the Driffield Navigation</p> <p>Schedule 1, Part 1, Paragraph 2 and Schedule 12, Part 1, Paragraph 5 amendments to table of co-ordinates</p> <p>Requirement 7 amendment to wording to allow the option of a combination of both (High Voltage Direct Current and High Voltage Alternating Current)</p> <p>Requirement 25 refinement of wording to provide greater clarity following discussion with NATS</p> <p>Schedule 9, Part 8 various amendments and alterations to wording following ongoing discussions between the Applicant and bp on behalf of the Northern Endurance Partnership project</p> <p>Schedule 9, Part 11 insertion of a provision for the benefit of Northern Powergrid (Yorkshire) Plc</p> <p>Schedule 9, Part 12 insertion of a provision for the benefit of Bridge Petroleum 2 Ltd</p> <p>Condition 11 (10) Schedules 11 and 12 deletion of reference to 24 hours and replacement with 'following'</p> <p>Condition 14(1), Schedule 12 deletion of reference to HVAC booster station lighting plan</p> <p>Condition 26, Schedule 12 refining of wording</p> <p>Schedule 16, Part 1, Paragraph 1 insertion of definitions for Defra and 'the marine recovery fund'</p> <p>Schedule 16, Part 1 amendment to wording of Paragraph 3 and insertion of new Paragraph 4</p> <p>Schedule 16 insertion of Part 3, contribution to marine recovery fund</p>
D5a	REP5a-002	<p>Article 2 amended definition of 'relevant highway authority' to 'relevant highway authorities' and to include a reference to Hull City Council</p> <p>Article 29 'or in the code of construction practice approved under requirement 17' added to the end of the article to enable maintenance of public rights of way</p>

Deadline No	Examination Library reference	Notable changes made
		<p>Schedule 1, Part 3, Requirement 3(13) and Schedule 11, Part 2, Condition 1(8) wording amended to reduce number of gravity-based structures from 129 to 90 and reducing the number of these that could be wind turbine generators from 118 to 80.</p> <p>Amended wording for the definition of 'appropriate mitigation' found in Schedule 1, Part 3, Requirement 23(2)</p> <p>Insertion of reference to Northern Powergrid in Schedule 9, Part 1, Paragraph 1 to reflect that Northern Powergrid now has its own protective provisions</p> <p>Renaming the protective 'provisions plan' to the 'Endurance protective provisions plan' and amending the references throughout Schedule 9, Part 8</p> <p>Deleting definition of 'endurance consents' in Schedule 9, Part 8, Paragraph 3 as term no longer used</p> <p>Schedule 11, Part 12, Paragraph 3 'protected area plan' amended to 'Bridge protected area plan' and wording amended elsewhere in the paragraph to reflect the change</p> <p>Schedule 11, Part 1, Paragraph 1 definition of 'ornithological monitoring plan' added</p> <p>Schedule 11 and 12, Part 2, Condition 4 parts (1) and (3) deleted</p> <p>Schedule 11 and 12, Part 2, Condition 18 2 (a) and (b) swapped and the second part of the former (b) expanded and becoming 2 (3) to enable the MMO to request further noise monitoring if required</p> <p>Schedule 11, Part 2, Condition 23 and Schedule 12, Part 2, Condition 25 point (4) added requiring the written scheme to be submitted to the MMO four months prior to the planned commencement of the licensed activities</p> <p>Schedule 11, Part 2, Condition 24 addition of (b) the installed wind turbine generator parameters relevant for ornithological collision risk modelling and part (2) Following completion of construction, no further construction activities can be undertaken under this licence</p>

Deadline No	Examination Library reference	Notable changes made
		<p>Schedule 12, Part 2, Condition 3(2) insertion of wording limiting the length of the cables within Work No. 2(e) and Work No. 3(b) subject to cable protection</p> <p>Schedule 12, Part 2, Condition 19(2) insertion of (c) requiring measures for vessel traffic monitoring for a duration of three consecutive years following completion of construction</p> <p>Schedule 16, Part 3 deletion of reference to 'or equivalent fund'</p>
D7	REP7-039	<p>Article 2, definition of 'bridge link' amended to delete reference to height above sea level</p> <p>Article 2, definition for 'Historic England' inserted</p> <p>Article 2, definition of 'horizontal directional drilling' further refined for clarity</p> <p>Article 2, definition of 'maintain' amended to exclude the removal, reconstruction or replacement of foundations associated with offshore works</p> <p>Article 2, definition of 'SNCB' expanded for precision</p> <p>Article 2, insertion of definition for 'statutory undertaker'</p> <p>Article 2(3), amended to exclude the parameters referred to in Requirements 2-5 and Conditions 1-3 for clarity</p> <p>Article 5(2) reference to Paragraph (7), (10) and the first reference in Paragraph (11) added</p> <p>Schedule 1, Part 1, Paragraph 1, Work No. 10 disposal volumes updated to reflect reduction in gravity base foundations</p> <p>Schedule 1, Part 3, Paragraph 2(6) seabed footprint reduced due to reduction in gravity base foundations</p> <p>Schedule 1, Part 3, Requirement 3, (15) added to include reference to bridge link</p> <p>Schedule 1, Part 3, Requirement 4 amount of scour protection reduced to reflect the reduction in gravity base foundations</p> <p>Schedule 1, Part 3, Requirement 12 amended to refer to means of permanent enclosure</p>

Deadline No	Examination Library reference	Notable changes made
		<p>Schedule 1, Part 3, Requirement 13 various amendments to ensure that it deals with only temporary fencing or means of enclosure</p> <p>Schedule 1, Part 3, Requirements 15, 17 and 19 amended to make reference to Work No. 5 for clarity</p> <p>Schedule 9, Part 1, Paragraph 2 amended to refer to Part 11</p> <p>Schedule 9, Part 3 split into Part 3A for the protection of National Grid Electricity Transmission PLC and 3B for the protection of National Grid Gas PLC</p> <p>Schedule 9, Part 4 various amendments as a result of discussions between Network Rail and the Applicant</p> <p>Schedule 9, Part 5 distance amended to 16m in definition of specified work having been confirmed by the Environment Agency that this is the correct measurement</p> <p>Schedule 9, Part 7 and Schedule 13 various amendments as a result of discussions between the representatives for Dogger Bank and the Applicant</p> <p>Schedule 9, Part 8, Paragraph 2 amended to refer to four months for clarity and enforceability</p> <p>Schedule 9, Part 8, Paragraph 10 (b) 'and a minimum distance between each wind turbine of 2,000 metres in all directions measured from the centre point of the wind turbine generator' added</p> <p>Schedule 9, Part 9 and Part 10 coordinates added to definition of restricted area</p> <p>Schedule 9, Part 12 various amendments as a result of discussions between Bridge Petroleum Ltd and the Applicant</p> <p>Schedule 9, Part 12, Paragraphs 6 and 7 amended to rectify previous error that combined the two paragraphs</p> <p>Schedule 11 and 12, Part 1, Paragraph 1 insertion of definition for 'bridge link' and 'statutory nature conservation body'</p> <p>Schedule 11 and 12, Part 1, Paragraph 1 definition of 'maintain' further refined for clarity</p>

Deadline No	Examination Library reference	Notable changes made
		<p>and to exclude the removal, reconstruction or replacement of foundations associated with the authorised project</p> <p>Schedule 11 and 12, Part 1, Paragraph 2 updated as a result of the reduction in gravity base foundations</p> <p>Schedule 11, Part 2, Condition 1(6) and (7) updated to reflect the reduction in gravity base foundations</p> <p>Schedule 11, Part 2, Conditions 2(7) amended to include reference to a bridge link</p> <p>Schedule 11 and 12, Part 2, Condition 7(9) and (10) amended to require notification to mariners for clarity</p> <p>Schedule 11 and 12, Part 2, Condition 13(1)(c)(ix) amended to refer to 'habitats of principal importance and any international or nationally designated sites' for clarity</p> <p>Schedule 11, Part 2, Condition 18(b) amended to delete reference to monopile foundation and replace it with piled foundation of each piled foundation type</p> <p>Schedule 11, Part 2, Condition 22(1) wording 'until the permanent cessation of operation' added to provide clarity over time period</p> <p>Schedule 12, Part 1, Paragraph 1 definition of 'extent of marine licence plan' deleted as no longer used</p> <p>Schedule 12, Part 1, Paragraph 1 amended to align the Work Nos. with the Schedule for clarity and consistency</p> <p>Schedule 12, Part 1, Paragraph 3(6) updated to reflect reduction in gravity base foundations</p> <p>Schedule 11 and 12, Part 2, Condition 17 updated to include coordinates for Work Nos. 9(a) and 9(d)</p> <p>Schedule 12, Part 2, Condition 1(14) insertion of reference to bridge link</p> <p>Schedule 12, Part 2, Condition 3 deletion of (2) which refers to a 20-year timeframe for deployment of cable protection as the correct timeframe already secured elsewhere</p>

Deadline No	Examination Library reference	Notable changes made
		<p>Schedule 12, Part 2, Condition 18(4) wording amended to match the wording in Schedule 11</p> <p>Schedule 12, Part 2, Condition 23 piling restriction period updated from 1st September and 16th October to 21st August and 23rd October</p> <p>Schedule 12, Part 2, Condition 24(1) wording 'until the permanent cessation of operation' added to provide clarity over time period</p> <p>Schedule 15 various amendments to documents listed to reflect other updates and changes</p> <p>Schedule 16, Part 1, Paragraph 3(i) for clarity wording amended to allow the undertaker to elect, subject to the approval of the secretary of State in consultation with the Hornsea 4 Offshore Ornithology Engagement Group (OOEG) to pay a contribution to the Marine Recovery Fund</p> <p>Schedule 16, Part 3 (1) for clarity wording amended regarding when a contribution would be paid</p>

16.2.7. No IPs raised any concerns with the description of the Proposed Development during the Examination. No IPs raised any concerns with the description of the works or the documents to be certified. The ExA's concerns with some definitions in the draft DCO submitted with the application [APP-203] were addressed within the Examination.

16.3. ISSUES CONSIDERED IN THE EXAMINATION

16.3.1. To list each change made in the various versions of the draft DCO would make this section of the Report unnecessarily lengthy. Many of the changes were either sought by IPs, did not raise any concerns from them or the ExA was satisfied with the changes such that it was not considered necessary to examine them further. The SoS can refer to ExQ1 [PD-006], ExQ2 [PD-012] together with the agendas for ISH1 [EV-008] and ISH7 [EV-031] for a full list of the questions and concerns raised by the ExA during the Examination.

16.3.2. If not reported below, the ExA considers that the SoS can be satisfied those matters raised at ExQ1 [PD-006], ExQ2 [PD-012], together with clarification matters discussed at ISH1 [EV-008] and ISH7 [EV-031] were minor in nature or have been satisfactorily addressed by the Applicant during the Examination.

16.3.3. The East Riding of Yorkshire Council (ERYC) did not raise any specific concerns in its Local Impact Report [REP1-074] in relation to the drafting

of the DCO, and where it raised concerns in relation to specific issues indicated that it was satisfied that sufficient control would be retained through the approval of applications pursuant to discharging requirements.

- 16.3.4. Table 3.1.3 of the signed Statement of Common Ground (SoCG) with ERYC [REP7-060] sets out that ERYC agreed that the Requirements set out in Schedule 1, Part 3 of the draft DCO [APP-203] were appropriately worded to secure necessary mitigation measures. Furthermore, ERYC agreed that the details set out regarding the procedure for discharge of requirements (such as the necessary timeframes associated with ERYC) in Schedule 1, Part 4 of the draft DCO [REP2-061] were appropriate.
- 16.3.5. At the close of the Examination Table 3 of the Statement of Commonality of SoCG [REP8-006] records the following organisations as having outstanding concerns on the drafting of the DCO:
- MMO; and
 - Natural England (NE) in relation to derogation and compensation measures, offshore and intertidal ornithology and other offshore matters
- 16.3.6. There were also a number of outstanding concerns in relation to the protective provisions as set out in Schedule 9 of the draft DCO [REP7-039]. Where these relate to onshore Statutory Undertakers (SUs) these are covered in more detail in Chapter 15 of this Report. At the close of the Examination objections were maintained in relation to the following protective provisions from organisations with offshore interests:
- Part 8 – for the protection of Carbon Storage Licensee;
 - Part 9 – for the protection of NEO Energy (SNS) Limited;
 - Part 10 – for the protection of Perenco UK Limited;
 - Part 12 - for the protection of Bridge Petroleum 2 Limited; and
 - Part 13 - for the protection of Harbour Energy Limited, Perenco UK Limited, Premier Oil E&P UK EU Limited, Dana Petroleum (E&P) Limited and Dana Petroleum Limited.

16.4. OUTSTANDING CONCERNS ON THE DRAFTING OF THE DCO

The MMO [REP7-070]

- 16.4.1. The MMO [RR-020] raised significant concerns regarding the drafting of the DCO and DMLs [APP-203]. These matters were the subject of extensive questions at ExQ1 [PD-006] and ExQ2 [PD-012]. The concerns were also discussed at ISH1 [EV-008] and ISH7 [EV-031] and were the subject of requests for further information under Rule 17 [PD-008] and [PD-014]. The Applicant worked pro-actively to resolve many of these issues. As a result the following section only records those matters that remained outstanding at the close of the Examination. Table 3.2 of the SoCG submitted at D8 [REP8-004] and Table 1 of the MMO's D7

Submission [REP7-111] record the outstanding concerns regarding the drafting of the DCO.

- 16.4.2. The MMO used the term 'article' interchangeably when it referred not only to articles but to conditions, requirements, paragraphs and other elements of drafting within the DCO. For the purposes of clarity for this Report, when considering the MMO's concerns the ExA has reverted to the correct term.

Part 1, Article 2

- 16.4.3. In its Relevant Representation (RR) [RR-020, paragraph 2.2.13] the MMO requested that the definition of 'maintain' should after 'replace' be expanded to include the following additional wording "*(but only in relation to any of the ancillary works in part 2 of Schedule 1 (ancillary works), any cable, any component part of any wind turbine generator, offshore electrical substation, offshore accommodation platform, meteorological mast, and the onshore transmission works described in part 1 of schedule 1 (authorised development) not including removal, reconstruction or replacement of foundations and buildings associated with the onshore project substation)...". The MMO considered that this would provide greater clarity on the extent to which 'maintain' could be applied throughout the Order.*
- 16.4.4. The Applicant [REP1-038, RR-20-2.2.13] confirmed its position that the definition of 'maintain' as drafted was appropriate and consistent with the Hornsea Project Three Offshore Wind Farm Order 2020.
- 16.4.5. The MMO repeated its concern regarding the definition of 'maintain' at D5 [REP5-107, paragraph 4.4.5] to which the Applicant [REP5a-023, 2, 4.4.5] repeated the response provided at D1.
- 16.4.6. At D7 [REP7-111, Table 11] the MMO clarified that they considered this to be a minor point of disagreement and that the positions of the MMO and the Applicant were closed on this, and it would be for the ExA to decide if any amendment should be made.

Part 2, Article 5

- 16.4.7. Throughout the Examination the MMO maintained a concern regarding the drafting of Article 5 [RR-020, AS-031, REP2-077]. As drafted, Article 5 would allow the undertaker to transfer the benefit of the provisions of the Order (including the DMLs, in whole or in part).
- 16.4.8. The MMO advocated [REP2-077, paragraph 2.4.2] that the intention under s149a of the PA2008 is only to amend the method by which a marine licence is obtained, it does not, of itself, make a DML part of the Order. Consequently, the MMO considered that, the draft DCO, by having Article 5 apply to the DMLs would make them become part of the DCO which would allow the transfer of the whole or part of the benefit of the provisions of the DMLs.

- 16.4.9. The MMO [REP2-077, paragraph 2.4.3] did not consider that there was a need to have the Order make provision for transferring the DMLs in Article 5 as there is already a mechanism under the Marine and Coastal Access Act 2009 (MCAA) which would allow their transfer. The MMO considered that Article 5 should be reserved to the transfer of the Order and should not refer to the DML's which should be considered separately and dealt with under the MCAA as would happen for any other marine licence. To address its concerns the MMO requested that all references to the MMO and DML's be removed from Article 5.
- 16.4.10. At ExQ1 [PD-006, DCO.1.6 to DCO.1.8] the ExA asked a number of questions of both the Applicant and the MMO in relation to Article 5. The matter was further examined at ISH1 [EV-008] and the ExA followed this up with a further question in ExQ2 [PD-012, DCO.2.5].
- 16.4.11. In response the Applicant advised [REP1-038, RR-020-2.3.2 and REP2-038, DCO.1.6] that there was a precedent for the proposed wording in other made DCOs, including Hornsea Project Two, Hornsea Project Three, Norfolk Vanguard and Norfolk Boreas. The Applicant therefore did not consider that any change would be necessary.
- 16.4.12. However, in response to ExQ2 [PD-012, DCO.2.5] the Applicant [REP5-074, DCO.2.5] subsequently conceded that the wording in the more recent Orders for Norfolk Boreas, Norfolk Vanguard, East Anglia ONE North and East Anglia TWO were different to that which it had proposed. However, it maintained its position that the transfer of part of the DML was competent, appropriate and well precedented in its other Hornsea portfolio projects which it considered were most relevant given their location and communality of ownership and operation. It considered that there was no legal impediment which would prevent the Applicant's preferred drafting, nor any published policy advising against such an approach which would provide the Applicant with greater flexibility.
- 16.4.13. At D5 the MMO [REP5-107, paragraph 4.4.6] repeated its concerns regarding the drafting of Article 5.
- 16.4.14. At the end of the Examination the final draft DCO [REP7-039] retained Article 5 as originally drafted subject to a number of minor drafting amendments.
- 16.4.15. The MMO [REP7-111, Table 1] advised that it maintained its disagreement with the Applicant on this matter and left it to the ExA's discretion. The final signed SoCG [REP8-004, MMO-DCO-01] recorded the position as 'not agreed – no material impact'.

16.4.16. Linked to this the MMO [REP5-107, paragraphs 4.4.13 and 4.4.34 and REP7-111, Table 1] also requested that Article 7 and Article 13(8)³⁸ contained within Schedules 11 and 12 be removed in line with the position to remove all reference to the MMO and the DMLs from DCO Article 5.

Schedules 11 and 12, Part 1, Paragraph 2(a)

16.4.17. Paragraph 2 of Part 2 of each of Schedules 11 and 12 sets out the details of the licensed marine activities the undertaker would be allowed to carry out as a result of the DML. Paragraph 2(a) deals with the disposal of material of natural origin produced during construction.

16.4.18. The MMO advocated [RR-020, paragraph 2.5.7] that for clarity this should be updated to include reference to the disposal sites; separate the volumes per disposal activity; and include boulder clearance within the description. Suggested wording was provided to the Applicant and the ExA.

16.4.19. In addition [RR-020, paragraph 2.5.8] the MMO advised that drill arisings should be added to the list contained within Article 2 and if it wasn't, then Article 2(a) would need to make the volume of drill arisings clear.

16.4.20. The Applicant responded at D1 [RR-020-2.5.7, REP1-038] that it did not believe that it would be necessary to specify the origins of the materials to be disposed of and saw little benefit of separating out the origins of the materials in such a way. Furthermore, it noted that this was not a requirement in the Hornsea Project Three Order.

16.4.21. The MMO repeated its concerns at D5 [REP5-107, paragraphs 4.4.10 and 4.4.11]. The Applicant responded that it considered that such specification in the draft DCO would be unnecessary, and that the pro-rata annex [REP6-006] provided the relevant information which would be a certified document under Article 38 of the draft DCO and secured for these purposes by Condition 1(9) of Schedule 11 and Condition 1(13) of Schedule 12 [REP5a-023, paragraphs 4.4.10 and 4.4.11].

16.4.22. At D7 the MMO advised [REP7-111, Table 1] that this point remained outstanding but that it was a point of minor disagreement, and it was therefore at the ExA's discretion whether a change should be made.

Schedules 11 and 12, Part 2, Condition 4 (6)

16.4.23. In its RR [RR-020, paragraph 2.5.16] the MMO advocated that an additional condition to submit an Operations and Maintenance Plan (OMP)

³⁸ As Schedules 11 and 12 do not contain an Article 7 or 13(8), the ExA has assumed that the MMO was referring to Conditions 7 and 13(8) of Schedules 11 and 12, Part 2 and considered the matter accordingly.

to the MMO six months prior to any maintenance works taking place should be included within the DML.

- 16.4.24. In response [REP1-038, RR-020-2.5.16] the Applicant advised that it was considering the request with the intention of preparing an Outline OMP which would relate to licensable activities. Once the plan had been prepared then the Applicant intended to update the interpretations and the DML.
- 16.4.25. At D2 [REP2-043] an Outline Offshore OMP was submitted into the Examination and at D3 [REP3-007] Condition 4 of Schedules 11 and 12 was amended to include "(6) *No maintenance works authorised by this licence may be carried out until an operations and maintenance plan substantially in accordance with the outline operations and maintenance plan has been submitted to and approved in writing by the MMO*".
- 16.4.26. At D5 the MMO [REP5-107, paragraph 4.4.15] advised that whilst it appreciated the inclusion of the OMP, it advised that it considered that the timeframe for submission should be six months prior to the planned works commencing. The Applicant advised [REP5a-023, paragraph 4.4.15] that it considered that the standard period of four months would be appropriate for submission of the OMP for approval as provided for by Condition 14 of Part 2, Schedules 11 and 12.
- 16.4.27. The MMO [REP6-050, paragraph 4.4.35] repeated its request for a six-month time frame, with the Applicant repeating its response [REP7-090, paragraph 4.4.35].
- 16.4.28. As the Examination progressed, Condition 4 was revised so that in the final draft DCO [REP7-039] this requirement had become 4(4).
- 16.4.29. At the close of the Examination the four-month timeframe for the submission of an OMP remained. As a result, the MMO [Table 1, REP7-111] records that disagreement with the Applicant on this matter is understood to be final and it is left to the ExA's discretion whether a change should be made.

Schedules 11 and 12, Part 2, Condition 5(1)

- 16.4.30. The MMO [AS-031, paragraph 3.1.9] objected to the inclusion of the words "*under its control*" in Condition 5(1) on the basis that it would restrict the provision to only those vessels under the direct control of the undertaker and not agents or contractors.
- 16.4.31. The Applicant [REP3-031, paragraph 2.6.21] disagreed with the MMO's interpretation and did not consider amendments to the draft DCO to be necessary. The phrase "*under its control*" ensured that the condition would apply to vessel's operating under the control of the undertaker's agents and contractors.

- 16.4.32. The MMO repeated its request at D5 [REP5-107, paragraph 4.4.16] with the Applicant re-providing the same response [REP5a-023, paragraph 4.4.16].
- 16.4.33. At the close of the Examination the wording “*under its control*” remained in Condition 5(1) of the final draft DCO [REP7-039]. As a consequence, the MMO [REP7-111, Table 1] advised that it understood the disagreement with the Applicant on this matter to be final and it was left to the ExA’s discretion whether a change should be made.

Schedules 11 and 12, Part 2, Condition 7(7)

- 16.4.34. Condition 7(7) would amongst other things require the undertaker to give at least five days’ notice to the MMO before the commencement of licensed activities.
- 16.4.35. The MMO [RR-020, paragraph 2.5.24] requested that this should be increased to 14 days to ensure that there would be enough time for the MMO to organise compliance inspections.
- 16.4.36. In response the Applicant [REP1-038, RR-020-2.5.24] advised that it did not consider that it would be necessary to extend the timeframe and advised that five days prior to commencement had been accepted for Hornsea Project Three, Norfolk Boreas and Norfolk Vanguard.
- 16.4.37. The MMO repeated its request at D5 [REP5-107, paragraph 4.4.20] and D6 [REP6-050, paragraph 2.8.7] with the Applicant re-providing the same response it provided at D1 [REP7-090, paragraph 2.8.7].
- 16.4.38. At the close of the Examination the five-day notice period remained within Condition 7 of the final draft DCO [REP7-039]. The MMO [REP7-111, Table 1] stated that it understood that the disagreement with the Applicant on this matter to be final and it was left to the ExA’s discretion whether a change should be made.

Schedules 11 and 12, Part 2, Condition 11(4)

- 16.4.39. Condition 11(4) would require the undertaker to inform the MMO annually of the location and quantities of material disposed of each month under the Order. However, the concerns raised by the MMO [REP7-111] under this reference relate to sediment sampling and analysis.
- 16.4.40. Chapter 7 of this Report considers in detail the concerns raised by the MMO in terms of sediment sampling and analysis and the Applicant’s responses. The main concern being that the analysis had not been undertaken by a validated laboratory. At D7 [REP7-111, Section 5] the MMO reported that it had agreed to review and comment on the particle size analysis on the provision that a condition was included in the DMLs that either the samples would be re-analysed by a validated laboratory or that the Applicant provided evidence that the laboratory that had undertaken the analysis had been validated, and that this was worded

such that no works relevant to sediment disturbance would start until the condition had been discharged in consultation with the MMO.

- 16.4.41. The Applicant updated the Outline Marine Monitoring Plan [REP7-058] with:

"In the event that the pre-application Particle Size Analysis (PSA) results have not been approved by the MMO prior to DCO award, no disposal activities associated with Hornsea Four will take place until the MMO have provided this approval in writing."

- 16.4.42. At the close of the Examination, the Applicant reported [REP8-016] that the samples had been re-analysed by a laboratory validated by the MMO for particle size analysis and that the results had been made available to the MMO. Notwithstanding this, the Applicant retained the new requirement in the Outline Marine Monitoring Plan [REP7-058] to commit to the MMO's request. A copy of the completed MMO template spreadsheet was submitted into the Examination at Deadline 8 [REP8-018]. Given the timing, there was no realistic opportunity for the MMO to indicate whether it was content with the re-analysis before the Examination closed.

Schedules 11 and 12, Part 2, Condition 12

- 16.4.43. The MMO considered [AS-031, paragraph 3.1.42] that this condition would be unnecessary. Section 86 of the MCAA provides a defence for action taken in an emergency in breach of any licence conditions. The MMO sought justification as to why the condition was considered necessary by the Applicant.
- 16.4.44. At ISH1 the Applicant [REP3-043, 3] advised that in its opinion Condition 12 would not duplicate the provisions of the MCCA, rather it would be a reporting requirement which would oblige the Applicant to notify the MMO if unauthorised deposits were made in an emergency.
- 16.4.45. The MMO, at D5 repeated its concern [REP5-107, paragraph 4.4.25] with the Applicant repeating its response [REP5a-023, paragraph 4.4.25].
- 16.4.46. At D7 the MMO maintained their position [REP7-111, Table 1] but advised that in the event the Applicant maintained that the proposed provision would not duplicate s86 of the MCCA and instead introduces a reporting requirement which did not previously exist, then the MMO was of the opinion that it should be made clear that the provision would be in addition to s86 and its requirements.
- 16.4.47. The MMO advises that its understanding was that the disagreement with the Applicant on this matter was final and left it to the ExA's discretion whether a change should be made.

Schedules 11 and 12, Part 2, Condition 13(1)(j) Southern North Sea Special Area of Conservation (SAC) Site Integrity Plan.

- 16.4.48. In order to ensure that the DCO accords with the MMO's latest measures to enable efficient management of Site Integrity Plans (SIPs) the MMO advocated [RR-020, paragraph 2.5.40] that Condition 13(1)(j) should be deleted and replaced by a standalone condition requiring the submission and approval of a SIP for the Southern North Sea SAC. This would also require the interpretations section to be updated to include a definition for 'JNCC Guidance'.
- 16.4.49. The Applicant responded [REP1-038, RR-020-2.5.40] that it did not consider that the proposed condition added anything further to the existing wording. Under Condition 13(1)(j) as drafted the Applicant cannot commence licensed activities until the MMO is satisfied that the SIP provides adequate mitigation to avoid adverse effects on integrity. The Applicant could not see the benefit of requiring the SIP to repeat guidance and objectives readily available elsewhere and which, in any event, it would need to comply with. The Applicant noted that the MMO's proposed condition was not included in the Orders for Hornsea Project Three, Norfolk Vanguard or Norfolk Boreas.
- 16.4.50. At D5 [REP5-107] the MMO repeated its request for the deletion of Condition 13(1)(j) and replacement with a standalone condition. At D5a the Applicant [REP5a-023, 4.4.28] responded that it did not consider it necessary to amend the drafting of this condition, which is well understood, long established and precedented within the offshore wind industry. The Applicant considered that the condition as drafted was preferable to that proposed by the MMO as it was more precise and enforceable.
- 16.4.51. At D6 the MMO requested [REP6-050, paragraph 2.8.16] that the reference to four months be updated to six months within both SIP and DMLs and maintained its position that a standalone SIP condition would be preferable.
- 16.4.52. At the close of the Examination the condition remained as originally drafted by the Applicant. The MMO [REP7-111, Table 1] advised that it understood that the disagreement with the Applicant on this matter to be final and left it to the discretion of the ExA.

Schedules 11 and 12, Part 2, Condition 14

- 16.4.53. Condition 13 of the draft DML's set out a number of documents and plans that would need to be submitted for approval prior to the commencement of development. Condition 14 set out the timeframes for the submission and approval of these documents, with 14(3) requiring that the MMO must determine an application made under Condition 13 within a period of four months commencing on the date the application was made, unless otherwise agreed in writing by the undertaker.

- 16.4.54. Throughout the Examination the MMO raised concerns regarding the proposed four-month timescale for the submission and approval of documentation as it did not consider that this provided sufficient time for it to consider post consent documentation [AS-031, paragraph 3.3.2]. Whilst it acknowledged that a four-month timescale was considered appropriate for round 1 developments, it advocated that these were smaller, closer to shore and with fewer complex environmental concerns [AS-031, paragraph 3.3.3].
- 16.4.55. The MMO considered that for this application a six-month timescale for the submission of documents prior to the commencement of development would be more appropriate advocating [AS-031, paragraph 3.38] that it would be of benefit to the Applicant as there would be less risk of needing an extension or the Applicant facing delays.
- 16.4.56. At D1 [REP1-002] the Applicant amended the DCO introducing a six month prior to the commencement of development timeframe for the submission of the following plans:
- a. marine written scheme of archaeological investigation pursuant to condition 13(2);
 - b. fisheries coexistence and liaison plan pursuant to condition 13(6);
 - c. design plan pursuant to condition 13(1)(a); and
 - d. cable specification and installation plan pursuant to condition 13(1)(h).
- 16.4.57. However, for all other plans and documents the Applicant maintained that a four month prior to the commencement of development time frame for submission would be appropriate. Furthermore, Condition 14(3) remained unchanged.
- 16.4.58. At D5 [REP5-107, paragraph 4.4.35] the MMO maintained its objection to the proposed timeframes and in addition sought a six-month timescale for submission of the 'outline operations and maintenance plan' (Condition 4(4)) and the 'outline marine mammal mitigation protocol' (Condition 13(1)(g))³⁹.
- 16.4.59. The Applicant [REP5a-023, 4.4.35] advised that it continued to consider that four months was an appropriate and proportionate timescale for the submission of documents.
- 16.4.60. The MMO maintained its concerns regarding timescales and determination dates at D6 [REP6-050]. It also highlighted that the

³⁹ Both of these documents would be certified under Schedule 15 of the draft DCO. As a result, the ExA assume that it is the submission of documents in accordance with these outline plans required by Condition 4(4) and Condition 13(11)(g) respectively that the MMO was referring to.

recently made DCO for Sizewell C favoured the MMO's position on the removal of determination dates from the conditions of DML's.

- 16.4.61. At the end of the Examination the final draft DCO [REP7-039] retained the four-month period for the submission and approval of most plans and the four-month timeframe for the MMO to determine applications remained unaltered. The signed SoCG [REP8-004, MMO-DCO-02] recorded the position as 'not agreed - no material impact'.
- 16.4.62. At D7 [REP7-111, Table 1] the MMO reported that the disagreement with the Applicant on this matter is understood to be final and left it to the ExA's discretion.

Schedule 11, Part 2, Condition 23 and Schedule 12, Part 2, Condition 25

- 16.4.63. Conditions 23 and 25 would manage the stages of construction, part (1) of these conditions would require a written scheme setting out the stages of construction seaward of Mean High Water Springs (MHWS) to be submitted to and approved in writing by the MMO. Part (4) of these conditions requires that the written scheme referred to in (1) be submitted to the MMO four months prior to the commencement of the planned activities. For the same reasons given for Conditions 13 and 14 the MMO considered [RR-020] that this should be a six-month time period.
- 16.4.64. The Applicant [REP1-038, RR-020-2.5.58], advised that it considered that four months in relation to this matter would be sufficient.
- 16.4.65. At the end of the Examination the final draft DCO [REP7-039] retained the Applicant's preferred wording. The MMO [Table 1, REP7-111] advised that it maintained its disagreement with the Applicant on this matter and left it to the ExA's discretion whether a change should be made.

Schedule 12, Part 2, Condition 23

- 16.4.66. In the event that driven pile foundations are to be used, Condition 23 would prevent this from occurring between the 1 September and the 16 October in order to avoid the peak herring spawning season. The MMO [RR-020, paragraph 2.5.62] requested that the date period be updated to "*between 1st August and 31st October each year*" because there was no data presented which could reasonably determine what the 'peak' weeks/ months of spawning are for the Project area [RR-020, paragraph 3.7.34].
- 16.4.67. The MMO advised [RR-020, paragraph 3.7.35] proposed dates are based on a refinement of a seasonal piling restriction that was agreed in the past for a different offshore windfarm development (Triton Knoll) which is located further south, and these refined dates were based on evidence presented at that time, specifically in relation to that development.

- 16.4.68. The MMO advised [RR-020, paragraph 3.7.63] that they had provided pre-application advice on how to acquire further data and evidence which could be used to determine more accurately what the 'peak' spawning season is for the project area. However, the MMO considered that the ES did not take this advice into account and as result no new evidence had been provided to support the dates contained within the draft DCO [APP-203].
- 16.4.69. At D1 [REP1-038, RR-020-3.7.26] the Applicant advised that it had prepared a clarification note [REP1-039] that indicated that the 'peak' herring spawning season was between approximately 5 to 8 September. Therefore, the proposed restriction between 1 September and 16 October would, in the opinion of the Applicant, effectively cover this period.
- 16.4.70. Although the Applicant subsequently revised the dates to 21 August to 23 October. The MMO maintained its position throughout the Examination [REP6-050]. At D7 [REP7-111, Table 1] the MMO advised that it was in the process of reviewing the note on herring spawning submitted at D7 [REP7-066] and would advise whether this addressed its concerns at D8.
- 16.4.71. At D8 [REP8-022, paragraphs 1.3.21 to 1.3.24] the MMO advised that, based on the recommended values of the back calculation, it maintained that a start date of 1 August would be required for piling restrictions. However, it was conditionally content to agree the Applicant's proposed end date of 23 October.
- 16.4.72. As a result, this matter remained outstanding at the close of the Examination.

Schedule 1, Part 3, Requirement 31 and Schedules 11 and 12, Part 1, Paragraph

- 16.4.73. The MMO [RR-020, paragraph 2.1.16] advised that it strongly considered that the activities authorised under the draft DCO and draft DMLs should be limited to those that were assessed in the Environmental Impact Assessment (EIA) and therefore requested that the phrase, "*unlikely to give rise to any materially new or materially greater environmental effects*" should be updated to reflect this.
- 16.4.74. The Applicant advised [REP1-038, RR-020—2.1.6] that it considered that the drafting was sufficient and was in line with drafting for similar projects such as Hornsea Project Three, Norfolk Vanguard and Norfolk Boreas. Paragraph 9 of each of these DMLs contains the same wording as that contained within the draft DCO [APP-203]. The Applicant considered that the ES captured the results of the EIA and as such Article 9 would limit the activities permitted in the DMLs to those assessed by the EIA. Any change to approved details that would lead to a change in the likely significant effects assessed in the ES would be considered material and would no longer be authorised by the DMLs.
- 16.4.75. At D7 [REP7-111, Table 1] the MMO noted the response provided by the Applicant at D1 [REP1-038]. It advised that whilst it reassured the MMO

the use of the wording “*immaterial changes*” continued to leave it unclear within the DCO and DMLs. The MMO considered that the Applicant could resolve this by adding a definition of “*immaterial changes*” within Article 1 of the DMLs to clarify this. The MMO concluded that it considered that this was a minor point of disagreement and that the position was final and closed for the ExA’s discretion. The signed SoCG [REP8-004, MMO-DCO-03] records the position as ‘not agreed - no material impact’.

NATURAL ENGLAND [REP8-031]

- 16.4.76. NE [RR-029] raised a number of concerns in relation to the drafting of the DCO and DMLs [APP-203]. These matters were the subject of extensive questions at ExQ1[PD-006] and ExQ2 [PD-012]. The concerns were also discussed at ISH1 [EV-008] and ISH7 [EV-031] and were the subject of a request for further information under Rule 17 [PD-008], [PD-014] and [PD-018]. The Applicant worked pro-actively to resolve many of these issues. As a result, the following section, based on NE’s Risk and Issues Log [REP8-031] only considers those matters that remained outstanding at the close of the Examination.

Part 1, Article 2

- 16.4.77. NE were concerned that the definition of ‘maintain’ did not link to an Outline OMP. The definition and interpretation of what is permitted under maintain is linked to the ES. NE acknowledged that the project description [REP6-002, tables 4.43 to 4.45] did give detailed information on what maintenance would be expected but considered that the standard approach of using an OMP to provide further detail over what was and was not licensed would significantly reduce the risk during operation and could provide a point of reference for approvals and consenting during the lifetime of the project.
- 16.4.78. The Applicant [AS-036, Point 2] considered that referencing the outline offshore OMP in the definition of ‘maintain’ was inappropriate and, so far as it was aware, unprecedented. The Applicant was also unclear as to what purpose it would serve.
- 16.4.79. An outline offshore OMP was submitted at D2 [REP2-043] and updated at D5a [REP5a-007]. Furthermore, a definition of outline offshore OMP was added to the definitions included within Part 1 of Schedules 11 and 12 (the DMLs).
- 16.4.80. However, the request by NE to have the definition of maintain link to the outline offshore OMP in Article 2 of the DCO remained outstanding at the close of the Examination. The Risk and Issues log [REP8-031] recorded that NE did not agree with the Applicant’s position and considered that it could make a material difference to the outcome of the decision-making process.

Schedule 1, Part 3, Requirement 1

- 16.4.81. NE noted that the maximum volumes of dredge works, such as sandwave clearance whilst provided in Schedule 1, Part 1 of the draft DCO were not provided in the requirements. As dredging is a significant impact and an important parameter to enforce NE considered it should be included within this Requirement. However, NE acknowledged that, as the figures were provided in the DMLs and the maximums would be enforced by the MMO, it did not think that this was a major issue in and of itself.
- 16.4.82. The Applicant [AS-036, Point 3] advised that it considered that the maximum volumes were sufficiently secured via the description of the development in Part 1 of Schedule 1 of the draft DCO and the description of licensable activities contained in the draft DMLs. As a result, the Applicant considered that any further duplication would be unnecessary. The Applicant also noted that it was not aware of any such additional requirement being included in the made Orders for other offshore wind farms including the most recent ones for East Anglia ONE North and East Anglia TWO (2022).
- 16.4.83. At the close of the Examination the Risk and Issues Log [REP8-031] recorded that NE did not agree with the Applicant's position and that it would have liked the matter addressed but that it was satisfied that for this particular project it was unlikely to make a material difference.

Schedule 1, Part 3, Requirement 2(6), 3(11) and 3(12)

- 16.4.84. NE noted that whilst Requirement 2(6) gave the maximum footprint for all turbines there was no limitation on the maximum scope per individual foundation. It noted the same issue with regard to the substation foundations at Requirement 3(11) and (12). This issue was repeated in the equivalent conditions in the DMLs. NE requested that the maximum footprint for individual turbine foundations and other marine structures was provided within the DCO and the DMLs.
- 16.4.85. The Applicant [AS-036, Point 5] considered that specifying this information in the DCO was unnecessary. The detail was provided in the Pro-rata Annex [REP6-006] which would be a certified document for the purposes of Article 38 of the draft DCO and which would be secured by Requirements 2(3) and 4(14) of the draft DCO and conditions 1(9) and 2(6) of Schedule 11 and condition 1(13) of Schedule 12 (the DMLs).
- 16.4.86. At the close of the Examination the Risk and Issues Log [REP8-031] recorded that NE did not agree with the Applicant's position and considered that it could make a material difference to the outcome of the decision-making process.

Schedule 1, Part 3, Requirement 24 (Requirement 25 in [REP7-039])

- 16.4.87. NE considered that the relevant Statutory Nature Conservation Body (SNCB) should be consulted upon any decommissioning plan and that consultation should be secured within this Requirement.
- 16.4.88. The Applicant [AS-036, Point 6] considered that the drafting of Requirement 24 was appropriate as the local planning authority could, at the appropriate time, consult with those bodies it deemed appropriate. Furthermore, the Applicant noted that its drafting had precedent in the Hornsea Project Three, Norfolk Boreas and Norfolk Vanguard Orders. The Applicant did, however, acknowledge that East Anglia ONE North and East Anglia TWO Orders each made provision for the SNCB to be consulted on the onshore decommissioning plan.
- 16.4.89. At the close of the Examination the Risk and Issues Log [REP8-031] recorded that NE's position remained unchanged but that this was an issue where the decision-maker may make a decision on the drafting.

Schedule 11, Part 2, Condition 4

- 16.4.90. NE advised that it had concerns regarding the granting of a licence for cable protection deployment across the lifetime of the development [RR-029, Point 34].
- 16.4.91. The Applicant [REP1-038, RR-029-APDX-A-34] advised that it proposed to limit the cable repair deployment licensed under the draft DCO to 15 years and updated the draft DCO accordingly.
- 16.4.92. NE advised [REP8-031] that it considered that cable protection outside of marine designated sites should only be licensed for a maximum period of 10 years after construction, citing in support the evidence that it provided to the Norfolk Boreas examination.
- 16.4.93. The Risk and Issues log [REP8-031] recorded that at the close of the Examination NE did not agree with the Applicant's position and considered that it could make a material difference to the outcome of the decision-making process.

Schedule 11, Part 2, Condition 13(1)(j)

- 16.4.94. This condition would secure the use of a SIP so that in combination projects and the project alone do not have an adverse effect on the integrity of the Southern North Sea SAC. However, NE was concerned that recent decisions have reduced certainty that this condition would adequately address the issues of in combination impacts. This condition is linked to Condition 14 which requires the document to be produced no later than four months prior to commencement. However, NE considered that it should be a minimum of six months.

- 16.4.95. The Applicant responded [AS-035, Point 8] that it had provided “*indicative dates*” in the Outline Southern North Sea SAC SIP for the review and revision process for the SIP. This included an indicative timescale of between six to nine months prior to construction start for review of the SIP with NE and the MMO. These dates were however indicative, and the Applicant discussed these timings with NE (07 July 2022). As a result, the Applicant proposed a phased approach to the sign-off for the SIP which has been informed by consultation with NE and applying lessons to be learned from the sign-off of the Hornsea Project Two SIP. The updated SIP would be submitted to the MMO 12 months before the start of construction for consultation (Phase 1). Comments received from the MMO would then be used to update the Final SIP to be submitted for sign-off no later than four months prior to intended commencement (as secured by Condition 14 of Part 2 of Schedules 11 and 12) (Phase 2). The timing of this proposed phased sign-off is to be agreed with MMO.
- 16.4.96. At the close of the Examination NE [REP8-031, Point 19] maintained its position that the timings for the SIP needed to be secured. The Risk and Issues Log [REP8-031] recorded at the close of the Examination that NE considered that unless this issue was resolved then it would have to advise that it would not be possible to ascertain beyond reasonable scientific doubt that the Proposed Development would not affect the integrity of the Southern North Sea SAC.

Schedule 12, Part 2, Condition 26(1)(a)

- 16.4.97. This condition refers to the final number of installed turbines. This licence does not cover turbine installation and NE considered that the condition should therefore refer to the number of substations [RR-029, Point 17].
- 16.4.98. The Applicant [REP1-038, RR-029-APDX:A -17] agreed with NE and amended the draft DCO accordingly [REP1-002].
- 16.4.99. At D5a [REP5a-031, 17] NE observed the amendment but also noted that the requirement for a close out report had been removed from the condition which it considered was still needed and should be reinstated.
- 16.4.100. The Applicant advised [AS-036, Point 17] that it had reinserted Condition 26 following further discussion with the MCA but that it considered any further close out report requirements to be unnecessary. Construction works would be carried out in accordance with the design plan required by Condition 13(1)(a) and the cable specification and installation plan required by Condition 13(1)(h) of Part 2 of Schedule 12.
- 16.4.101. The Applicant noted that the requirements for a ‘close out’ report were first included in the Norfolk Boreas Order and was included by the SoS to address paragraph 2.29.2 of draft NPS EN-3 to address ‘ecological headroom’ concerns relating to impacts on seabird species associated with wind turbine generators. The Applicant therefore considered it

irrelevant and unnecessary to include the condition in Schedule 12 of the DCO which is for a DML for transmission assets.

- 16.4.102. At the close of the Examination NE [REP8-031, Point 16] noted the Applicant's response. However, it maintained its position that a close out report for transmission assets would be valuable to confirm the end of construction and provide final details of cable and cable protection. However, it was content for the SoS to determine if there was a need for this requirement.

Suggested new schedule for landfall works

- 16.4.103. Although not raised previously within the Examination at D8 [REP8-031, Point 18] NE suggested that there might be merit in including the landfall activities within a separate schedule of the DCO/ DMLs.
- 16.4.104. NE explained that as landfall works usually commence ahead of the other offshore transmission works this can result in developers seeking partial discharge of conditions and associated documents to enable these works to progress. As a result, NE suggested that the inclusion of these works in a separate schedule could give greater clarity to all parties and allow more efficient discharge of conditions post consent. NE advised that it would welcome feedback from the Applicant and the MMO on this suggestion.
- 16.4.105. NE's Risk and Issues Log [REP8-031] recorded that this was an issue where the SoS may make a decision on the drafting.

Schedule 1, Part 3, Requirement 3(13) and Schedule 11

- 16.4.106. NE noted the changes at Schedule 1, Part 3, Requirement 3(13) and the similar changes in Schedule 11 with regard to the increase in the number of gravity base structures. NE advised that it responded with regard to this in relation to the benthic and coastal processes impacts and that the position is that no gravity bases should be used.
- 16.4.107. At the close of the Examination the Risk and Issues Log [REP8-031, Point 19] recorded that NE did not agree the Applicants position and considered that this matter could make a material difference to the outcome of the decision-making process.

Provisions related to maintenance

- 16.4.108. At D8 [REP8-031, Point 20] NE noted the removal of provisions related to maintenance not considered within the environmental assessment in Schedules 11 and 12, Part 2, Condition 4.
- 16.4.109. NE interpreted that this would mean that any maintenance not covered in the ES would require a separate Marine Licence. However, it advised it would appreciate clarification on this point.
- 16.4.110. No response was received from the Applicant and as such this matter remains outstanding with the Risk and Issues Log [REP8-031] recording

that NE did not agree the Applicants position and considered that this matter could make a material difference to the outcome of the decision-making process.

Schedule 12, Part 2, Condition 3(2)

16.4.111. NE [REP8-031, Point 21] noted the changes proposed within Condition 3(2) which would limit the cable protection within Smithic Bank to 5% of the length of cable within the area. Whilst it accepted the wording proposed, this was without prejudice to its concerns expressed elsewhere that the cable protection should not be used within this area.

16.4.112. As this comment was made at D8 the Applicant did not have an opportunity to provide a response.

New Commitment

16.4.113. NE [REP8-031, Point 23] noted that potential impacts to Habitats of Principal Importance during operation and maintenance activities had not been addressed. It requested the inclusion of a commitment to avoid/ reduce/ mitigate impacts to priority habitat as far as possible during the Operation and Maintenance phase, and a reference to this within the outline OMP.

16.4.114. As this request was submitted at D8 the Applicant did not have an opportunity to provide a response.

Note regarding Schedule 16

16.4.115. The Applicant has provided two versions of Schedule 16, one included within the DCO [REP7-039] and one provided on a without prejudice basis [REP7-079]. The without prejudice Schedule 16 duplicates the one included in the DCO but contains additional text for the proposed compensatory measures for guillemot and razorbill. When commenting on Schedule 16 NE made reference to both schedules. For ease of reference the ExA has used italics to differentiate between the two schedules.

16.4.116. NE also referred to the contents of these schedules as conditions. However, the correct term is paragraph and for accuracy this is the term that the ExA has used. Throughout the Examination both schedules were updated and amended by the Applicant to address issues and concerns. This resulted in changes to paragraph numbering as text was added or removed. As a result, the original reference provided by NE may no longer be valid. In order to enable cross referencing to the final draft DCO [REP7-039] and the final without prejudice Schedule 16 [REP7-079] where this has occurred the ExA has included the updated reference in brackets.

Schedule 16, Part 1, Paragraph 2

16.4.117. NE advocated [RR-029, Point 19] that this paragraph needs to include a requirement to consult the relevant SNCB, as well as all other members

of the Hornsea 4 Offshore Ornithology Engagement Group (H4 OOEG). This paragraph includes the terms of reference (TOR) that the H4 OOEG would adhere to, as well as details of the requirements upon the members in terms of timetables, meetings etc. Also, the details of the dispute mechanism and what the scope of the discussions of the H4 OOEG would cover. NE considered that it was essential that these factors were discussed and ideally agreed with all the members of the H4 OOEG but that this was not currently secured within these draft paragraphs.

- 16.4.118. The Applicant [REP1-038, RR-029-APDX: A-19] advised that it considered that there would already be adequate opportunity for consultation as the Applicant would be required to consult with the OOEG before submitting the plan to the SoS. In addition, the SoS would consult with the member of the OOEG when considering the plan.
- 16.4.119. NE noted this response. However, it considered that the draft Kittiwake Compensation Implementation and Monitoring Plan (KCIMP) document would be produced after the OOEG TOR, timetables, requirements, membership and dispute mechanism. As a result, NE advocated that, if the OOEG is to be bound by these documents they should be consulted on them. As currently drafted NE considered that the OOEG would be informed of the obligations on them with no formal opportunity to respond. It noted that section 1.4.1.3 of the Kittiwake Compensation Plan [REP5-016] stated that "*TOR will be agreed between the parties*" and it considered that this should be secured in the paragraph.
- 16.4.120. The Applicant responded [AS-036, Point 19] that the proposed drafting would require a plan of work for the H4 OOEG to be approved by the SoS prior to the commencement of the relevant works. It considered that this approach was consistent with drafting to secure derogation provisions included in a number of other made Orders including Hornsea Project Three, Norfolk Boreas, Norfolk Vanguard and East Anglia ONE North and East Anglia TWO. As a result, the Applicant considered that the appropriateness of the provision had been established by the SoS. To add additional consultation requirements, it considered was unjustified and would risk time delay to the project.
- 16.4.121. At the close of the Examination NE [REP8-031, Point 19] noted the Applicants response. However, it maintained its original position. As a result, the Risk and Issues Log [REP8 -031] recorded at the close of the Examination that NE considered that unless this issue was resolved then it would have to advise that it would not be possible to ascertain beyond reasonable scientific doubt that the Proposed Development would not affect the integrity of a SPA/ SAC/ Ramsar.

Schedule 16, Part 1, Paragraph 3(c) and Part 2 Paragraph 3(c)

- 16.4.122. NE [RR-029, Point 22] was concerned with the significant reduction in lead in times proposed by the Applicant compared to those agreed for Hornsea Project Three. In addition, it highlighted that the breeding season as defined by the Applicant (1 April to 31 August) was

inconsistent with that accepted for Hornsea Project Three (1 March to 30 September). NE advocated that evidence was needed to justify both.

- 16.4.123. Furthermore, NE considered that the compensation needed to be delivering and not just implemented prior to impact. Noting the wording for adaptive management at 3(f) did not capture changes to timelines for the measures, or to the development should the monitoring highlight the measures were not delivering the required compensation.
- 16.4.124. The Applicant responded [REP1-038, RR-029-APDX-A-22] that both the Applicant and NE's approach to assessing gannet and kittiwake was provided within the Report to Inform the Appropriate Assessment and its associated annex. In relation to lead in times the Applicant accepted NE's comments and made a commitment to implementing the nesting structures three breeding seasons ahead of operation of the windfarm and amended the draft DCO accordingly [REP1-002].
- 16.4.125. At D5a [REP5a-031] NE welcomed the increase in lead in times but pointed out that as kittiwake do not breed until they are 4+ years old breeding recruits would not enter the biogeographic population until that point. As a result, it considered that justification was needed on the deviation from the four breeding seasons consented for Hornsea Project Three, Norfolk Boreas and Norfolk Vanguard demonstrating that the required colony size/ growth would be achievable prior to wind farm operation for the reduced lead in time.
- 16.4.126. The Applicant [AS-036, Point 22] highlighted the response provided to the Norfolk Boreas and Norfolk Vanguard Examinations [REP3-046, HRA.1.2.26 and REP2-038, HRA.1.26].
- 16.4.127. At D8 [REP8-031, Point 22] NE repeated its D5a concern and advised that it did not agree with the Applicants position and considered that this matter could make a material difference to the outcome of the decision-making process.

Schedule 16, Part 1, Paragraph 3 (d) and Part 2, Paragraph 3 (d) (now (e) in [REP7-039] and [REP7-079])

- 16.4.128. NE [RR-029] considered that this paragraph should include monitoring and reporting on the effectiveness of the measures, as has been included for the guillemot and razorbill measures (8(a)(iv)).
- 16.4.129. The Applicant accepted [REP1-038, RR-029-APDX: A-23] this request and amended the draft DCO accordingly [REP1-002].
- 16.4.130. At D5a [REP5a-031] NE welcomed that the paragraph had been updated to include a requirement to monitor but noted that it did not include a requirement to report the results of the monitoring and the effectiveness of the compensation for either measure.
- 16.4.131. In response [AS-036, Point 23] the Applicant advised that in each case the proposed drafting to secure compensatory measures would make

provision for reporting to the SoS and was therefore unclear what further provision NE was seeking.

- 16.4.132. At the close of the Examination NE advised that it maintained its position [REP8-031, Point 23] and considered that this matter could make a material difference to the outcome of the decision-making process.

Schedule 16, Part 1, Paragraph 3(e) and Part 3 Condition 8 (a)(v) and (b)(iv) (now Paragraph 3 (f) [REP7-039] and Part 5, Paragraph 1 [REP7-079])

- 16.4.133. NE [RR-029] advised that it considered that this paragraph should not just require a reporting of the consultation. It should require the Applicant to detail how the consultation responses have been considered and give information explaining why any recommendations or advice has not been included.
- 16.4.134. The Applicant [REP1-038, RR-029-APDX-A-24] considered that the current drafting was sufficient. The Applicant would be required to submit the Gannet and Kittiwake Implementation and Monitoring Plan (GKIMP) to the SoS for approval, who would as part of their consideration, consider the responses to consultation and whether the Applicant had sufficiently considered them.
- 16.4.135. At D5a [REP5a-031] NE maintained its position.
- 16.4.136. The Applicant [AS-036, Point 24] advised that it considered the requirement for the KCIMP to include "*recording of H4 OOEK consultations*" to be appropriately phrased to ensure the Applicant has regard to feedback. However, the Applicant noted the wording used in Hornsea Project Three and the East Anglia ONE North and East Anglia TWO to "*recording of consultations and project reviews*" and amended the draft DCO to reflect this wording at D7 [REP7-039].
- 16.4.137. At D8 NE noted the updated DCO but maintained its objections. As a result, the Risk and Issues Log records that NE does not agree with the Applicant's position and considered that this matter could make a material difference to the outcome of the decision-making process [REP8-031, Point 24].

Schedule 16, Part 1, Paragraph 3 (f) and Part 3, Paragraph 8 (a)(vi) and (b)(v) (now Condition 3(g)[REP7-039] and Part 5, Condition 1 (a)(vi) and (b)(v) [REP7-079])

- 16.4.138. NE [RR-029] raised similar concerns to those set out in the previous section and also highlighted that it considered that in addition captured with any adaptive measures should be any changes to timescales for both the project and for the compensation proposals.
- 16.4.139. The Applicant [REP1-038, RR-029-APDX-a-25] was unclear what NE were requesting and sought further clarification as to what change it was seeking.

- 16.4.140. NE [REP5a-031] advised that the current drafting would require the Applicant, should the monitoring highlight that the compensation measures were not providing compensation, to submit adaptive measures. NE considered that, should the compensation be found to be not or only partially functioning, consideration would need to be given on what the implications of this failure would be for the timeline of providing fully functioning compensation and what this might mean for the feature of the site. The Applicant advised [AS-036, Point 25] that it was seeking further clarification on the matter.
- 16.4.141. At D8 [REP8-031] NE advised that the current paragraph read that the KCIMP must include '*details of any adaptive management measures, with details of the factors used to trigger any such measures*'. NE considered the paragraph therefore simply confirmed that adaptive management measures need to be presented. NE considered that adaptive management measures should be presented with the information needed to consider them, such as what knock-on effects they may have on the timescales of the compensation delivery. Also, as implementation of adaptive management means the compensation is not performing as expected what the impact might be from the failure on the designated feature being compensated for. NE therefore requested that this paragraph be expanded to include consideration of the implications of implementing adaptive management measures, such as on the timeframe for successfully delivering compensation.
- 16.4.142. This point therefore remained outstanding at the close of the Examination. The Risk and Issues Log [REP8-031, Point 25] records that NE did not agree the Applicants position and considered that this matter could make a material difference to the outcome of the decision-making process.

Schedule 16, Part 1, Paragraph 3 (g) and Part 3, Paragraph 8 (a)(vii) and (b)(vi) (now Paragraph 3(h)[REP7-039] and Part 3, Paragraph 8 (a)(vii) and (b)(vii) [REP7-079])

- 16.4.143. NE advised [RR-029] that reporting here should require the provision of this report to all members of the H4 OoEG or to the relevant SNCB as a minimum.
- 16.4.144. The Applicant responded [REP1-038, RR-029-APDX-A-29] that it believed that the current drafting was sufficient and noted that this was consistent with a similar obligation under paragraph 3(f) of Part 1 of Schedule 14 of the Hornsea Project Three Order.
- 16.4.145. At D5a [REP5a-031] NE maintained its concern. The Applicant [AS-036, Point 27] responded that it considered reporting to the SoS, as the regulator of the compensation requirements, to be appropriate and that this approach was consistent with the Hornsea Project Three, Norfolk Boreas, Norfolk Vanguard, East Anglia ONE North and East Anglia TWO Orders.

16.4.146. NE observed no change to its position at the close of the Examination [REP8-031, Point 27] and as such it did not agree with the Applicants position and considered that this matter could make a material difference to the outcome of the decision-making process.

Schedule 16, Part 5, Paragraph 8(a)(iii)

16.4.147. As with the lead in times for artificial nest structures, NE [RR-029] were concerned that implementation of predator eradication and/ or control two years prior to operation of the wind farm would not give sufficient time for the measure to be delivering prior to impact.

16.4.148. The Applicant [REP1-038, RR-029-APDX-A-28] noted NEs concerns and whilst it committed to eradication two years prior to operation advised that it would work towards the indicative timescale for delivery and implementation which would allow for four breeding seasons prior to operation as outlined in the Predator Eradication Roadmap [APP-197].

16.4.149. Whilst NE [REP5a-031] welcomed this it noted that there was no proposed change of wording to secure it. In response the Applicant advised that based on previous examples explored in the Guillemot and Razorbill Predator Eradication Evidence Report [APP-196], island eradication usually takes place over a period of up to two years, but it is anticipated that benefits to guillemot and razorbill populations would be evident the first breeding season following the eradication start (due to a reduction in the number of predators present).

16.4.150. NE observed no change to its position at the close of the Examination [REP8-031, Point 28] and as such it did not agree with the Applicants position and considered that this matter could make a material difference to the outcome of the decision-making process.

Schedule 16, Part 2, Paragraph 1 and Part 4, Paragraph 1

16.4.151. NE advised [RR-029] that the single paragraph for Fish Habitat Enhancement lacked the details as per the other compensatory measures. Key elements such as location, extent, timing, adaptive management, monitoring, reporting etc were not listed to be included. As a result, it considered that this would be insufficient should this be required as part of compensatory measures.

16.4.152. The Applicant advised [REP1-038, RR-029-APDX-1-32] that [APP-199] provided the currently available details on key elements such as location, extent, timing, adaptive management, monitoring, reporting etc for fish habitat enhancement. This document would be updated throughout the Examination to provide further details and the draft DCO wording would incorporate those matters required to secure the measure as a resilience measure.

16.4.153. At D5a [REP5a-031] NE acknowledged that less detail would be required of a resilience measure compared to a compensatory measure, however it would be welcomed if known parameters (eg extent) could be

committed to in the final DCO. The Applicant responded that it considered that the level of detail provided to secure the fish habitat enhancement was appropriate for a resilience measure.

- 16.4.154. At the close of the Examination [REP8-031, Point 32] this matter remained unresolved, and NE did not agree with the Applicant's position or approach. Whilst it would ideally have liked this to be addressed prior to the Examination, NE is satisfied that for this particular project it is unlikely to make a material difference to its advice or the outcome of the decision-making process.

General Comment on without prejudice derogation case

- 16.4.155. NE [RR-029, Point 33] noted that none of the current paragraphs secured the need to produce the target level of compensation each year (on average). NE advised that the concerns regarding this issue were compounded further by its concerns on the adaptive management conditions and needed to be addressed.
- 16.4.156. The Applicant [REP1-038, RR-029-APDX-A-33] advised that the current drafting was consistent with the position taken by the SoS in respect of Hornsea Project Three, Norfolk Boreas and Norfolk Vanguard and therefore did not propose to change the draft DCO. Furthermore the Applicant advised that it was not aware of any other offshore windfarm orders which specified the target level of compensation each year as a condition, given the highly technical information this involves and the variability of the production of chicks in the marine environment not attributable to the relevant applicant or planned compensation. This information was instead presented in an underlying compensation plan, which was secured via DCO condition. The Applicant considers that approach to be necessary, appropriate and precedented.
- 16.4.157. At D8 NE noted the Applicants response but advised that its concerns remain unchanged [REP8-031, Point 33] as a result it advised that it did not agree with the Applicants position and considered that this matter could make a material difference to the outcome of the decision-making process.

16.5. OUTSTANDING CONCERNS IN RELATION TO THE DRAFTING OF PROTECTIVE PROVISIONS

- 16.5.1. Protective provisions for the benefit of the Carbon Storage Licensee are considered in Chapter 10 of this Report.

Part 9 – for the protection of NEO Energy (SNS) Limited (NEO)

- 16.5.2. NEO, who owns and operates the Babbage Field, had concerns [REP2-065, paragraph 1.7 and REP2-066, Section 6] that the Proposed Development might, amongst other things, prejudice future development (including decommissioning) which would prevent it from meeting its

central obligation under the Oil and Gas Strategy. To address this NEO sought protective provisions to be included within the DCO to avoid an adverse impact on and serious detriment to, amongst other things NEO's future operations.

- 16.5.3. At D3 [REP3-007] protective provisions for the benefit of NEO were inserted into Schedule 9 of the draft DCO. The Applicant [REP6-034, 5.16] advised that these were inserted without the agreement of NEO but that they were the subject of on-going discussions. The matter was discussed at ISH7 [EV-031]. As an action point [EV-031a, action point 23] the ExA requested NEO to confirm if it was satisfied with the drafting. This request was repeated in a Rule 17 request [PD-014, Annex B].
- 16.5.4. NEO responded at D6 [REP6-061] advising that discussions with the Applicant on draft protective provisions and reaching a suitable coexistence agreement were continuing.
- 16.5.5. At D7 [REP7-106, paragraph 1.5] NEO reported that although discussions were ongoing it had been unable to reach agreement on the terms of suitable protective provisions or of an associated Co-operation and Co-Existence Agreement. NEO advised [REP7-106, paragraph 1.7] that it considered that the protective provisions included in the draft DCO [REP3-007] would be insufficient to appropriately mitigate the adverse impacts that would arise from the Proposed Development on the operation of the Babbage Field. As a result, NEO had produced alternative draft protective provisions [REP7-106, Appendix A] which it advocated should be preferred to those proposed by the Applicant in order to avoid serious detriment to NEO's undertaking.
- 16.5.6. NEO's concerns related to aviation (helicopter) impacts and shipping and navigation impacts. These are considered in detail in Chapter 10 of this Report.
- 16.5.7. At D8 the Applicant [REP8-014] advised that it disagreed with NEO's protective provisions. It also highlighted [REP8-014, paragraph 1.5.1.1] that Paragraph 5 of the proposed protective provisions would ensure that both parties would be kept informed of 'relevant activities' so that the two parties could seek to co-exist.
- 16.5.8. At the close of the Examination the objection to the protective provision for the benefit of NEO remained outstanding. The ExA considers the substantive areas of dispute on the drafting of these provisions in Section 16.8 of this Chapter.

Part 10 – for the protection of Perenco UK Limited (Perenco)

- 16.5.9. At D8 [REP8-019] the ExA received a joint notification letter from the Applicant and Perenco which advised that the Applicant and Perenco had entered into an agreement that protected their interests and therefore the proposed protective provisions proposed by the parties relating to

helicopter access would not be required. Accordingly, both the parties requested that the ExA remove any remaining protective provisions included within the DCO.

- 16.5.10. The final draft of the DCO was submitted at D7 [REP7-039] and still contained, at Part 10, provisions for the protection of Perenco. The ExA considers, in light of the joint notification letter, the inclusion of these provisions in Section 16.8 of this Chapter.

Part 12 – for the protection of Bridge Petroleum 2 Limited (Bridge)

- 16.5.11. Bridge holds the license to develop out the Kumatage Field part of which would overlap with the proposed array area. Bridge [RR-002] advised it was supportive of the Proposed Development, but it needed to be designed in such a way that it would not hinder, compromise or adversely affect its future activities in the Kumatage Field.
- 16.5.12. At D5 [REP5-088] protective provisions for the benefit of Bridge were inserted into Schedule 9 of the draft DCO.
- 16.5.13. At D5a [REP5a-026] Bridge advised that it had been unable to agree the proposed Heads of Terms that the Applicant had provided as it considered that it would hinder its ability to fulfil its obligations and enjoy the benefits under the current licence or any future licence. In particular, it advised that it considered clauses 4(2), 5, 6 and 7 potentially deleterious to its interests.
- 16.5.14. The matter was considered at ISH7 [EV-031], when representatives for Bridge confirmed that the clauses it referred to were the relevant paragraphs of the protective provision as contained within the draft DCO. They went on to explain [EV-031] that the concerns in relation to Paragraph 4 was that as drafted it would provide no control over what activities were going to occur or when. Effectively it would let the Applicant undertake whatever work it wanted, whenever it wanted with little or no regard to accommodating Bridge's activities.
- 16.5.15. If the Order was made Paragraph 5 as drafted would require Bridge to commit to a route for the pipeline within three months of that date. Bridge [EV-031] was concerned that this would provide no flexibility over routing and given that Bridge was currently in pre-appraisal and development it considered this requirement too restrictive at this stage.
- 16.5.16. Paragraph 6 would restrict the aerial extent of Bridge's licence and for the same reasons provided for Paragraph 5 Bridge [EV-031] was concerned that it was not in a position to say definitively where development would yet occur and as a result considered this provision to be too restrictive.

- 16.5.17. In response the Applicant [REP6-034] advised that at this point Bridge's development was aspirational, funding for the development was not yet in place and there was a lack of certainty.
- 16.5.18. In relation to Paragraph 7 the Applicant [REP6-034] confirmed that there was an error in drafting which had merged this with Paragraph 6.
- 16.5.19. The ExA suggested [EV-031a, action point 25] that given Bridge's concerns it should provide alternative wording for the protective provisions for the consideration of the Applicant and the ExA.
- 16.5.20. At D6 the Applicant [REP6-041] provided a revised set of draft protective provisions which resolved the typographic issue in relation to paragraphs 6 and 7.
- 16.5.21. No further correspondence was received from Bridge. As a result at the close of the Examination the objection to the protective provision for the benefit of Bridge remains outstanding. The ExA considers the areas of dispute on the drafting of this provision in Section 16.8 of this Chapter.

Part 13 – for the protection of Harbour Energy Limited, Perenco UK Limited, Premier Oil E&P UK EU Limited, Dana Petroleum (E&P) Limited and Dana Petroleum Limited (Harbour Energy)

- 16.5.22. Harbour Energy is the operator, on behalf of its partners, of the Johnston Field which is located within the proposed array area. For the reasons set out in Chapter 10 of this Report Harbour Energy had concerns that certain non-routine operations, requiring the mobilisation of a drilling rig, including helicopter access, would be adversely affected by the Proposed Development.
- 16.5.23. Harbour Energy and the Applicant throughout the examination worked actively and constructively to try to reach agreement that would enable them to co-exist. However, following discussion at ISH7 [EV-031a, action point 26] the Applicant submitted a set of draft protective provisions for the benefit of Harbour Energy [REP6-040] that the ExA could use should the parties not be able to agree matters before the close of the Examination. These provisions were incorporated into the final version of the draft DCO submitted at D7 [REP7-039].
- 16.5.24. At D6 [REP6-049] Harbour Energy provided a set of provisions it considered would be required to enable marine and aviation access to support Johnston production and decommissioning activities.
- 16.5.25. Both the Applicant [REP7-089] and [REP8-015] and Harbour Energy [REP7-100], [REP8-026] and [AS-049] provided detailed comments on the drafting and content of each other's proposed protective provisions. At the close of the Examination agreement between the parties had not been reached and so the objection to the protective provision for the benefit of Harbour Energy remained outstanding. The ExA considers the

substantive areas of dispute on the drafting of this provision in Section 16.8 of this Chapter.

16.6. OTHER OUTSTANDING CONCERNS ON THE DRAFTING OF THE DCO

16.6.1. No other IPs raised outstanding concerns regarding the drafting of the DCO.

16.7. RECOMMENDED AMENDMENTS TO THE DRAFT DCO

16.7.1. Following the discussions at ISH1 [EV-008] and ISH7 [EV-031], the ExA issued a schedule of recommended amendments to the Applicant's draft DCO [PD-016], which set out suggested changes it wished to be made to the Applicant's draft DCO that had been submitted at D5a [REP5a-002].

16.7.2. The Consultation draft DCO set out matters where the ExA considered continued concerns arose. Due to publication deadlines, the ExA's recommended amendments had to be drafted prior to D6 when the Exam Timetable indicated that an updated version of the draft DCO and a schedule of changes to the draft DCO should be submitted to reflect any changes that may have resulted from the ISH [EV-031 to EV-036]. However, as D6 was one day prior to the publication of this document it was agreed at ISH7 [EV-031] that for efficiency the Applicant would not submit an updated version of the draft DCO at D6. Instead, it was agreed with the Applicant that any changes that had resulted from the ISH would be incorporated along with any changes that would result from the ExA's recommended amendments to the Applicant's draft DCO into the version of the draft DCO due to be submitted at D7. As a consequence, the recommended amendments set out by the ExA did not refer to those changes/ additions that were discussed during the ISH [EV-031 to EV-036].

16.7.3. The Applicant did not provide a formal response to the ExA Consultation draft DCO [PD-016]. Instead, where the requested change was agreed, at D7 it amended the draft DCO [REP7-039] and recorded the change in its Schedule of Change Draft Development Consent Order and Deemed Marine Licences document [REP7-042]. Where the Applicant declined the change, no explanation was provided.

16.8. OUTSTANDING CONCERNS AT THE CLOSE OF THE EXAMINATION

The ExA's outstanding concerns

Schedule 1, Part 3, Requirement 7

16.8.1. For the reasons set out in Chapter 12 of this Report the ExA has concerns regarding the design of Work No. 7. As a result, the ExA recommends that Requirement 7 (detailed design approval onshore) be amended to require that the detailed plans and drawings submitted for Work Nos. 7

(a) and (b) must be subject to a design review process by an independent design review panel to the satisfaction of the relevant planning authority.

Schedules 11 and 12, Part 2, new Requirement

- 16.8.2. For the reasons set out in Chapter 8 the ExA recommends the insertion of a new Condition into Schedules 11 and 12 to manage pre-construction particle size analysis results to ensure that the MMO is satisfied with the laboratory contracted to undertake the analysis.

Part 2, Article 6(g)

- 16.8.3. The draft DCO [REP7-039, Article 6(1)(g)] seeks to disapply s28E (duties in relation to Sites of Special Scientific Interest) of the Wildlife and Countryside Act 1981 (WACA1981). The EM [APP-204] acknowledged that this drafting was unprecedented. The ExA issued a Rule 17 request [PD-018] seeking the views of NE and further justification from the Applicant as to why this was being sought, given the only Site of Special Scientific Interest (SSSI), that this would apply to would be the River Hull Headwaters SSSI.
- 16.8.4. The Applicant responded [REP8-013, 9] that s28E of the WACA1981 imposes duties on owners and occupiers of land notified as being of special interest to refrain from activities specified in a notice given by NE unless those operations are carried out as part of a management agreement or with the consent of NE. The Applicant considered that the disapplication of this provision was justified because the Application had been subject to extensive environmental impact assessment, public consultation and has been subject of public examination. It noted the controls to protect SSSIs in the outline CoCP, secured by the requirements of the draft DCO. The Applicant advocated that the imposition of further duties under s28E would therefore be inappropriate. Consent under s28E is not a consent prescribed for the purposes of s150 of the PA2008. The Applicant also confirmed that the disapplication of the provision does have precedent in the A14 Cambridge to Huntingdon Improvement Scheme DCO 2016.
- 16.8.5. NE [REP8-027, 9] advised that it had not been involved in any discussions on the disapplication of s28 of the WACA1981. It noted that no other offshore wind farm, and to its knowledge no other Nationally Significant Infrastructure Project, had sought to disapply the Act and it could see no need for the Act to be disapplied and no significant detriment to the project should the wording be removed. NE concluded that it did not consider it appropriate for s28E to be disapplied and that Article 6 (1)(g) should be deleted from the draft DCO.

ExA Response

- 16.8.6. Whilst the ExA notes the Applicant's expanded justification for why it is seeking to disapply s28E, given the sensitivity of the receptor and that only one SSSI would be affected the ExA agrees with NE and can see no

reason why s28E should be disapplied and therefore recommends that it should be deleted from the draft DCO.

Schedule 1, Part 1, Work No. 5(b)

- 16.8.7. In ExQ1 [PD-006, PDS.1.5] the ExA sought clarity as to the potential location of the HDD exit pits at landfall. The Applicant advised [REP2-038, PDS.1.5] that the reference in the project description [REP1-004, paragraph 4.9.2.9] was not correct and the reference to the HDD exit pit being located above Mean High Water (MHW) should be replaced with "*the exit pits will be below Mean Low Water (MLW)*" and that it intended to update the project description to reflect this.
- 16.8.8. An updated project description was submitted at D4 [REP4-004, paragraph 4.9.2.9] this confirmed that the HDD exit pits would be below MLW. Furthermore, reference to a "*temporary onshore/ intertidal HDD exit pit working area*" was deleted from the maximum design parameters for landfall HDD [REP4-004, Table 4.33].
- 16.8.9. The ExA notes that the final draft DCO [REP7-039] includes Work No. 5(b) '*between MHWS and MLWS in the East Riding of Yorkshire*' which would allow the construction of up to eight HDD exit pits, unless Work No. 2(f) is constructed. Contrary to the project description, this would allow the construction of the HDD exit pits within the intertidal zone, which NE [RR-029] had noted was not assessed in the ES. The ExA can confirm that the same eight temporary HDD exit pits could be constructed below MLW under Work No. 2(f).
- 16.8.10. The ExA therefore recommends that Work No. 5(b) should be deleted from the DCO.

Schedule 16 – compensation to protect the coherence of the National Site Network

- 16.8.11. NE provided comments on the drafting of both versions of Schedule 16 submitted by the Applicant, the first in the draft DCO [REP7-039] and the second provided on a without-prejudice basis [REP7-079]. NE requested a number of amendments, and the ExA's response is provided in Table 16.2 below. The ExA recommends that the SoS should incorporate the suggested changes in this table, whether otherwise accepting Schedule 16 as it stands, or if seeking revised drafting to accommodate the final HRA conclusions.
- 16.8.12. Schedule 16 of the final draft DCO [REP7-039] is intended to secure the Applicant's proposed compensation to protect the breeding kittiwake qualifying feature of the Flamborough and Filey Coast Special SPA and thus the coherence of the National Site Network. It included the provision of artificial nest sites (Part 1), prey fish habitat enhancement measures (Part 2) and an option for strategic compensation, for example through a contribution to the Marine Recovery Fund (Part 3). The without-prejudice Schedule 16 [REP7-079] additionally included equivalent compensation

for the guillemot and razorbill interest features of the Flamborough and Filey Coast SPA (Part 5).

- 16.8.13. For the reasons set out in Chapter 13, the ExA has concluded that compensation would be required for kittiwake and guillemot, but that it would not be required for razorbill, gannet or any other qualifying feature. Schedule 16 of the draft DCO would only deliver compensation for kittiwake. The without-prejudice Schedule 16 describes proposed compensation for guillemot and razorbill in such a way that it would be difficult to separate the two reliably. As a result, the ExA considers that neither version of Schedule 16 as currently drafted is specific enough to secure the compensation necessary to protect the coherence of the National Site Network.
- 16.8.14. In the event that the SoS agrees with the ExA's findings in relation to the HRA and wishes to make the Order, then an alternative form of drafting for Schedule 16 that would secure compensation for kittiwake and guillemot would need to be sought.
- 16.8.15. Should the SoS disagree with the ExA's HRA recommendation and conclude that compensation would only be required for kittiwake, then the ExA considers that the version of Schedule 16 in the draft DCO [REP7-039], as amended by Table 16.2, would provide a reliable basis for securing compensation.
- 16.8.16. Should the SoS disagree with the ExA's HRA recommendation and conclude that compensation was required for razorbill in addition to kittiwake and guillemot, then the ExA considers that the without-prejudice version of Schedule 16, as amended by Table 9.2, would provide a reliable basis for securing compensation.
- 16.8.17. As currently drafted, neither version of Schedule 16 provides a basis for the delivery of compensation for gannet. At application, gannet and kittiwake were considered together in a compensation plan [APP-186]. However, at D5 [REP5-016], following discussions outside the Examination between NE and the Applicant in relation to the agreed use of a macro avoidance factor in the gannet collision risk modelling, the species was removed from the compensation plan as the Applicant no longer considered it necessary. As such, further drafting would be required in Schedule 16 in relation to gannet compensation should the SoS consider it necessary.

Relevant authorities

- 16.8.18. The signed SoCG between the Applicant and ERYC, the relevant planning authority, confirmed that ERYC raised no objections to the final draft of the DCO [REP7-039].
- 16.8.19. The DCO was amended to include a number of changes that Hull City Council requested with regards to Requirement 18 [REP5-105] (now Requirement 19 in the final draft DCO [REP7-039]).

Other organisations

16.8.20. For the reasons set out earlier in this Chapter at the close of the Examination the following other organisations, who are not SUs, had outstanding concerns with the drafting of the DCO:

- The MMO; and
- NE.

16.8.21. Table 16.2 below lists the suggested changes to the draft DCO and the ExA's finding on these changes.

Table 16.2: Suggested changes to the DCO made by other Organisations

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
The MMO		
Part 1, Article 2, definition of 'maintain'	Definition should be expanded to include the following additional wording: <i>"(but only in relation to any of the ancillary works in part 2 of Schedule 1 (ancillary works), any cable, any component part of any wind turbine generator, offshore electrical substation, offshore accommodation platform, meteorological mast, and the onshore transmission works described in part 1 of Schedule 1 (authorised development) not involving removal, reconstruction or replacement of foundations and buildings associated with the onshore project substation".</i>	The ExA notes that the proposed wording reflects the definition of 'maintain' used in the recently made Orders for East Anglia ONE North and East Anglia TWO. The ExA considers that the additional wording would provide clarity, precision and aid enforceability. Therefore the ExA recommends that the change is accepted.
Part 2, Article 5 and Conditions 7 and 13(8) of Schedules 11 and 12	All references to the MMO and DMLs be removed from the Article and Conditions 7 and 13(8) in Schedules 11 and 12 be deleted.	The ExA notes the MMOs request however notes the inclusion of the DMLs in articles dealing with the benefit of the Order on the recently made Orders for Norfolk Vanguard, Norfolk Boreas, East

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p>Anglia ONE North and East Anglia TWO and therefore for consistency does not agree the suggested change.</p> <p>However, for clarity and consistency the ExA recommends that the article be amended to reflect the drafting of more recently made Orders:</p> <p><i>"(1) Subject to (4) and (5) The undertaker may with the written consent of the Secretary of State</i></p> <p>-</p> <p><i>(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) below) and such related statutory rights as may be agreed between the undertaker and the transferee;</i></p> <p><i>(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) below) and such related statutory rights as may be so agreed.</i></p> <p><i>(2) Subject to paragraph (5), the undertaker may with the written consent of the Secretary of State—</i></p> <p><i>(a) where an agreement has been made in accordance with paragraph (1)(a), transfer to the transferee the whole of any of the deemed marine licences and such related statutory rights as may be agreed between the undertaker and the transferee;</i></p> <p><i>or</i></p> <p><i>(b) where an agreement has been made in accordance with</i></p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p><i>paragraph (1)(b), grant to the lessee, for the duration of the period mentioned in paragraph (1)(b), the whole of any of the deemed marine licences and such related statutory rights as may be so agreed.</i></p> <p><i>(3) Where an agreement has been made in accordance with paragraph (1) or (2) references in this Order to undertaker except in paragraphs (6), (7), (11) and the first reference in paragraph (12) include references to the transferee or lessee.</i></p> <p>...</p> <p><i>(9) The notice required under paragraphs (4) and (8)...</i></p> <p><i>(10) The dates specified under paragraph (9)(a)(ii)...in respect of paragraph (8)...</i></p> <p><i>(11) The notice given under paragraph (8)...</i></p> <p><i>(12)...agreement under paragraph (2)"</i></p>
Schedules 11 and 12, Part 1, Paragraph 2 (a)	Updated to include reference to disposal sites; separate the volumes per disposal activity; include boulder clearance within the description and information on drill arisings.	<p>The ExA is satisfied that this information is provided in the Pro-rata Annex which would be a certified document under Article 38 and secured for these purposes by Condition 1(9) of Schedule 11 and Condition 1 (13) of Schedule 12.</p> <p>The ExA does not agree the suggested change.</p>
Schedules 11 and 12, Part 2, Condition 4(4)	The Operation and Maintenance Plan be submitted six months prior to the planned works commencing	<p>For the reasons provided by the MMO the ExA considers that a six-month period for submission would be appropriate. Furthermore, this time frame would be consistent with the recently made Orders for East Anglia ONE North and East Anglia TWO.</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p>The ExA notes that the Applicant considers that the timeframe would be secured by Condition 14. However, having reviewed the wording of Condition 14 it only provides timeframes for submission of documents referred to in Condition 13, and Condition 13 does not, as currently drafted, refer to an Operations and Maintenance Plan.</p> <p>In addition, the ExA notes that whilst the document would deal with both operation and maintenance, the condition as currently drafted would only prevent any maintenance works from being undertaken prior to its submission and approval. Therefore the ExA recommends that the wording of Condition 4(4) should be amended as follows:</p> <p><i>“An operation and maintenance plan substantially in accordance with the outline operations and maintenance plan shall be submitted to the MMO for approval at least six months prior to the commencement of operation of the licensed activities. All operation and maintenance activities shall be carried out in accordance with the approved plan.”</i></p>
Schedules 11 and 12, Part 2, Condition 5(1)	Deletion of phrase “under its control”.	<p>The ExA is satisfied with the Applicants explanation that this would not just apply to its own vessels but would also apply to vessels operating under the control of the undertaker’s agents and contractors.</p> <p>Therefore the ExA does not agree with the suggested change.</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
Schedules 11 and 12, Part 2, Condition 7(7)	Extension of five-day notification period to 14 days.	<p>The ExA notes the MMO's request.</p> <p>However, the ExA notes that the recently made Orders for East Anglia ONE North and East Anglia TWO include a five-day time frame for notification of the MMO.</p> <p>Therefore for consistency the ExA does not agree the suggested change.</p>
Schedules 11 and 12, Part 2, Condition 11(4)	Confirmation of sediment sampling and analysis	<p>Whilst the Applicant did confirm that a second sediment analysis had been undertaken by a validated laboratory and the results shared with the MMO [REP8-016] and had updated the Outline Marine Management Plan [REP7-058] to restrict any sediment disposal activities until the MMO had approved the particle size analysis results the MMO had not had an opportunity to confirm that they were satisfied before the close of the Examination.</p> <p>The ExA therefore considers it would be reasonable and proportionate to secure this through the insertion of the following new condition:</p> <p><i>"Pre-construction particle size analysis results</i></p> <p><i>No licensable marine activities relating to the dredging or disposal of marine sediments under Paragraph 2 of this licence will take place until the MMO has provided written approval of the laboratory contracted to undertake the particle size analysis of the pre-construction sediment samples.</i></p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p><i>A request must be submitted for approval at least four months prior to the intended commencement of the licensed activities and the MMO must determine an application for approval within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker. Such agreement is not to be unreasonably withheld or delayed."</i></p>
Schedules 11 and 12, Part 2, Condition 12	Deletion as, in the opinion of the MMO, it would duplicate s86 of the MCAA.	<p>The ExA is satisfied with the Applicant's explanation as to why this Condition is needed. Furthermore, it notes that the same condition was included in the recently made Orders for East Anglia ONE North and East Anglia TWO.</p> <p>Therefore the ExA does not agree the suggested change.</p>
Schedules 11 and 12, Part 2, Condition 13 (1)(j)	Deleted and replaced by a standalone condition requiring the submission and approval of a SIP for the Southern North Sea SAC, inclusion of a definition for JNCC Guidance within the interpretation section and six months rather than four-month timeframe.	<p>The ExA notes that the MMO's request to use a standalone condition to secure the submission and approval of a SIP (piling) for the Southern North Sea SAC derives from the SoS's review of Consents. The ExA further notes that the recently made Orders for East Anglia ONE North and East Anglia TWO included similar standalone conditions.</p> <p>The ExA agrees with the MMO's suggestion to use the standalone condition to enable the efficient management of SIPs.</p> <p>Therefore the ExA recommends that (1)(j) should be deleted from Condition 13 and that the following new Condition should be inserted into Schedules 11 and 12, Part 2.</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p><i>“Southern North Sea Special Area of Conservation Site Integrity Plan</i></p> <p><i>(1) No piling activities can take place until a Site Integrity Plan (SIP), which accords with the principles set out in the outline Southern North Sea SAC Site Integrity Plan, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.</i></p> <p><i>(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.</i></p> <p><i>(3) The SIP must be submitted to the MMO no later than six months prior to the commencement of the piling activities.</i></p> <p><i>(4) In approving the SIP, the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.</i></p> <p><i>(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the preconstruction</i></p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p><i>stage, is in line with the JNCC guidance."</i></p> <p>The interpretations section to be updated to include:</p> <p><i>"'JNCC Guidance' means the statutory nature conservation body 'Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs, Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time".</i></p>
Schedules 11 and 12, Part 2, Condition 14	Change timescale for submission and approval of documents from four months to six months	<p>Given the complexity and detail required by many of these documents and the resourcing implications for the MMO, the ExA considers a six-month time period for the submission and approval of these documents to be appropriate.</p> <p>Furthermore, this would be consistent with the recently made Orders for East Anglia ONE North and East Anglia TWO which used a six-month timeframe for an equivalent condition.</p> <p>The ExA notes the MMO's reference to the fact that the recently made Order for Sizewell C did not include determination dates in the DMLs. However, in the circumstances of this case and for the purposes of precision, clarity and enforceability, the ExA considers that a timeframe for determination is appropriate.</p> <p>Therefore the ExA recommends that the wording of Condition 14 should be amended to replace</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		references to 'four months' with 'six months'.
Schedule 11, Part 2, Condition 23 and Schedule 12, Part 2, Condition 25	Change timescales for submission of documents from four to six months.	<p>The ExA considers that the information required to be submitted to discharge these conditions is not as complex as the information required in relation to Conditions 13 and 14. In addition, the ExA notes the Applicant's comments that until the relevant contractor is appointed not all of the information required to discharge the condition may be available.</p> <p>Therefore the ExA does not agree the change.</p>
Schedule 12, Part 2, Condition 23	Revise dates to restrict piling activities to between 1 August to 23 October.	<p>The ExA has considered the conditions suggested by the two parties. It considers that restricting the condition to Work No. 3 is justified, given the respective levels of risk across the Order area. Furthermore, for the reasons set out in detail in Chapter 9, the ExA considers that it would be disproportionate to add further delays to the construction programme. The ExA is therefore satisfied with Condition 23 as drafted.</p> <p>Therefore the ExA does not agree the suggested change.</p>
Schedule 1, Part 3, Requirement 31 and Schedules 11 and 12, Part 1, Paragraph 9	Deletion of phrase " <i>unlikely to give rise to any materially new or materially greater environmental effects</i> " and including a definition of immaterial changes within the interpretation section.	<p>The ExA is satisfied with the Applicant's explanation as to why the inclusion of this wording is necessary and that Article 9 would limit the activities permitted by the Order and the DMLs to those assessed by the EIA.</p> <p>The ExA notes that the proposed wording would be consistent with that used in the recently made Orders for East Anglia ONE North and East Anglia TWO including</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p>the use of the term 'immaterial changes' without this term being defined.</p> <p>Therefore the ExA does not agree the suggested change.</p>
NE		
Part 1, Article 2, definition of 'maintain'	Amend to link it to the outline Operations and Maintenance Plan.	<p>Condition 4 of Part 2 of Schedules 11 and 12 requires the submission and approval of an Operations and Maintenance Plan. In response to the MMO's request, the ExA has recommended that the Condition be amended so that all operation and maintenance activities are required to be carried out in accordance with the approved plan. Subject to the SoS accepting this change, the ExA considers it unnecessary to amend the definition of 'maintain' to link to the outline Operations and Maintenance Plan as this would be secured through condition.</p> <p>Therefore the ExA does not agree the suggested change.</p>
Schedule 1, Part 3, Requirement 1	Amend to include the maximum volumes of dredge works.	<p>The ExA is satisfied that the maximum volumes would be secured via the description of development in Part 1 of Schedule 1 of the DCO and the description of licensable activities in the DMLs and further duplication would be unnecessary.</p> <p>Therefore the ExA does not agree the suggested change.</p>
Schedule 1, Part 3, Requirement 2(6), 3(11) and 3(12)	Amend requirements to include the maximum footprint for individual turbine foundations and other marine structures.	<p>The ExA notes that this information is provided in the Pro-rata Annex [REP6-006] which would be a certified document for the purposes of Article 38, and which would be secured by Requirements 2(3)</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p>and 4(14) and Conditions 1(9) and 2(6) of Schedule 11 and Condition 1(13) of Schedule 12.</p> <p>Therefore the ExA does not consider the amendment necessary and does not agree the suggested change.</p>
Schedule 1, Part 3, Requirement 25	Amend to require the relevant planning authority to consult the relevant SNCB.	<p>The ExA agrees with the Applicant that the Requirement as drafted would allow the local planning authority, should they so wish, to consult with the relevant SNCB at the appropriate time and that such an approach would be consistent with the Orders for Hornsea Project Three, Norfolk Boreas and Norfolk Vanguard.</p> <p>The ExA notes that a requirement to consult with the SNCB was included in the more recently made Orders for East Anglia ONE North and East Anglia TWO. However, the ExA considers that different circumstances prevailed.</p> <p>Therefore the ExA does not agree the suggested change.</p>
Schedule 11 and Schedule 12, Part 2, Condition 4	Amend to limit cable protection to a maximum of 10 years after construction.	<p>The ExA notes the agreement between the MMO and NE that it is not appropriate for a licence to be granted allowing cable protection to be deployed throughout the operation and maintenance phase of a project due to the very large spatial and temporal scale of these licensed works, giving a Rochdale Envelope that is too loosely defined to assess appropriately.</p> <p>Therefore the ExA agrees this change and recommends the wording be amended as follows:</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		“(F) cable protection replenishment for a maximum period of ten years post construction”.
Schedule 11, Part 2, Condition 13(1)(j)	Amend to secure timings for production and submission including a six-month rather than four-month submission period.	The ExA has agreed that this should be a standalone condition and 13(3) of the proposed condition would require the submission of the SIP no later than 6 months prior to the commencement of piling activities.
Schedule 11, Part 2, Condition 14	Change timescale for submission and approval of documents from four months to six months.	<p>The ExA notes the Applicant’s comments that for some documents information may not be available at the six month point because of survey requirements or the appointment of contractors. However, given the concerns raised by NE regarding the size, scope and potential for in-combination effects the ExA consider that it would be reasonable to provide sufficient time to consider and determine the information submitted.</p> <p>Furthermore, this would be consistent with the recently made Orders for East Anglia ONE and East Anglia TWO which used a six-month timeframe for an equivalent condition.</p> <p>Therefore the ExA recommends that the wording of Condition 14 should be amended to replace references to ‘four months’ with ‘six months’.</p>
Schedule 12, Part 2, Condition 26(1)(a)	Amend to include a requirement that a close out report for transmission assets.	<p>The ExA considers that Condition 26 as included within the final draft DCO [REP7-039], would require the submission of an appropriate close out report.</p> <p>Therefore the ExA does not consider the change is needed.</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
n/a	Inclusion of a new schedule for landfall works.	<p>The ExA acknowledges that the inclusion of such a schedule could make the process of discharging conditions more efficient and easier to monitor. However, as this was only raised at the close of the Examination the Applicant has not had the opportunity to comment on it, nor has the ExA been provided with any drafting. Furthermore, the ExA is satisfied that the landfall works are adequately dealt with in the final draft DCO [REP7-039].</p> <p>Therefore the ExA does not agree the suggested addition.</p>
Schedule 1, Part 3, Requirement 3(13) and Schedule 11	Delete reference to gravity base structures.	<p>During the Examination, the Applicant amended the Maximum Design Scenario such that gravity base structure foundations would be restricted to no more than 80 of the 180 turbine locations, a reduction from a maximum of 110 in the application draft DCO [APP-203].</p> <p>The ExA understands that the likely worst-case scenario for impacts would be associated with the greatest number of gravity base structures at the minimum spacing, and notes that this was the scenario tested in the ES.</p> <p>The ExA also notes that NPS EN-3 places the onus on an Applicant to ensure that the foundation design is technically suitable for the seabed conditions and that technical suitability is not in itself a matter for the Examination. However, the ExA does need to be satisfied that the foundations will not have an unacceptable adverse effect on marine biodiversity, the</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p>physical environment or marine heritage assets.</p> <p>The ExA is satisfied that the Applicant needs the flexibility to use a maximum of 80 gravity base structure foundations given the unknowns associated with ground conditions. The phased monitoring programme for three sample foundations put forward by the Applicant is considered a proportionate response.</p> <p>Therefore the ExA does not agree this deletion.</p>
n/a	Provisions related to maintenance	<p>The provisions referred to were deleted from the draft DCO at the request of MMO [REP5-107, Section 1.2] as it no longer considered their inclusion necessary due to the condition having been amended to include the requirement to submit an Operation and Management Plan.</p> <p>Therefore the ExA does not consider that these provisions would need to be reinserted into the DCO.</p>
Schedule 11 and Schedule 12, Part 2, Condition 13(1)	n/a	<p>The ExA notes the concerns regarding installation of the export cable across Smithic Bank, with both the MMO [REP8-022] and NE [AS-048] requesting additional controls. As set out in Chapter 7 of this Report the ExA considers that the process secured through Schedules 11 and 12, Part 2, Condition 13(h) (ii) and (iii) provides a route for further consideration of this.</p> <p>They enable NE to continue to have input on this matter post consent therefore the ExA recommends that rather than amend Condition 3 (2) the ExA</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p>recommends that the first part of the Condition of 13(1) be amended to include NE in the list of consultees:</p> <p><i>"(1) The licensed activities for each stage of construction of the authorised project must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, the UK Hydrographic Office and the relevant SNCB –"</i></p>
n/a	<p>Include a new commitment to avoid/ reduce/ mitigate impacts to priority habitat as far as possible during the operation and maintenance phase and this to be referenced within the outline OMP.</p>	<p>This suggestion was submitted at D8 and as a result the Applicant has not had the opportunity to consider the matter or amend the outline OMP as requested.</p> <p>Condition 4(4) of Part 2 of Schedules 11 and 12 requires the submission of the Operation and Management Plan for approval by the MMO. To address the concern raised by NE the ExA recommends that <i>"in consultation with the relevant SNCB"</i> be inserted into the Condition which would provide NE with the opportunity to raise this matter at the relevant point.</p> <p>Therefore, the ExA agrees this change and recommends the wording be amended and the requirement to consult with the SNCB be added. The ExA has already agreed that the wording for this part of Condition 4 should be amended following submissions by the MMO (see above) and the requirement to consult with the SNCB needs to be added to that wording.</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p><i>"An operation and maintenance plan substantially in accordance with the outline operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB at least six months prior to the commencement of operation of the licensed activities. All operation and maintenance activities shall be carried out in accordance with the approved plan."</i></p>
<p>In addition to Schedule 16 in the final draft DCO [REP7-039], the Applicant submitted a without prejudice derogation draft DCO Schedule 16 [REP7-079]. As the same paragraphs are included in both documents, the ExA has considered them together. For ease of reference, italics are used where the without prejudice draft DCO is referred to</p>		
<p>Schedule 16, Part 1, Paragraph 2</p>	<p>Include a requirement to consult with the SNCB.</p>	<p>The ExA notes that almost identical wording was used for the same conditions on the recently made Orders for East Anglia ONE North and East Anglia TWO. As such, the ExA agrees with the Applicant that the appropriateness of the Condition has been established by the SoS.</p> <p>Therefore the ExA does not agree the change.</p>
<p>Schedule 16, Part 1, Paragraph 3(c) and Part 2, Paragraph 3(c)</p>	<p>Amend to four full kittiwake breeding seasons prior to operation and amend breeding season to 1 March to 30 September.</p>	<p>The ExA notes NE's advice that kittiwake do not breed until they are 4+ years old. It considers that the Applicant has not provided a justification for deviating from four breeding seasons. Furthermore, four breeding seasons would be consistent with the terms of similar conditions on the made Orders for Hornsea Project Three, Norfolk Vanguard and Norfolk Boreas.</p> <p>Therefore, the ExA agrees the change and recommends that, <i>'at least three full kittiwake</i></p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
		<p><i>breeding seasons prior to operation'</i> should be amended to <i>'at least four full kittiwake breeding seasons prior to operation'</i>.</p> <p>The ExA notes the difference between the kittiwake breeding season for this application and that used for Hornsea Project Three. However, the ExA considers that different circumstances prevail.</p> <p>The ExA also notes that the assessments reported in the ES were carried out on the basis of the Applicant's preferred breeding season and that the drafting of the DCO is based on that assessment.</p> <p>Therefore the ExA does not agree the change.</p>
Schedule 16, Part 1, Paragraph 3(d) and Part 2, Paragraph 3(d)	Amend to include monitoring and reporting on the effectiveness of the measures.	<p>The ExA considers that this would be covered by Condition 3 (h) which requires the KCIMP to include <i>'provision for reporting to the SoS, to include details of the use as the structure by breeding kittiwakes to identify barriers to success and target any adaptive management measures'</i>.</p> <p>Therefore the ExA does not consider the amendment is necessary.</p>
Schedule 16, Part 1, Paragraph 3(e), Part 2, Paragraph 3(e) and Part 5, Paragraph 1(a)(v) and (b)(iv)	Amend to include a requirement that the Applicant detail how the consultation responses have been considered and explain why any recommendations or advice have not been included.	<p>The ExA is satisfied that Condition 3 as drafted is consistent with the drafting for Hornsea Project Three and the recently made Orders for East Anglia ONE North and East Anglia TWO.</p> <p>Therefore the ExA does not agree the change.</p>

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
Schedule 16, Part 1, Paragraph 3(g), Part 2, Paragraph 3(g) and Part 5, Paragraph 1(a)(vi) and (b) (v)	Amend to include insertion of a timeframe for the successful delivery of compensation.	<p>The ExA consider that NE's request for a timescale to be imposed is reasonable and that this should be set by the OOEG, MMO and SNCB.</p> <p>As a result the ExA agrees the change and recommends that the wording be amended to <i>'detail of any adaptive measures, with details of the factors used to trigger any such measures, the timescale for implementing a response, and the implications for the population of the performance failure of such a measure.'</i></p>
Schedule 16, Part 2, Paragraph 3 (h) and Part 5, Paragraph 1 (a)(vii) and (b)(vi)	Amend to require the provision of the report to all members of the H4 OOEG or to the relevant SNCB.	<p>The ExA notes that the approach taken by the Applicant is consistent with the recently made Orders for East Anglia ONE North and East Anglia TWO.</p> <p>Therefore the ExA does not agree the change</p>
Schedule 16, Part 5, Paragraph 1 (a)(iii)	Amend to four breeding seasons prior to operation.	<p>The ExA notes the Applicants response that island predator eradication usually takes place over a period of up to two years, but that it anticipates benefits would be evident in the first breeding season. However, the ExA considers that a precautionary approach would be appropriate, given the potential importance of this compensatory measure.</p> <p>As a result, the ExA agrees the change and recommends that the wording be amended by replacing <i>'no later than two years prior to operation'</i> to <i>'no later than four breeding seasons prior to operation'</i>.</p>
Schedule 16, Part 4, Paragraph 1	Amend to require submission of further details such as location,	The Fish Habitat Enhancement is a resilience as opposed to a compensatory measure. It is

Provision in draft DCO [REP7-039]	Suggested change	ExA recommendation
	extent, timing, adaptive management, monitoring, reporting etc.	<p>based on the Fish Habitat Enhancement: Roadmap [REP6-033] which includes details on key elements such as location, extent, timing, adaptive management, monitoring and reporting etc. The outcome of the assessment set out in the Applicant's Report to Inform Appropriate Assessment [REP5-012] and its HRA derogation case do not rely on this measure. As such, the ExA is satisfied with the condition as worded.</p> <p>Therefore the ExA does not agree the change.</p>
<i>General</i>	Amend conditions to ensure they secure the target level of compensation each year (on average).	<p>The ExA agrees with the Applicant that this would be difficult to specify given natural variability, including the production and fate of chicks not attributable to the Proposed Development or the planned compensation. Furthermore, the ExA notes that such drafting is unprecedented and not included in the Orders for Hornsea Project Three, Norfolk Boreas and Norfolk Vanguard.</p> <p>Therefore the ExA does not agree the change.</p>

Statutory Undertakers

Part 8 – for the protection of the Carbon Storage Licensee

- 16.8.22. The ExA has concluded on the protective provisions for the Carbon Storage Licensee in Chapter 10 of this Report.

Part 9 – for the protection of NEO Energy (SNS) Limited

- 16.8.23. As set out earlier in this Chapter NEO have maintained an objection throughout the Examination to the protective provisions proposed by the Applicant and contained within Schedule 9, Part 9 of the Applicant's final draft DCO [REP7-039].
- 16.8.24. The Protective Provision as drafted by the Applicant would restrict the erection of Wind Turbine Generators (WTG) within the 'restricted area'

which is a spherical area of the seabed having a radius of 2.7 nautical miles (nm) from the centre of the existing Babbage Platform (paragraph 4). The licensee and the undertaker are also required to keep each other informed of relevant activities so that they can co-exist (paragraph 5).

- 16.8.25. The protective provisions submitted by NEO at D7 [REP7—106, Appendix A] would address the concerns raised by NEO about maintaining access to the Babbage Platform by amongst other things restricting the erection of WTG to a radius of 3.14 nm from the centre of the Babbage Platform (Paragraph 4). In addition, if required it would enable the installation and maintenance of aids to navigation within the restricted area (Paragraph 6) or live monitoring equipment (Paragraphs 7, 8 and 9).
- 16.8.26. For the reasons set out in Chapter 11 the ExA is of the opinion that the Proposed Development would adversely restrict safe helicopter access to the Babbage Platform and as a result the ExA considers that restricting the erection of WTG to a radius of 3.14 nm from the Babbage Platform, as requested by NEO, would address this concern. The ExA accepts that this concern could potentially be addressed by reducing the payload of helicopters from the current 12 to eight passengers. However, this option and how the additional costs and expenses that would arise from this solution would be covered is not addressed in either set of protective provisions.
- 16.8.27. The Applicant has committed to deploying aids to navigation (marking and lighting) in accordance with the relevant industry guidance and as advised by Trinity House, the MCA and the Civil Aviation Authority as appropriate. This would be secured by Conditions 8, 10 and 13(1)(i) Part 2, Schedule 11 and Conditions 8 and 13(1)(i), Part 2, Schedule 12 of the final draft of the DCO [REP7-039].
- 16.8.28. The Applicant would also undertake during and post construction vessel monitoring to confirm the conclusions of the Navigational Risk Assessment and if necessary, the aids to navigation to be installed would be reviewed by Trinity House. As a result, the ExA agrees with the Applicant that NEO's proposed paragraphs 6 and 7 would not be necessary as the Applicant would be undertaking vessel monitoring and there would be sufficient protection within Schedules 11 and 12 of the draft DCO to ensure that mariners would be protected.
- 16.8.29. The ExA notes that the Applicant's protective provision would only allow the erection of a WTG within the restricted area by written agreement. The ExA is therefore satisfied that to locate a WTG within the restricted area the Applicant would need to obtain the consent from NEO and indemnity and recovery of expenses would be part of those commercial discussions. The ExA therefore considers that NEO's proposed paragraph 10 would not be necessary.
- 16.8.30. The ExA acknowledges that paragraph 11 which would require the two parties to co-operate is reasonable. However, the creation of a 'restricted area' would address concerns regarding helicopter access. Other offshore

activities such as investigation and survey work should only be of concern to NEO if it is within 500m of the Babbage Platform. In line with good offshore wind industry practice were this to happen then the Applicant would seek to enter into a proximity agreement. Both sets of provisions include a requirement for the parties to keep each other informed of relevant activities in order to enable them to co-exist (Paragraph 5 or Paragraph 13). As a result, the ExA considers the imposition of such a provision to be unnecessary.

16.8.31. Schedule 14 of the final draft DCO [REP7-039] sets out the Arbitration Rules and whilst the ExA acknowledges that other protective provisions contained within Schedule 9 contain bespoke arbitration provisions the ExA cannot find a justification as to why such a provision would be needed for NEO. As a result, the ExA does not consider NEO's proposed paragraph 12 to be necessary.

16.8.32. NEO's proposed Paragraphs 13 and 14 mirror the wording of the Applicant's Paragraphs 5 and 6.

ExA recommendation

16.8.33. For the reasons outlined above the ExA recommends that the 'restricted area' should be amended to have a radius of 3.14 nm from the centre of the existing Babbage Platform to address NEO's concerns regarding safe access to the Babbage Platform. To reflect this change the NEO Protective Provisions Plan [REP7-091] listed in Schedule 15 of the draft DCO (documents to be certified) would need to be replaced by the NEO Protective Provisions Plan contained in Appendix B of NEO's D7 submission [REP7-106].

16.8.34. Alternatively, the SoS may wish to consult with the parties as to whether they can agree an alternative form of drafting which would secure the use of alternative helicopters and compensate for any additional costs thereby enabling the 'restricted area' to be reduced.

16.8.35. For the reasons outlined above the ExA does not consider the remainder of the changes suggested by NEO to be necessary and therefore does not recommend that the changes be made.

Part 10 - for the protection of Perenco UK Limited

16.8.36. The final draft DCO [REP7-039] included within Schedule 9, Part 10 provisions for the protection of Perenco UK Limited. However, in light of the joint notification letter from Perenco and the Applicant [REP8-019] the ExA is satisfied that these protective provisions would no longer be required.

ExA recommendation

16.8.37. That the provisions for the protection of Perenco UK Limited not be included in the recommended DCO.

Part 12 – for the protection of Bridge Petroleum 2 Limited

- 16.8.38. As set out earlier in this Chapter, Bridge objected to the protective provisions proposed by the Applicant and contained within Schedule 9, Part 12 of the Applicant’s final draft DCO [REP7-039].
- 16.8.39. The areas of dispute related to Paragraphs 4(2), 5, 6 and 7. To address these concerns the ExA suggested to Bridge [EV-031a, action point 25] that it provide the ExA with alternative protective provisions that would address its concerns. However, no further submissions from Bridge were received before the close of the Examination.
- 16.8.40. The ExA notes that Paragraph 4(2) would only require the undertaker to notify the licensee of its intention to carry out activities within the protected area. As currently drafted the provision would not require the undertaker to obtain the written agreement of the licensee to these activities. As such the ExA agrees with Bridge that as drafted it would have no control over what activities were carried out by the undertaker and therefore the provision would not protect the interest of the licensee in the protected area. The ExA notes that this approach is not consistent with other provisions contained within Schedule 9 where written agreement for activities within restricted / protected areas is required eg Paragraph 4 for the benefit of NEO and Perenco.
- 16.8.41. The ExA note Bridge’s concerns regarding the timeframe for having to commit to the proposed location of the pipeline (Paragraph 5). Whilst the ExA accept, given that Bridge’s proposals are at an early stage, that a four-month timeframe post coming into force of the Order is a relatively short period, Bridge has not provided the ExA with an alternative timeframe for consideration. However, the ExA considers that in order to provide certainty for the undertaker to enable them to construct the Proposed Development that this provision would need to be time limited.

ExA recommendation

- 16.8.42. For the reasons outlined above the ExA considers that the provisions as drafted would not protect the interests of Bridge. To address the concerns with regards to Paragraph 4(2) the ExA recommends that the drafting be amended to include the need to seek the written agreement of the licensee for the undertaking of activities within the protected area and that the licensee shall not unreasonably withhold its agreement.
- 16.8.43. In relation to Paragraph 5 the ExA recommends that the SoS request Bridge to submit, with reasoning, for consideration a timeframe that it would find acceptable in relation to this paragraph. Such a timeframe should be mindful of the needs of the undertaker to be able to construct the Proposed Development in a timely and cost-efficient manner.

Part 13 – for the protection of Harbour Energy Limited, Perenco UK Limited, Premier Oil E&P UK EU Limited, Dana Petroleum (E&P) Limited and Dana Petroleum Limited

- 16.8.44. As set out earlier in this Chapter Harbour Energy objected to the protective provisions proposed by the Applicant and contained within Schedule 9, Part 13 of the Applicant’s final draft DCO [REP7-039]
- 16.8.45. The Applicants proposed protective provisions would, prior to the decommissioning of the Johnston Field restrict the erection of WTG in the marine corridor, the aviation corridor, the aviation access corridor or in any WTG exclusion zone unless agreed in writing between the licensee and the undertaker (Paragraph 3). If the decommissioning starts prior to the undertakers works, the undertaker must not build or carry out activities in the same locations as Paragraph 3 that would interfere with the licenses works causing delay (Paragraph 4). If the undertaker plans to undertake works within 500m of Johnston assets this must be agreed in writing with the licensee (Paragraph 5). The licensee and the undertaker are also required to keep each other informed of relevant activities so that they can co-exist (Paragraph 6).
- 16.8.46. Harbour Energy [REP6-049] did not provide detailed alternative drafting. However, it advised that it sought provisions that would provide the following:
- a 1000m wide marine corridor along the route of the pipeline between the pipelines free from surface obstructions;
 - a 1000m wide aviation corridor providing clear airspace (free of WTG and incursion by rotors) along the route of the pipeline between the wellheads;
 - two 1000m wide aviation corridors providing clear airspace (free of WTG and incursion by rotors) from the westernmost Johnston subsea well to the edge of the array to the southwest or west and from the easternmost Johnston subsea well to the edge of the array to the south or east.
 - an area of clear airspace (free of WTG and incursion by rotors) of a radius of 3nm around each of the two Johnston wellheads.
- 16.8.47. At D8 [REP8-026, section 1.2] Harbour Energy advised that in the spirit of co-existence Harbour Energy could accept protective provisions that would have a lesser effect upon the Applicant’s proposed operations, providing that:
- it would be possible for Johnston Field Operations to co-exist with the proposed windfarm; and
 - the Applicant provide Harbour Energy with appropriate compensation for any additional costs and delays that it would suffer to its Johnston Field Operations.
- 16.8.48. At D8 Harbour Energy advised [REP8-026] that the marine corridor as defined by the Applicant’s protective provision was acceptable.

- 16.8.49. The Applicant's protective provisions defined the aviation corridor and the aviation access corridor as 800m of clear airspace as measured tip to tip of the WTG. For the reasons set out in Chapter 11 the ExA is not satisfied that this would enable safe aviation access to the Johnston Field. As a result, the ExA considers that increasing these corridors to the 1000m requested by Harbour Energy would address its concerns.
- 16.8.50. The Applicant's provisions as currently drafted would restrict the erection of WTG within a 900m radius of the two Johnston wellheads. This was based on their experience of accessing Hornsea One and Hornsea Two where they land on a helideck situated 914m from the nearest WTG blade tip [REP8-015, paragraph 1.3.1.2]. However, Harbour Energy consider a radius of 3nm would be required to ensure safe access as this is the technical and legal limits of operation of the aircraft they use when flying on instruments [REP6-049]. The ExA therefore considers that, whilst it could result in a sub optimal layout for the Proposed Development, to ensure safe access the 'WTG Exclusion Zone' should be increased to 3nm. This is also consistent with the distance proposed by NEO.
- 16.8.51. As with NEO the ExA accepts that both these concerns could potentially be addressed by using alternative helicopters or sharing helicopters as suggested by the Applicant [REP8-015, paragraph 1.3.1.3]. However, how this option would be secured and how the additional costs and expenses that would arise from this solution would be covered, was not addressed by either party in their proposed protective provisions.
- 16.8.52. The ExA considers that these distances would be necessary to ensure aviation safety regardless of whether the activities related to decommissioning or the continued operation of the wells.

ExA recommendation

- 16.8.53. For the reasons outlined above the ExA considers that the provisions as drafted by the Applicant would not protect the interests of Harbour Energy. To address this the ExA recommends that the reference to 800m in the definition of 'aviation access corridor' and 'aviation corridor' contained within provision 2 of the Applicant's proposed provision be amended to 1000m and that the reference to a 900m radius in 'WTG exclusion zone' be amended to 3nm. To reflect this change the Johnston protective provisions plan [REP7-092] listed in Schedule 15 of the draft DCO (documents to be certified) would need to be replaced by the Hornsea Four Premier Oil Wellhead Buffer plan contained in Harbour Energy's D6 submission [REP6-049].
- 16.8.54. Alternatively, the SoS may wish to consult with the parties as to whether they can agree an alternative form of drafting which would secure the use of alternative helicopters and compensate for any additional costs thereby enabling the use of 800m wide corridors and a smaller WTG exclusion zone.

16.9. ExA RECOMMENDED CHANGES

- 16.9.1. The ExA has considered the responses received from the Applicant at D8, ERYC, NE, the MMO and various IPs.
- 16.9.2. For the reasons given above, the ExA has made changes to the Applicant’s final draft DCO [REP7-039]. These are listed in Table 16.3 below. The ExA produced a schedule of recommended amendments to the Applicant’s draft DCO [PD-016], whilst the Applicant incorporated a number of the recommended changes into the final draft DCO, not all the suggestions made by the ExA were incorporated. Where the ExA consider that these are necessary or where they add to clarity or precision the ExA have included them in Table 16.3. Table 16.3 also includes a number of minor corrections to drafting errors or minor changes that the ExA considers necessary in order to ensure clarity and accuracy in drafting.
- 16.9.3. If the article, requirement, condition or paragraph is not mentioned in the Table 16.3 then the SoS can be satisfied that the ExA is satisfied with the drafting as included in the final draft DCO [REP7-039] and no amendments or changes are needed.
- 16.9.4. In terms of Schedule 16, the ExA has considered the drafting of both the Schedule as included within the final draft DCO [REP7-039] and the without prejudice derogation draft DCO [REP7-079]. Table 16.2 of this Report includes a number of recommended changes to Schedule 16 as included within the draft DCO and, in response to comments made by NE, a number of recommended changes to the drafting of the without prejudice derogation draft DCO. The ExA considered this necessary as should the SoS reach a different conclusion or additional information becomes available to the effect that HRA matters do not preclude them from making the Order then they may consider it necessary to secure the mitigation included in the without prejudice Schedule 16.
- 16.9.5. However, for the purposes of table 16.3, and the recommended DCO, only changes to Schedule 16 of the final draft DCO are listed.

Table 16.3 ExA changes to the final draft DCO [REP7-039]

Provision in draft DCO [REP7-039]	Wording in the draft DCO	ExA’s Recommended Change
Part 2, Article 2	“deemed marine licences” means the marine licences set out in Schedules 11 and 12;	“deemed marine licences” means the marine licences set out in Schedules 11 (deemed marine licence under the 2009 Act – generation assets) and 12 (deemed marine licence under the 2009 Act –

		offshore transmission assets);
Part 2, Article 2	<p>"maintain" includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection) but does not include the removal, reconstruction or replacement of foundations associated with the offshore works, to the extent assessed in the environmental statement and any derivative of maintain must be constructed accordingly;</p>	<p>"maintain" includes inspect, upkeep, repair, adjust and alter and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in part 2 of Schedule 1 (ancillary works), any cable, any component part of any wind turbine generator, offshore electrical substation, offshore accommodation platform, meteorological mast, and the onshore transmission works described in part 1 of Schedule 1 (authorised development) not involving removal, reconstruction or replacement of foundations and buildings associated with the onshore project substation to the extent assessed in the Environmental Statement; and "maintenance" must be constructed accordingly;</p>
Part 2, Article 5	<p>(1) The undertaker may with the written consent of the Secretary of State—</p> <p>(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order (including the deemed marine licences, in whole or in part) and such related statutory rights as may be agreed between the undertaker and the transferee; and</p> <p>(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (including the deemed marine licences, in whole or in part)</p>	<p>(1) Subject to (4) and (5) the undertaker may with the written consent of the Secretary of State -</p> <p>(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) below) and such related statutory rights as may be agreed between the undertaker and the transferee;</p> <p>(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of</p>

	<p>and such related statutory rights as may be so agreed.</p> <p>except where paragraph (6) applies, in which case the consent of the Secretary of State is not required.</p> <p>(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraphs (5), (7), (10) and the first reference in paragraph (11) include references to the transferee or lessee.</p> <p>(3) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application and the Secretary of State must provide a response within four weeks of receipt of the notice.</p> <p>(4) The Secretary of State must consult the MMO before giving consent to the transfer or grant to another person of the whole or part of the benefit of the provisions of the deemed marine licences.</p> <p>(5) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (1)—</p> <p>(a) the benefit transferred or granted (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;</p> <p>(b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit is not enforceable against the undertaker; and</p> <p>(c) the exercise by a person of any benefits or</p>	<p>the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) below) and such related statutory rights as may be so agreed.</p> <p>except where paragraph (7) applies, in which case the consent of the Secretary of State is not required.</p> <p>(2) Subject to paragraph (5), the undertaker may with the written consent of the Secretary of State—</p> <p>(a) where an agreement has been made in accordance with paragraph (1)(a), transfer to the transferee the whole of any of the deemed marine licences and such related statutory rights as may be agreed between the undertaker and the transferee; or</p> <p>(b) where an agreement has been made in accordance with paragraph (1)(b), grant to the lessee, for the duration of the period mentioned in paragraph (1)(b), the whole of any of the deemed marine licences and such related statutory rights as may be so agreed.</p> <p>(3) Where an agreement has been made in accordance with paragraph (1) or (2) references in this Order to undertaker except in paragraphs (6), (8), (11) and the first reference in paragraph (12) include references to the transferee or lessee.</p> <p>(4) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in</p>
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	<p>rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.</p> <p>(6) This paragraph applies to any provisions of this Order and its related statutory rights where—</p> <p>(a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply, etc) of the 1989 Act; or</p> <p>(b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—</p> <p>(i) no such claims have been made,</p> <p>(ii) any such claim has been made and has been compromised or withdrawn,</p> <p>(iii) compensation has been paid in final settlement of any such claim,</p> <p>(iv) payment of compensation into court has taken place in lieu of settlement of any such claim, or</p> <p>(v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation shall be payable.</p> <p>(7) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority.</p>	<p>writing of the proposed application and the Secretary of State must provide a response within four weeks of receipt of the notice.</p> <p>(5) The Secretary of State must consult the MMO before giving consent to the transfer or grant to another person of the whole or part of the benefit of the provisions of the deemed marine licences.</p> <p>(6) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraphs (1) or (2)—</p> <p>(a) the benefit transferred or granted (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;</p> <p>(b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit is not enforceable against the undertaker; and</p> <p>(c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) or (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.</p> <p>(7) This paragraph applies to any provisions of this Order and its related statutory rights where—</p> <p>(a) the transferee or lessee is the holder of a licence under section 6</p>
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	<p>(8) The notice required under paragraphs (3) and (7) must—</p> <p>(a) state—</p> <p>(i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;</p> <p>(ii) subject to paragraph (9), the date on which the transfer will take effect;</p> <p>(iii) the provisions to be transferred or granted; and</p> <p>(iv) the restrictions, liabilities and obligations that, in accordance with paragraph (5)(c), will apply to the person exercising the powers transferred or granted; and</p> <p>(v) where paragraph (6) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.</p> <p>(b) be accompanied by—</p> <p>(i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and</p> <p>(ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.</p> <p>(9) The date specified under paragraph (8)(a)(ii) in respect of a notice served in respect of paragraph (7) must not be earlier than the expiry of fourteen days from the date of the receipt of the notice.</p> <p>(10) The notice given under paragraph (7) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.</p>	<p>(licences authorising supply, etc) of the 1989 Act; or</p> <p>(b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—</p> <p>(i) no such claims have been made,</p> <p>(ii) any such claim has been made and has been compromised or withdrawn,</p> <p>(iii) compensation has been paid in final settlement of any such claim,</p> <p>(iv) payment of compensation into court has taken place in lieu of settlement of any such claim, or</p> <p>(v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation shall be payable.</p> <p>(8) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority.</p> <p>(9) The notice required under paragraphs (4) and (8) must—</p> <p>(a) state—</p> <p>(i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;</p> <p>(ii) subject to paragraph (10), the date on which the transfer will take effect;</p> <p>(iii) the provisions to be transferred or granted; and</p>
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	<p>(11) Sections 72(7) and (8) of the 2009 Act (variation, suspension, revocation and transfer) do not apply to a transfer or grant of the whole or part of the benefit of the provisions of the deemed marine licences to another person by the undertaker pursuant to an agreement under paragraph (1) save that the MMO may amend any deemed marine licence granted under Schedule 11 or Schedule 12 of the Order to correct the name of the undertaker to the name of a transferee or lessee under this article 5 (benefit of the Order).</p>	<p>(iv) the restrictions, liabilities and obligations that, in accordance with paragraph (6)(c), will apply to the person exercising the powers transferred or granted; and</p> <p>(v) where paragraph (7) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.</p> <p>(b) be accompanied by—</p> <p>(i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and</p> <p>(ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.</p> <p>(10) The date specified under paragraph (9)(a)(ii) in respect of a notice served in respect of paragraph (8) must not be earlier than the expiry of fourteen days from the date of the receipt of the notice.</p> <p>(11) The notice given under paragraph (8) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.</p> <p>(11) Sections 72(7) and (8) of the 2009 Act (variation, suspension, revocation and transfer) do not apply to a transfer or grant of the whole or part of the benefit of the provisions of the deemed marine licences to another person by the undertaker pursuant to an agreement under paragraphs (1) and (2) save that the MMO may amend any</p>
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		deemed marine licence granted under Schedule 11 or Schedule 12 of the Order to correct the name of the undertaker to the name of a transferee or lessee under this article 5 (benefit of the Order).
Part 2, Article 6 (g)	(g) section 28E (duties in relation to sites of scientific interest) of the Wildlife and Countryside Act 1981 (c).	Delete
Part 5, Article 30 (a)	Acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to the statutory undertakes shown on the land plans within the Order land;	Acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to the statutory undertakes shown on the land plans within the Order land and described in the book of reference;
Part 7, Article 43 (1) (a)(b)(c)	(a) belonging to Her Majesty... (b) belonging to Her Majesty... (c) belonging to a government department or held in trust for Her Majesty...	(a) belonging to His Majesty... (b) belonging to His Majesty... (c) belonging to a government department or held in trust for His Majesty...
Part 7, Article 43 (2)	Paragraph (1) does not apply to the exercise of any rights under this Order for the Compulsory Acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.	Paragraph (1) does not apply to the exercise of any rights under this Order for the Compulsory Acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown and the appropriate Crown authority has consented to the acquisition.
Schedule 1, Part 1, Work No. 5	Between HMWS and MLWS and in the East Riding of Yorkshire Work No.5 – works consisting of (a) up to six cable circuits and associated electrical circuit ducts between Work No. 2 and Work No. 6; and (b) up to eight Horizontal directional drilling exit pits,	Between MHWS and MLWS and in the East Riding of Yorkshire Work No. 5- up to six cable circuits and associated electrical circuit ducts between Work No. 2 and Work No. 6.

	unless Work No. 2 (f) is constructed.	
Schedule 1, Part 3, Requirement 7	<p>7.—(1) Construction of Work No. 7(a) and (b) may not commence until details of—</p> <ul style="list-style-type: none"> (a) the layout; (b) scale; (c) proposed finished ground levels; (d) external appearance and materials; (e) hard surfacing materials; (f) vehicular and pedestrian access, parking and circulation areas; (g) minor structures, such as furniture, refuse or other storage units, signs and lighting; (h) proposed and existing functional services above and below, ground, including drainage, power and communications cables and pipelines, manholes and supports; and (i) means to control operational noise from Work No. 7 to a level no greater than 5dB above representative background (LA90,T) at the nearest identified noise sensitive receptors; <p>relating to that work of the authorised project have been submitted to and approved by the relevant planning authority.</p> <p>(2) The details submitted under sub-paragraph (1) must be in accordance with the outline design plan.</p> <p>(3) Work No. 7(a) and (b) must be carried out in accordance with the approved details.</p> <p>(4) Work No. 7(a) and (b) may not commence until confirmation of the choice of HVDC or HVAC or a</p>	<p>7.—(1) Construction of Work No. 7(a) and (b) may not commence until detailed plans and drawings of—</p> <ul style="list-style-type: none"> (a) the layout; (b) scale; (c) proposed finished ground levels; (d) external appearance and materials; (e) hard surfacing materials; (f) vehicular and pedestrian access, parking and circulation areas; (g) minor structures, such as furniture, refuse or other storage units, signs and lighting; (h) proposed and existing functional services above and below, ground, including drainage, power and communications cables and pipelines, manholes and supports; and (i) means to control operational noise from Work No. 7 to a level no greater than 5dB above representative background (LA90,T) at the nearest identified noise sensitive receptors; <p>relating to that work of the authorised project have been submitted to and approved by the relevant planning authority.</p> <p>(2) The details submitted under sub-paragraph (1) must be in accordance with the outline design plan.</p> <p>(3) The details submitted under sub-paragraph (1) must be subject to a design review process carried out by an independent design review panel to the</p>

	combination of both has been provided to the relevant planning authority, either before, or at the same time as, the details referred to in sub-paragraph (1).	<p>satisfaction of the relevant planning authority.</p> <p>(4) Work No. 7(a) and (b) must be carried out in accordance with the approved details.</p> <p>(5) Work No. 7(a) and (b) may not commence until confirmation of the choice of HVDC or HVAC or a combination of both has been provided to the relevant planning authority, either before, or at the same time as, the details referred to in sub-paragraph (1).</p>
Part 1, Article 2		<p>“independent design review panel” means a panel consisting of one chairperson and up to five members of which at least one member must be a chartered architect and one a chartered landscape professional. The remainder of the panel may be made up of external experts on architecture, landscaping, urban design, engineering or any other built environment profession.</p>
Schedule 1, Part 3, Requirement 9 (4)	(4) The landscape management and maintenance plan for Work No. 7(f) must include details of the management and maintenance of Work No. 7(f) until the connection works are decommissioned in accordance with the onshore decommissioning plan approved under requirement 24 (onshore decommissioning).	(4) The landscape management and maintenance plan for Work No. 7(f) must include details of the management and maintenance of Work No. 7(f) until the connection works are decommissioned in accordance with the onshore decommissioning plan approved under requirement 25 (onshore decommissioning).
Schedule 1, Part 3, Requirement 12 (3)	(3) Any approved permanent fencing in relation to the connection works in Work No. 7 must be completed before those works are brought into use and must be maintained for the operational lifetime of	(3) Any approved permanent fencing in relation to the connection works in Work No. 7 must be completed before those works are brought into use and must be maintained until the

	the connection works in Work No. 7.	connection works are decommissioned in accordance with the onshore decommissioning plan approved under requirement 25 (onshore decommissioning).
Schedule 1, Part 3, Requirement 13		(3) The temporary fencing or other temporary means of enclosure must be removed on completion of that stage of the connection works to the satisfaction of the relevant planning authority
Schedule 1, Part 3, Requirement 16 (1)	No stage of the connection works in Work No. 7 may commence until, in respect of the installation, a detailed surface water scheme has been prepared in consultation with the relevant sewerage and drainage authorities and Environment Agency and submitted to and approved by the lead local flood authority.	No stage of the connection works in Work No. 7 may commence until, in respect of the installation, a detailed surface water scheme has been prepared in consultation with the relevant sewerage and drainage authorities and the Environment Agency and submitted to and approved by the lead local flood authority.
Schedule 1, Part 3, Requirement 29 (3) (a) and (b)	“the required period” means the shorter of – (a) the operational life of the authorised development; and (b) the period ending ...	“the required period” means the shorter of – (a) the operational life of the authorised development; or (b) the period ending ...
Schedule 1, Part 3, Requirement 31 (1) and (2)	(1) With respect to any requirement which requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another person, the approved details must be carried out as approved unless an amendment or variation is previously agreed by the relevant planning authority or that other person in accordance with subparagraph (2).	(1) With respect to any requirement which requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another organisation or body , the approved details must be carried out as approved unless an amendment or variation is previously agreed by the relevant planning authority or that other organisation or body in accordance with subparagraph (2).

	(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or other person that the subject matter of the agreement sought is unlikely to give rise to any materially greater environmental effects from those assessed in the environmental statement.	(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or other organisation or body that the subject matter of the agreement sought is unlikely to give rise to any materially greater environmental effects from those assessed in the environmental statement.
Schedule 9, Part 1, Paragraph 1	For the protection of the affected undertakers referred to in this Part of this Schedule (save for National Grid which is protected by Part 3 of this Schedule and Northern Powergrid which is protected by Part 11 of this Schedule)...	For the protection of the affected undertakers referred to in this Part of this Schedule (save for National Grid which is protected by Part 3A and 3B of this Schedule and Northern Powergrid which is protected by Part 11 of this Schedule)...
Schedule 9, Part 4, Paragraph 4(1)(k)	(k) article 30 statutory undertakers)	(k) article 30 (statutory undertakers)
Schedule 9, Part 8, Paragraphs 1 to 13	Delete whole provision	[]
Schedule 9, Part 9, Paragraph 3	“the NEO Protective Provisions Plan” means the plan entitled NEO Protective Provisions Plan and certified as the NEO Protective Provisions Plan for the purposes of this Part of this Schedule;	“the NEO Protective Provisions Plan” means the plan entitled NEO Protective Provisions Plan as contained within Appendix B of REP7-106 and certified as the NEO Protective Provisions Plan for the purposes of this Part of this Schedule;

	<p>“Restricted Area” means the spherical area of seabed having a radius of 2.7 nautical miles from UTM 383,268.00 East, UTM 5,981, 086.00 North (International Spheroid, European Datum 1950, Zone 31, Central Meridian 3 degrees East) that point being the centre of the existing Babbage platform in Licence P.456 Block 48/2a operated by the Licensee shown delineated green on the NEO Protective Provision Plan;</p>	<p>“Restricted Area” means the spherical area of seabed having a radius of 3.14 nautical miles from UTM 383,268.00 East, UTM 5,981, 086.00 North (International Spheroid, European Datum 1950, Zone 31, Central Meridian 3 degrees East) that point being the centre of the existing Babbage platform in Licence P.456 Block 48/2a operated by the Licensee shown delineated green on the NEO Protective Provision Plan;</p>
Schedule 9, Part 10, Paragraphs 1 to 6		Delete whole provision
Schedule 9, Part 11	Part 11 for the protection of Northern Powergrid (Yorkshire) PLC	Part 10 for the protection of Northern Powergrid (Yorkshire) PLC
Schedule 9, Part 12	Part 12 for the protection of Bridge Petroleum 2 Limited	Part 11 for the protection of Bridge Petroleum 2 Limited
Schedule 9, Part 12, Paragraph 2 (b)	(b) within four months of the coming into force of this Order, the licensee has not obtained the necessary consents;	(b) within [] months of the coming into force of this Order, the licensee has not obtained the necessary consents;
Schedule 9, Part 12, Paragraph 5	No later than four months after the coming into force of this Order, the licensee shall notify the undertaker of its proposed location of its pipeline, such location being either pipeline route A or pipeline route B. From the date the undertaker receives the licensee’s notification, the protected area shall include either pipeline route A or pipeline route B (as elected by the licensee).	No later than [] months after the coming into force of this Order, the licensee shall notify the undertaker of its proposed location of its pipeline, such location being either pipeline route A or pipeline route B. From the date the undertaker receives the licensee’s notification, the protected area shall include either pipeline route A or pipeline route B (as elected by the licensee).
Schedule 9, Part 13	Part 13 for the protection of Harbour Energy Limited, Perenco UK Limited, Premier Oil E&P UK EU Limited, Dana Petroleum (E&P) Limited and Dana Petroleum Limited	Part 12 for the protection of Harbour Energy Limited, Perenco UK Limited, Premier Oil E&P UK EU Limited, Dana Petroleum (E&P) Limited and Dana Petroleum Limited

Schedule 9, Part 13, Paragraph 2	"aviation access corridor" means an 800m aviation access corridor....	"aviation access corridor" means an 1000m aviation access corridor....
	"aviation corridor" means an 800m aviation corridor...	"aviation corridor" means an 1000m aviation corridor...
	"the Johnston protective provisions plan" means the plan entitled Johnston protective provisions plan for the purposes of this part of the schedule;	"the Johnston protective provisions plan" means the plan entitled Hornsea Four Premier Oil Wellhead Buffer Plan and certified as the Johnston protective provisions plan for the purposes of this part of the schedule;
	"WTG exclusion zone" means an area of 900m radius of clear airspace measured from the centre of each of the Johnston production wellheads and coloured yellow and annotated and shown as a WTG exclusion zone on the Johnston protective provisions plan.	"WTG exclusion zone" means an area of three nautical mile radius of clear airspace measured from the centre of each of the Johnston production wellheads and coloured orange on the Johnston protective provisions plan.
Schedule 11 and Schedule 12, Part 2, Condition 4 (2)(f)	(f) cable protection and replenishment;	(f) cable protection replenishment for a maximum period of ten years post construction;
Schedule 11 and Schedule 12, Part 2, Condition 4(4)	No maintenance works authorised by this licence may be carried out until an operations and maintenance plan substantially in accordance with the outline operations and maintenance plan has been submitted to and approved by the MMO in writing.	An operation and maintenance plan substantially in accordance with the outline operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB at least six months prior to the commencement of operation of the licensed activities. All operation and maintenance activities shall be carried out in accordance with the approved plan.
Schedule 11 and Schedule 12, Part 2, Condition 13 (1)	(1) The licensed activities for each stage of construction of the authorised project must not commence until the following (insofar as relevant to that activity or stage of	(1) The licensed activities for each stage of construction of the authorised project must not commence until the following (insofar as relevant to that activity or stage of

	activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA and the UK Hydrographic Office–	activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, the UK Hydrographic Office and the relevant SNCB –
Schedule 11 and Schedule 12, Part 2, Condition 13 (1)(j)	In the event that driven or part-driven pile foundations are proposed to be used, the licensed activities, or any stage of those activities must not commence until a site integrity plan for that stage which accords with the principles set out in the outline southern north sea special area of conservation site integrity plan has been submitted in writing to the MMO and the MMO is satisfied that the plan provides such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site; and	Delete
Schedule 11, Part 2, Condition 27 and Schedule 12, Part 2, Condition 28		Southern North Sea Special Area of Conservation Site Integrity Plan (1) No piling activities can take place until a Site Integrity Plan (SIP), which accords with the principles set out in the outline Southern North Sea SAC Site Integrity Plan, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body. (2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC)

		<p>as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.</p> <p>(3) The SIP must be submitted to the MMO no later than six months prior to the commencement of the piling activities.</p> <p>(4) In approving the SIP, the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.</p> <p>(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the preconstruction stage, is in line with the JNCC guidance.</p>
<p>Schedule 11 and Schedule 12, Part 1, Paragraph 1</p>		<p>“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs, Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or</p>

		superseded from time to time;
Schedule 11 and Schedule 12, Part 2, Condition 14	<p>(1) Except where otherwise stated or agreed in writing with the MMO, each programme, statement, plan, protocol or scheme required to be approved under condition 13 (save for that required under condition 13(1)(f)) must be submitted for approval at least four months prior to the intended commencement of the relevant stage of the licensed activities, save for the following documents, which must be submitted to the MMO for approval at least six months prior to the intended commencement of the relevant stage of the licenced activities—</p> <p>(a) marine written scheme of archaeological investigation pursuant to condition 13(2);</p> <p>(b) fisheries coexistence and liaison plan pursuant to condition 13(6);</p> <p>(c) design plan pursuant to condition 13(1)(a); and</p> <p>(d) cable specification and installation plan pursuant to condition 13(1)(h).</p> <p>(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 13(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—</p> <p>(a) at least four months prior to the first survey of the relevant stage, detail of any pre-construction surveys and an outline of all proposed monitoring;</p>	<p>14.(1) Except where otherwise stated or agreed in writing with the MMO, each programme, statement, plan, protocol or scheme required to be approved under condition 13 (save for that required under condition 13(1)(f)) must be submitted for approval at least six months prior to the intended commencement of the relevant stage of the licensed activities.</p> <p>(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 13(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—</p> <p>(a) at least six months prior to the first survey of the relevant stage, detail of any pre-construction surveys and an outline of all proposed monitoring;</p> <p>(b) at least six months prior to construction of the relevant stage, detail on construction monitoring; and</p> <p>(c) at least six months prior to commissioning of the relevant stage, detail of post-construction (and operational) monitoring.</p> <p>(3) The MMO must determine an application for consent made under Condition 13 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker such</p>

	<p>(b) at least four months prior to construction of the relevant stage, detail on construction monitoring; and</p> <p>(c) at least four months prior to commissioning of the relevant stage, detail of post-construction (and operational) monitoring.</p> <p>(3) The MMO must determine an application for consent made under Condition 13 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker such agreement not to be unreasonably withheld or delayed.</p> <p>(4) The licensed activities for the relevant stage must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 13, unless otherwise agreed in writing by the MMO.</p> <p>(5) The plans, protocols, statements, scheme and details submitted under condition 13 must ensure that any residual effects fall within the scope of those predicted in the environmental statement.</p>	<p>agreement not to be unreasonably withheld or delayed.</p> <p>(4) The licensed activities for the relevant stage must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 13, unless otherwise agreed in writing by the MMO.</p> <p>(5) The plans, protocols, statements, scheme and details submitted under condition 13 must ensure that any residual effects fall within the scope of those predicted in the environmental statement.</p>
<p>Schedule 11, Part 2, Condition 28 and Schedule 12, Part 2, Condition 29</p>		<p>Pre-construction particle size analysis results</p> <p>No licensable marine activities relating to the dredging or disposal of marine sediments under Paragraph 2 of this licence will take place until the MMO has provided written approval of the laboratory contracted to undertake the particle size analysis of the pre-construction sediment samples.</p> <p>A request must be submitted for approval at least four months prior to</p>

		the intended commencement of the licensed activities and the MMO must determine an application for approval within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker. Such agreement is not to be unreasonably withheld or delayed.
Schedule 12, Part 2, Condition 12 (1)	(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO in the manner provided in condition 11(10)	(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and /or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO in the manner provided in condition 11(10)
Schedule 14, Paragraph 4(4)	(4) Within 10 days of the arbitrator advising the parties that he will hold a hearing, the date and venue of the hearing will be fixed by agreement with the parties, save that if there is no agreement the arbitrator will direct a date and venue which he considers is fair and reasonable in all circumstances.	(4) Within 10 days of the arbitrator advising the parties that they will hold a hearing, the date and venue of the hearing will be fixed by agreement with the parties, save that if there is no agreement the arbitrator will direct a date and venue which they consider is fair and reasonable in all circumstances.
Schedule 15, Part 3	REP7-0[XX] Benthic and Intertidal Ecology	REP7-0 04 Benthic and Intertidal Ecology
	REP7-0[XX] Benthic Intertidal Ecology Technical Report	REP7-0 13 Benthic Intertidal Ecology Technical Report
	REP7-0[XX] Volume A4 Chapter 4: Project Description Revision 7	REP7-0 02 Volume A4 Chapter 4: Project Description Revision 7
	REP7-0[XX] the book of reference	REP7-049 the book of reference

	REP2-057, the Endurance protective provisions plan, 1, 29 March 2022	[]
	REP7-0[XX] Harbour protective provision plan, 1, 10 August 2022	Delete
	REP7-0[XX] the Johnston protective provision plan, 1, 10 August 2022	REP6-049 Hornsea Four Premier Oil Wellhead Buffer Plan
	REP7-0[XX] the NEO protective provisions plan, 1, 10 August 2022	REP7-106 the NEO Protective Provisions Plan, Appendix B
	REP7-0[XX] the outline marine monitoring plan	REP7- 058 the outline marine monitoring plan
	REP7-0[XX] the outline southern north sea special area of conservation site integrity plan	REP7- 054 the outline southern north sea special area of conservation site integrity plan
	REP8-0[XX] the Perenco protective provisions plan	Delete
Schedule 15, Part 3		REP6-006, the pro-rata annex, 4, 27 July 2022
Schedule 16	Delete	[]

16.10. CONCLUSION

- 16.10.1. The SoS can be satisfied that the ExA has considered all iterations of the draft DCO as provided by the Applicant and is satisfied that it has addressed all outstanding matters.
- 16.10.2. The recommended DCO in Appendix C of this Report reflects the final draft DCO [REP7-039] submitted by the Applicant at D7 with the addition of those changes listed above. The ExA therefore recommends, with the exception of the outstanding matters listed below, that the SoS should make the Order, with the recommended changes, if satisfied that the Proposed Development should be consented.
- 16.10.3. If the SoS agrees with the ExA's recommendation regarding changes to the protective provisions for the benefit of the carbon storage licensee, Bridge, NEO and Harbour then the SoS will need to consult with the parties as to an appropriate form of drafting.
- 16.10.4. Depending on the SoS's conclusions on what HRA compensation would be required to protect the coherence of the National Site Network, then the SoS would either need to consult with the Applicant and NE on an alternative form of drafting for Schedule 16 or adopt the Applicant's draft DCO [REP7-039] or without-prejudice version [REP7-079], subject to the ExA's recommended changes set out in Table 16.2.

17. SUMMARY OF FINDINGS AND CONCLUSIONS

17.1. CONSIDERATION OF FINDINGS AND CONCLUSIONS

- 17.1.1. Section (s) 104(2) and s104(3) of the Planning Act 2008 (PA2008) require the Secretary of State (SoS) to have regard to, and to decide the application in accordance with any National Policy Statement (NPS), any Local Impact Report (LIR) and any other important or relevant matters. This is except to the extent that one or more of subsections (4) to (6) and (8) of s104 apply in terms of a breach of any international obligations or any duty or enactment or any condition prescribed for deciding an application otherwise than in accordance with a NPS. Subsection (7) of s104 relates to the planning balance which the ExA has considered in Chapter 14 of this Report.
- 17.1.2. The Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (the Habitats Regulations) require the Competent Authority to agree to the Proposed Development only after having ascertained that it would not affect the integrity of affected European sites. The ExA has concluded that, at the close of the Examination, there was insufficient information to demonstrate that the identified Adverse Effect on Integrity of the breeding kittiwake and guillemot qualifying features of the Flamborough and Filey Coast Special Protection Area would be fully compensated, or that the coherence of the UK National Site Network could be secured. To agree to the Proposed Development in these circumstances would, in the opinion of the ExA, constitute a breach of the Habitats Regulations and as such the ExA considers that the exception outlined in subsection (5) of s104 of the PA2008 applies as whilst the application would be in accordance with the relevant NPS it would lead to the SoS being in breach of a duty imposed on the SoS by an enactment.
- 17.1.3. Given this finding and having regard to subsection (5), the ExA concludes that it has no alternative other than to recommend to the SoS that the Development Consent Order (DCO) should not be made.

Circumstances should the SoS concludes that Habitat Regulations Assessment (HRA) matters are satisfactory

- 17.1.4. As set out in Chapter 14, as the Competent Authority, the SoS may reach a different conclusion, or additional information may have become available to the SoS between the close of the Examination and the application being determined, to the effect that HRA matters do not preclude the SoS from making the Order. In those circumstances the test to be applied is that set out in s104(3) of the PA2008 and as set out in paragraph 17.1.1 above.
- 17.1.5. The ExA concludes that the Proposed Development is covered by NPS EN-1, NPS EN-3 and NPS EN-5 and the making of a DCO would be in

accordance with them. Accordingly, s104(3) would be satisfied. The ExA has found that the benefits of the Proposed Development would significantly outweigh the harm identified in the planning balance undertaken in accordance with s104(7) of the PA2008.

- 17.1.6. Regard was given to the LIR produced by East Riding of Yorkshire Council and its development plan as set out in Chapters 3 and 12 of this Report.
- 17.1.7. With regard to all other matters and representations received, the ExA found no important and relevant matters that would individually or collectively lead to a different recommendation.
- 17.1.8. Not all issues raised by Interested Parties had been resolved by the close of the Examination, though in the majority of cases the relevant planning authorities or regulators will have control over approval of detailed management documents which would be secured through the recommended DCO (Appendix C). The resolution of these matters at this stage does not undermine the ExA's ability to make its recommendation to the SoS and as such no further action is required.
- 17.1.9. If the SoS concludes that development consent should be granted the Compulsory Acquisition (CA) and Temporary Possession (TP) powers requested by the Applicant would be necessary for the implementation of the Proposed Development and the Applicant has a clear idea of how it intends to use the land. Significant public benefit would be derived from the construction of the Proposed Development at the earliest opportunity. The private loss to those affected would be mitigated by the relatively short construction period and the Applicant's approach of acquiring the minimum rights and interests needed to construct, operate and maintain the Proposed Development.
- 17.1.10. The ExA is satisfied that the Applicant has explored reasonable alternatives to the CA of land, rights and interests sought and that there would be no alternatives that ought to be preferred. The ExA is satisfied that adequate and secure funding would be available to enable CA within the relevant timeframe following the Order being made.
- 17.1.11. However, by the close of the Examination the Applicant had not obtained consent from the relevant Crown Authority. The Applicant has advised that it has progressed an Agreement of Undertaking with the Crown Estate and at the close of the Examination it was awaiting comments from the Crown Estate on a number of outstanding points. The ExA does not consider there to be any obvious barrier or reason why consent from the Crown Estate would not be forthcoming. However, the SoS cannot grant the Order without the consent of the relevant Crown Authority and such a consent must be obtained before any Order is made.
- 17.1.12. At the close of the Examination, there was an outstanding objection from a Statutory Undertaker and, as a consequence, s127 and s138 of the PA2008 were engaged. The ExA is satisfied that the protective provisions within the recommended DCO (Appendix C) would afford the Statutory

Undertakers with onshore interests the protections they require and ensure that they could continue to carry out their statutory functions without any serious detriment.

- 17.1.13. In relation to the Endurance Store the ExA has recommended that the Proposed Development should not be allowed to use the Exclusion Area to enable the two projects to co-exist. The ExA recognise that in making this recommendation the scheme that is being recommended would differ from that which the Applicant applied for however it is satisfied that this would not give rise to the need for any new or different environmental information to be provided from that which has been assessed in the ES and HRA. The ExA considers that neither of the protective provisions proposed by the parties would achieve this without detriment to the other party carrying out its functions. The ExA therefore recommends that the SoS should consult with the parties on an alternative form of drafting that would achieve this outcome.
- 17.1.14. If the SoS disagrees with the ExA's conclusion on the conflict in the Overlap Zone between the proposed array and the Endurance Store and that this is resolvable in both policy and technical terms, then the ExA recommends that the Proposed Development as applied for could be consented, subject to the SoS conclusions as competent authority on the habitats issues.
- 17.1.15. In relation to Statutory Undertakers with offshore interests the ExA has recommended a number of changes to the protective provisions to enable them to continue their statutory functions without serious detriment. Whilst the ExA is aware that alternative solutions were suggested in relation to these provisions, it was not provided with any alternative drafting. Therefore, the SoS may wish to consult with the relevant parties on this matter.
- 17.1.16. Considering all of the above factors together and subject to the consent of the Crown Estate in respect of Crown land the ExA considers there to be a compelling case in the public interest for the CA and TP powers sought in respect of the plots listed in the Book of Reference [REP7-049]. The ExA concludes that the Proposed Development would comply with s122(2) and s122(3) of the PA2008.
- 17.1.17. The ExA considers that the proposed interference with human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate degree. Furthermore, throughout the Examination the ExA has had due regard to its public sector equality duties.

Table 17.1 Matters where the SoS is recommended to consult

Interested Party	Reason	Reference in Report
The Crown Estate	<p><u>Consent from the Crown</u></p> <p>The parties indicated [REP8-001] that agreement was close to being agreed. The SoS would need to obtain the consent of the Crown Estate before the Order could be made. If the SoS is minded to make the Order, they must write to the Crown Estate to ask whether its consent is given.</p>	Chapter 15, Paragraphs 15.8.42 to 15.8.46
bp and the Applicant	<p><u>Protective provisions</u></p> <p>Protective provisions were not agreed between the Applicant and bp by the close of the Examination. For the reasons set out in Chapter 10 the ExA finds that neither set of proposed protective provisions would achieve the outcome that the ExA consider is needed in order to enable the Proposed Development and the Endurance Project to co-exist. If minded to make the Order, the SoS should consult with both parties on an alternative drafting that would achieve this outcome.</p>	Chapter 10
Bridge Petroleum 2 Limited and the Applicant	<p><u>Protective provisions</u></p> <p>Protective provisions were not agreed by the close of the Examination. For the reasons set out in Chapter 16 the ExA does not consider that the provisions as drafted would protect the interests of Bridge Petroleum 2 Limited. If minded to make the Order, the SoS should consult with the parties about an appropriate timeframe for paragraphs 2 and 5 of the proposed protective provisions that would meet the needs of both parties.</p>	Chapter 16, Paragraphs 16.8.22 to 16.8.27
Applicant and Natural England	<p><u>Schedule 16</u></p> <p>Schedule 16 as drafted would not secure compensation for kittiwake and guillemot. For the reasons set out in Chapters 13 and 16 the ExA considers that this would be necessary in order to protect the coherence of the National Site Network. If minded to make the Order, the SoS should consult with the Applicant and Natural England on a form of drafting that would secure this.</p>	Chapter 16, Paragraphs 16.8.11 to 16.8.16
The Applicant	<p><u>Book of Reference</u></p> <p>The Book of Reference lists 'The Queen's Most Excellent Majesty in the Right of Her</p>	n/a

	Crown' as the owner and/ or occupier in relation to plots 1, 2, 3, 4, 5 and 6. If minded to make the Order, the SoS should request that the Book of Reference be updated to reference His Majesty the King.	
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Table 17.2 Matters where the SoS may wish to consider further consultation

Interested Party	Reason	Reference in Report
NEO Energy (SNS) Ltd and the Applicant	<u>Protective provisions</u> Protective provisions were not agreed between the parties by the close of the Examination. While the ExA has included a suggested form of wording in the recommended DCO, the SoS may wish to consult with the parties as to whether they can agree an alternative form of drafting which would secure the use of alternative helicopters and compensate for any additional costs thereby enabling reduction of the extent of the 'restricted area'.	Chapter 16, Paragraphs 16.8.7 to 16.8.19
Harbour Energy and the Applicant	<u>Protective provisions</u> Protective provisions were not agreed between the parties by the close of the Examination. Whilst the ExA has included a suggested form of wording in the recommended DCO, the SoS may wish to consult with the parties to determine whether they can agree an alternative form of drafting which would secure the use of an alternative type of helicopter and compensate for any additional costs thereby enabling the use of 800m wide aviation corridors and a smaller 'WTG exclusion zone'.	Chapter 16, Paragraphs 16.8.28 to 16.8.38

- 17.1.18. In circumstances where the SoS considers that the exception in subsection 104(5) of the PA2008 with regard to HRA is not engaged, the conclusion of the ExA is that development consent should be granted for the reasons set out above and subject to receipt of the consent of the relevant Crown Authority and the incorporation of the changes to the DCO the ExA has recommended in Appendix C of this Report.

17.2. RECOMMENDATION

- 17.2.1. For all of the above reasons and in light of the ExA's findings and conclusions on important and relevant matters set out in the Report, the ExA recommends that the Secretary of State for Business, Energy and Industrial Strategy cannot make the Hornsea Project Four Wind Farm Order.
- 17.2.2. In the event that the Secretary of State disagrees with the ExA's findings in relation to the HRA, or if more conclusive evidence that appropriate compensation can be secured is provided after the close of the Examination, and consequently they decide to make the Hornsea Project Four Offshore Wind Farm Order, then the ExA recommends that, subject to obtaining Crown Consent, the Secretary of State should make the Order in the form recommended in Appendix C of this Report and subject to the actions set out in Tables 17.1 and 17.2 above.

APPENDICES

APPENDIX A: EXAMINATION LIBRARY	II
APPENDIX B: LIST OF ABBREVIATIONS.....	III
APPENDIX C: THE RECOMMENDED DCO	IV

APPENDIX A: EXAMINATION LIBRARY

Hornsea Project Four Offshore Wind Farm Examination Library

Updated – 07/11/2022

This Examination Library relates to the Hornsea Project Four Wind Farm application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

EN010098 – Hornsea Four Offshore Wind Farm**Examination Library - Index**

Category	Reference
Application Documents As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
Adequacy of Consultation responses	AoC-xxx
Relevant Representations	RR-xxx
Procedural Decisions and Notifications from the Examining Authority Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
Additional Submissions Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination including responses to Rule 6 and Rule 8 letters	AS-xxx
Events and Hearings Includes agendas for hearings and site inspections, audio recordings, responses to notifications and applicant's hearing notices	EV-xxx
Representations – by Deadline	
Procedural Deadline:	PDL-xxx

Deadline 1:

REP1-xxx

Deadline for receipt by the ExA of:

- Notification of wish to speak at a Compulsory Acquisition Hearing (CAH)
- Notification of wish to speak at an Open Floor Hearing (OFH)
- Notification of wish to speak at any of the Issue Specific Hearings (ISHs)
- Submission of suggested sites for the ExA to visit on either an unaccompanied basis or as part of an Accompanied Site Inspection (ASI), if one is required
- Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA
- Notification of wish to have future correspondence received electronically
- Comments on Relevant Representations (RRs)
- Local Impact Reports (LIRs) from local authorities
- Initial Statements of Common Ground (SoCGs) requested by the ExA
- Statement of Commonality of SoCGs
- A revised version of the draft Development Consent Order (draft DCO) in clean and tracked versions
- An indicative schedule showing when updated or new offshore ornithology and HRA documents are likely to be submitted into the Examination, including their likely content and approximate size
- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

<p>Deadline 2:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Responses to ExQ1 - Written Representations (WRs) - Summaries of any WRs that exceed 1500 words - Comments on the LIR(s) - Applicant to provide a draft itinerary for the ASI if required - Applicant to provide an updated Guide to the Application - Applicant to provide a Compulsory Acquisition Schedule (CA Schedule) - An updated version of the draft DCO in clean and tracked versions (if required as a result of ExQ1) - Schedule of changes to the draft DCO - Responses to comments on RRs - Comments on any other submissions received at Deadline 1 - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	<p>REP2-xxx</p>
<p>Deadline 3:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Post-hearing submissions including written summaries of oral case put at any of the hearings held during w/c 11 April 2022 - Comments on draft ASI itinerary produced by the Applicant - Comments on submissions received at Deadline 2 - Progressed versions of any SoCG and an updated Statement of Commonality of SoCG - Applicant to provide an updated Guide to the Application - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	<p>REP3-xxx</p>

<p>Deadline 4:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Post-hearing submissions including written summaries of oral case put at any of the hearings during the w/c 25 April 2022 and 2 May 2022 - Progressed versions of any SoCG and an updated Statement of Commonality of SoCG - An updated Guide to the Application - An updated CA Schedule - An updated version of the draft DCO in clean and tracked versions - An updated schedule of changes to the draft DCO - Comments on any submissions received at Deadline 3 - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	<p>REP4-xxx</p>
<p>Deadline 4a:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Applicant's response to the ExA's request for information dated 19 May 2022 	<p>REP4a-xxx</p>
<p>Deadline 5:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Responses to ExQ2 - An updated Guide to the Application - An updated version of the draft DCO in clean and tracked versions (if required) - Schedule of changes to the draft DCO (if required) - An updated Compulsory Acquisition (CA) Schedule in clean and tracked versions - Progressed Statements of Common Ground (SoCGs) and an updated Statement of Commonality of SoCGs - Comments on any submissions received at Deadline 4 and 4a - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	<p>REP5-xxx</p>

<p>Deadline 5a:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Comments on responses to ExQ2 - Comments on any submissions received at Deadline 5 - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	<p>REP5a-xxx</p>
<p>Deadline 6:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Post-hearing submissions including written summaries of oral case put at hearings during w/c 18 July 2022 (if held) - An updated Guide to the Application - An updated version of the draft DCO in clean, tracked and Word versions - Schedule of changes to the draft DCO - An updated CA Schedule in clean and tracked versions - Progressed SoCGs and an updated Statement of Commonality of SoCGs - Comments on any other submissions received at Deadline 5a - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	<p>REP6-xxx</p>
<p>Deadline 7:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Comments on the ExA's preferred draft DCO, proposed schedule of changes, or commentary on the draft DCO (if issued) - Final SoCGs and Statement of Commonality of SoCGs, also listing matters not agreed (in circumstances where a SoCG could not be finalised) - Final version of the draft DCO in clean, tracked and Word versions - Final schedule of changes to the draft DCO (if required) - Final draft DCO to be submitted by the Applicant in the SI template with the SI validation report - Final Guide to the Application - Final CA Schedule in clean and tracked versions - An updated Book of Reference - Signed and dated planning 	<p>REP7-xxx</p>

<p>obligations and any other agreements (if required)</p> <ul style="list-style-type: none"> - Comments on any submissions received at Deadline 6 - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	
<p>Deadline 8:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Comments on the RIES (if issued) - Comments on responses submitted for Deadline 7 - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	REP8-xxx
<p>Other Documents</p> <p>Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents</p>	OD-xxx

EN010098 – Hornsea Four Offshore Wind Farm**Examination Library****Application Documents**

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APP-002	Orsted Hornsea Project Four Limited 1.2 Volume 1.2: Application Document Register
APP-003	Orsted Hornsea Project Four Limited 1.3 Volume 1.3: Draft Section 55 Check List
APP-004	Orsted Hornsea Project Four Limited 1.4 Volume 1.4 Application Form
APP-005	Orsted Hornsea Project Four Limited 1.5 Volume 1.5: Newspaper Notices
APP-006	Orsted Hornsea Project Four Limited A1 Environmental Statement Volume A1 Non Technical Summary. Amended by document AS-022
APP-007	Orsted Hornsea Project Four Limited A1.1 Environmental Statement Volume A1 Chapter 1 Introduction
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APP-009	Orsted Hornsea Project Four Limited A1.3 Environmental Statement Volume A1 Chapter 3 Site Selection and Consideration of Alternatives
APP-010	Orsted Hornsea Project Four Limited A1.4 Environmental Statement Volume A1 Chapter 4 Project Description. Amended by document AS-006
APP-011	Orsted Hornsea Project Four Limited A1.5 Environmental Statement Volume A1 Chapter 5 Environmental Impact Assessment Methodology. Amended by document AS-007
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APP-022	Orsted Hornsea Project Four Limited A2.10 Environmental Statement Volume A2 Chapter 10 Seascape Landscape and Visual Resources
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APP-025	Orsted Hornsea Project Four Limited A3.1 Environmental Statement Volume A3 Chapter 1 Geology and Ground Conditions
APP-026	Orsted Hornsea Project Four Limited A3.2 Environmental Statement Volume A3 Chapter 2 Hydrology and Flood Risk
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APP-030	Orsted Hornsea Project Four Limited A3.6 Environmental Statement Volume A3 Chapter 6 Land Use and Agriculture
APP-031	Orsted Hornsea Project Four Limited A3.7 Environmental Statement Volume A3 Chapter 7 Traffic and Transport
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APP-169	Orsted Hornsea Project Four Limited B2.2: Report to Inform Appropriate Assessment Part 3: Appendix B: Habitats Regulations Assessment Screening Matrices. This has now been superseded by document AS-012
APP-170	Orsted Hornsea Project Four Limited B2.2: Report to Inform Appropriate Assessment Part 4: Appendix C: Integrity Matrices. Amended by document AS-016
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APP-178	Orsted Hornsea Project Four Limited B2.2: Report to Inform Appropriate Assessment Part 12: Appendix I: Marine Mammals - Bottlenose dolphin RIAA Information
APP-179	Orsted Hornsea Project Four Limited B2.2.2 Volume B2, Annex 2.2: Habitats Regulations Assessment Compensation Measures Part 1
APP-180	Orsted Hornsea Project Four Limited B2.2.2 Volume B2, Annex 2.2: Habitats Regulations Assessment Compensation Measures Part 2
APP-181	Orsted Hornsea Project Four Limited B2.4 Volume B2, Chapter 4: Summary Statement

APP-182	Orsted Hornsea Project Four Limited B2.5 Volume B, Chapter 5: Without Prejudice Derogation Case. Amended by document AS-017
APP-183	Orsted Hornsea Project Four Limited B2.6 Volume B2, Chapter 6: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Overview
APP-184	Orsted Hornsea Project Four Limited B2.6.1 Volume B2, Annex 6.1: Compensation measures of the Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Compensation Criteria. Amended by document AS-018
APP-185	Orsted Hornsea Project Four Limited B2.6.2 Volume B2, Annex 6.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Prey Resource Evidence
APP-186	Orsted Hornsea Project Four Limited B2.7 Volume B2, Chapter 7: Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Gannet and Kittiwake Compensation Plan
APP-187	Orsted Hornsea Project Four Limited B2.7.1 Volume B2 Annex 7.1 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Offshore Artificial Nesting Ecological Evidence
APP-188	Orsted Hornsea Project Four Limited B2.7.2 Volume B2, Annex 7.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Offshore Artificial Nesting Roadmap
APP-189	Orsted Hornsea Project Four Limited B2.7.3 Volume B2, Annex 7.3: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Onshore Artificial Nesting: Ecological Evidence
APP-190	Orsted Hornsea Project Four Limited B2.7.4 Volume B2, Annex 7.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Onshore Artificial Nesting Roadmap
APP-191	Orsted Hornsea Project Four Limited B2.7.5 Volume B2, Annex 7.5: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Artificial Nesting: Site Selection and Design
APP-192	Orsted Hornsea Project Four Limited B2.7.6 Volume B2, Annex 7.6: Outline Gannet and Kittiwake Compensation Implementation and Monitoring Plan
APP-193	Orsted Hornsea Project Four Limited B2.8 Volume B, Chapter 8: Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Gannet, Guillemot and Razorbill Compensation Plan
APP-194	Orsted Hornsea Project Four Limited B2.8.1 Volume B2, Annex 8.1: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Bycatch Reduction: Ecological Evidence
APP-195	Orsted Hornsea Project Four Limited

	B2.8.2 Volume B2, Annex 8.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Bycatch Reduction: Roadmap
APP-196	Orsted Hornsea Project Four Limited B2.8.3 Volume B2, Annex 8.3: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Predator Eradication: Ecological Evidence
APP-197	Orsted Hornsea Project Four Limited B2.8.4 Volume B2, Annex 8.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Predator Eradication: Roadmap
APP-198	Orsted Hornsea Project Four Limited B2.8.5 Volume B2, Annex 8.5: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Fish Habitat Enhancement: Ecological Evidence
APP-199	Orsted Hornsea Project Four Limited B2.8.6 Volume B2, Annex 8.6: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Fish Habitat Enhancement: Roadmap
APP-200	Orsted Hornsea Project Four Limited B2.8.7 Volume B2, Annex 8.7: Outline Gannet, Guillemot and Razorbill Compensation Implementation and Monitoring Plan
APP-201	Orsted Hornsea Project Four Limited B2.9 Volume B2, Chapter 9: Record of Consultation
APP-202	Orsted Hornsea Project Four Limited B2.10 RP Volume B2 Chapter 10 Without Prejudice Derogation Funding Statement
APP-203	Orsted Hornsea Project Four Limited C.1.1 Development Consent Order (DCO) Volume C1 draft DCO including draft Deemed Marine Licence (DML)
APP-204	Orsted Hornsea Project Four Limited C1.2 Volume C1, Chapter 2: Explanatory Memorandum
APP-205	Orsted Hornsea Project Four Limited D1.1.1 Volume D1, 1.1: Location Plan Offshore and Onshore
APP-206	Orsted Hornsea Project Four Limited D1.1.2 Volume D1, 1.2: Location Plan - Offshore
APP-207	Orsted Hornsea Project Four Limited D1.1.3 Volume D1, 1.3: Location Plan - Onshore
APP-208	Orsted Hornsea Project Four Limited D1.2.1 Volume D1, 2.1: Offshore Order Limits and Grid Coordinates Plan
APP-209	Orsted Hornsea Project Four Limited D1.2.2 Volume D1, 2.2: Onshore Order Limits
APP-210	Orsted Hornsea Project Four Limited D1.3.1 Volume D1, 3.1: Land Plan - Onshore
APP-211	Orsted Hornsea Project Four Limited D1.4.1 Volume D1, 4.1: Works Plans - Offshore
APP-212	Orsted Hornsea Project Four Limited D1.4.2 Volume D1, 4.2: Works Plans - Onshore
APP-213	Orsted Hornsea Project Four Limited D1.5.1 Volume D1, 5.1: Access to Works Plan

APP-214	Orsted Hornsea Project Four Limited D1.6.1 Volume D1, 6.1: Streets Plan
APP-215	Orsted Hornsea Project Four Limited D1.7.1 Volume D1, 7.1: Public Rights of Way (PRoW) Plan
APP-216	Orsted Hornsea Project Four Limited D1.8.1 Volume D1, 8.1: Offshore Historic Environment Plan
APP-217	Orsted Hornsea Project Four Limited D1.9.1 Volume D1, 9.1: Onshore Historic or Scheduled Monument Sites Plan
APP-218	Orsted Hornsea Project Four Limited D1.10.1 Volume D1, 10.1: Onshore Statutory and Non-Statutory Nature Conservation Sites
APP-219	Orsted Hornsea Project Four Limited D1.10.2 Volume D1, 10.2: Offshore Statutory and Non-Statutory Nature Conservation Sites
APP-220	Orsted Hornsea Project Four Limited D1.11.1 Volume D1, 11.1: Tree Preservation Order and Hedgerow Plan
APP-221	Orsted Hornsea Project Four Limited D1.12.1 Volume D1, 12.1: Crown Land - Onshore and Offshore
APP-222	Orsted Hornsea Project Four Limited D1.12.2 Volume D1, 12.2: Special Category Land - Onshore
APP-223	Orsted Hornsea Project Four Limited D1.14.1 Volume D1, 14.1: Indicative Extent of Marine Licences
APP-224	Orsted Hornsea Project Four Limited E1.1 Volume E1, Chapter 1: Funding Statement
APP-225	Orsted Hornsea Project Four Limited E1.1.1 Volume E1, Annex 1.1: Funding Statement – Dalcour Maclaren Letter
APP-226	Orsted Hornsea Project Four Limited E1.1.2 Volume E1, Annex 1.2: Funding Statement – Orsted Annual Report
APP-227	Orsted Hornsea Project Four Limited E1.2: Statement of Reasons
APP-228	Orsted Hornsea Project Four Limited E1.3 Volume E1, Chapter 3: Book of Reference. This has now been superseded by document AS-002
APP-229	Orsted Hornsea Project Four Limited F1.1: Planning Statement
APP-230	Orsted Hornsea Project Four Limited F1.2: Safety Zone Statement
APP-231	Orsted Hornsea Project Four Limited F1.3: Cable Statement
APP-232	Orsted Hornsea Project Four Limited F1.4: Statutory Nuisance Statement
APP-233	Orsted Hornsea Project Four Limited F1.5: Consents Management Plan
APP-234	Orsted Hornsea Project Four Limited F1.6 Volume F1.6: Statement of Need
APP-235	Orsted Hornsea Project Four Limited

	F1.7: Scoping Opinion
APP-236	Orsted Hornsea Project Four Limited F2.1 Hierarchy of Management Plans
APP-237	Orsted Hornsea Project Four Limited F2.2: Outline Code of Construction Practice
APP-238	Orsted Hornsea Project Four Limited F2.3: Outline Ecological Management Plan
APP-239	Orsted Hornsea Project Four Limited F2.4: Outline Marine Written Scheme of Investigation
APP-240	Orsted Hornsea Project Four Limited F2.5: Outline Marine Mammal Mitigation Protocol
APP-241	Orsted Hornsea Project Four Limited F2.6 Volume F2.6: Outline Onshore Infrastructure Drainage Strategy
APP-242	Orsted Hornsea Project Four Limited F2.7: Outline Marine Monitoring Plan
APP-243	Orsted Hornsea Project Four Limited F2.8: Outline Landscape Management Plan
APP-244	Orsted Hornsea Project Four Limited F2.9: Outline Fisheries Coexistence and Liaison Plan
APP-245	Orsted Hornsea Project Four Limited F2.10: Outline Written Scheme of Investigation for Onshore Archaeology
APP-246	Orsted Hornsea Project Four Limited F2.11: Outline Southern North Sea Special Area of Conservation Site Integrity Plan
APP-247	Orsted Hornsea Project Four Limited F2.12: Outline Energy Balancing Infrastructure HazID Report
APP-248	Orsted Hornsea Project Four Limited F2.13: Outline Design Plan
APP-249	Orsted Hornsea Project Four Limited F2.14: Outline Enhancement Strategy
APP-250	Orsted Hornsea Project Four Limited F2.15: Outline Offshore Cable Installation Plan
APP-251	Orsted Hornsea Project Four Limited F2.16 Volume F2.16: Outline Net Gain Strategy
APP-252	Orsted Hornsea Project Four Limited F2.17: High Voltage Alternating Current (HVAC) Booster Station Lighting Plan
APP-253	Orsted Hornsea Project Four Limited F2.18: Outline Employment and Skills Plan
APP-254	Orsted Hornsea Project Four Limited F2.19: Outline Ornithological Monitoring Plan
APP-255	Orsted Hornsea Project Four Limited F3.1: Statement of Common Ground between Hornsea Project Four and East Riding of Yorkshire Council
APP-256	Orsted Hornsea Project Four Limited F3.3: Statement of Common Ground between Hornsea Project Four and National Highways
APP-257	Orsted Hornsea Project Four Limited

	F3.4 Statement of Common Ground between Hornsea Project Four and Natural England: Derogation Matters
APP-258	Orsted Hornsea Project Four Limited F3.5: Statement of Common Ground between Hornsea Project Four and Natural England: Onshore Matters
Adequacy of Consultation Responses	
AoC-001	City of York Adequacy of Consultation Representation
AoC-002	East Riding of Yorkshire Council Adequacy of Consultation Representation
AoC-003	Hull City Council Adequacy of Consultation Representation
AoC-004	North East Lincolnshire Council Adequacy of Consultation Representation
AoC-005	North Lincolnshire Council Adequacy of Consultation Representation
AoC-006	Selby District Council Adequacy of Consultation Representation
Relevant Representations	
RR-001	Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited Submission withdrawn via email dated 8 August 2022 [REP7-096]
RR-002	Bridge Petroleum Limited
RR-003	Christopher Thomas Watt
RR-004	CMS Cameron McKenna Nabarro Olswang LLP on behalf of NEO Energy (SNS) Limited
RR-005	Dee Atkinson and Harrison on behalf of Mr C W and Mrs C F Foreman Submission withdrawn via letter dated 31 May 2022 [REP5-092]
RR-006	DFDS
RR-007	Drax Power Limited
RR-008	East Riding of Yorkshire Council Objection to implications for the A164 Castle Hill Roundabout to A164 Regiment Roundabout Classified Road (Side Roads) Order 2021 Compulsory Purchase Order (Jocks Lodge scheme) withdrawn via email dated 4 August 2022 [REP7-095]
RR-009	East Suffolk Council
RR-010	Environment Agency
RR-011	EQUINOR
RR-012	Eversheds Sutherland (International) LLP on behalf of Viking Link Submission withdrawn via email dated 18 July 2022 [AS-047]

RR-013	Gordons LLP on behalf of Mr Paul Dransfield and Mrs Joanne Dransfield
RR-014	Harbour Energy
RR-015	Historic England
RR-016	Humberside Fire and Rescue Service
RR-017	Jane Taylor
RR-018	Lockington Parish Council
RR-019	Malcolm Taylor
RR-020	Marine Management Organisation
RR-021	Maritime and Coastguard Agency
RR-022	Ministry of Defence
RR-023	Mr PS Goatley
RR-024	National Grid Carbon Limited
RR-025	National Grid Electricity Transmission plc Submission withdrawn via email dated 22 August 2022 [AS-054]
RR-026	National Grid Gas plc Submission withdrawn via email dated 22 August 2022 [AS-054]
RR-027	National Grid Interconnector Holdings Limited
RR-028	NATS
RR-029	Natural England
RR-030	Northern Gas Networks Limited Submission withdrawn via email dated 10 August 2022 [REP7-110]
RR-031	Perenco UK Limited
RR-032	Professor Ian Reid/ Andrew Hersom on behalf of East Riding of Yorkshire & Kingston upon Hull Joint Local Access Forum
RR-033	Royal Society for the Protection of Birds
RR-034	Savills on behalf of Hotham Family Trust Submission withdrawn via email dated 6 June 2022 [REP5-121]
RR-035	Shell U.K. Ltd
RR-036	The Corporation of Trinity House of Deptford Strond
RR-037	The Crown Estate
RR-038	The Ramblers, East Yorkshire & Derwent Area
RR-039	The Wildlife Trusts
RR-040	UK Chamber of Shipping
RR-041	UK Health Security Agency
RR-042	Weightmans on behalf of Northern Powergrid (Yorkshire) PLC Submission withdrawn via letter dated 25 July 2022 [REP6-064]
RR-043	Yorkshire Wildlife Trust
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Notification of Decision to Accept Application
PD-002	Section 55 Checklist
PD-003	Section 51 advice to the Applicant
PD-004	Appointment of Examining Authority Notice of appointment of the Examining Authority

PD-005	Rule 6 letter - notification of the preliminary meeting and matters to be discussed
PD-006	The Examining Authority's written questions and requests for information (ExQ1)
PD-007	Rule 8 letter – Notification of Examination Timetable and Rule 13 Letter – Notification of Hearings
PD-008	Rule 17 Letter Request for further information and written comments from the Applicant and BP Exploration Operating Company Limited
PD-009	Rule 17 Letter Request for further information from Natural England and the Marine Management Organisation
PD-010	Rule 8(3), 9 and 17 letter Request for information from the Applicant and revisions to the Examination Timetable
PD-011	Rule 8(3) letter - Revisions to the Examination Timetable
PD-012	The Examining Authority's Further Written Questions (ExQ2)
PD-013	Rule 13 letter - Notification of July 2022 Hearings
PD-014	Rule 17 Letter Request for further information from the Applicant, Mr PS Goatley, Ms J Goatley, Crown Estate, Royal Society for the Protection of Birds, Natural England, East Riding of Yorkshire Council, Maritime and Coastguard Agency, Marine Management Organisation, National Grid Gas plc, National Grid Electricity Transmission plc, Network Rail Infrastructure Ltd, Environment Agency, NEO Energy (SNS) Ltd, Harbour Energy Ltd, Bridge Petroleum Ltd, Perenco UK Ltd, Ministry of Defence and NATS.
PD-015	Report on the Implications for European Sites (RIES) Issued by the Examining Authority – 28 July 2022
PD-016	The Schedule of the Examining Authority's (ExA) recommended amendments to the Applicant's draft Development Consent Order (DCO)
PD-017	Rule 17 letter Request for further information from the Applicant
PD-018	Rule 17 Letter Request for information from the Applicant, Natural England and the Maritime and Coastguard Agency

PD-019	Notification of completion of the Examining Authority's Examination
Additional Submissions	
AS-001	Hull City Council Additional Submission - Letter of Representation - Accepted at the discretion of the Examining Authority
AS-002	Orsted Hornsea Project Four Limited Additional Submission - E1.3 Book of Reference Revision 2 (clean) - Accepted at the discretion of the Examining Authority
AS-003	Orsted Hornsea Project Four Limited Additional Submission - E1.3 Book of Reference Revision 2 (tracked) - Accepted at the discretion of the Examining Authority
AS-004	Orsted Hornsea Project Four Limited Additional Submission - E1.3.1 Book of Reference Schedule of Changes Revision 2 - Accepted at the discretion of the Examining Authority
AS-005	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: G1.1.3 Cover Letter
AS-006	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: A1.4.1 Project Description Schedule of Change
AS-007	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: A1.5.1 Environmental Impact Assessment Methodology Schedule of Change
AS-008	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: A3.3.1 Ecology and Nature Conservation Schedule of Change
AS-009	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: A5.2.1.1 Benthic and Intertidal Ecology Technical Report Schedule of Change
AS-010	Orsted Hornsea Project Four Limited

	Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: A5.5.5.1 Offshore Ornithology Migratory Birds Report Schedule of Change
AS-011	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: B1.1.1 RP Volume B1 Annex 1.1 Consultation Report Annex 1 Evidence Plan
AS-012	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: B2.2 RP Volume B2 Chapter 2 Report to Inform Appropriate Assessment Part 3: Appendix B: HRA Screening Matrices - Revision 2 (Tracked)
AS-013	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: B2.2 RP Volume B2 Chapter 2 Report to Inform Appropriate Assessment Part 3: Appendix B: HRA Screening Matrices - Revision 2 (Clean)
AS-014	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: B2.2.1.1 Report to Inform Appropriate Assessment Part 1 Schedule of Change
AS-015	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: B2.2.1.2 Report to Inform Appropriate Assessment Part 2 Schedule of Change
AS-016	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: B2.2.1.4 Report to Inform Appropriate Assessment Part 4 Schedule of Change
AS-017	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: B2.5.1 Without Prejudice Derogation Case Schedule of Change
AS-018	Orsted Hornsea Project Four Limited

	Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: B2.6.1.1 Compensation measures for FFC SPA Compensation Criteria Schedule of Change
AS-019	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: G1.1 Overarching Acronyms List
AS-020	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: G1.2 Environmental Risk Assessment of the Onshore Substation and Energy Balancing Infrastructure
AS-021	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: G1.1.4 Applicant Response to Section 51 Advice
AS-022	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: NTS1.1.1 Non Technical Summary Schedule of Change
AS-023	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. G1.5 Kittiwake Adverse Effects on Integrity (AEoI) Conclusion
AS-024	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Response to post-Acceptance s51 advice: G1.6 Onshore Substation Site (OnSS) and Energy Balancing Infrastructure (EBI) Ground Levels Clarification Memo
AS-025	Holderness Fishing Industry Group Additional Submission accepted at the discretion of the Examining Authority. Written submission and recommendations.
AS-026	The National Federation of Fishermen's Organisations Additional Submission accepted at the discretion of the Examining Authority. Written submission and comments on the Environmental Statement.
AS-027	Royal Society for the Protection of Birds (RSPB) Additional Submission, accepted at the discretion of the Examining Authority. Summary of Written Representations (WRs)

AS-028	Natural England Additional submission, accepted at the discretion of the Examining Authority. Responses to Examining Authority's First Written Questions (ExQ1) (clean). To replace REP2-082
AS-029	Natural England Additional submission, accepted at the discretion of the Examining Authority. Responses to Examining Authority's First Written Questions (ExQ1) (tracked). To replace REP2-082
AS-030	Environment Agency Additional submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at DCO and Compulsory Acquisition Hearings
AS-031	Marine Management Organisation Additional submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing 1 (ISH1)
AS-032	Marine Management Organisation Additional submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearings 2 - 6 (ISH2 - ISH6)
AS-033	Network Rail Infrastructure Limited Additional submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing 2 (ISH2)
AS-034	Royal Society for the Protection of Birds (RSPB) Additional Submission, accepted at the discretion of the Examining Authority. Comments on changes to the Examination Timetable
AS-035	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. G5.37 Applicant's comments on the Crown Estate's Deadline 5 submission - Resubmitted [REP5a-021]
AS-036	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. G6.5 Applicants Comments on Natural England's DCO Submissions received at Deadline 5a
AS-037	Maritime and Coastguard Agency Additional Submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing 9 (ISH9)
AS-038	Orsted Hornsea Project Four Limited

	Additional submission, accepted at the discretion of the Examining Authority. G3.12 Without Prejudice Derogation Draft Development Consent Order (DCO) Schedules (Clean)
AS-039	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. G3.12 Without Prejudice Derogation Draft Development Consent Order (DCO) Schedules (Tracked)
AS-040	Natural England Additional Submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing (ISH) 7, ISH10, ISH11 and ISH12.
AS-041	Royal Society for the Protection of Birds (RSPB) Additional Submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing (ISH) 7, ISH10, ISH11 and ISH12.
AS-042	Marine Management Organisation (MMO) Additional submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing (ISH) 7, ISH8, ISH9, ISH11 and ISH12
AS-043	Historic England Additional Submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing (ISH) 8 and ISH9
AS-044	Perenco UK Limited Additional submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing 7 (ISH7) and ISH9
AS-045	Orsted Hornsea Project Four Limited Additional Submission, accepted at the discretion of the Examining Authority. Update regarding Issue Specific Hearing 7 (ISH7) Agenda Item 5
AS-046	Harbour Energy Additional Submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing 9 (ISH9)
AS-047	Eversheds Sutherland (International) LLP on behalf of Viking Link Additional Submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing 9 (ISH9) and Withdrawal of Relevant Representation [RR-012]
AS-048	Natural England Additional submission, accepted at the discretion of the Examining Authority. Written submission in lieu of attendance at Issue Specific Hearing (ISH) 10, ISH11 and ISH12
AS-049	Harbour Energy Additional Submission received before the close of Examination, accepted at the discretion of the Examining Authority. Post Deadline 8 Additional Information
AS-050	Orsted Hornsea Project Four Limited

	Additional Submission received before the close of Examination, accepted at the discretion of the Examining Authority. G8.12 Applicant's Cover Letter for Close of Examination
AS-051	Orsted Hornsea Project Four Limited Additional Submission received before the close of Examination, accepted at the discretion of the Examining Authority. G6.18 Applicants Schedule of Side Agreements (Clean) - Revision: 04
AS-052	Orsted Hornsea Project Four Limited Additional Submission received before the close of Examination, accepted at the discretion of the Examining Authority. G6.18 Applicants Schedule of Side Agreements (Tracked) - Revision: 04
AS-053	Orsted Hornsea Project Four Limited Additional Submission received before the close of Examination, accepted at the discretion of the Examining Authority. G8.13 Clarifications on Ornithology Matters arising from Deadline 8
AS-054	Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission Plc (NGET) and National Grid Gas Plc (NGG) Additional Submission received before the close of Examination, accepted at the discretion of the Examining Authority. Withdrawal of Relevant Representations [RR-025] and [RR-026]
Events and Hearings	
Unaccompanied Site Visits	
EV-001	Note of Unaccompanied Site Inspection of 9 February 2022
EV-002	Note of Unaccompanied Site Inspection of 10 February 2022
Preliminary Meeting – 22 February 2022	
EV-003	Recording of Preliminary Meeting - 22 February 2022
EV-004	Preliminary Meeting - Transcript - 22 February 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-005	Preliminary meeting note
Accompanied Site Visits and Hearings	
EV-006	Orsted Hornsea Project Four Limited Notice of April and May 2022 Hearings
Open Floor Hearing – 11 April 2022	
EV-007	Agenda for Open Floor Hearing 1 - Monday 11 April 2022
EV-007a	Action points for Open Floor Hearing 1 (OFH1) – 11 April 2022
EV-007b	Recording for Open Floor Hearing 1 (OFH1) – 11 April 2022

	Please note the hearing commences at time 00:02:43 within the recording
EV-007c	Transcript for Open Floor Hearing 1 (OFH1) - 11 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing (ISH1) – 12 April 2022	
EV-008	Agenda for Issue Specific Hearing 1 dealing with matters relating to the draft Development Consent Order - 12 April 2022
EV-008a	Action points for Issue Specific Hearing 1 (ISH1) dealing with matters relating to the draft Development Consent Order – Tuesday 12 April 2022
EV-008b	Recording for Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) part 1 – 12 April 2022
EV-008c	Transcript for Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) part 1 – 12 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-008d	Recording for Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) part 2 – 12 April 2022
EV-008e	Transcript for Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) part 2 – 12 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-008f	Recording for Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) part 3 – 12 April 2022
EV-008g	Transcript for Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) part 3 – 12 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-008h	Recording for Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) part 4 – 12 April 2022
EV-008i	Transcript for Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) part 4 – 12 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Compulsory Acquisition Hearing (CAH1) – 13 April 2022	

EV-009	Agenda for Compulsory Acquisition Hearing - Wednesday 13 April 2022
EV-009a	Action points for Compulsory Acquisition Hearing 1 (CAH1) – Wednesday 13 April 2022
EV-009b	Recording for Compulsory Acquisition Hearing 1 (CAH1) – 13 April 2022
EV-009c	Transcript for Compulsory Acquisition Hearing 1 (CAH1) – 13 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing (ISH2) – 26 April 2022	
EV-010	Agenda for Issue Specific Hearing 2 (ISH2) dealing with onshore environmental matters – Tuesday 26 April 2022
EV-010a	Action Points arising from Issue Specific Hearing 2: Onshore Environmental Matters that was held virtually on Tuesday 26 April 2022
EV-010b	Recording of Issue Specific Hearing 2 (ISH2) on onshore environmental matters - Part 1 - 26 April 2022
EV-010c	Recording of Issue Specific Hearing 2 (ISH2) on onshore environmental matters - Part 2 - 26 April 2022
EV-010d	Transcript for Issue Specific Hearing 2 (ISH2) on onshore environmental matters - Part 1 - 26 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-010e	Transcript for Issue Specific Hearing 2 (ISH2) on onshore environmental matters - Part 2 - 26 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 3 (ISH3) – 26 April 2022	
EV-011	Agenda for Issue Specific Hearing 3 (ISH3) dealing with offshore environmental matters – Tuesday 26 April 2022
EV-011a	Action Points arising from Issue Specific Hearing 3: Offshore Environmental Matters that was held virtually on Tuesday 26 April 2022
EV-011b	Recording of Issue Specific Hearing 3 (ISH3) on offshore environmental matters - 26 April 2022

EV-011c	<p>Transcript for Issue Specific Hearing 3 (ISH3) on offshore environmental matters - 26 April 2022</p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>
EV-012 – EV-026	REFERENCES NOT IN USE
Issue Specific Hearing 4 (ISH4) – 27 April 2022	
EV-027	Agenda for Issue Specific Hearing 4 (ISH4) dealing with matters relating to marine environment, excluding ornithology – Wednesday 27 April 2022
EV-027a	Action Points arising from Issue Specific Hearing 4 (ISH4): the marine environment that was held virtually on Wednesday 27 April 2022
EV-027b	Recording of Issue Specific Hearing 4 (ISH4) on the marine environment (excluding ornithology) - Part 1 - 27 April 2022
EV-027c	Recording of Issue Specific Hearing 4 (ISH4) on the marine environment (excluding ornithology) - Part 2 - 27 April 2022
EV-027d	<p>Transcript for Issue Specific Hearing 4 (ISH4) on the marine environment (excluding ornithology) - Part 1 - 27 April 2022</p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>
EV-027e	<p>Transcript for Issue Specific Hearing 4 (ISH4) on the marine environment (excluding ornithology) - Part 2 - 27 April 2022</p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>
Issue Specific Hearing 5 (ISH5) – 28 April 2022	
EV-028	Agenda for Issue Specific Hearing 5 (ISH5) dealing with matters relating to marine and coastal ornithology – Thursday 28 April 2022
EV-028a	Action Points arising from Issue Specific Hearing 5: marine and costal ornithology that was held virtually on Thursday 28 April 2022

EV-028b	Recording of Issue Specific Hearing 5 (ISH5) on marine and coastal ornithology - Part 1 - 28 April 2022
EV-028c	Recording of Issue Specific Hearing 5 (ISH5) on marine and coastal ornithology - Part 2 - 28 April 2022
EV-028d	Transcript for Issue Specific Hearing 5 (ISH5) on marine and coastal ornithology - Part 1 - 28 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-028e	Transcript for Issue Specific Hearing 5 (ISH5) on marine and coastal ornithology - Part 2 - 28 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing (ISH6) – 29 April 2022	
EV-029	Agenda for Issue Specific Hearing 6 (ISH6) dealing with matters relating to the Habitats Regulations Assessment – Friday 29 April 2022
EV-029a	Recording of Issue Specific Hearing 6 (ISH6) on the Habitats Regulations Assessment - Part 1 - 29 April 2022
EV-029b	Recording of Issue Specific Hearing 6 (ISH6) on the Habitats Regulations Assessment - Part 2 - 29 April 2022
EV-029c	Transcript for Issue Specific Hearing 6 (ISH6) on the Habitats Regulations Assessment - Part 1 - 29 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV-029d	Transcript for Issue Specific Hearing 6 (ISH6) on the Habitats Regulations Assessment - Part 2 - 29 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-029e	Action Points arising from Issue Specific Hearing 6: Habitat Regulations Assessment (HRA) that was held virtually on Friday 29 April 2022

Issue Specific Hearings during the week commencing 18 July 2022	
EV-030	Orsted Hornsea Project Four Limited Notice of July 2022 Hearings
Issue Specific Hearing 7 (ISH7) Monday 18 July 2022	
EV-031	Agenda for Issue Specific Hearing 7 (ISH7) dealing with matters relating to the draft Development Consent Order - Monday 18 July 2022
EV-031a	Action Points arising from Issue Specific Hearing 7 (ISH7) on the draft Development Consent Order (DCO) that was held virtually on Monday 18 July 2022
EV-031b	Recording of Issue Specific Hearing 7 (ISH7) on matters relating to the draft Development Consent Order - Monday 18 July 2022 - Part 1
EV-031c	Recording of Issue Specific Hearing 7 (ISH7) on matters relating to the draft Development Consent Order - Monday 18 July 2022 - Part 2
EV-031d	Recording of Issue Specific Hearing 7 (ISH7) on matters relating to the draft Development Consent Order - Monday 18 July 2022 - Part 3
EV-031e	Transcript for Issue Specific Hearing 7 (ISH7) on matters relating to the draft Development Consent Order - Monday 18 July 2022 - Part 1 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-031f	Transcript for Issue Specific Hearing 7 (ISH7) on matters relating to the draft Development Consent Order - Monday 18 July 2022 - Part 2 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-031g	Transcript for Issue Specific Hearing 7 (ISH7) on matters relating to the draft Development Consent Order - Monday 18 July 2022 - Part 3 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 8 (ISH8) Tuesday 19 July 2022	
EV-032	Agenda for Issue Specific Hearing 8 (ISH8) dealing with onshore environmental matters - Tuesday 19 July 2022
EV-032a	Action Points arising from Issue Specific Hearing 8 (ISH8) on onshore environmental matters held virtually on Tuesday 19 July 2022
EV-032b	Recording of Issue Specific Hearing 8 (ISH8) on onshore environmental matters – Tuesday 19 July 2022 - Part 1

EV-032c	Recording of Issue Specific Hearing 8 (ISH8) on onshore environmental matters – Tuesday 19 July 2022 - Part 2
EV-032d	Transcript for Issue Specific Hearing 8 (ISH8) on onshore environmental matters – Tuesday 19 July 2022 - Part 1
EV-032e	Transcript for Issue Specific Hearing 8 (ISH8) on onshore environmental matters – Tuesday 19 July 2022 - Part 2
Issue Specific Hearing 9 (ISH9) Tuesday 19 July 2022	
EV-033	Agenda for Issue Specific Hearing 9 (ISH9) dealing with offshore environmental matters - Tuesday 19 July 2022
EV-033a	Action Points arising from Issue Specific Hearing 9 (ISH9) on offshore environmental matters - Tuesday 19 July 2022
EV-033b	Recording of Issue Specific Hearing 9 (ISH9) on offshore environmental matters - Tuesday 19 July 2022
EV-033c	Transcript for Issue Specific Hearing 9 (ISH9) on offshore environmental matters - Tuesday 19 July 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 10 (ISH10) Wednesday 20 July	
EV-034	Agenda for Issue Specific Hearing 10 (ISH10) dealing with matters relating to marine processes and ecology, excluding ornithology - Wednesday 20 July
EV-034a	Action Points arising from Issue Specific Hearing 10 (ISH10) on matters relating to marine processes and ecology - Wednesday 20 July 2022
EV-034b	Recording of Issue Specific Hearing 10 (ISH10) on matters relating to marine processes and ecology - Wednesday 20 July 2022 - Part 1
EV-034c	Recording of Issue Specific Hearing 10 (ISH10) on matters relating to marine processes and ecology - Wednesday 20 July 2022 - Part 2
EV-034d	Recording of Issue Specific Hearing 10 (ISH10) on matters relating to marine processes and ecology - Wednesday 20 July 2022 - Part 3
EV-034e	Transcript for Issue Specific Hearing 10 (ISH10) on matters relating to marine processes and ecology - Wednesday 20 July 2022 - Part 1 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-034f	Transcript for Issue Specific Hearing 10 (ISH10) on matters relating to marine processes and ecology - Wednesday 20 July 2022 - Part 2 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

EV-034g	<p>Transcript for Issue Specific Hearing 10 (ISH10) on matters relating to marine processes and ecology - Wednesday 20 July 2022 - Part 3</p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>
Issue Specific Hearing 11 (ISH11) Thursday 21 July 2022	
EV-035	Agenda for Issue Specific Hearing 11 (ISH11) dealing with matters relating to marine ornithology - Thursday 21 July 2022
EV-035a	Action Points arising from Issue Specific Hearing 11 (ISH11) on matters relating to marine ornithology - Thursday 21 July 2022
EV-035b	Recording of Issue Specific Hearing 11 (ISH11) on matters relating to marine ornithology on Thursday 21 July 2022 - Part 1
EV-035c	Recording of Issue Specific Hearing 11 (ISH11) on matters relating to marine ornithology on Thursday 21 July 2022 - Part 2
EV-035d	<p>Transcript for Issue Specific Hearing 11 (ISH11) on matters relating to marine ornithology on Thursday 21 July 2022 - Part 1</p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>
EV-035e	<p>Transcript for Issue Specific Hearing 11 (ISH11) on matters relating to marine ornithology on Thursday 21 July 2022 - Part 2</p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>
Issue Specific Hearing 12 (ISH12) Friday 22 July 2022	
EV-036	Agenda for Issue Specific Hearing 12 (ISH12) dealing with matters relating to the Habitats Regulations Assessment - Friday 22 July 2022
EV-036a	Action Points arising from Issue Specific Hearing 12 (ISH12) on matters relating to the Habitats Regulations Assessment - Friday 22 July 2022
EV-036b	Recording of Issue Specific Hearing 12 (ISH12) on matters relating to the Habitats Regulations Assessment - Friday 22 July 2022 - Part 1
EV-036c	Recording of Issue Specific Hearing 12 (ISH12) on matters relating to the Habitats Regulations Assessment - Friday 22 July 2022 - Part 2
EV-036d	<p>Transcript for Issue Specific Hearing 12 (ISH12) on matters relating to the Habitats Regulations Assessment - Friday 22 July 2022 - Part 1</p> <p>This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.</p>
EV-036e	Transcript for Issue Specific Hearing 12 (ISH12) on matters relating to the Habitats Regulations Assessment - Friday 22 July 2022 - Part 2

	This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
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Representations

Procedural Deadline – 11 February 2022

Deadline for receipt by the ExA of:

- Written submissions on the Examination procedure and draft Examination Timetable including any submissions about the use of virtual procedures
- Requests to be heard orally at the Preliminary Meeting including which agenda items you wish to speak on, points you wish to make and why these need to be made orally rather than in writing.

PDL-001	Orsted Hornsea Project Four Limited Procedural Deadline Submission
PDL-002	BP Exploration Operating Company Limited Procedural Deadline submission
PDL-003	CMS Cameron McKenna Nabarro Olswang LLP on behalf of NEO Energy (SNS) Limited Procedural Deadline Submission
PDL-004	East Riding of Yorkshire Council Procedural Deadline Submission
PDL-005	Marine Management Organisation (MMO) Procedural Deadline Submission
PDL-006	Natural England Procedural Deadline Submission
PDL-007	Royal Society for the Protection of Birds (RSPB) Late Procedural Deadline Submission, accepted at the discretion of the Examining Authority

Deadline 1 – 08 March 2022

Deadline for receipt by the ExA of:

- Notification of wish to speak at a Compulsory Acquisition Hearing (CAH)
- Notification of wish to speak at an Open Floor Hearing (OFH)
- Notification of wish to speak at any of the Issue Specific Hearings (ISHs)
- Submission of suggested sites for the ExA to visit on either an unaccompanied basis or as part of an Accompanied Site Inspection (ASI), if one is required
- Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA
- Notification of wish to have future correspondence received electronically
- Comments on Relevant Representations (RRs)
- Local Impact Reports (LIRs) from local authorities
- Initial Statements of Common Ground (SoCGs) requested by the ExA
- Statement of Commonality of SoCGs
- A revised version of the draft Development Consent Order (draft DCO) in clean and tracked versions
- An indicative schedule showing when updated or new offshore ornithology and HRA documents are likely to be submitted into the Examination, including their likely content and approximate size

- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules	
REP1-001	Orsted Hornsea Project Four Limited Late Deadline 1 Submission - G.1.48 Revised Cover Letter - Accepted at the discretion of the Examining Authority
REP1-002	Orsted Hornsea Project Four Limited Deadline 1 Submission - A revised version of the draft Development Consent Order (draft DCO) (Clean)
REP1-003	Orsted Hornsea Project Four Limited Deadline 1 Submission - A revised version of the draft Development Consent Order (draft DCO) (Tracked)
REP1-004	Orsted Hornsea Project Four Limited Deadline 1 Submission - A1.4 Volume A4 Chapter 4: Project Description (Clean) Revision: 3
REP1-005	Orsted Hornsea Project Four Limited Deadline 1 Submission - A1.4 Volume A4, Chapter 4: Project Description (Tracked) Revision: 3
REP1-006	Orsted Hornsea Project Four Limited Deadline 1 Submission - A4.4.8 Pro-rata Annex Revision 02 (Clean)
REP1-007	Orsted Hornsea Project Four Limited Late Deadline 1 Submission - A4.4.8 Pro-rata Annex Revision 02 (Tracked) - Accepted at the discretion of the Examining Authority
REP1-008	Orsted Hornsea Project Four Limited Late Deadline 1 Submission - B1.1.33 Volume B1 Annex 1.33 Stakeholder Working Group Meetings, Letters of Comfort and Letters of No Objection (Clean) Revision: 3 - Accepted at the discretion of the Examining Authority
REP1-009	Orsted Hornsea Project Four Limited Late Deadline 1 Submission - B1.1.33 Volume B1 Annex 1.33 Stakeholder Working Group Meetings, Letters of Comfort and Letters of No Objection Revision: 3 (Tracked) - Accepted at the discretion of the Examining Authority
REP1-010	Orsted Hornsea Project Four Limited Late Deadline 1 Submission - B2.2: Report to Inform Appropriate Assessment Part 1 (Clean) Revision: 02 - Accepted at the discretion of the Examining Authority
REP1-011	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.2: Report to Inform Appropriate Assessment Part 1 (Tracked) Revision: 02
REP1-012	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.2.C Annex C of B2.2: Report to Inform Appropriate Assessment: Integrity Matrices (Clean) Revision: 02
REP1-013	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.2.C Annex C of B2.2: Report to Inform Appropriate Assessment: Integrity Matrices (Tracked) Revision: 02
REP1-014	Orsted Hornsea Project Four Limited

	Deadline 1 Submission - B2.5 Volume B2, Chapter 5: Habitats Regulations Assessment Without Prejudice Derogation Case Part 1-3 (Clean) Revision: 2
REP1-015	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.5 Volume B2, Chapter 5: Habitats Regulations Assessment Without Prejudice Derogation Case Part 1-3 (Tracked) Revision: 2
REP1-016	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.7.2 Volume B2, Annex 7.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Offshore Artificial Nesting Roadmap (Clean) Revision 02
REP1-017	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.7.2 Volume B2, Annex 7.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Offshore Artificial Nesting Roadmap (Tracked) Revision 02
REP1-018	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.7.4 Volume B2, Annex 7.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Onshore Artificial Nesting Roadmap (Clean) Revision: 02
REP1-019	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.7.4 Volume B2, Annex 7.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Onshore Artificial Nesting Roadmap (Tracked) Revision: 02
REP1-020	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.8.2 Volume B2, Annex 8.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Guillemot and Razorbill Bycatch Reduction: Roadmap (Clean) Revision: 02
REP1-021	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.8.2 Volume B2, Annex 8.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Guillemot and Razorbill Bycatch Reduction: Roadmap (Tracked) Revision: 02
REP1-022	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.8.4 Volume B2, Annex 8.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Predator Eradication: Roadmap (Clean) Revision: 02
REP1-023	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.8.4 Volume B2, Annex 8.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Predator Eradication: Roadmap (Tracked) Revision: 03
REP1-024	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.8.6 Volume B2, Annex 8.6: Compensation measures for Flamborough and Filey Coast (FFC)

	Special Protection Area (SPA): Fish Habitat Enhancement: Roadmap (Clean) Revision: 02
REP1-025	Orsted Hornsea Project Four Limited Deadline 1 Submission - B2.8.6 Volume B2, Annex 8.6: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Fish Habitat Enhancement: Roadmap (Tracked) Revision: 02
REP1-026	Orsted Hornsea Project Four Limited Deadline 1 Submission - C1.1.1 Schedule of Change draft Development Consent Order (draft DCO) and Deemed Marine Licences (Tracked)
REP1-027	Orsted Hornsea Project Four Limited Deadline 1 Submission - F2.2 Outline Code of Construction Practice (Clean) Revision: 02
REP1-028	Orsted Hornsea Project Four Limited Deadline 1 Submission - F2.2 Outline Code of Construction Practice (Tracked) Revision: 02
REP1-029	Orsted Hornsea Project Four Limited Deadline 1 Submission - F2.3 Outline Ecological Management Plan (Clean) Revision: 02
REP1-030	Orsted Hornsea Project Four Limited Deadline 1 Submission - F2.3 Outline Ecological Management Plan (Tracked) Revision: 03
REP1-031	Orsted Hornsea Project Four Limited Deadline 1 Submission - F2.8 Outline Landscape Management Plan (Clean) Revision: 02
REP1-032	Orsted Hornsea Project Four Limited Deadline 1 Submission - F2.8 Outline Landscape Management Plan (Tracked) Revision: 02
REP1-033	Orsted Hornsea Project Four Limited Deadline 1 Submission - F2.9 Outline Fisheries Coexistence and Liaison Plan (Clean) Revision: B
REP1-034	Orsted Hornsea Project Four Limited Late Deadline 1 Submission - F2.9 Outline Fisheries Coexistence and Liaison Plan (Tracked) Revision: B - Accepted at the discretion of the Examining Authority
REP1-035	Orsted Hornsea Project Four Limited Deadline 1 Submission - F3.1 Statement of Common Ground between Hornsea Project Four and East Riding of Yorkshire Council Revision: 02
REP1-036	Orsted Hornsea Project Four Limited Deadline 1 Submission - F3.4 Statement of Common Ground between Hornsea Project Four and Natural England: Derogation Matters Revision: 02
REP1-037	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.1 Overarching Acronyms List Revision: 02
REP1-038	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.9 Applicant's comments on Relevant Representations Revision: 01
REP1-039	Orsted Hornsea Project Four Limited

	Deadline 1 Submission - G1.10 Clarification Note on Peak Herring Spawning Period and Seasonal Piling Restriction Revision: 01
REP1-040	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.11 Hornsea Project Four and National Grid Interconnector Holdings Limited (NGIHL) Continental Link Position Statement Revision: 01
REP1-041	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.12 Statement of Common Ground between Hornsea Project Four and Environment Agency Revision: 01
REP1-042	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.13 Statement of Common Ground between Hornsea Project Four and Natural England: Other Offshore Matters Revision: 01
REP1-043	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.14 Statement of Common Ground between Hornsea Project Four and Historic England
REP1-044	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.16 Position Statement between Hornsea Project Four and National Grid Gas PLC Revision: 01
REP1-045	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.17 Statement of Common Ground between Hornsea Project Four and the Marine Management Organisation Revision: 01
REP1-046	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.18 Statement of Common Ground between Hornsea Project Four and Natural England: Offshore and Intertidal Ornithology Revision: 01
REP1-047	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.19 Statement of Common Ground between Hornsea Project Four and The Wildlife Trusts Revision: 01
REP1-048	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.20 Statement of Common Ground between Hornsea Project Four and The UK Chamber of Shipping Revision: 01
REP1-049	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.21 Statements of Common Ground between Hornsea Project Four, the Holderness Fishing Industry Group and the National Federation of Fisherman's Organisations Revision: 01
REP1-050	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.22 Statement of Common Ground between Hornsea Project Four and the Royal Society for the Protection of Birds (RSPB): Offshore and Intertidal Ornithology, Derogation and Compensation Revision: 01
REP1-051	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.23 Position Statement between Hornsea Project Four and Network Rail Infrastructure Revision: 01

REP1-052	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.24 Position Statement between Hornsea Project Four and Northern Gas Networks Limited Revision 01
REP1-053	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.25 Statement of Common Ground between Hornsea Project Four and the Maritime Coastguard Agency Revision: 01
REP1-054	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.26 Statement of Common Ground between Hornsea Project Four and Trinity House Revision: 01
REP1-055	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.27 Position Statement between Hornsea Project Four and National Grid Electricity Transmission PLC Revision: 01
REP1-056	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.28 Position Statement between Hornsea Project Four and Northern Powergrid (Yorkshire) PLC Revision: 01
REP1-057	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.29 Position Statement between Hornsea Project Four and BP Exploration Operating Company Limited (BP)
REP1-058	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.30 Statement of Common Ground between Hornsea Project Four and The Ministry of Defence (MOD) Revision: 01
REP1-059	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.31 Statement of Common Ground between Hornsea Project Four and NATS (En Route) plc (NATS) Revision: 01
REP1-060	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.32 Applicant's Statement of Commonality of Statements of Common Ground Revision: 01
REP1-061	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.33 Predator eradication island suitability assessment: Bailiwick of Guernsey Revision: 1.1
REP1-062	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.40 Marine Plan Policy Review Revision: 01
REP1-063	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.41 Calculation Methods of Hornsea Fours Proposed Compensation Measures for Features of the Flamborough and Filey Coast (FFC) Special Protection Area (SPA)
REP1-064	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.42 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Gannet Bycatch Reduction: Ecological Evidence Revision: 1
REP1-065	Orsted Hornsea Project Four Limited

	Deadline 1 Submission - G1.43 Examination Deliverables Summary Revision: 01
REP1-066	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.44 Clarification Note on Marine Sediment Contaminants Revision: 1
REP1-067	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.45 Overarching Glossary List Revision: 01
REP1-068	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.46 Clarification Note on Marine Processes Supplementary Work Scope of Works Revision: 01
REP1-069	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.47 Auk Displacement and Mortality Evidence Review Revision: 01
REP1-070	Orsted Hornsea Project Four Limited (PDF, 247 KB) Deadline 1 Submission - G1.49 Accompanied Site Inspection (ASI) Input from the Applicant Revision: 01
REP1-071	Orsted Hornsea Project Four Limited Deadline 1 Submission - G1.50 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Derogation and Compensation Update Position Statement Revision: 01
REP1-072	East Riding of Yorkshire Council Deadline 1 Submission - Additional information to accompany Local Impact Report (LIR)
REP1-073	East Riding of Yorkshire Council Deadline 1 Submission - Submission of suggested sites for the ExA to visit on either an unaccompanied basis or as part of an Accompanied Site Inspection (ASI), if one is required
REP1-074	East Riding of Yorkshire Council Deadline 1 Submission - Local Impact Reports (LIRs) from local authorities
REP1-075	Lockington Parish Council Deadline 1 Submission
REP1-076	Marine Management Organisation Deadline 1 Submission - Written representation, Comments on Relevant Representations, Initial Statements of Common Ground (SoCG), Comments on revised documents
REP1-077	Max Rowe on behalf of Harbour Energy Deadline 1 Submission - Clarification of interested party; Notification of wish to have future correspondence received electronically; Preliminary response to Examining Authority's written questions and requests for information (ExQ1)
REP1-078	National Grid Carbon Limited Deadline 1 Submission - Text for inclusion in Initial Statements of Common Ground (SoCGs) requested by the Examining Authority
REP1-079	National Grid Carbon Limited

	Deadline 1 Submission - Information to accompany text for inclusion in Initial Statements of Common Ground (SoCGs) requested by the Examining Authority
REP1-080	NEO Energy (SNS) Limited (NEO) Deadline 1 Submission - Notification of wish to speak at any of the Issue Specific Hearings (ISHs)
REP1-081	Outer Dowsing Offshore Wind Ltd Deadline 1 Submission - Accepted at the discretion of the Examining Authority
REP1-082	The Wildlife Trusts Deadline 1 Submission - Response to Examining Authority's written questions and requests for information (ExQ1)
<p>Deadline 2 – 29 March 2022</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Responses to ExQ1 - Written Representations (WRs) - Summaries of any WRs that exceed 1500 words - Comments on the LIR(s) - Applicant to provide a draft itinerary for the ASI if required - Applicant to provide an updated Guide to the Application - Applicant to provide a Compulsory Acquisition Schedule (CA Schedule) - An updated version of the draft DCO in clean and tracked versions (if required as a result of ExQ1) - Schedule of changes to the draft DCO - Responses to comments on RRs - Comments on any other submissions received at Deadline 1 - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	
REP2-001	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.1 Cover Letter
REP2-002	Orsted Hornsea Project Four Limited Deadline 2 Submission - A.5.5.2 Volume A5, Annex 5.2: Offshore Ornithology Displacement Analysis (Tracked)
REP2-003	Orsted Hornsea Project Four Limited Deadline 2 Submission - A.5.5.2 Volume A5, Annex 5.2: Offshore Ornithology Displacement Analysis (Clean)
REP2-004	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.2: Report to Inform Appropriate Assessment Part 2: Appendix A: Habitat Regulations Assessment (HRA) Screening Report (Tracked) - Revision: 02
REP2-005	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.2: Report to Inform Appropriate Assessment Part 2: Appendix A: Habitat Regulations Assessment (HRA) Screening Report (Clean) - Revision: 02
REP2-006	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.7.2 Volume B2, Annex 7.2: Compensation measures for Flamborough and Filey Coast (FFC)

	Special Protection Area (SPA): Kittiwake Offshore Artificial Nesting Roadmap (Tracked) -Revision 03
REP2-007	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.7.2 Volume B2, Annex 7.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Offshore Artificial Nesting Roadmap (Clean) - Revision 03
REP2-008	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.7.4 Volume B2, Annex 7.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Onshore Artificial Nesting Roadmap (Tracked) - Revision: 03
REP2-009	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.7.4 Volume B2, Annex 7.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Onshore Artificial Nesting Roadmap (Clean) - Revision: 03
REP2-010	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.8.2 Volume B2, Annex 8.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Guillemot and Razorbill Bycatch Reduction: Roadmap (Tracked) - Revision: 03
REP2-011	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.8.2 Volume B2, Annex 8.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Guillemot and Razorbill Bycatch Reduction: Roadmap (Clean) - Revision: 03
REP2-012	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.8.4 Volume B2, Annex 8.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Predator Eradication: Roadmap (Tracked) - Revision: 03
REP2-013	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.8.4 Volume B2, Annex 8.4: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Predator Eradication: Roadmap (Clean) - Revision: 03
REP2-014	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.8.6 Volume B2, Annex 8.6: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Fish Habitat Enhancement: Roadmap (Tracked) - Revision: 03
REP2-015	Orsted Hornsea Project Four Limited Deadline 2 Submission - B2.8.6 Volume B2, Annex 8.6: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Fish Habitat Enhancement: Roadmap (Clean) - Revision: 03
REP2-016	Orsted Hornsea Project Four Limited

	Deadline 2 Submission - C1.1.1 Schedule of Changes to the draft Development Consent Order (dDCO) and Deemed Marine Licences (DML) (Tracked)
REP2-017	Orsted Hornsea Project Four Limited Deadline 2 Submission - E1.1 Volume E1, Chapter 1: Funding Statement (Tracked) - Revision: 2
REP2-018	Orsted Hornsea Project Four Limited Deadline 2 Submission - E1.1 Volume E1, Chapter 1: Funding Statement (Clean) - Revision: 2
REP2-019	Orsted Hornsea Project Four Limited Deadline 2 Submission - E1.1.1 Volume E1, Annex 1.1: Funding Statement – Dalcour Maclaren Letter (Tracked) - Revision: 2
REP2-020	Orsted Hornsea Project Four Limited Deadline 2 Submission - E1.1.1 Volume E1, Annex 1.1: Funding Statement – Dalcour Maclaren Letter (Clean) - Revision: 2
REP2-021	Orsted Hornsea Project Four Limited Deadline 2 Submission - E1.1.3 Volume E1, Annex 1.3: Funding Statement – Orsted Annual Report 2021 - Revision: 1
REP2-022	Orsted Hornsea Project Four Limited Deadline 2 Submission - E1.2.1 E1.2, Annex 1: Statement of Reasons: Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities - Revision: 1
REP2-023	Orsted Hornsea Project Four Limited Deadline 2 Submission - E1.3: Book of Reference (Tracked) - Revision: 3
REP2-024	Orsted Hornsea Project Four Limited Deadline 2 Submission - E1.3: Book of Reference (Clean) - Revision: 3
REP2-025	Orsted Hornsea Project Four Limited Deadline 2 Submission - E1.3.1 Book of Reference - Schedule of Changes - Revision: 3
REP2-026	Orsted Hornsea Project Four Limited Deadline 2 Submission - F2.8 Outline Landscape Management Plan (Tracked) - Revision: 03
REP2-027	Orsted Hornsea Project Four Limited Deadline 2 Submission - F2.8 Outline Landscape Management Plan (Clean) - Revision: 03
REP2-028	Orsted Hornsea Project Four Limited Deadline 2 Submission - F2.12 Outline Energy Balancing Infrastructure HazID Report (Tracked) - Revision: 02
REP2-029	Orsted Hornsea Project Four Limited Deadline 2 Submission - F2.12 Outline Energy Balancing Infrastructure HazID Report (Clean) - Revision: 02
REP2-030	Orsted Hornsea Project Four Limited Deadline 2 Submission - F2.15: Outline Cable Specification and Installation Plan (Tracked) - Revision: 02
REP2-031	Orsted Hornsea Project Four Limited Deadline 2 Submission - F2.15: Outline Cable Specification and Installation Plan (Clean) - Revision: 02

REP2-032	Orsted Hornsea Project Four Limited Deadline 2 Submission - G1.10 Clarification Note on Peak Herring Spawning Period and Seasonal Piling Restriction (Tracked) - Revision: 02
REP2-033	Orsted Hornsea Project Four Limited Deadline 2 Submission - G1.10 Clarification Note on Peak Herring Spawning Period and Seasonal Piling Restriction (Clean) - Revision: 02
REP2-034	Orsted Hornsea Project Four Limited Deadline 2 Submission - G1.11 Position Statement between Hornsea Project Four and National Grid Interconnector Holdings Limited (Tracked) - Revision: 02
REP2-035	Orsted Hornsea Project Four Limited Deadline 2 Submission - G1.11 Position Statement between Hornsea Project Four and National Grid Interconnector Holdings Limited (Clean) - Revision: 02
REP2-036	Orsted Hornsea Project Four Limited Deadline 2 Submission - G1.43 Examination Deliverables Summary (Tracked) - Revision: 02
REP2-037	Orsted Hornsea Project Four Limited Deadline 2 Submission - G1.43 Examination Deliverables Summary (Clean) - Revision: 02
REP2-038	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.2 Applicant's Responses to the ExA's First Written Questions (ExQ1) - Revision: 01
REP2-039	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.3 Applicant's Responses to Local Impact Report (LIR) - Revision: 01
REP2-040	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.4 Guide to the Application - Revision: 01
REP2-041	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.5 Applicants Compulsory Acquisition Schedule (CA Schedule) - Revision: 1
REP2-042	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.6 Applicant's comments on other submissions received at Deadline 1 - Revision: 01
REP2-043	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.7 Outline Offshore Operations and Maintenance Plan - Revision: 01
REP2-044	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.8 Equalities Impact Assessment - Revision: 01
REP2-045	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.9 Gannet Displacement and Mortality Evidence Review - Revision: 01
REP2-046	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.10 MRSea Baseline Sensitivity Report (Gannet) - Revision: 01

REP2-047	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.11 Razorbill Assessment: Alone and Incombination Farne Islands Special Protection Area (SPA) - Revision: 01
REP2-048	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.12 Interaction Between Hornsea Four and Dogger Bank Creyke Beck Development Consent Order (DCO) Order Limits - Revision: 01
REP2-049	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.13 Assessment of Common Scoter and Red Throated Diver within the Export Cable Corridor (ECC) - Revision: 01
REP2-050	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.14 Clarification Note on Underwater Noise Abatement Systems - Revision: 01
REP2-051	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.15 Position Statement between Hornsea Project Four and NEO Energy (SNS) Limited -Revision: 01
REP2-052	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.16 Albanwise Solar Plan - Revision: 1
REP2-053	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.17 Position Paper on Hydrology and Flood Risk - Assessment of Modelled Water Levels for Onshore Substation and Attenuation Feature - Revision: 01
REP2-054	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.18 Summary of Development Plan Policies - Revision: 01
REP2-055	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.19 Air Defence and Offshore Wind: Working Together Towards Net Zero - Revision: 01
REP2-056	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.20 Plan showing interaction between East Riding of Yorkshire Council (ERYC) Jocks Lodge Compulsory Purchase Order (CPO) boundary and Hornsea Project Four Order Limits - Revision: 1
REP2-057	Orsted Hornsea Project Four Limited Deadline 2 Submission - G2.21 Protective Provisions Plan with Endurance Project - Revision: 01
REP2-058	Orsted Hornsea Project Four Limited Deadline 2 Submission - Environmental Statement (ES) Volume 5, Annex 11.1: Offshore Installation Interfaces Part 2 (Tracked) - Revision: 01
REP2-059	Orsted Hornsea Project Four Limited Deadline 2 Submission - Environmental Statement (ES) Volume 5, Annex 11.1: Offshore Installation Interfaces Part 2 (Clean) - Revision: 02
REP2-060	Orsted Hornsea Project Four Limited Deadline 2 Submission - An updated version of the draft Development Consent Order (dDCO) (Tracked)
REP2-061	Orsted Hornsea Project Four Limited

	Deadline 2 Submission - An updated version of the draft Development Consent Order (dDCO) (Clean)
REP2-062	BP Exploration Operating Company Limited Deadline 2 Submission - Response to the Applicant's Deadline 1 submissions and response to the Examining Authority's First Written Questions (ExQ1)
REP2-063	Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission Plc Deadline 2 Submission - Written Representations (WRs)
REP2-064	Bryan Cave Leighton Paisner LLP on behalf of National Grid Gas Plc Deadline 2 Submission - Written Representations (WRs)
REP2-065	CMS Cameron McKenna Nabarro Olswang LLP on behalf of NEO Energy (SNS) Limited Deadline 2 Submission - Summary of Written Representations (WRs)
REP2-066	CMS Cameron McKenna Nabarro Olswang LLP on behalf of NEO Energy (SNS) Limited Deadline 2 Submission - Written Representations (WRs)
REP2-067	CMS Cameron McKenna Nabarro Olswang LLP on behalf of NEO Energy (SNS) Limited Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-068	East Riding of Yorkshire Council Deadline 2 Submission - Comments on the Local Impact Report (LIR)
REP2-069	East Riding of Yorkshire Council Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1). Local Plan Strategy Document.
REP2-070	East Riding of Yorkshire Council Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-071	East Suffolk Council Deadline 2 Submission - Comments on any other submissions received at Deadline 1
REP2-072	Environment Agency Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-073	Environment Agency Deadline 2 Submission - Written Representations (WRs)
REP2-074	Gordons LLP on behalf of Paul and Joanne Dransfield Deadline 2 Submission - Written Representations (WRs)
REP2-075	Historic England Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-076	Historic England Deadline 2 Submission - Written Representations (WRs)
REP2-077	Marine Management Organisation (MMO) Deadline 2 Submission - Summary of Written Representation's Written Representations (WRs), Comments on submissions received at Deadline 1, Comments on responses to comments on

	Relevant Representations (RRs), Responses to Examining Authority's First Written Questions (ExQ1)
REP2-078	Maritime and Coastguard Agency Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-079	Maritime and Coastguard Agency Deadline 2 Submission - Written Representations (WRs)
REP2-080	Max Rowe on behalf of Harbour Energy Deadline 2 Submission - Written Representations (WRs)
REP2-081	Ministry of Defence Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-082	Natural England Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1) This has now been superseded by documents AS-028 and AS-029.
REP2-083	Natural England Deadline 2 Submission - Risk and Issues Log
REP2-084	Natural England Deadline 2 Submission - Natural England review of REP1-068 - G1.46 Clarification Note on Marine Processes Supplementary Work Scope of Works Revision: 01
REP2-085	Natural England Deadline 2 Submission - Natural England review of G1.47 Auk Displacement and Mortality Evidence Review Revision: 01
REP2-086	Network Rail Infrastructure Limited Deadline 2 Submission - Written Representations (WRs)
REP2-087	Network Rail Infrastructure Limited Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-088	Network Rail Infrastructure Limited Deadline 2 Submission - Summary of Written Representations (WRs)
REP2-089	Royal Society for the Protection of Birds (RSPB) Deadline 2 Submission - Written Representations (WRs)
REP2-090	Royal Society for the Protection of Birds (RSPB) Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-091	Royal Society for the Protection of Birds (RSPB) Deadline 2 Submission - Annex A: Offshore Ornithology
REP2-092	Royal Society for the Protection of Birds (RSPB) Deadline 2 Submission - Annex B Derogation case: Bycatch reduction
REP2-093	Royal Society for the Protection of Birds (RSPB) Deadline 2 Submission - Annex C Derogation case: Predator eradication
REP2-094	The Corporation of Trinity House of Deptford Strond Deadline 2 Submission - Written Representations (WRs) and Response to Examining Authority's First Written Questions (ExQ1)

REP2-095	The Crown Estate Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-096	The UK Chamber of Shipping Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-097	Viking Link Deadline 2 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP2-098	Viking Link Deadline 2 Submission - Written Representations (WRs)
REP2-099	Viking Link Deadline 2 Submission - Responses to comments on Relevant Representations (RRs)
<p>Deadline 3 – 21 April 2022</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Post-hearing submissions including written summaries of oral case put at any of the hearings held during w/c 11 April 2022 - Comments on draft ASI itinerary produced by the Applicant - Comments on submissions received at Deadline 2 - Progressed versions of any SoCG and an updated Statement of Commonality of SoCG - Applicant to provide an updated Guide to the Application - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	
REP3-001	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.1 Cover Letter
REP3-002	Orsted Hornsea Project Four Limited Deadline 3 Submission - A4.4.7 Environmental Statement (ES) Volume A4, Annex 4.7: Layout Principles (Tracked)
REP3-003	Orsted Hornsea Project Four Limited Deadline 3 Submission - A4.4.7 Environmental Statement (ES) Volume A4, Annex 4.7: Layout Principles (Clean)
REP3-004	Orsted Hornsea Project Four Limited Deadline 3 Submission - A5.11.1 Offshore Installation Interfaces Part 1 (Tracked) - Revision: 02
REP3-005	Orsted Hornsea Project Four Limited Deadline 3 Submission - A5.11.1 Offshore Installation Interfaces Part 1 (Clean) - Revision: 02
REP3-006	Orsted Hornsea Project Four Limited Deadline 3 Submission - C.1.1 Draft DCO including Draft DML (Tracked)
REP3-007	Orsted Hornsea Project Four Limited Deadline 3 Submission - C.1.1 Draft DCO including Draft DML (Clean)
REP3-008	Orsted Hornsea Project Four Limited

	Deadline 3 Submission - C1.1.1 Schedule of Change Draft Development Consent Order and Deemed Marine Licences (Tracked)
REP3-009	Orsted Hornsea Project Four Limited Deadline 3 Submission - F2.8 Outline Landscape Management Plan (Tracked) - Revision: 04
REP3-010	Orsted Hornsea Project Four Limited Deadline 3 Submission - F2.8 Outline Landscape Management Plan (Clean) - Revision: 04
REP3-011	Orsted Hornsea Project Four Limited Deadline 3 Submission - F2.10 Outline Written Scheme of Investigation for Onshore Archaeology (Tracked) - Revision: 02
REP3-012	Orsted Hornsea Project Four Limited Deadline 3 Submission - F2.10 Outline Written Scheme of Investigation for Onshore Archaeology (Clean) - Revision: 02
REP3-013	Orsted Hornsea Project Four Limited Deadline 3 Submission - F3.1 Statement of Common Ground between Hornsea Project Four and East Riding of Yorkshire Council - Revision: 03
REP3-014	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.1 Overarching Acronyms List - Revision: 03
REP3-015	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.10 Statement of Common Ground between Hornsea Project Four and Natural England: Other Offshore Matters - Revision: 02
REP3-016	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.16 Position Statement between Hornsea Project Four and National Grid Gas PLC [DRAFT] - Revision: 02
REP3-017	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.17 Statement of Common Ground between Hornsea Project Four and the Marine Management Organisation - Revision: 02
REP3-018	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.18 Statement of Common Ground between Hornsea Project Four and Natural England: Offshore and Intertidal Ornithology - Revision: 02
REP3-019	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.21 Statement of Common Ground between Hornsea Project Four, the Holderness Fishing Industry Group and the National Federation of Fisherman's Organisations - Revision: 02
REP3-020	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.22 Statement of Common Ground between Hornsea Project Four and the Royal Society for the Protection of Birds: Offshore and Intertidal Ornithology, Derogation and Compensation - Revision: 02
REP3-021	Orsted Hornsea Project Four Limited

	Deadline 3 Submission - G1.25 Statement of Common Ground between Hornsea Project Four and the Maritime Coastguard Agency - Revision: 02
REP3-022	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.26 Statement of Common Ground between Hornsea Project Four and Trinity House - Revision: 02
REP3-023	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.27 Position Statement between Hornsea Project Four and National Grid Electricity Transmission PLC [DRAFT] - Revision: 02
REP3-024	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.32 Applicant's Statement of Commonality of Statements of Common Ground - Revision: 02
REP3-025	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.43 Examination Deliverables Summary (Tracked) - Revision: 03
REP3-026	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.43 Examination Deliverables Summary (Clean) - Revision: 03
REP3-027	Orsted Hornsea Project Four Limited Deadline 3 Submission - G1.45 Overarching Glossary List - Revision: 02
REP3-028	Orsted Hornsea Project Four Limited Deadline 3 Submission - G2.4 Guide to the Application - Revision: 02
REP3-029	Orsted Hornsea Project Four Limited Deadline 3 Submission - G2.10 MRSea Baseline Sensitivity Report (Gannet) - Revision: 02
REP3-030	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.2 Applicant's comments on NEO's comments received at Deadline 2 - Revision: 01
REP3-031	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.3 Applicant's comments on other submissions received at Deadline 2 - Revision: 01
REP3-032	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.4 Compensation measures for FFC SPA: Compensation Connectivity Note - Revision: 01
REP3-033	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.5 Clarification Note on the Installation of Two Monopile Foundations Sequentially - Revision: 01
REP3-034	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.4.1 Compensation measures for FFC SPA: Ecological Connectivity of Compensation Measures Annex 1 - Revision: 01
REP3-035	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.6 Clarification Note: Justification of Offshore Maximum Design Scenarios - Revision: 01
REP3-036	Orsted Hornsea Project Four Limited

	Deadline 3 Submission - G3.7 Applicant's Response to Natural England's comments on Auk Displacement and Mortality - Revision: 01
REP3-037	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.8 Chart depicting the Dogger Bank A and B export cable crossing rock protection - Revision: 01
REP3-038	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.9 Clarification Note: Marine Processes Supplementary Work Update - Revision: 01
REP3-039	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.10 Applicant's comments on National Grid Viking Link Limited's comments received at Deadline 2 Revision: 01
REP3-040	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.11 Greenhouse Gas Footprint Assessment - Revision: 01
REP3-041	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.12 Without Prejudice Derogation Draft Development Consent Order Schedules - Revision: 01
REP3-042	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.13 Written Summary of the Applicant's Oral Case at Open Floor Hearing - Revision: 01
REP3-043	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.14 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 1 Part 1: DCO and DML - Revision: 01
REP3-044	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.15 Written Summary of the Applicant's Oral Case at Compulsory Acquisition Hearing 1 - Revision: 01
REP3-045	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.16 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 1 Part 2 bp - Revision:01
REP3-046	Orsted Hornsea Project Four Limited Deadline 3 Submission - G3.17 Applicant's comments on Natural England's Comments received at Deadline 2 - Revision: 01
REP3-047	BP Exploration Operating Company Limited Deadline 3 Submission
REP3-048	Corporation of Trinity House Deadline 3 Submission - Post-hearing submissions for Deadline 3 following Issue Specific Hearing 1 on the draft Development Consent Order on Tuesday 12 April 2022 (ISH1)
REP3-049	East Riding of Yorkshire Council Deadline 3 Submission - Comments on submissions received at Deadline 2
REP3-050	East Riding of Yorkshire Council

	Deadline 3 Submission - Post-hearing submissions including written summaries of oral case put at any of the hearings held during w/c 11 April 2022
REP3-051	Historic England Deadline 3 submission - Regarding Issue Specific Hearing 3 (Offshore Environmental Matters) on 26th April 2022; Update on progress of Statement of Common Ground
REP3-052	Marine Management Organisation (MMO) Deadline 3 Submission - Post-hearing submissions including written summaries of oral case; Comments on submissions received at Deadline 2; Progressed versions of any SoCG; further information requested by the ExA under Rule 17
REP3-053	Natural England Deadline 3 Submission - Cover Letter
REP3-054	Natural England Deadline 3 Submission - Risk and Issues Log
REP3-055	Royal Society for the Protection of Birds (RSPB) Deadline 3 Submission - Comments on submissions received at Deadline 2
REP3-056	Royal Society for the Protection of Birds (RSPB) Deadline 3 Submission - Cover letter related to Issue Specific Hearing 5 (marine and coastal ornithology) and 6 (Habitats Regulations Assessment)
REP3-057	Viking Link Deadline 3 Submission - Relating to the Issue Specific Hearing on 26 April
REP3-058	Viking Link Deadline 3 Submission - Relating to the Issue Specific Hearing on Offshore Environmental Matters on 26 April
REP3-059	Malcolm and Jane Taylor Deadline 3 Submission
REP3-060	Orsted Hornsea Project Four Limited Late Deadline 3 Submission - Summary of the current position between Viking Link ("VKL") and Orsted - Accepted at the discretion of the Examining Authority

Deadline 4 – 10 May 2022

Deadline for receipt by the ExA of:

- Post-hearing submissions including written summaries of oral case put at any of the hearings during the w/c 25 April 2022 and 2 May 2022
- Progressed versions of any SoCG and an updated Statement of Commonality of SoCG
- An updated Guide to the Application
- An updated CA Schedule
- An updated version of the draft DCO in clean and tracked versions
- An updated schedule of changes to the draft DCO
- Comments on any submissions received at Deadline 3

- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules	
REP4-001	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.1 Cover Letter
REP4-002	Orsted Hornsea Project Four Limited Deadline 4 Submission - G2.4 Guide to the Application - Revision: 03
REP4-003	Orsted Hornsea Project Four Limited Deadline 4 Submission - A1.4 Project Description (Tracked) - Revision: 4
REP4-004	Orsted Hornsea Project Four Limited Deadline 4 Submission - A1.4 Project Description (Clean) - Revision:4
REP4-005	Orsted Hornsea Project Four Limited Deadline 4 Submission - A4.4.8 Pro rata Annex (Tracked) - Revision 03
REP4-006	Orsted Hornsea Project Four Limited Deadline 4 Submission - A4.4.8 Pro rata Annex (Clean) - Revision 03
REP4-007	Orsted Hornsea Project Four Limited Deadline 4 Submission - A4.5.2 Commitments Register
REP4-008	Orsted Hornsea Project Four Limited Deadline 4 Submission - A5.7.1 Navigational Risk Assessment Part 1 (Tracked) - Revision: 02
REP4-009	Orsted Hornsea Project Four Limited Deadline 4 Submission - A5.7.1 Navigational Risk Assessment Part 1 (Clean) - Revision: 02
REP4-010	Orsted Hornsea Project Four Limited Deadline 4 Submission - A5.7.1 Navigational Risk Assessment Part 2 (Tracked) - Revision: 02
REP4-011	Orsted Hornsea Project Four Limited Deadline 4 Submission - A5.7.1 Navigational Risk Assessment Part 2 (Clean) - Revision: 02
REP4-012	Orsted Hornsea Project Four Limited Deadline 4 Submission - A5.7.1 Navigational Risk Assessment Part 3 (Tracked) - Revision: 02
REP4-013	Orsted Hornsea Project Four Limited Deadline 4 Submission - A5.7.1 Navigational Risk Assessment Part 3 (Clean) - Revision: 02
REP4-014	Orsted Hornsea Project Four Limited Deadline 4 Submission - C1.1.1 Schedule of Change to the draft Development Consent Order (DCO) and Deemed Marine Licences (DML) (Tracked)
REP4-015	Orsted Hornsea Project Four Limited Deadline 4 Submission - E1.2.1 Annex 1 Statement of Reasons: Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities (Tracked) - Revision: 02
REP4-016	Orsted Hornsea Project Four Limited Late Deadline 4 submission - E1.2.1 Annex 1 Statement of Reasons Update on negotiations with landowners, occupiers,

	Statutory Undertakers and other utilities (Clean). Accepted at the discretion of the Examining Authority
REP4-017	Orsted Hornsea Project Four Limited Deadline 4 Submission - E1.2.1.1 Annex 1 Statement of Reasons Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities Schedule of Changes - Revision: 02
REP4-018	Orsted Hornsea Project Four Limited Deadline 4 Submission - F2.2 Outline Code of Construction Practice (Tracked) - Revision: 03
REP4-019	Orsted Hornsea Project Four Limited Deadline 4 Submission - F2.2 Outline Code of Construction Practice (Clean) - Revision: 03
REP4-020	Orsted Hornsea Project Four Limited Deadline 4 Submission - F2.13 Outline Design Plan (Tracked) - Revision: 02
REP4-021	Orsted Hornsea Project Four Limited Deadline 4 Submission - F2.13 Outline Design Plan (Clean) - Revision: 02
REP4-022	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.12 Statement of Common Ground between Hornsea Project Four and Environment Agency - Revision: 02
REP4-023	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.14 Statement of Common Ground between Hornsea Project Four and Historic England - Revision: 02
REP4-024	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.21 Statement of Common Ground between Hornsea Project Four, the Holderness Fishing Industry Group and the National Federation of Fisherman's Organisations - Revision: 03
REP4-025	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.26 Statement of Common Ground between Hornsea Project Four and Trinity House - Revision: 03
REP4-026	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.30 Statement of Common Ground between Hornsea Project Four and The Ministry of Defence (MOD) - Revision: 02
REP4-027	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.31 Statement of Common Ground between Hornsea Project Four and NATS (En Route) plc (NERL) - Revision: 02
REP4-028	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.32 Applicant's Statement of Commonality of Statements of Common Ground - Revision: 03
REP4-029	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.43 Examination Deliverables Summary (Tracked) - Revision: 4
REP4-030	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.43 Examination Deliverables Summary (Clean) - Revision: 4

REP4-031	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.44 Clarification Note on Marine Sediment Contaminants (Tracked) - Revision: 02
REP4-032	Orsted Hornsea Project Four Limited Deadline 4 Submission - G1.44 Clarification Note on Marine Sediment Contaminants (Clean) - Revision: 02
REP4-033	Orsted Hornsea Project Four Limited Deadline 4 Submission - G2.5 Applicants Compulsory Acquisition Schedule (CA Schedule) (Tracked) - Revision: 02
REP4-034	Orsted Hornsea Project Four Limited Deadline 4 Submission - G2.5 Applicants Compulsory Acquisition Schedule (CA Schedule) (Clean) - Revision: 02
REP4-035	Orsted Hornsea Project Four Limited Deadline 4 Submission - G2.12 Dogger Bank Disposal Area Plan - Revision: 02
REP4-036	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.2 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 2 (ISH2) - Revision: 01
REP4-037	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.3 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 3 (ISH3) - Revision: 01
REP4-038	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.4 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 4 (ISH4) - Revision: 01
REP4-039	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.5 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 5 (ISH5) - Revision: 01
REP4-040	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.6 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 6 (ISH6) - Revision: 01
REP4-041	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.7 Ornithological Assessment Sensitivity Report - Revision: 1
REP4-042	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.8 Signposting document of responses to Mr and Mrs Taylor's Deadline 3 Submission - Revision: 01
REP4-043	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.9 Marine Processes Supplementary Report - Revision: 01
REP4-044	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.10 Applicant's comments on other submissions received at Deadline 3 - Revision: 01
REP4-045	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.11 Clarification Note on Marine Mammals - Revision: 01
REP4-046	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.12 Plan Showing Widths of Station Road East and West - Revision: 01
REP4-047	Orsted Hornsea Project Four Limited

	Deadline 4 Submission - G4.13 Comparative Gannet Assessment - Revision: 01
REP4-048	Orsted Hornsea Project Four Limited Deadline 4 Submission - G4.14 Further Consideration of Lighting Requirements - Revision: 01
REP4-049	Orsted Hornsea Project Four Limited Deadline 4 Submission - An updated version of the draft Development Consent Order (DCO) (Tracked)
REP4-050	Orsted Hornsea Project Four Limited Deadline 4 Submission - An updated version of the draft Development Consent Order (DCO) (Clean)
REP4-051	Historic England Deadline 4 Submission - Post-hearing submissions including written summaries of oral case put at any of the hearings during the weeks commencing 25 April 2022 and 2 May 2022
REP4-052	Marine Management Organisation (MMO) Deadline 4 Submission - Post hearing submissions, Comments on any submissions received at Deadline 3, Any further information requested by the Examining Authority under Rule 17
REP4-053	Natural England Deadline 4 Submission - Cover Letter
REP4-054	Natural England Deadline 4 Submission - Risk and Issues Log
REP4-055	Natural England Deadline 4 Submission - Appendix B4 – Comments on G2.10 MRSea Baseline Sensitivity Report (Gannet) Revision 2
REP4-056	Natural England Deadline 4 Submission - Appendix C4 – Comments on G3.4 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Compensation Connectivity Note Revision: 01
REP4-057	Royal Society for the Protection of Birds (RSPB) Deadline 4 Submission - Response to Calculation Methods of Hornsea Four’s Proposed Compensation Measures for Features of the Flamborough and Filey Coast (FFC) Special Protection Area (SPA) and Hornsea Four comments on RSPB Written Representation
REP4-058	Royal Society for the Protection of Birds (RSPB) Deadline 4 Submission - Annex A – Comments on the Applicant’s Bycatch reduction documents submitted at Deadlines 1 and 2
REP4-059	BP Exploration Operating Company Limited Deadline 4 Submission
REP4-060	CMS Cameron McKenna Nabarro Olswang LLP on behalf of NEO Energy (SNS) Limited Deadline 4 Submission - Post-hearing submissions including written summaries of oral case put at any of the hearings during the weeks commencing 25 April 2022 and 2 May 2022
REP4-061	Gordons LLP on behalf of Paul and Joanne Dransfield Deadline 4 Submission
REP4-062	Perenco UK Limited

	Deadline 4 Submission - Post-hearing submissions including written summaries of oral case put at any of the hearings during the weeks commencing 25 April 2022 and 2 May 2022
REP4-063	The Corporation of Trinity House of Deptford Strond Deadline 4 Submission - Comments on any submissions received at Deadline 3 on the draft Development Consent Order [REP3-007] ("the Draft DCO")
REP4-064	East Riding of Yorkshire Council Late Deadline 4 Submission, accepted at the discretion of the Examining Authority - Cover Letter
REP4-065	East Riding of Yorkshire Council Late Deadline 4 Submission, accepted at the discretion of the Examining Authority – Response to Issue Specific Hearing 2 (ISH2) action points
REP4-066	East Riding of Yorkshire Council Late Deadline 4 Submission, accepted at the discretion of the Examining Authority – Response to Issue Specific Hearing 3 (ISH3) action points
<p>Deadline 4a – 25 May 2022</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Applicant's response to the ExA's request for information dated 19 May 2022 	
REP4a-001	Orsted Hornsea Project Four Limited Deadline 4a Submission - G4.15 Applicants Response to Rule 17 letter dated 19 May 2022
REP4a-002	Orsted Hornsea Project Four Limited Deadline 4a Submission - Applicants Request for Additional Deadline
<p>Deadline 5 - 20 June 2022</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Responses to ExQ2 - An updated Guide to the Application - An updated version of the draft DCO in clean and tracked versions (if required) - Schedule of changes to the draft DCO (if required) - An updated Compulsory Acquisition (CA) Schedule in clean and tracked versions - Progressed Statements of Common Ground (SoCGs) and an updated Statement of Commonality of SoCGs - Comments on any submissions received at Deadline 4 and 4a - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	
REP5-001	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.1 Cover Letter

REP5-002	Orsted Hornsea Project Four Limited Deadline 5 Submission - A1.4 Volume A1, Chapter 4 - Project Description (Clean) Revision: 5
REP5-003	Orsted Hornsea Project Four Limited Deadline 5 Submission - A1.4 Volume A1, Chapter 4 - Project Description (Tracked) Revision: 5
REP5-004	Orsted Hornsea Project Four Limited Deadline 5 Submission - A2.6 Volume A2, Chapter 6: Commercial Fisheries (Clean) Revision: 02
REP5-005	Orsted Hornsea Project Four Limited Deadline 5 Submission - A2.6 Volume A2, Chapter 6: Commercial Fisheries (Tracked) Revision: 02
REP5-006	Orsted Hornsea Project Four Limited Deadline 5 Submission - A2.7 Volume A2, Chapter 7: Shipping and Navigation (Clean) Revision: 02
REP5-007	Orsted Hornsea Project Four Limited Deadline 5 Submission - A2.7 Volume A2, Chapter 7: Shipping and Navigation (Tracked) Revision: 02
REP5-008	Orsted Hornsea Project Four Limited Deadline 5 Submission - A4.4.7 Layout Principles (Clean) Revision: 03
REP5-009	Orsted Hornsea Project Four Limited Deadline 5 Submission - A4.4.7 Layout Principles (Tracked) Revision: 03
REP5-010	Orsted Hornsea Project Four Limited Deadline 5 Submission - A6.4.1 Volume A6, Annex 4.1 - Landscape and Visual Resources - Wireframes and Photomontages (Clean) Revision: 02
REP5-011	Orsted Hornsea Project Four Limited Deadline 5 Submission - A6.4.1 Volume A6, Annex 4.1 - Landscape and Visual Resources - Wireframes and Photomontages (Tracked) Revision: 02
REP5-012	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.2 Report to Inform Appropriate Assessment Part 1 (Clean) Revision: 03
REP5-013	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.2 Report to Inform Appropriate Assessment Part 1 (Tracked) Revision: 03
REP5-014	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.2.2 Habitats Regulations Assessment Compensation Measures Part 1 (Clean) - Revision: 02
REP5-015	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.2.2 Habitats Regulations Assessment Compensation Measures Part 1 (Tracked) - Revision: 02
REP5-016	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.7 Flamborough and Filey Coast (FFC) Special Protection Area (SPA) : Kittiwake Compensation Plan (Clean) - Revision: 02
REP5-017	Orsted Hornsea Project Four Limited

	Deadline 5 Submission - B2.7 Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Compensation Plan (Tracked) - Revision: 02
REP5-018	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.7.2 Volume B2, Annex 7.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Offshore Artificial Nesting Roadmap (Clean) - Revision 04
REP5-019	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.7.2 Volume B2, Annex 7.2: Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Offshore Artificial Nesting Roadmap (Tracked) - Revision 04
REP5-020	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.7.4 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Onshore Artificial Nesting Roadmap (Clean) - Revision: 04
REP5-021	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.7.4 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Kittiwake Onshore Artificial Nesting Roadmap (Tracked) - Revision: 04
REP5-022	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.7.6 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Overview (Clean) - Revision: 02
REP5-023	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.7.6 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Overview (Tracked) - Revision 02
REP5-024	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.7.6 Outline Kittiwake Compensation Implementation and Monitoring Plan (Clean) - Revision 02
REP5-025	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.7.6 Outline Kittiwake Compensation Implementation and Monitoring Plan (Tracked) - Revision 02
REP5-026	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8 Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Guillemot and Razorbill Compensation Plan (Clean) - Revision: 02
REP5-027	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8 Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Guillemot and Razorbill Compensation Plan (Tracked) - Revision: 02
REP5-028	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8.2 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Guillemot and Razorbill Bycatch Reduction: Roadmap (Clean) - Revision: 04

REP5-029	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8.2 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Guillemot and Razorbill Bycatch Reduction: Roadmap (Tracked) - Revision: 04
REP5-030	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8.4 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Predator Eradication: Roadmap (Clean) - Revision: 04
REP5-031	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8.4 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Predator Eradication: Roadmap (Tracked) - Revision: 04
REP5-032	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8.6 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Fish Habitat Enhancement: Roadmap (Clean) - Revision: 04
REP5-033	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8.6 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Fish Habitat Enhancement: Roadmap (Tracked) - Revision: 04
REP5-034	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8.7 Outline Gannet, Guillemot and Razorbill Compensation Implementation and Monitoring Plan (Clean) - Revision 02
REP5-035	Orsted Hornsea Project Four Limited Deadline 5 Submission - B2.8.7 Outline Gannet, Guillemot and Razorbill Compensation Implementation and Monitoring Plan (Tracked) - Revision 02
REP5-036	Orsted Hornsea Project Four Limited Deadline 5 Submission - C1.1.1 Schedule of Changes to the draft Development Consent Order (DCO) and Deemed Marine Licences (DML)
REP5-037	Orsted Hornsea Project Four Limited Deadline 5 Submission - D1.4.1 Works Plan Offshore - Revision: 2
REP5-038	Orsted Hornsea Project Four Limited Deadline 5 Submission - D1.4.2 Works Plan Onshore - Revision: 2
REP5-039	Orsted Hornsea Project Four Limited Deadline 5 Submission - E1.2.1 , E1.2 Annex 1: Statement of Reasons: Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities (Clean) - Revision: 03
REP5-040	Orsted Hornsea Project Four Limited Deadline 5 Submission - E1.2.1 , E1.2 Annex 1: Statement of Reasons: Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities (Tracked) - Revision: 03
REP5-041	Orsted Hornsea Project Four Limited Deadline 5 Submission - E1.2.1.1 Statement of Reasons: Update on negotiations with landowners, occupiers, Statutory

	Undertakers and other utilities Schedule of Changes - Revision: 02
REP5-042	Orsted Hornsea Project Four Limited Deadline 5 Submission - F2.4: Outline Marine Written Scheme of Investigation (Clean) - Revision: 02
REP5-043	Orsted Hornsea Project Four Limited Deadline 5 Submission - F2.4: Outline Marine Written Scheme of Investigation (tracked) - Revision: 02
REP5-044	Orsted Hornsea Project Four Limited Deadline 5 Submission - F3.1 Statement of Common Ground between Hornsea Project Four and East Riding of Yorkshire Council - Revision: 04
REP5-045	Orsted Hornsea Project Four Limited Deadline 5 Submission - G.132 Applicant's Statement of Commonality of Statements of Common Ground - Revision: 04
REP5-046	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.1 Overarching Acronyms List (Clean) Revision: 04
REP5-047	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.1 Overarching Acronyms List (Tracked) - Revision: 04
REP5-048	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.10 Hornsea Four Clarification Note on Peak Herring Spawning Period and Seasonal Piling Restriction (Clean) Revision: 03
REP5-049	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.10 Hornsea Four Clarification Note on Peak Herring Spawning Period and Seasonal Piling Restriction (Tracked) Revision: 03
REP5-050	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.17 Statement of Common Ground between Hornsea Project Four and the Marine Management Organisation (MMO) - Revision: 03
REP5-051	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.20 Statement of Common Ground between Hornsea Project Four and The UK Chamber of Shipping - Revision: 03
REP5-052	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.21 Statement of Common Ground between Hornsea Project Four, the Holderness Fishing Industry Group and the National Federation of Fisherman's Organisations - Revision: 04
REP5-053	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.25 Statement of Common Ground between Hornsea Project Four and the Maritime Coastguard Agency - Revision: 03
REP5-054	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.26 Statement of Common Ground between Hornsea Project Four and Trinity House - Revision: 04

REP5-055	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.30 Statement of Common Ground between Hornsea Project Four and The Ministry of Defence (MOD) - Revision: 03
REP5-056	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.31 Statement of Common Ground between Hornsea Project Four and NATS (En Route) plc (NERL) - Revision: 03
REP5-057	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.33 Predator Eradication Island Suitability Assessment: Bailiwick of Guernsey (Clean) Revision: 02
REP5-058	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.33 Predator Eradication Island Suitability Assessment: Bailiwick of Guernsey (Tracked) Revision: 02
REP5-059	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.43 Examination Deliverables Summary (Clean) Revision: 5
REP5-060	Orsted Hornsea Project Four Limited Deadline 5 Submission - G1.43 Examination Deliverables Summary (Tracked) Revision: 5
REP5-061	Orsted Hornsea Project Four Limited Deadline 5 Submission - G2.12 Dogger Bank Disposal Area Plan - Revision: 03
REP5-062	Orsted Hornsea Project Four Limited Deadline 5 Submission - G2.4 Guide to the Application - Revision: 04
REP5-063	Orsted Hornsea Project Four Limited Deadline 5 Submission - G2.5 Applicants Compulsory Acquisition Schedule (Clean) - Revision: 03
REP5-064	Orsted Hornsea Project Four Limited Deadline 5 Submission - G2.5 Applicants Compulsory Acquisition Schedule (Tracked) - Revision: 03
REP5-065	Orsted Hornsea Project Four Limited Deadline 5 Submission - G4.7 Ornithological Assessment Sensitivity Report - Revision: 2
REP5-066	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.10 Professor Mike Elliot's Marine Processes Report Review - Revision: 01
REP5-067	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.12 Letter of Comfort Between Hornsea Four and The Wildlife Trusts - Revision: 01
REP5-068	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.13 Bycatch Reduction Technology Selection Phase Summary - Revision: 01
REP5-069	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.15 Outline Gannet Compensation Implementation and Monitoring Plan Bycatch Reduction - Revision: 01

REP5-070	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.16 Outline Gannet Compensation Implementation and Monitoring Plan: Artificial Nesting Structures - Revision: 01
REP5-071	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.17 Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Gannet Compensation Plan - Revision: 1
REP5-072	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.18 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Gannet Bycatch Reduction: Roadmap - Revision: 01
REP5-073	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.19 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA): Gannet Artificial Nesting: Roadmap - Revision: 01
REP5-074	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.2 Applicant's Responses to the Examining Authority's Second Written Questions (ExQ2)
REP5-075	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.21 Applicant's response to the Rule 17 request dated 14 April 2022 and submission in respect of BP Exploration Operating Company Limited's (BP) technical evidence
REP5-076	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.22 Applicant's comments on BP Exploration Operating Company Limited's (BP) legal submissions
REP5-077	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.23 Historic Environment Photobook - Revision: 01
REP5-078	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.25 Ornithology Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) Annex
REP5-079	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.26 Plan showing proximity of proposed access road to Jillywood Farm - Revision: 01
REP5-080	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.28 Ornithology Technical Panel Meeting 16 MRSea Baseline Minutes - Revision: 01
REP5-081	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.3 Applicant's comments on other submissions received at Deadline 4
REP5-082	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.4 Predator Eradication Implementation Study Update - Revision: 01
REP5-083	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.5 Clarification Note on Drill Arisings and Deposited Sediments - Revision: 01

REP5-084	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.6 Bridge Petroleum Kumatage Protective Provisions - Revision: 01
REP5-085	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.7 Indirect Effects of Forage Fish and Ornithology - Revision: 01
REP5-086	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.8 Orsted's approach to strategic ecological compensation - Revision: 01
REP5-087	Orsted Hornsea Project Four Limited Deadline 5 Submission - G5.9 Revised Ornithology Baseline - Revision: 01
REP5-088	Orsted Hornsea Project Four Limited Deadline 5 Submission - Updated draft Development Consent Order (DCO) (Clean)
REP5-089	Orsted Hornsea Project Four Limited Deadline 5 Submission - Updated draft Development Consent Order (dDCO) (Tracked)
REP5-090	BCLP LLP on behalf of National Grid Electricity Transmission Plc Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-091	BP Exploration Operating Company Limited Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-092	Dee Atkinson and Harrison on behalf of Mr C W and Mrs C F Foreman Deadline 5 Submission - Withdrawal of Representation [RR-005]
REP5-093	CMS Cameron McKenna Nabarro Olswang LLP on behalf of Doggerbank Offshore Wind Farm Project 1 Projco Limited and Doggerbank Offshore Wind Farm Project 2 Projco Limited Deadline 5 Submission
REP5-094	East Riding of Yorkshire Council Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-095	Doggerbank Offshore Wind Farm Project 1 Projco Limited and Doggerbank Offshore Wind Farm Project 2 Projco Limited Deadline 5 Submission - Schedule 9 Part 7 of the draft Development Consent Order (dDCO) (Clean)
REP5-096	Doggerbank Offshore Wind Farm Project 1 Projco Limited and Doggerbank Offshore Wind Farm Project 2 Projco Limited Deadline 5 Submission - Schedule 9 Part 7 of the draft Development Consent Order (dDCO) (Tracked Changes)
REP5-097	Doggerbank Offshore Wind Farm Project 1 Projco Limited and Doggerbank Offshore Wind Farm Project 2 Projco Limited Deadline 5 Submission - Schedule 13 of the draft Development Consent Order (dDCO) (Clean)
REP5-098	Doggerbank Offshore Wind Farm Project 1 Projco Limited and Doggerbank Offshore Wind Farm Project 2 Projco Limited Deadline 5 Submission - Schedule 13 of the draft Development Consent Order (dDCO) (Tracked Changes)

REP5-099	Environment Agency Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-100	Gordons LLP on behalf of Paul and Joanne Dransfield Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-101	Harbour Energy Deadline 5 Submission
REP5-102	Health and Safety Executive Deadline 5 Submission - accepted at the discretion of the Examining Authority
REP5-103	Historic England Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-104	Historical Railways Estate on behalf of Department for Transport Deadline 5 Submission - accepted at the discretion of the Examining Authority
REP5-105	Hull City Council Deadline 5 Submission - Comments on any submissions received at Deadline 4 and 4a
REP5-106	Hull City Council Deadline 5 Submission - Responses to Examining Authority's First Written Questions (ExQ1)
REP5-107	Marine Management Organisation (MMO) Deadline 5 Submission - Deadline 5 comments, Responses to Examining Authority's Further Written Questions (ExQ2), Comments on any submissions received at Deadline 4 and 4a, Further information requested by the Examining Authority under Rule 17
REP5-108	Maritime and Coastguard Agency Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2) and comments on any submissions received at Deadline 4
REP5-109	Ministry of Defence Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-110	Natural England Deadline 5 Submission - Cover Letter
REP5-111	Natural England Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-112	Natural England Deadline 5 Submission - Risks and Issues Log
REP5-113	Natural England Deadline 5 Submission - Response to Rule 8(3) letter

REP5-114	Natural England Deadline 5 Submission - Marine Management Organisation & Cefas review of G4.9 Marine Processes Supplementary Report - Revision: 01 [REP4-043]
REP5-115	Natural England Deadline 5 Submission - Additional guidance on the assessment of guillemot and razorbill displacement impacts for the Hornsea Project Four Offshore Wind Farm
REP5-116	Natural England Deadline 5 Submission - Additional guidance on the apportioning of northern gannet and black-legged kittiwake to Flamborough and Filey Coast (FFC) Special Protection Area (SPA) for the Hornsea Project Four Offshore Wind Farm
REP5-117	Network Rail Infrastructure Limited Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-118	Perenco UK Limited Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-119	Royal Society for the Protection of Birds (RSPB) Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-120	Royal Society for the Protection of Birds (RSPB) Deadline 5 Submission - Comments on selected Deadline 3 and Deadline 4 submissions
REP5-121	Savills on behalf of the Hotham Family Trust Deadline 5 Submission - Withdrawal of Relevant Representation [RR-034]
REP5-122	The Corporation of Trinity House of Deptford Strond Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-123	The Crown Estate Deadline 5 Submission - Comments on any submissions received at Deadline 4 and 4a and Further information requested by the Examining Authority under Rule 17
REP5-124	The Wildlife Trusts Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-125	Viking Link Deadline 5 Submission - Joint Statement
Deadline 5a – 4 July 2022	
Deadline for receipt by the ExA of: - Comments on responses to ExQ2 - Comments on any submissions received at Deadline 5 - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules	
REP5a-001	Orsted Hornsea Project Four Limited

	Deadline 5a Submission - B2.6 Compensation measures for Flamborough and Filey Coast Special Protection Area overview - Revision: 03
REP5a-002	Orsted Hornsea Project Four Limited Deadline 5a Submission - C.1.1 Draft Development Consent Order (Clean)
REP5a-003	Orsted Hornsea Project Four Limited Deadline 5a Submission - C.1.1 Draft Development Consent Order (Tracked)
REP5a-004	Orsted Hornsea Project Four Limited Deadline 5a Submission - C1.1.1 Schedule of Change to Draft Development Consent Order and Deemed Marine Licences
REP5a-005	Orsted Hornsea Project Four Limited Deadline 5a Submission - G1.14 Statement of Common Ground between Hornsea Project Four and Historic England - Revision: 03
REP5a-006	Orsted Hornsea Project Four Limited Deadline 5a Submission - G2.4 Guide to the Application - Revision: 05
REP5a-007	Orsted Hornsea Project Four Limited Deadline 5a Submission - G2.7 Outline Offshore Operations and Maintenance Plan (Clean) - Revision: 02
REP5a-008	Orsted Hornsea Project Four Limited Deadline 5a Submission - G2.7 Outline Offshore Operations and Maintenance Plan (Tracked) - Revision: 02
REP5a-009	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.9 Revised Ornithology Baseline (Clean) - Revision: 02
REP5a-010	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.9 Revised Ornithology Baseline (Tracked) - Revision: 02
REP5a-011	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.25 Ornithology Environmental Impact Assessment and Habitats Regulations Assessment Annex (Clean) - Revision: 02
REP5a-012	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.25 Ornithology Environmental Impact Assessment and Habitats Regulations Assessment Annex (Tracked) - Revision: 02
REP5a-013	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.29 Applicant's Deadline 5a Cover Letter
REP5a-014	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.30 Applicant's comments on other submissions received at Deadline 5 - Revision: 01
REP5a-015	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.31 Hornsea Four revised position in respect of proximity to Viking Link Interconnector - Revision: 02
REP5a-016	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.32 Endurance No Overlap Environmental Impact Assessment and Habitats Regulations Assessment Review - Revision: 01

REP5a-017	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.33 Clarification Note on Marine Processes Mitigation and Monitoring - Revision: 01
REP5a-018	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.34 Applicant's response to Natural England's additional guidance on apportioning of seabirds to FFC SPA for Hornsea Project Four - Revision: 01
REP5a-019	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.35 Predator eradication and control opportunities within the Bailiwick of Guernsey - Revision: 02
REP5a-020	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.36 Clarification Note on Seismic Surveys - Revision: 01
REP5a-021	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.37 Applicant's comments on the Crown Estate's Deadline 5 submission.pdf - Resubmission of AS-035 - Revision: 01
REP5a-022	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.38 Viking Link Position Statement Cover Letter
REP5a-023	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.39 Applicant's comments DCO submissions received at Deadline 5 - Revision: 01
REP5a-024	Orsted Hornsea Project Four Limited Deadline 5a Submission - G5.40 Clarification Note Revised Ornithology Baseline - Revision: 01
REP5a-025	BP Exploration Operating Company Limited Deadline 5a Submission - Comments on any submissions received at Deadline 5
REP5a-026	Bridge Petroleum Limited Deadline 5a Submission - Comments on any submissions received at Deadline 5
REP5a-027	Marine Management Organisation Deadline 5a Submission - Comments on responses to ExQ2 - Comments on any submissions received at Deadline 5 - Any further information requested by the ExA under Rule 17
REP5a-028	Maritime and Coastguard Agency Deadline 5a Submission - Comments on any submissions received at Deadline 5
REP5a-029	Natural England Deadline 5a Submission
REP5a-030	Natural England Deadline 5a Submission - Review of G5.9 Revised Ornithology Baseline - Revision: 01 [REP5-087]
REP5a-031	Natural England Deadline 5a Submission - Review of the Development Consent Order and Deemed Marine License
REP5a-032	Royal Society for the Protection of Birds Deadline 5a Submission - Comments on any submissions received at Deadline 5
Deadline 6 – 27 July 2022	

Deadline for receipt by the ExA of:

- Post-hearing submissions including written summaries of oral case put at hearings during w/c 18 July 2022 (if held)
- An updated Guide to the Application
- An updated version of the draft DCO in clean, tracked and Word versions
- Schedule of changes to the draft DCO
- An updated CA Schedule in clean and tracked versions
- Progressed SoCGs and an updated Statement of Commonality of SoCGs
- Comments on any other submissions received at Deadline 5a
- Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules

REP6-001	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.1 Cover Letter
REP6-002	Orsted Hornsea Project Four Limited Deadline 6 Submission - A1.4 Chapter 4 Project Description (Clean) - Revision: 06
REP6-003	Orsted Hornsea Project Four Limited Deadline 6 Submission - A1.4 Chapter 4 Project Description (Tracked) - Revision: 06
REP6-004	Orsted Hornsea Project Four Limited Deadline 6 Submission - A4.4.4 Dredging and Disposal Site Characterisation (Clean) - Revision: 02
REP6-005	Orsted Hornsea Project Four Limited Deadline 6 Submission - A4.4.4 Dredging and Disposal Site Characterisation (Tracked) - Revision: 02
REP6-006	Orsted Hornsea Project Four Limited Deadline 6 Submission - A4.4.8 Pro rata Annex (Clean) - Revision: 04
REP6-007	Orsted Hornsea Project Four Limited Deadline 6 Submission - A4.4.8 Pro rata Annex (Tracked) - Revision: 04
REP6-008	Orsted Hornsea Project Four Limited Deadline 6 Submission - A4.5.2 Commitments Register - Revision: 03
REP6-009	Orsted Hornsea Project Four Limited Deadline 6 Submission - E1.2.1 Statement of Reasons Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities (Clean) - Revision: 04
REP6-010	Orsted Hornsea Project Four Limited Deadline 6 Submission - E1.2.1 Statement of Reasons Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities (Tracked) - Revision: 04
REP6-011	Orsted Hornsea Project Four Limited Deadline 6 Submission - F2.5 Outline Marine Mammal Mitigation Protocol (Clean) - Revision: 02
REP6-012	Orsted Hornsea Project Four Limited Deadline 6 Submission - F2.5 Outline Marine Mammal Mitigation Protocol (Tracked) - Revision: 02
REP6-013	Orsted Hornsea Project Four Limited

	Deadline 6 submission - F2.15 Outline Cable Specification and Installation Plan (Clean) - Revision 03
REP6-014	Orsted Hornsea Project Four Limited Deadline 6 Submission - F2.15 Outline Cable Specification and Installation Plan (Tracked) - Revision: 03
REP6-015	Orsted Hornsea Project Four Limited Deadline 6 Submission - G1.17 Statement of Common Ground (SoCG) between Hornsea Project Four and the Marine Management Organisation (MMO) - Revision: 04
REP6-016	Orsted Hornsea Project Four Limited Deadline 6 Submission - G1.21. Statement of Common Ground (SoCG) between Hornsea Project Four, the Holderness Fishing Industry Group and the National Federation of Fisherman's Organisations - Revision: 05
REP6-017	Orsted Hornsea Project Four Limited Deadline 6 submission – G1.25 Statement of Common Ground (SoCG) between Hornsea Project Four and the Maritime Coastguard Agency – Revision: 04
REP6-018	Orsted Hornsea Project Four Limited Deadline 6 Submission - G1.30 Statement of Common Ground (SoCG) between Hornsea Project Four and The Ministry of Defence (MOD) - Revision: 04
REP6-019	Orsted Hornsea Project Four Limited Deadline 6 Submission - G1.31 Statement of Common Ground (SoCG) between Hornsea Project Four and NATS (En Route) plc (NERL) - Revision: 04
REP6-020	Orsted Hornsea Project Four Limited Deadline 6 Submission - G1.32 Applicant's Statement of Commonality of Statements of Common Ground - Revision: 05
REP6-021	Orsted Hornsea Project Four Limited Deadline 6 Submission - G1.43 Examination Deliverables Summary (Clean) - Revision: 06
REP6-022	Orsted Hornsea Project Four Limited Deadline 6 Submission - G1.43 Examination Deliverables Summary (Tracked) - Revision: 06
REP6-023	Orsted Hornsea Project Four Limited Deadline 6 Submission - G2.4 An updated Guide to the Application - Revision: 06
REP6-024	Orsted Hornsea Project Four Limited Deadline 6 Submission - G2.5 Applicants Compulsory Acquisition Schedule (Clean) - Revision: 04
REP6-025	Orsted Hornsea Project Four Limited Deadline 6 Submission - G2.5 Applicants Compulsory Acquisition Schedule (Tracked) - Revision: 04
REP6-026	Orsted Hornsea Project Four Limited Deadline 6 Submission - G4.7 Ornithological Assessment Sensitivity Report (Clean) - Revision: 03
REP6-027	Orsted Hornsea Project Four Limited Deadline 6 Submission - G4.7 Ornithological Assessment Sensitivity Report (Tracked) - Revision: 03
REP6-028	Orsted Hornsea Project Four Limited

	Deadline 6 Submission - G5.25 Ornithology Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) Annex (Clean) - Revision 03
REP6-029	Orsted Hornsea Project Four Limited Deadline 6 Submission - G5.25 Ornithology Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) Annex (Tracked) - Revision 03
REP6-030	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.2 Onshore Site Selection and Pathway to Securement - Revision: 01
REP6-031	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.3 Kittiwake Onshore Artificial nesting Structure Site Selection and Evidence on Nesting Limitations update - Revision: 01
REP6-032	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.4 Key Documents Regarding the Crown Estate Leasing Round 4 Record of the Habitats Regulations Assessment - Revision: 01
REP6-033	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.6 Fish Habitat Enhancement Seagrass Restoration Implementation Study and Fish Monitoring Summary - Revision: 01
REP6-034	Orsted Hornsea Project Four Limited Deadline 6 submission - G6.7 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 7 (ISH7) - Revision: 01
REP6-035	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.8 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 8 (ISH8) - Revision: 01
REP6-036	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.9 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 9 (ISH9) - Revision: 01
REP6-037	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.10 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 10 (ISH10) - Revision: 01
REP6-038	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.11 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 11 (ISH11) - Revision: 01
REP6-039	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.12 Written Summary of the Applicant's Oral Case at Issue Specific Hearing 12 (ISH12) - Revision: 01
REP6-040	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.13 Protective Provisions for Harbour Energy - Revision: 01
REP6-041	Orsted Hornsea Project Four Limited Deadline 6 Submission - Response to Issue Specific Hearing 7 (ISH7) Action Point 24. G6.14 Bridge Petroleum 2 Protective Provisions - Revision: 04
REP6-042	Orsted Hornsea Project Four Limited

	Deadline 6 Submission – G6.15 Joint Notification Letter made by the Applicant and Perenco UK Limited pertaining to the Microwave Link and the Radar Early Warning System (REWS)
REP6-043	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.16 Onshore Substation Access Traffic Data Review - Revision: 01
REP6-044	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.17 Applicant’s response to Rule 17 letter - Revision: 01
REP6-045	Orsted Hornsea Project Four Limited Deadline 6 Submission - G6.18 Applicants Schedule of Side Agreements - Revision: 01
REP6-046	BP Exploration Operating Company Limited Deadline 6 Submission - Written submissions following Issue Specific Hearing (ISH) 7 and ISH8, further submissions in response to the Sewell Report
REP6-047	East Riding of Yorkshire Council Deadline 6 Submission - Further information requested by the Examining Authority (ExA) under Rule 17 of the Examination Procedure Rules
REP6-048	Harbour Energy Deadline 6 Submission - Further information requested by the Examining Authority (ExA) under Rule 17 of the Examination Procedure Rules
REP6-049	Harbour Energy Deadline 6 Submission - Post-hearing submissions including written summaries of oral case put at Issue Specific Hearings (ISH) during the week commencing 18 July 2022
REP6-050	Marine Management Organisation (MMO) Deadline 6 Submission - Post-hearing submissions including written summaries of oral case put at hearings during week commencing 18 July 2022, comments on any other submissions received at Deadline 5a, progressed Statement of Common Ground (SoCG) and any further information requested by the Examining Authority (ExA) under Rule 17 of the Examination Procedure Rules
REP6-051	Maritime and Coastguard Agency Deadline 6 Submission - Further information requested by the Examining Authority (ExA) under Rule 17 of the Examination Procedure Rules
REP6-052	Ministry of Defence Deadline 6 Submission - Further information requested by the Examining Authority (ExA) under Rule 17 of the Examination Procedure Rules and the ExA's Further Written Questions (ExQ2)
REP6-053	Mr PS Goatley Deadline 6 Submission
REP6-054	Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission Plc (NET) and National Grid Gas Plc (NGG) Deadline 6 submission
REP6-055	Natural England

	Deadline 6 Submission - Cover letter
REP6-056	Natural England Deadline 6 Submission - Natural England's response to G5.34 Applicant's response to Natural England's additional guidance on apportioning of seabirds to Flamborough and Filey Coast (FFC) Special Protection Area (SPA) for Hornsea Project Four [REP5a-018]
REP6-057	Natural England Deadline 6 Submission - Risk and issues log
REP6-058	Natural England Deadline 6 Submission - Action log
REP6-059	Natural England Deadline 6 Submission - Natural England's comments on G4.7 Ornithological Assessment Sensitivity Report - Revision: 2 [REP5-065]
REP6-060	Natural England Deadline 6 Submission - Natural England's response to G5.6 Indirect Effects of Forage Fish and Ornithology – Revision 1 [REP5-085]
REP6-061	NEO Energy (SNS) Limited Deadline 6 Submission - Further information requested by the Examining Authority (ExA) under Rule 17 of the Examination Procedure Rules
REP6-062	Network Rail Infrastructure Limited Deadline 6 Submission - Hearing Action Points arising from Issue Specific Hearing 7 (ISH7). Preferred form of protective provision for inclusion in the Development Consent Order (DCO)
REP6-063	Network Rail Infrastructure Limited Deadline 6 Submission - Hearing Action Points arising from Issue Specific Hearing 7 (ISH7)
REP6-064	Weightmans on behalf of Northern Powergrid (Yorkshire) PLC Deadline 6 Submission - Withdrawal of Relevant Representation [RR-042]
REP6-065	Perenco UK Limited Deadline 6 Submission - Further information requested by the Examining Authority (ExA) under Rule 17 of the Examination Procedure Rules
REP6-066	The Crown Estate Deadline 6 Submission - Comments on any other submissions received at Deadline 5a
REP6-067	Royal Society for the Protection of Birds (RSPB) Deadline 6 Submission - Comments on any other submissions received at Deadline 5 and Deadline 5a
REP6-068	Royal Society for the Protection of Birds (RSPB) Deadline 6 Submission - Comments on any other submissions received at Deadline 5 and Deadline 5a - Annex A Offshore Ornithology
REP6-069	Royal Society for the Protection of Birds (RSPB) Deadline 6 Submission - Comments on any other submissions received at Deadline 5 and Deadline 5a - Annex B Compensation Proposals

REP6-070	East Riding of Yorkshire Council Late Deadline 6 Submission - Accepted at the discretion of the Examining Authority
Deadline 7 – 10 August 2022	
<p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Comments on the ExA’s preferred draft DCO, proposed schedule of changes, or commentary on the draft DCO (if issued) - Final SoCGs and Statement of Commonality of SoCGs, also listing matters not agreed (in circumstances where a SoCG could not be finalised) - Final version of the draft DCO in clean, tracked and Word versions - Final schedule of changes to the draft DCO (if required) - Final draft DCO to be submitted by the Applicant in the SI template with the SI validation report - Final Guide to the Application - Final CA Schedule in clean and tracked versions - An updated Book of Reference - Signed and dated planning obligations and any other agreements (if required) - Comments on any submissions received at Deadline 6 - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	
REP7-001	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.1 Cover Letter
REP7-002	Orsted Hornsea Project Four Limited Deadline 7 Submission - A1.4 Project Description (Clean) - Revision: 07
REP7-003	Orsted Hornsea Project Four Limited Deadline 7 Submission - A1.4 Project Description (Tracked) - Revision: 07
REP7-004	Orsted Hornsea Project Four Limited Deadline 7 Submission - A2.2 Benthic and Intertidal Ecology (Clean) - Revision: 02
REP7-005	Orsted Hornsea Project Four Limited Deadline 7 Submission - A2.2 Benthic and Intertidal Ecology (Tracked) - Revision: 02
REP7-006	Orsted Hornsea Project Four Limited Deadline 7 Submission - A4.4.6 Design Vision Statement - Revision: 02
REP7-007	Orsted Hornsea Project Four Limited Deadline 7 Submission - A4.6.1 Compensation Project Description (Clean) - Revision: 02
REP7-008	Orsted Hornsea Project Four Limited Deadline 7 Submission - A4.6.1 Compensation Project Description (Tracked) - Revision: 02
REP7-009	Orsted Hornsea Project Four Limited Deadline 7 Submission - A4.6.3 Compensation Impacts Register - Revision: 02
REP7-010	Orsted Hornsea Project Four Limited Deadline 7 Submission - A4.6.4 Compensation Commitment Register - Revision: 02
REP7-011	Orsted Hornsea Project Four Limited

	Deadline 7 Submission - A4.6.5: Compensation Environmental Impact Assessment (EIA) Annex Part 1-6 (Clean) - Revision: 02
REP7-012	Orsted Hornsea Project Four Limited Deadline 7 Submission - A4.6.5: Compensation Environmental Impact Assessment (EIA) Annex Part 1-6 (Tracked) - Revision: 02
REP7-013	Orsted Hornsea Project Four Limited Deadline 7 Submission - A5.2.1 Benthic and Intertidal Ecology Technical Report (Clean) - Revision: 02
REP7-014	Orsted Hornsea Project Four Limited Deadline 7 Submission - A5.2.1 Benthic and Intertidal Ecology Technical Report (Tracked) - Revision: 02
REP7-015	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.2.2 Habitats Regulations Assessment Compensation Measures Parts 1-2 (Clean): Revision 03
REP7-016	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.2.2 Habitats Regulations Assessment Compensation Measures Parts 1-2 (Tracked): Revision 03
REP7-017	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.6 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Overview: Revision 04
REP7-018	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.6 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Overview (Tracked): Revision 04
REP7-019	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.7 Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Kittiwake Compensation Plan: Revision 03
REP7-020	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.7 Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Kittiwake Compensation Plan (Tracked): Revision 03
REP7-021	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.7.2 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Kittiwake Offshore Artificial Nesting Roadmap (Clean): Revision 05
REP7-022	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.7.2 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Kittiwake Offshore Artificial Nesting Roadmap (Tracked): Revision 05
REP7-023	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.7.4 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Kittiwake Onshore Artificial Nesting Roadmap (Clean): Revision 05
REP7-024	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.7.4 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA)

	Kittiwake Onshore Artificial Nesting Roadmap (Tracked): Revision 05
REP7-025	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.7.6 Outline Kittiwake Compensation Implementation and Monitoring Plan (Clean): Revision: 03
REP7-026	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.7.6 Outline Kittiwake Compensation Implementation and Monitoring Plan (Tracked): Revision: 03
REP7-027	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8 Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Guillemot and Razorbill Compensation Plan (Clean): Revision 03
REP7-028	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8 Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Guillemot and Razorbill Compensation Plan (Tracked): Revision 03
REP7-029	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8.2 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Guillemot and Razorbill Bycatch Reduction Roadmap (Clean) - Revision: 05
REP7-030	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8.2 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Guillemot and Razorbill Bycatch Reduction Roadmap (Tracked) - Revision: 05
REP7-031	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8.4 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Predator Eradication Roadmap (Clean): Revision 05
REP7-032	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8.4 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Predator Eradication Roadmap (Tracked): Revision 05
REP7-033	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8.6 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Fish Habitat Enhancement Roadmap (Clean): Revision 05
REP7-034	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8.6 Compensation measures for Flamborough and Filey Coast (FFC) Special Protection Area (SPA) Fish Habitat Enhancement Roadmap (Tracked): Revision 05
REP7-035	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8.7 Outline Guillemot and Razorbill Compensation Implementation and Monitoring Plan (Clean): Revision 03
REP7-036	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.8.7 Outline Guillemot and Razorbill Compensation Implementation and Monitoring Plan (Tracked): Revision 03
REP7-037	Orsted Hornsea Project Four Limited

	Deadline 7 Submission - B2.10 Without Prejudice Derogation Funding Statement (Clean): Revision 02
REP7-038	Orsted Hornsea Project Four Limited Deadline 7 Submission - B2.10 Without Prejudice Derogation Funding Statement (Tracked): Revision 02
REP7-039	Orsted Hornsea Project Four Limited Deadline 7 Submission - C.1.1 Draft Development Consent Order (DCO) (Clean)
REP7-040	Orsted Hornsea Project Four Limited Deadline 7 Submission - C.1.1 Draft Development Consent Order (DCO) (Tracked)
REP7-041	Orsted Hornsea Project Four Limited Deadline 7 Submission - C1.2 Explanatory Memorandum - Revision: 01
REP7-042	Orsted Hornsea Project Four Limited Deadline 7 Submission - C1.1.1 Schedule of Change Draft Development Consent Order (DCO) and Deemed Marine Licences (DML) - Revision: 07
REP7-043	Orsted Hornsea Project Four Limited Deadline 7 Submission - E1.1 Funding Statement (Clean): Revision 03
REP7-044	Orsted Hornsea Project Four Limited Deadline 7 Submission - E1.1 Funding Statement (Tracked): Revision 03
REP7-045	Orsted Hornsea Project Four Limited Deadline 7 Submission - E1.1.1 Funding Statement Dalcour Maclaren Letter (Clean): Revision 03
REP7-046	Orsted Hornsea Project Four Limited Deadline 7 Submission - E1.1.1 Funding Statement Dalcour Maclaren Letter (Tracked): Revision 03
REP7-047	Orsted Hornsea Project Four Limited Deadline 7 Submission - E1.2.1 Statement of Reasons Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities (Clean): Revision: 05
REP7-048	Orsted Hornsea Project Four Limited Deadline 7 Submission - E1.2.1 Statement of Reasons Update on negotiations with landowners, occupiers, Statutory Undertakers and other utilities (Tracked): Revision: 05
REP7-049	Orsted Hornsea Project Four Limited Deadline 7 Submission - E1.3 Book of Reference (Clean)
REP7-050	Orsted Hornsea Project Four Limited Deadline 7 Submission - E1.3 Book of Reference (Tracked) - Revision: 04
REP7-051	Orsted Hornsea Project Four Limited Deadline 7 Submission - E1.3.1 Book of Reference - Schedule of Changes - Revision: 04
REP7-052	Orsted Hornsea Project Four Limited Deadline 7 Submission - F1.6: Statement of Need (Clean) - Revision: 02
REP7-053	Orsted Hornsea Project Four Limited

	Deadline 7 Submission - F1.6: Statement of Need (Tracked) - Revision: 02
REP7-054	Orsted Hornsea Project Four Limited Deadline 7 Submission - F2.11 Outline Southern North Sea Special Area of Conservation Site Integrity Plan (Clean): Revision 02
REP7-055	Orsted Hornsea Project Four Limited Deadline 7 Submission - F2.11 Outline Southern North Sea Special Area of Conservation Site Integrity Plan (Tracked): Revision 02
REP7-056	Orsted Hornsea Project Four Limited Deadline 7 Submission - F2.15 Outline Cable Specification and Installation Plan (Clean) - Revision: 04
REP7-057	Orsted Hornsea Project Four Limited Deadline 7 Submission - F2.15 Outline Cable Specification and Installation Plan (Tracked) - Revision: 04
REP7-058	Orsted Hornsea Project Four Limited Deadline 7 Submission - F2.7 Outline Marine Monitoring Plan: (Clean) Revision: 02
REP7-059	Orsted Hornsea Project Four Limited Deadline 7 Submission - F2.7 Outline Marine Monitoring Plan (Tracked): Revision 02
REP7-060	Orsted Hornsea Project Four Limited Deadline 7 Submission - F3.1 Statement of Common Ground (SoCG) between Hornsea Project Four and East Riding of Yorkshire Council - Revision: 05
REP7-061	Orsted Hornsea Project Four Limited Deadline 7 Submission - F3.4 Statement of Common Ground (SoCG) between Hornsea Project Four and Natural England: Derogation Matters - Revision: 03
REP7-062	Orsted Hornsea Project Four Limited Deadline 7 Submission - F3.5 Statement of Common Ground (SoCG) between Hornsea Project Four and Natural England: Onshore Matters - Revision: 02
REP7-063	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.1 Overarching Acronyms List (Clean) Revision: 05
REP7-064	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.1 Overarching Acronyms List (Tracked): Revision 05
REP7-065	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.10 Hornsea Four Clarification Note on Peak Herring Spawning Period and Seasonal Piling Restriction (Clean) - Revision 04
REP7-066	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.10 Hornsea Four Clarification Note on Peak Herring Spawning Period and Seasonal Piling Restriction (Tracked) - Revision 04
REP7-067	Orsted Hornsea Project Four Limited

	Deadline 7 Submission - G1.12 Statement of Common Ground (SoCG) between Hornsea Project Four and Environment Agency - Revision: 03
REP7-068	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.13 Statement of Common Ground (SoCG) between Hornsea Project Four and Natural England: Other Offshore Matters - Revision: 02
REP7-069	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.14 Statement of Common Ground (SoCG) between Hornsea Project Four and Historic England - Revision: 04
REP7-070	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.17 Statement of Common Ground (SoCG) between Hornsea Project Four and the Marine Management Organisation (MMO) - Revision: 05
REP7-071	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.18 Statement of Common Ground (SoCG) between Hornsea Project Four and Natural England: Offshore and Intertidal Ornithology - Revision: 03
REP7-072	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.20 Statement of Common Ground (SoCG) between Hornsea Project Four and The UK Chamber of Shipping - Revision: 04
REP7-073	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.32 Applicant's Statement of Commonality of Statements of Common Ground (SoCG) - Revision: 06
REP7-074	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.45 Overarching Glossary (Clean) - Revision: 03
REP7-075	Orsted Hornsea Project Four Limited Deadline 7 Submission - G1.45 Overarching Glossary (Tracked) - Revision: 03
REP7-076	Orsted Hornsea Project Four Limited Deadline 7 Submission - G2.4 Guide to the Application - Revision: 07
REP7-077	Orsted Hornsea Project Four Limited Deadline 7 Submission - G2.5 Applicants Compulsory Acquisition Schedule (CA Schedule) (Clean) - Revision: 05
REP7-078	Orsted Hornsea Project Four Limited Deadline 7 Submission - G2.5 Applicants Compulsory Acquisition Schedule (CA Schedule) (Tracked) - Revision: 05
REP7-079	Orsted Hornsea Project Four Limited Deadline 7 Submission - G3.12 Without Prejudice Derogation Draft Development Consent Order (DCO) Schedules (Clean) - Revision: 03
REP7-080	Orsted Hornsea Project Four Limited Deadline 7 Submission - G3.12 Without Prejudice Derogation Draft Development Consent Order (DCO) Schedules (Tracked) - Revision: 03
REP7-081	Orsted Hornsea Project Four Limited

	Deadline 7 Submission - G6.18 Applicants Schedule of Side Agreements (Clean): Revision 01
REP7-082	Orsted Hornsea Project Four Limited Deadline 7 Submission - G6.18 Applicants Schedule of Side Agreements (Tracked) - Revision: 01
REP7-083	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.2 Applicant's comments on other submissions received at Deadline 6 - Revision: 01
REP7-084	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.3 Platform Repurposing Transfer of Regulation - Revision: 01
REP7-085	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.4 Applicants Ornithology Position Paper - Revision: 01
REP7-086	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.5 Updated Onshore and Offshore Cumulative Assessment - Revision: 01
REP7-087	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.8 BP Closing Remarks - Revision: 01
REP7-088	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.9 Rule 17 Guide to the Application - Revision: 01
REP7-089	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.10 Applicant's comments on Harbour Energy's Deadline 6 submissions - Revision: 01
REP7-090	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.11 Applicant's response to Deadline 6 draft Development Consent Order (DCO) submissions - Revision: 01
REP7-091	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.12 NEO Protective Provisions Plan - Revision: 01
REP7-092	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.13 Johnston Protective Provisions Plan - Revision: 01
REP7-093	Orsted Hornsea Project Four Limited Deadline 7 Submission - G7.14 Section 127 Statement - Revision: 01
REP7-094	East Suffolk Council Deadline 7 Submission - Comments on any submissions received at Deadline 6
REP7-095	East Riding of Yorkshire Council Deadline 7 submission - withdrawal of objection to Jocks Lodge Scheme included in RR-008
REP7-096	Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited Deadline 7 submission - Withdrawal of Relevant Representation [RR-001]
REP7-097	Environment Agency Deadline 7 Submission - Further information requested by the ExA under Rule 17 of the Examination Procedure Rules

REP7-098	Royal Society for the Protection of Birds (RSPB) Deadline 7 Submission - Comments on any submissions received at Deadline 6
REP7-099	Royal Society for the Protection of Birds (RSPB) Deadline 7 Submission - Comments on Deadline 6 submissions and actions from the Examining Authority
REP7-100	Harbour Energy Deadline 7 Submission - Comments on any submissions received at Deadline 6
REP7-101	Natural England Deadline 7 Submission - Cover letter
REP7-102	Natural England Deadline 7 Submission - Natural England's End of Examination Position on the Applicant's Proposed Compensatory Measures
REP7-103	Natural England Deadline 7 Submission - Natural England's End of Examination Position on Marine Processes
REP7-104	Natural England Deadline 7 Submission - Natural England's End of Examination Position on Offshore Ornithology
REP7-105	Natural England Deadline 7 Submission - Risk and Issues Log
REP7-106	NEO Energy (SNS) Limited / NEO Energy Petroleum Limited Deadline 7 Submission - Deadline 7 Submission - Proposed Protective Provisions and NEO Protective Provisions Plan. Submission on behalf of NEO Energy Petroleum Limited accepted at the discretion of the Examining Authority.
REP7-107	NEO Energy (SNS) Limited / NEO Energy Petroleum Limited Deadline 7 Submission - Proposed Protective Provisions (tracked). Submission on behalf of NEO Energy Petroleum Limited accepted at the discretion of the Examining Authority.
REP7-108	Bryan Cave Leighton Paisner LLP on behalf of National Grid Electricity Transmission Plc (NGET) and National Grid Gas Plc (NGG) Deadline 7 submission
REP7-109	CMS Cameron McKenna Nabarro Olswang LLP on behalf of Doggerbank Offshore Wind Farm Project 1 Projco Limited and Doggerbank Offshore Wind Farm Project 2 Projco Limited Deadline 7 Submission
REP7-110	Northern Gas Networks Limited Deadline 7 submission - Withdrawal of Relevant Representation [RR-030]
REP7-111	Marine Management Organisation Deadline 7 Submission - Comments on submissions received at Deadline 6, Further information requested by the Examining Authority (ExA) under Rule 17, Comments on the ExA's proposed schedule of changes to the Development Consent Order (DCO), Final Statement of Common Ground (SoCG) and matters not agreed.

Deadline 8 – 18 August 2022 (midday)

<p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> - Comments on the RIES (if issued) - Comments on responses submitted for Deadline 7 - Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules 	
REP8-001	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.1 Applicant's Cover Letter for Deadline 8
REP8-002	Orsted Hornsea Project Four Limited Deadline 8 Submission - A4.4.4: Dredging and Disposal (Site Characterisation) (Clean) - Revision: 03
REP8-003	Orsted Hornsea Project Four Limited Deadline 8 Submission - A4.4.4: Dredging and Disposal (Site Characterisation) (Tracked) - Revision: 03
REP8-004	Orsted Hornsea Project Four Limited Deadline 8 Submission - G1.17 Statement of Common Ground (SoCG) between Hornsea Project Four and the Marine Management Organisation (MMO) - Revision: 06
REP8-005	Orsted Hornsea Project Four Limited Deadline 8 Submission - G1.22 Statement of Common Ground (SoCG) between Hornsea Project Four and the Royal Society for the Protection of Birds (RSPB): Offshore and Intertidal Ornithology, Derogation and Compensation - Revision: 03
REP8-006	Orsted Hornsea Project Four Limited Deadline 8 Submission - G1.32 Statement of Commonality of Statements of Common Ground (SoCG) - Revision: 07
REP8-007	Orsted Hornsea Project Four Limited Deadline 8 Submission - G2.4 Guide to the Application - Revision: 08
REP8-008	Orsted Hornsea Project Four Limited Deadline 8 Submission - G6.18 Applicants Schedule of Side Agreements (Clean) - Revision: 03
REP8-009	Orsted Hornsea Project Four Limited Deadline 8 Submission - G6.18 Applicants Schedule of Side Agreements (Tracked) - Revision: 03
REP8-010	Orsted Hornsea Project Four Limited Deadline 8 Submission - G7.9 Rule 17 Guide to the Application - Revision: 02
REP8-011	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.2 Applicant's Comments on the Report on the Implications for European Sites (RIES) - Revision: 01
REP8-012	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.3 Applicant's Response to Deadline 6 Ornithology submissions - Revision: 01
REP8-013	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.4 Applicant's response to Rule 17 letter dated 11 August 2022 - Revision: 01
REP8-014	Orsted Hornsea Project Four Limited

	Deadline 8 Submission - G8.5 Applicant's comments on NEO's Deadline 7 submissions - Revision: 01
REP8-015	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.6 Applicant's comments on Harbour Energy's Deadline 7 submissions - Revision: 01
REP8-016	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.7 Applicant's comments on Deadline 7 submissions - Revision: 01
REP8-017	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.8 Applicant's comments on Natural England's Deadline 7 Ornithology Submissions - Revision: 01
REP8-018	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.9 Hornsea Four Sediment Sampling Marine Management Organisation (MMO) Template - Revision: 01
REP8-019	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.10 Update Joint Notification Letter between Perenco and Hornsea Project Four
REP8-020	Orsted Hornsea Project Four Limited Deadline 8 Submission - G8.11 Clarification Note on Kittiwake Population Viability Analysis (PVA) and Biologically Defined Minimum Population Scale (BDMPS) Population Estimates - Revision: 01
REP8-021	Maritime and Coastguard Agency Deadline 8 Submission - Further information requested by the ExA under Rule 17 of the Examination Procedure Rules
REP8-022	Marine Management Organisation (MMO) Deadline 8 Submission - Comments on any submissions received at Deadline 7, Further information requested by the Examining Authority under Rule 17
REP8-023	BP Exploration Operating Company Limited Deadline 8 Submission - Comments on responses submitted for Deadline 7
REP8-024	Royal Society for the Protection of Birds (RSPB) Deadline 8 Submission - Comments on responses submitted for Deadline 7
REP8-025	The Crown Estate Deadline 8 Submission - Comments on responses submitted for Deadline 7
REP8-026	Harbour Energy Deadline 8 Submission - Comments on responses submitted for Deadline 7
REP8-027	Natural England Late Deadline 8 Submission - Cover letter - Accepted at the discretion of the Examining Authority
REP8-028	Natural England Late Deadline 8 Submission - Natural England's comments on F2.7 Outline Marine Monitoring Plan Revision: 02 [REP7-058] - Accepted at the discretion of the Examining Authority
REP8-029	Natural England

	Late Deadline 8 Submission - Natural England's Comments on the Report on the Implications for European Sites (RIES) [PD-015] - Accepted at the discretion of the Examining Authority
REP8-030	Natural England Late Deadline 8 Submission - Action log - Accepted at the discretion of the Examining Authority
REP8-031	Natural England Late Deadline 8 Submission - Risk and Issues Log - Accepted at the discretion of the Examining Authority
REP8-032	Royal Society for the Protection of Birds (RSPB) Late Deadline 8 Submission - Comments on Deadline 8 submissions. Accepted at the discretion of the Examining Authority.
Other Documents	
OD-001	Orsted Hornsea Project Four Limited Applicant's S56 notice of accepted application - Hornsea Project Four Offshore Wind Farm (Generating Stations)
OD-002	Orsted Hornsea Project Four Limited Applicants Signposting Response
OD-003	The Planning Inspectorate Regulation 32 Second Transboundary Screening
OD-004	Orsted Hornsea Project Four Limited London Gazette Notice
OD-005	H4WF Applicants Updated Transboundary Screening Applicant's Updated Transboundary Screening
OD-006	Orsted Hornsea Project Four Limited Certificate of Compliance with Regulation 16 Notice
OD-007	Orsted Hornsea Project Four Limited Certificate of Compliance with Section 56 of the Planning Act 2008
OD-008	Orsted Hornsea Project Four Limited Certificate of Compliance with Section 59 of the Planning Act 2008
OD-009	Regulation 32 Consultation response from Denmark
OD-010	Regulation 32 Consultation Response Belgium
OD-011	Regulation 32 consultation response from Ireland

APPENDIX B: LIST OF ABBREVIATIONS

Abbreviation	Definition
2013 Guidance	Guidance related to Procedures for the Compulsory Acquisition of Land”, DCLG, September 2013 (the former DCLG CA Guidance)
ABP	Associated British Ports
ADD	Acoustic Deterrent Devices
ADR	Air Defence Radar
AEoI	Adverse Effect on Integrity
AEZ	Archaeological Exclusion Zone(s)
AfL	Agreement for Lease
ALC	Agricultural Land Category
ALARP	As Low as Reasonably Practicable
ANCB	Appropriate Nature Conservation Body
ANS	Artificial Nesting Structure
AOD	Above Ordnance Datum
AP	Affected Person
AQMA	Air Quality Management Area
BDMPS	Biologically defined minimum population scale
BEIS	Department for Business, Energy and Industrial Strategy
BESS	British Energy Security Strategy
BMV	Best and most versatile
BNG	Biodiversity Net Gain
BoR	Book of Reference [REP7-049]
bp or BP	BP Exploration Operating Company Ltd
CA	Compulsory Acquisition
CAA	Civil Aviation Authority
CAH	Compulsory Acquisition Hearing
CC	Carbon Capture
CCC	Committee on Climate Change
CCS	Carbon Capture and Storage
CCUS	Carbon Capture Utilisation and Storage

Abbreviation	Definition
CEA	Cumulative Effects Assessment
Cefas	Centre for Environment, Fisheries and Agriculture Sciences
CEMMP	Construction Environmental Management and Monitoring Plan
CFPS	Counterfactual of final population size
CO₂	Carbon Dioxide
CoCP	Code of Construction Practice
Co	Commitment (from the Applicant's Commitment Register [REP6-008])
CPGR	Counterfactual of population growth rate
CPO	Compulsory Purchase Order
CRM	Collision Risk Modelling
CTMP	Construction Traffic Management Plan
D	Deadline
dB	Decibel
DBA	Desk Based Assessment
DB-A	Dogger Bank A
DB-B	Dogger Bank B
DBCBC DCO	Dogger Bank Creyke Beck DCO (2015)
DB-S OWF	Dogger Bank South Offshore Wind Farm
DCO	Development Consent Order
draft DCO	Draft Development Consent Order
DEFRA/Defra	Department for Environment, Food and Rural Affairs
DLUHC	Department for Levelling Up, Housing and Communities
DML	Deemed Marine Licence
DMRB	Design Manual for Roads and Bridges
EA	Environment Agency
EBI	Energy Balancing Infrastructure
ECC	Export Cable Corridor
EEA	European Economic Area

Abbreviation	Definition
EEZ	Exclusive Economic Zone
EGL2	Eastern Green Link 2
EIA	Environmental Impact Assessment
EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended)
EIEOMP	East Inshore and East Offshore Marine Plans
EISA	Electrical Infrastructure Study Area
EM	Explanatory Memorandum [REP7-041]
EMF	Electromagnetic Field
EMP	Ecological Management Plan
EPA	The Environmental Protection Act 1990
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
EPS	European Protected Species
ERYC	East Riding of Yorkshire Council
ES	Environmental Statement
ExA	Examining Authority
ExQ1	First Written Questions [PD-006]
ExQ2	Further Written Questions [PD-012]
FCLP	Fisheries Coexistence and Liaison Plan
FHHC	Flamborough Head Heritage Coast
FLO	Fisheries Liaison Officer
FLOWW	The Fishing Liaison with Offshore Wind and Wet Renewables Group
FRA	Flood Risk Assessment [APP-098]
FTE	Full Time Equivalent
GB	Great Britain
GBS	Gravity Base Structure
GCN	Great Crested Newt
GHG	Greenhouse gas

Abbreviation	Definition
GRCIMP	Guillemot and razorbill compensation implementation and monitoring plan
GW	Gigawatt
H₂	Hydrogen
ha	Hectare
HAT	Highest Astronomical Tide
HazID	Hazard Identification
HCC	Hull City Council
HDD	Horizontal Directional Drilling
HE	Historic England
HEY	Humberside and East Yorkshire
HFIG	Holderness Fishing Industry Group
HGV(s)	Heavy Goods Vehicle(s)
HLCP	Humber Low Carbon Pipeline
HLP	The Hull Local Plan 2016 to 2032 (November 2017)
HPAI	Highly Pathogenic Avian Influenza
HPMA	Highly Protected Marine Area
HRA	Habitats Regulations Assessment
HVAC	High Voltage Alternating Current
HVDC	High Voltage Direct Current
IAPI	Initial Assessment of Principal Issues
IDB	Internal Drainage Board
IHLS	International Herring Larval Survey
IMO	International Maritime Organisation
INNS	Invasive non-native species
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
JNCC	Joint Nature Conservation Committee
JPS	Joint Position Statement

Abbreviation	Definition
KCIMP	Kittiwake compensation implementation and monitoring plan
km(s)	Kilometre(s)
kV	Kilovolt(s)
LAT	Lowest Astronomical Tide
LEB	Looming Eye Buoys
LEP	Local Enterprise Partnership
LIR	Local Impact Report [REP1-074]
LLFA	Lead Local Flood Authority
LMP	Landscape Management Plan [REP3-010]
LoC	Letter of Comfort
Local Plan	East Riding Local Plan Strategy Document 2012 to 2029 (April 2016)
LONI	Letter Of No Impediment
LVIA	Landscape and Visual Impact Assessment
LPC	Lockington Parish Council
LSE	Likely Significant Effect
m	Metre(s)
MCA	Maritime and Coastguard Agency
MCAA	Marine and Coastal Access Act 2009
MCZ	Marine Conservation Zone
MDS	Maximum Design Scenario
MHW	Mean High Water
MHWS	Mean High Water Springs
MLW	Mean Low Water
MLWS	Mean Low Water Springs
MMMP	Marine Mammal Management Plan
MMO	Marine Management Organisation
MMV	Measurement, Monitoring and Verification
MoD	Ministry of Defence

Abbreviation	Definition
MoU	Memorandum of Understanding
MPA	Marine Protected Area
MPCP	Marine Pollution Contingency Plan
MPS	Marine Policy Statement
MRF	Marine Recovery Fund
MRsea	Marine Renewables strategic environmental assessment
MSL	Mean Sea Level
MW	Megawatt
NAS	Noise Abatement Systems
NATS	National Air Traffic Service
NE	Natural England
NEP	Northern Endurance Partnership
NFFO	National Federation of Fishermen's Organisations
NGCL	National Grid Carbon Ltd
NGET	National Grid Electricity Transmission Plc
NGIHL	National Grid Interconnector Holdings Ltd
NGVL	National Grid Viking Link Ltd
NGN	Northern Gas Networks Ltd
NH	National Highways
NM or nm	Nautical mile(s)
NO₂	Nitrogen Dioxide
NO_x	Nitrous Oxide
NPA2017	The Neighbourhood Planning Act 2017
NPPF	The National Planning Policy Framework 2021
NPPG	The National Planning Practice Guidance 2019
NPS	National Policy Statement
NR	Network Rail Infrastructure Limited
NRA	Navigational Risk Assessment
NRHE	National Record of the Historic Environment

Abbreviation	Definition
NSIP	Nationally Significant Infrastructure Project
NSTA	North Sea Transition Authority
NtM	Notice To Mariners
O&M	Operation and Maintenance
OBN	Ocean Bottom Nodes
ODOW	Outer Dowsing Offshore Wind
ODOWF	Outer Dowsing Offshore Wind Farm
OFCLP	Outline Fisheries Coexistence and Liaison Plan [REP1-033]
OFH	Open Floor Hearing
OIDS	Onshore Infrastructure Drainage Strategy
OIFRA	Onshore Infrastructure Flood Risk Assessment [APP-098]
OMP	Operation and Maintenance Plan
OnSS	Onshore Substation
OOEG	Offshore Ornithology Engagement Group
OREI	Offshore Renewable Energy Installation(s)
OTNR	Offshore Transmission Network Review
OWF	Offshore Wind Farm
PA2008	The Planning Act 2008
PEIR	Preliminary Environmental Information Report
PINS	Planning Inspectorate
PLC	Primary Logistics Compound
PM	Preliminary Meeting
PM_{2.5}	Particulate Matter
PM₁₀	Particulate Matter
PRoW(s)	Public Right(s) of Way
PS	Position Statement
PSA	Particle Size Analysis
PSED	Public Sector Equality Duty
PTS	Permanent Threshold Shift

Abbreviation	Definition
PVA	Population viability analysis
RHH SSSI	River Hull Headwaters Site of Special Scientific Interest
REWS	Radar Early Warning System
RIAA	Report to Inform Appropriate Assessment
RIES	Report on the Implications for European Sites [PD-015]
RPSS	Route Planning and Site Selection
RR	Relevant Representation
RRH	Remote Radar Head
RSPB	The Royal Society for the Protection of Birds
Rule 17	Request for further information under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
s	Section
SAC	Special Area of Conservation
SACOs	Supplementary Advice on Conservation Objectives
SAR	Search and Rescue
SCI	Site of Community Importance
SEGL2	Scotland England Green Link 2
SEL	Sound Exposure Level
SEZ	Structures Exclusion Zone
SIP	Site Integrity Plan
SM	Scheduled Monument
SNCB	Statutory Nature Conservation Body
SoCG	Statement of Common Ground
SOLAS	Safety of Life at Sea
SoR	Statement of Reasons [APP-227]
SoS	Secretary of State
SO₂	Sulphur Dioxide
SOLAS	Safety Of Life At Sea
SPA	Special Protection Area

Abbreviation	Definition
SPL	Sound Pressure Level
SSSI	Site of Special Scientific Interest
SU(s)	Statutory Undertaker(s)
SuDS	Sustainable Drainage Systems
TCE	The Crown Estate
TCPA 90	Town and Country Planning Act 1990
TH	Trinity House
TOR	Terms of Reference
TP	Temporary Possession
TRTO	Temporary Road Traffic Order
TWh	Terawatt hours
UK	United Kingdom
UKCoS	UK Chamber of Shipping
UKMPG	UK Major Ports Group
UKMPS	UK Marine Policy Statement
USI	Unaccompanied Site Inspection [EV-001 and EV-002]
UXO	Unexploded Ordnance
VMS	Vessel Monitoring System
WACA1981	Wildlife and Countryside Act 1981
WR	Written Representation
WSI	Written Scheme of Investigation
WTG(s)	Wind Turbine Generator(s)
YTG	Yorkshire Wildlife Trust

APPENDIX C: THE RECOMMENDED DCO

202* No. 0000

INFRASTRUCTURE PLANNING

The Hornsea Four Offshore Wind Farm Order

Made - - - - []

Coming into force - - []

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 - PART 3 — CONTRIBUTION TO MARINE RECOVERY FUND

An application has been made to the Secretary of State under section 37 of the Planning Act 2008 (“the 2008 Act”)(a) for an order granting development consent.

The application was examined by the Examining Authority, appointed by the Secretary of State pursuant to section 61(b) and section 65(c) of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of that Act and with the Infrastructure Planning (Examination) Procedure Rules 2010(d). The Examining Authority has submitted a report to the Secretary of State under section 74(2)(e) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(f) and, as a national

(a) 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c.20).
 (b) Section 61 was amended by section 128(2) and Schedule 13, paragraph 18 to the Localism Act 2011 and by section 26 of the Infrastructure Act 2015 (c.7).
 (c) Section 65 was amended by Schedule 13 paragraph 22(2) and Schedule 25, paragraph 1 to the Localism Act 2011 and by section 27(1) of the Infrastructure Act 2015.
 (d) S.I. 2010/103. This instrument was amended by S.I. 2012/635.
 (e) Section 74 was amended by sections 128(2) and 237 and by Schedule 13, paragraph 29 and Schedule 25, paragraph 1, to the Localism Act 2011.
 (f) S.I. 2017/572.

policy statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2)(a) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order giving effect to the proposals comprised in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State is satisfied that open space within the Order land, when burdened with any new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before such acquisition, to the persons whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3)(b) of the 2008 Act applies.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120(e), 122, 123 and 149A of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Hornsea Four Offshore Wind Farm Order 20[] and comes into force on [] 202[].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1965 Act” means the Compulsory Purchase Act 1965(e);

“the 1980 Act” means the Highways Act 1980(f);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(g);

“the 1989 Act” means the Electricity Act 1989(h);

“the 1990 Act” means the Town and Country Planning Act 1990(i);

“the 1991 Act” means the New Roads and Street Works Act 1991(j);

“the 2000 Act” means the Countryside and Rights of Way Act 2000(k);

“the 2003 Act” means the Communications Act 2003(l);

“the 2004 Act” means the Energy Act 2004(m);

(a) Section 104 was amended by section 58(5) of the Marine and Coastal Access Act 2009 (c.23) and by section 128(2) of the and Schedule 13, paragraphs 1 and 49(1) to (6) of the Localism Act 2011.

(b) Section 132 was amended by section 24(3) of the Growth and Infrastructure Act 2013 (c.27).

(c) Sections 114, 115 and 120 were amended by sections 128(2) and 140 and Schedule 13, paragraphs 1, 55(1), (2) and 60(1) and (3) of the Localism Act 2011. Relevant amendments were made to section 115 by section 160(1) to (6) of the Housing and Planning Act 2016 (c.22).

(d) 1961 c.33.

(e) 1965 c.56.

(f) 1980 c.66.

(g) 1981 c.66.

(h) 1989 c.29.

(i) 1990 c.8.

(j) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).

(k) 2000 c.37.

(l) 2003 c.21.

(m) 2004 c.20.

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009(a);

“access land” has the same meaning as in section 1(1) (principal definitions for Part I) of the 2000 Act;

“access to works plan” means the plan or plans certified as the access to works plan or plans by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“ancillary works” means the ancillary works described in Part 2 of Schedule 1 (ancillary works) and any other works authorised by this Order and which are not development within the meaning of section 32 of the 2008 Act;

“authorised development” means the development and associated development described in Part 1 of Schedule 1 (authorised development) and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

“authorised project” means the authorised development and the ancillary works authorised by this Order;

“the book of reference” means the document certified by the Secretary of State as the book of reference for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“box-type gravity base structures” means a structure principally of steel, concrete, or steel and concrete with a square base which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“bridge link” means a steel truss structure with provision for overhead clearance for personnel, lighting fixtures and ancillary cabling, which can be used as a link for interconnection between any combination of permanent offshore electrical installations and/or offshore accommodation platform;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LIDAR and wave buoys;

“cables” means cables for the transmission of electricity, including one or more cable crossings;

“cable circuits” means a number of electrical conductors necessary to transmit electricity between two points within the authorised development; this may comprise, depending on transmission technology, one or more conductors which may be bundled as one cable or take the form of separate cables, and the circuit may include one or more auxiliary cables (normally fibre optic cables) for the purpose of control, monitoring, protection or general communications;

“cable crossings” means a crossing of existing sub-sea cables or pipelines or other existing infrastructure by a cable or, where cables run together in parallel, a set of cables, authorised by this Order together with cable protection;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses, split pipe system, and/or rock placement (including material used for cable crossings);

“carriageway” has the same meaning as in section 329 of the 1980 Act;

“commence”, means—

- (a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for operations consisting of pre-construction surveys and monitoring approved under the deemed marine licences; and
- (b) in respect of any other works comprised in the authorised project, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than onshore site preparation works,

and the words “commencement” and “commenced” must be construed accordingly;

(a) 2009 c.23.

“commissioning” means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;

“commitments register” means the document certified as the commitments register by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“connection works” means Work Nos. 6 to 10 and any related further associated development in connection with those works;

“deemed marine licences” means the marine licences set out in Schedules 11 (deemed marine licence under the 2009 Act – generation assets) and 12 (deemed marine licence under the 2009 Act – offshore transmission assets);

“the Driffield Navigation Trust” means the Driffield Navigation Trust of 5 New Walk Close, Driffield, East Yorkshire, England, YO25 5LG (Company No. 01468822);

“energy balancing infrastructure” means infrastructure used for the balancing of the output of electrical energy to the national grid;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete with a base which tapers as it rises which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“HAT” means highest astronomical tide;

“highway” and “highway authority” have the same meaning as in the 1980 Act^(a)

“Historic England” means the Historic Buildings and Monuments Commission for England;

“horizontal directional drilling” refers to a trenchless boring technique for installing cables, cable ducts and other associated apparatus involving drilling in an arc between two points;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“independent design review panel” means a panel consisting of one chairperson and up to five members of which at least one member must be a chartered architect and one a chartered landscape professional. The remainder of the panel may be made up of external experts on architecture, landscaping, urban design, engineering or any other built environment profession;

“interconnector cable” means a network of cables between the offshore substations;

“intrusive environmental surveys” means an environmental survey that requires or is facilitated by breaking the surface of the ground or seabed;

“jacket foundation” means a lattice type structure constructed of steel and additional equipment such as, J-tubes, corrosion protection systems and access platforms attached to the sea bed by means of either a suction bucket or piles;

“joint bay” means an excavation located at regular intervals along the cable route consisting of a concrete flat base slab constructed beneath the ground to facilitate the jointing together of the cables;

“land plan” means the plan or plans certified as the land plan or plans by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“large offshore HVDC converter substation” means the large version of the offshore converter substations assessed in the environment statement;

(a) “highway” is defined in section 328(1) for “highway authority” see section 1. Relevant amendments are as follows: section 1 was amended by sections 8 and 102 and Schedules 4, paragraph 1 and Schedule 17 of the Local Government Act 1985 (c.51), by section 21 of the 1991 Act and by section 1(6) and Schedule 1, paragraphs 1 to 4 of the Infrastructure Act 2015 (c.7).

“large offshore transformer substation” means the large version of the offshore transformer substations assessed in the environment statement;

“LAT” means lowest astronomical tide;

“lead local flood authority” has the meaning in section 6(7) of the Flood and Water Management Act 2010(a);

“link box” means the underground metal box placed within a plastic or concrete pit where the metal sheaths between adjacent export cable sections are connected and earthed installed within a ground level manhole or inspection chamber to allow access to the link box for regular maintenance or fault-finding purposes;

“logistics compound” means a construction site associated with the connection works including portable offices, welfare facilities, parking and storage for construction of the authorised project;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in part 2 of Schedule 1 (ancillary works), any cable, any component part of any wind turbine generator, offshore electrical substation, offshore accommodation platform, meteorological mast, and the onshore transmission works described in part 1 of Schedule 1 (authorised development) not involving removal, reconstruction or replacement of foundations and buildings associated with the onshore project substation to the extent assessed in the environmental statement and any derivative of maintain must be construed accordingly;

“Marine Management Organisation” or “MMO” means the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH who is the body created under the 2009 Act and who is responsible for the monitoring and enforcement of the deemed marine licences;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” means the lowest level which spring tides reach on average over a period of time;

“monopile foundation” means a steel pile, driven and/or drilled into the seabed and associated equipment including J-tubes, corrosion protection systems and access platforms and equipment;

“mono suction bucket foundation” means a steel cylindrical structure which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential, and may include additional equipment such as J-tubes, corrosion protection systems and access platforms;

“offshore accommodation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the wind turbine generators and offshore electrical installations;

“offshore electrical installations” means the small offshore transformer substations, the large offshore transformer substations, the offshore HVAC booster stations, the small offshore HVDC converter substations and the large offshore HVDC converter substations forming part of the authorised development;

“offshore HVAC booster station” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to provide reactive power compensation; and
- (b) housing accommodation, storage, workshop, auxiliary equipment, radar and facilities for operating, maintaining and controlling the substation;

(a) 2010 c.29.

“offshore HVDC converter station” means a structure above LAT and attached to the seabed by means of a foundation, with equipment to convert the three-phase HVAC power generated at the wind turbine generators into HVDC power;

“the offshore Order limits and grid coordinates plan” means the plan or plans certified by the Secretary of State as the offshore Order limits and grid coordinates plan for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“offshore transformer substation” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, radar and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“offshore works” means Work Nos. 1, 2, 3, 4 and 5 and any related further associated development in connection with those works;

“offshore works plans” means the plan or plans certified as the offshore works plans by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“onshore construction works” means—

- (a) temporary haul roads;
- (b) vehicular accesses; and
- (c) logistics compound(s);

“onshore HVDC/HVAC substation” means a compound, comprising the onshore HVDC converter station or the onshore HVAC substation, including any energy balancing infrastructure and electrical equipment required to switch, transform, convert electricity and provide reactive power compensation, with external landscaping and means of access;

“onshore Order limits plan” means the plans certified by the Secretary of State as the onshore Order limits plan for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“onshore site preparation works” means operations consisting of site clearance, pre-planting of landscaping works, ecological mitigation works, archaeological investigations, intrusive environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, creation of site accesses and the temporary display of site notices or advertisements;

“onshore works plans” means the plan or plans certified as the onshore works plans by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“operation” means the undertaking of activities authorised by this Order which are not part of the construction, commissioning or decommissioning of the authorised development;

“the Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“the Order limits” means the limits shown on the offshore Order limits and grid coordinates plan and the onshore Order limits plan within which the authorised project may be carried out, whose grid coordinates seaward of MHWS are set out in paragraph 2 of Part 1 of Schedule 1 (authorised development) to this Order;

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline construction traffic management plan” means Appendix F of the document certified as the outline code of construction practice plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline design plan” means the document certified as the outline design plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline ecological management plan” means the document certified as the outline ecological management plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline employment and skills plan” means the document certified as the outline employment and skills plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline energy balancing infrastructure HazID report” means the document certified as the outline energy balancing infrastructure HazID report by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline enhancement strategy” means the document certified as the outline enhancement strategy by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline landscape management plan” means the document certified as the outline landscape management plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline marine mammal mitigation protocol” means the document certified as the outline marine mammal mitigation protocol by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline marine monitoring plan” means the document certified as the outline marine monitoring plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline marine written scheme of investigation” means the document certified as the outline marine written scheme of investigation by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline net gain strategy” means the document certified as the outline net gain strategy by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline onshore infrastructure drainage strategy” means the document certified as the outline onshore infrastructure drainage strategy by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline southern north sea special area of conservation site integrity plan” means the document certified as the outline southern north sea special area of conservation site integrity plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline written scheme of investigation for onshore archaeology” means the document certified as the outline written scheme of investigation for onshore archaeology by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure jacket foundations;

“pontoon gravity base type 1 structure” means a structure principally of steel, concrete, or steel and concrete with a base made up of up to two rectangular pontoons which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“pontoon gravity base type 2 structure” means a structure principally of steel, concrete, or steel and concrete with a base made up of a pontoon arranged in a rectangle around an open centre which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“pro-rata annex” means the document certified as the pro-rata annex by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“public rights of way plan” means the plan or plans certified as the public rights of way plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“relevant highway authority” means East Riding of Yorkshire Council, or any successor to it as highway authority for the land in question;

“relevant highway authorities” means East Riding of Yorkshire Council and Hull City Council, or any successor to them as highway authorities for the land in question;

“relevant planning authority” means East Riding of Yorkshire Council, or any successor to it as planning authority for the land in question;

“requirements” means, or a reference to a numbered requirement is a reference to, those matters set out in Part 3 of Schedule 1 (requirements) to this Order;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed by use of protective aprons, mattresses, or rock and gravel placement;

“section 106 agreements” means the three agreements made under section 106 of the 1990 Act as follows—

- (a) dated 15 November 1990 between (1) The Council of the East Yorkshire Borough of Beverley; (2) Clive Kingston Soames, Margaret Eileen Soames and Andrew Mark Soames and (3) Barclays Bank PLC;
- (b) dated 13 July 2007, between (1) Lissett Airfield Wind Farm Limited; (2) James Herbert Tennant; and (3) East Riding of Yorkshire Council; and
- (c) dated 7 October 2015, between (1) East Riding of Yorkshire Council; (2) Christopher Branston Foster; (3) Susan Verena Foster; (4) Richard Edward Foster; and (5) National Westminster Bank PLC;

“small offshore HVDC converter substation” means the small version of the offshore transformer substations assessed in the environment statement;

“small offshore transformer substation” means the small version of the offshore transformer substations assessed in the environment statement;

“SNCB” means statutory nature conservation body, being the appropriate nature conservation body as refined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017 or its equivalent in the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“special category land” means the land comprising plots 1, 2, 2A, 3, 3A, 4, 4A, 5, 6 and 6A shown on the land plans and described in the book of reference;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

“street” means a street within the meaning of section 48 of the 1991 Act(a), together with land on the verge of a street or between two carriageways, and includes any footpath and any part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act(b);

“streets plan” means the plan or plans certified as the streets plan or plans by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

(a) Section 48 was amended by section 124(2) of the Local Transport Act 2008 (c.26).

(b) “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act (c.7).

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“transition joint bay” means the underground concrete bays in Work No. 6 where the offshore export cable circuits comprised in Work No. 6 are jointed to the onshore export cable circuits;

“transition piece” means the metal structure attached to the top of the foundation where the base of the wind turbine generator is connected and may include additional equipment such as J-tubes, corrosion protection systems, boat access systems, access platforms, craneage, radar, electrical transmission equipment and associated equipment;

“tree preservation order and hedgerow plan” means the plan or plans certified as the tree preservation order and hedgerow plan or plans by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“undertaker” means, subject to article 5(2) (benefit of the Order), Orsted Hornsea Project Four Limited (company number 08584182);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“water attenuation feature” means an area within which sustainable drainage systems measures are to be adopted to facilitate attenuation and/or storage of surface water drainage;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation or transition piece; and

“working day” means a day which is not a weekend, bank holiday or public holiday in England.

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain, anything in, on or under land or in the air-space above its surface and to any trusts or incidents (including restrictive covenants) to which the land is subject and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions, capacities, volumes and lengths referred to in this Order are approximate save in respect of the parameters referred to in—

- (a) requirements 2 to 5 in Part 3 of Schedule 1 (requirements);
- (b) conditions 1 to 3 in Part 2 of Schedule 11 (conditions); and
- (c) conditions 1 to 3 in Part 2 of Schedule 12 (conditions).

(4) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(5) The expression “includes” is to be construed without limitation unless the contrary intention appears.

(6) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(7) Any reference in this Order or the documents certified by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.) to a dimension measured from LAT may be converted to a measurement from HAT by subtracting 4.71m from the measurement from LAT.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

3.—(1) Subject to the provisions of this Order and to the requirements, the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) consent for the ancillary works,

to be carried out within the Order limits.

(2) Work Nos. 1 to 5 (save for those elements of Work No. 5(a) located landward of MHWS in order to connect to Work No. 6) must be constructed within the Order limits seaward of MHWS and Work Nos. 6 to 10 (save for those elements of Work Nos. 9(a) and 9(d) located seaward of MHWS for foreshore access) must be constructed within the Order limits landward of MHWS.

Power to maintain the authorised project

4.—(1) The undertaker may at any time maintain the authorised project, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain any further licence under Part 4 of the 2009 Act (marine licensing) for offshore works not covered by the deemed marine licences.

Benefit of the Order

5.—(1) Subject to (4) and (5) the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) below) and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) below) and such related statutory rights as may be so agreed.

except where paragraph (7) applies, in which case the consent of the Secretary of State is not required.

(2) Subject to paragraph (5) the undertaker may with the written consent of the Secretary of State

- (a) Where an agreement has been made in accordance with paragraph (1)(a), transfer to the transferee the whole of any of the deemed marine licences and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) Where an agreement has been made in accordance with paragraph (1)(b), grant to the lessee for the duration of the period mentioned in paragraph 1(b), the whole of any of the deemed marine licences and such related statutory rights as may be so agreed.

(3) Where an agreement has been made in accordance with paragraph (1) or (2) references in this Order to the undertaker, except in paragraphs (6), (8), (11) and the first reference in paragraph (12) include references to the transferee or lessee.

(4) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application and the Secretary of State must provide a response within four weeks of receipt of the notice.

(5) The Secretary of State must consult the MMO before giving consent to the transfer or grant to another person of the whole or part of the benefit of the provisions of the deemed marine licences.

(6) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraphs (1) or (2) —

- (a) the benefit transferred or granted (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit is not enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) or (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(7) This paragraph applies to any provisions of this Order and its related statutory rights where—

- (a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply, etc) of the 1989 Act; or
- (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
 - (i) no such claims have been made,
 - (ii) any such claim has been made and has been compromised or withdrawn,
 - (iii) compensation has been paid in final settlement of any such claim,
 - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim, or
 - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation shall be payable.

(8) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority.

(9) The notice required under paragraphs (4) and (8) must—

- (a) state—
 - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
 - (ii) subject to paragraph (10), the date on which the transfer will take effect;
 - (iii) the provisions to be transferred or granted; and
 - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (6)(c), will apply to the person exercising the powers transferred or granted; and
 - (v) where paragraph (7) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.
- (b) be accompanied by—
 - (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
 - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(10) The date specified under paragraph (9)(a)(ii) in respect of a notice served in respect of paragraph (8) must not be earlier than the expiry of fourteen days from the date of the receipt of the notice.

(11) The notice given under paragraph (8) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

(12) Sections 72(7) and (8) of the 2009 Act (variation, suspension, revocation and transfer) do not apply to a transfer or grant of the whole or part of the benefit of the provisions of the deemed marine licences to another person by the undertaker pursuant to an agreement under paragraphs (1) and (2)

save that the MMO may amend any deemed marine licence granted under Schedule 11 or Schedule 12 of the Order to correct the name of the undertaker to the name of a transferee or lessee under this article 5 (benefit of the Order).

Application and modification of legislative provisions

6.—(1) The following provisions are modified to the extent specified, or do not apply, in relation to the construction or works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

- (a) Regulation 6 of the Hedgerows Regulations 1997^(a) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—
“or (k) for carrying out development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.”
- (b) the provisions of the Neighbourhood Planning Act 2017^(b) insofar as they relate to temporary possession of land under articles 28 (temporary use of land for carrying out the authorised project) and 29 (temporary use of land for maintaining the authorised project) of this Order.
- (c) the Environmental Permitting (England and Wales) Regulations 2016, to the extent that they require a permit for anything that would have required consent made under section 109 of the Water Resources Act 1991 immediately before the repeal of that section or for any activities defined under the Environmental Permitting (England and Wales) Regulations 2016 as flood risk activities;
- (d) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 of the Water Resources Act 1991 that require consent or approval for the carrying out of works;
- (e) section 23 of the Land Drainage Act 1991 (prohibition of obstructions etc. in watercourses); and
- (f) the provisions of any byelaws made under section 66 of the Land Drainage Act 1991 (powers to make byelaws) that require consent or approval for the carrying out of works.

(2) Nothing in this article overrides the requirement for an environmental permit under Regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016.

Defence to proceedings in respect of statutory nuisance

7.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990^(c) (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine is to be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction, maintenance or decommissioning of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974; or

(a) S.I. 1997/1160. Relevant amendments to this instrument have been made by section 73(2) of the Countryside and Rights of Way Act 2000 (c.37) and by S.I. 2003/2155, S.I. 2006/1177, S.I. 2009/1307 and S.I. 2105/377.

(b) 2017 c.20.

(c) 1990 c.43. Relevant amendments to this are as follows: section 82 was amended by section 107 and Schedule 17 paragraph 6 of the Environment Act which are not relevant to the Order 1995 (c.25) and section 5(2) of the Noise and Statutory Nuisance Act 1993 (c.40), and section 79 was amended by sections 101 and 102 of the Clean Neighbourhoods and Environment Act 2005 (c.16), by section 2 of the Noise and Statutory Nuisance Act 1993 and by section 120 and Schedule 22 paragraph 89 of the Environment Act 2005.

- (ii) is a consequence of the construction, maintenance or decommissioning of the authorised project and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in compliance with requirement 22 (control of noise during the operational phase); or
 - (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for purposes of or in connection with the construction, maintenance or decommissioning of the authorised project.

PART 3

STREETS

Street works

8.—(1) The undertaker may, for the purposes of the authorised project, enter on so much of any of the streets specified in Schedule 2 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street;
- (c) place and keep apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) In this article “apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act.

Application of the 1991 Act

9.—(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under article 8 (street works); and
- (b) the temporary stopping up, temporary alteration or temporary diversion of a street by the undertaker under article 10 (temporary stopping up of streets and public rights of way),

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act(a) are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);
- (b) section 57 (notice of emergency works);

(a) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c.18).

- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs (a) to (g).

(3) Section 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Temporary stopping up of streets and public rights of way

10.—(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street or public right of way and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or public right of way.

(2) Without limiting paragraph (1), the undertaker may use any street or public right of way temporarily stopped up under the powers conferred by this article and within the Order limits as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary stopping up, alteration or diversion of a street or public right of way under this article if there would otherwise be no such access.

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets set out in column (1) of Schedule 3 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the streets plans, in column (2) of that Schedule.

(5) The undertaker must not temporarily stop up, alter, divert or use as a temporary working site—

- (a) any street referred to in paragraph (4) without first consulting the street authority; and
- (b) any other street or public right of way without the consent of the street authority, which may attach reasonable conditions to the consent.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If a street authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraph (5)(b) that street authority is deemed to have granted consent.

Stopping up and diversion of public rights of way and access land

11.—(1) The undertaker may, in connection with the carrying out of the authorised project—

- (a) temporarily stop up each of the public rights of way specified in column (1) of Part 1 of Schedule 4 (public rights of way to be stopped up or diverted and access land) to the extent specified in column (2), by reference to the numbers and letters shown on the public rights of way plan;
- (b) permanently divert each of the public rights of way specified in column (1) of Part 2 Schedule 4 (public rights of way to be stopped up or diverted and access land) to the extent specified, in column (2) of that Schedule;

- (c) provide the substitute public rights of way to those diverted as described in column (3) of Part 2 of Schedule 4 (public rights of way to be stopped up or diverted and access land) between the specified terminus points;
- (d) temporarily divert each of the public rights of way specified in column (1) of Part 3 Schedule 4 (public rights of way to be stopped up or diverted and access land) to the extent specified, in column (2) of that Schedule;
- (e) provide the substitute public rights of way to those temporarily diverted for the duration of that diversion as described in column (3) of Part 3 of Schedule 4 (public rights of way to be stopped up or diverted and access land) between the specified terminus points; and
- (f) temporarily stop up, prohibit the use of or restrict the use of the access land specified in column (1) of Part 4 of Schedule 4 (public rights of way to be stopped up or diverted and access land) to the extent specified in column (2), by reference to the area shown on the public rights of way plan.

(2) The rights of access conferred by section 2 of the 2000 Act (rights of the public in relation to access land) are suspended in relation to any access land specified in column (1) of Part 4 of Schedule 4 (public rights of way to be stopped up or diverted and access land) to the extent specified in column (2), by reference to the area shown on the public rights of way plan.

(3) The period of suspension under paragraph (2) lasts for the period of the temporary stopping up.

Access to works

12.—(1) The undertaker may, for the purposes of the authorised project—

- (a) form, lay out and maintain a means of access, or improve or maintain an existing means of access, in the locations specified in columns (1) and (2) of Schedule 5 (access to works); and
- (b) with the approval of the relevant planning authority after consultation with the highway authority in accordance with requirement 11 (highway accesses), form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised project.

(2) If the relevant planning authority fails to notify the undertaker of its decision within 56 days of receiving an application for approval under paragraph (1)(b) that relevant planning authority is deemed to have granted approval.

Agreements with street authorities

13.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) any temporary stopping up, alteration or diversion of a street authorised by this Order; or
- (b) the carrying out in the street of any of the works referred to in article 8(1) (street works).

(2) Such agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Power to alter layout etc. of streets

14.—(1) Subject to paragraphs (2) and (3), the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with constructing, operating and maintaining the authorised development alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of the street including any kerb, footway, cycle track or verge; and
 - (b) make and maintain passing place(s).
- (2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.
- (3) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority.
- (4) Paragraphs (2) and (3) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

15.—(1) Subject to paragraphs (3) and (4) below, the undertaker may use any watercourse or any public sewer, drain or other suitable land for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to article 15(1) except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article damage or interfere with the bed or banks of any watercourse forming part of a main river as defined under section 113(1) of the Water Resources Act 1991(b).

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise any water discharge or groundwater activity for which an environmental permit is required by regulation 12 (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(c).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which either belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority or one which such body has permissive rights over; and

(a) 1991 c.56. Section 106 was amended by section by sections 43(2) and 35(8)(a) of and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c.43) and sections 99(2), (4), (5)(a), (5)(b), (5)(c) and 36(2) and 99 of the Water Act 2003 (c.37). There are other amendments to this section which are not relevant to this Order. and section 32, Schedule 3, paragraph 16(1) of the Flood and Water Management Act 2010 c.29.

(b) 1991 c.57.

(c) S.I. 2016/1154.

- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 56 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

Protective work to buildings

16.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised project; or
- (b) after the completion of that part of the authorised project in the vicinity of the building at any time up to the end of the period of five years beginning with the day on which that part of the authorised project is commissioned.

(3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building, the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land that is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a power under paragraph (1) to carry out protective works to a building;
- (b) a power under paragraph (3) to enter a building and land within its curtilage;
- (c) a power under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a power under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise the power and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 39 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which powers under this article have been exercised for any loss or damage arising to them by reason of the exercise of the powers.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of five years beginning with the day on which the part of the authorised project carried out in the vicinity of the building is commissioned it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised project,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works”, in relation to a building, means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused to the building by the carrying out, maintenance or use of the authorised project; and
- (b) any works the purpose of which is to remedy any damage that has been caused to the building by the carrying out, maintenance or use of the authorised project.

Authority to survey and investigate the land onshore

17.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or any land which may be affected by the authorised project and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes or bore holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and groundwater samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including the digging of trenches; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, bore holes or trenches.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required on entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes, bore holes or trenches.

(4) No trial holes, bore holes or trenches may be made under this article—

- (a) in land forming a railway without the consent of Network Rail^(a);
- (b) in land held by or in right of the Crown without the consent of the Crown;
- (c) in land located within the highway boundary without the consent of the highway authority; or
- (d) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld or delayed.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(a) As defined in Part 5 of Schedule 9 (Protection for Network Rail Infrastructure Limited).

(6) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 56 days of receiving the application for consent—

- (a) under paragraph (4)(c) in the case of a highway authority; or
- (b) under paragraph (4)(d) in the case of a street authority;

that authority is deemed to have granted consent.

(7) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

18.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project, or to facilitate it, or as is incidental to it.

(2) This article is subject to paragraph (2) of article 21 (compulsory acquisition of rights etc.) and article 28 (temporary use of land for carrying out the authorised project).

Compulsory acquisition of land: minerals

19. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated in this Order, subject to the following modifications—

- (a) for “acquiring authority” substitute “undertaker”; and
- (b) for “undertaking” substitute “authorised project”.

Time limit for exercise of authority to acquire land compulsorily

20.—(1) After the end of the period of seven years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 (determination of questions of disputed compensation) of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 23 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 28 (temporary use of land for carrying out the authorised project) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights etc.

21.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights over the Order land or impose such restrictive covenants affecting the Order land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this paragraph, article 22 (private rights) and article 30 (statutory undertakers), in the case of the Order land specified in column (1) of Schedule 6 (land in which only new rights etc. may be acquired) the undertaker’s powers of compulsory acquisition are limited to the acquisition of existing rights over land and the creation and acquisition of the new rights and the

imposition of restrictive covenants for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act, and Schedule 2A (counter-notice requiring purchase of land not in notice to treat) as substituted by paragraph 10 of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker creates a new interest or acquires an existing right over land or imposes a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights and impose such restrictions to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) Subject to the modifications set out in Schedule 7 the enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply in the case of a compulsory acquisition under this Order in respect of a right by the creation of a new right or imposition of a restriction as they apply to the compulsory purchase of land and interests in land.

(8) So much of the special category land as is required for the purposes of exercising the powers acquired by the undertaker pursuant to this article is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those rights.

Private Rights

22.—(1) Subject to the provisions of this article, all private rights and restrictions over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land, or of the right, or of the benefit of the restriction by the undertaker, whether compulsorily, by agreement or through the grant of a lease of the land by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights and restrictions over land subject to the compulsory acquisition of rights or the imposition of restrictions under this Order are suspended and unenforceable or, where so notified by the undertaker, extinguished in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restriction—

- (a) as from the date of the acquisition of the right or the imposition of the restriction by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of a lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (powers of entry) in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights or restrictions over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Subject to the provisions of this article, all private rights over any part of the Order land that is owned by, vested in or acquired by the undertaker are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights and where the undertaker gives notice of such extinguishment.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restriction under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 30 (statutory undertakers) applies.

(7) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictions over or affecting the land;

(ii) the undertaker's appropriation of the land;

(iii) the undertaker's entry onto the land; or

(iv) the undertaker's taking temporary possession of the land,

that any or all of those paragraphs do not apply to any right or restriction specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right or restriction in question is vested, belongs or benefits.

(8) If an agreement referred to in paragraph (7)(b)—

(a) is made with a person in or to whom the right or restriction is vested, belongs or benefits; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) Reference in this article to private rights over land includes any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

23.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of act), for subsection 2 substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.

(4) In Section 5(2) (earliest date for execution of declaration) omit the words from “and this subsection” to the end.

(5) Section 5A (time limit for general vesting declaration) is omitted(a).

(6) In section 5B (extension of time limit during challenge)(b) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the seven year period mentioned in article 20 (time limit for exercise of authority to acquire land compulsorily) of the Hornsea Four Offshore Wind Farm Order 202[]”.

(a) Section 5A to the 1981 Act was inserted by section 182(2) of the Housing and Planning Act 2016 (c.22).

(b) Inserted by section 202(2) of the Housing and Planning Act 2016 (c.22).

(7) In section 6 (notices after execution of declaration), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(8) In section 7 (constructive notice to treat), in subsection (1)(a), omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(a), for paragraph 1(2) substitute—

“(2) But see article 25(1) (acquisition of subsoil only) of the Hornsea Four Offshore Wind Farm Order 202[], which excludes the acquisition of subsoil only from this Schedule.”.

(10) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 26 (modification of Part 1 of the Compulsory Purchase Act 1965) to the compulsory acquisition of land under this Order.

Statutory authority to override easements and other rights

24.—(1) The carrying out or use of the authorised development and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) of the 2008 Act (nuisance: statutory authority), notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to use of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to use of land arising by virtue of contract,

authorised by virtue of this Order and the operation of section 158 (nuisance: statutory authority) of the 2008 Act.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and any restrictions as to the use of land arising by virtue of a contract.

(4) Subsection (2) of section 10 (further provision as to compensation for injurious affection) of the 1965 Act applies to paragraph (2) by virtue of section 152(5) of the 2008 Act (compensation in case where no right to claim in nuisance).

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act must be applied to the construction of paragraph (2) (with any necessary modifications).

Acquisition of subsoil only

25.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 18 (compulsory acquisition of land etc.) or article 21 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(a) Inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c.22).

(c) Section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Modification of Part 1 of the Compulsory Purchase Act 1965

26.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge)(a)—

(a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)”; and

(b) for “the three year period specified in section 4” substitute “the seven year period mentioned in article 20 (time limit for exercise of authority to acquire land compulsorily) of the Hornsea Four Offshore Wind Farm Order 202[]”.

(3) In section 11A (powers of entry: further notices of entry)(b)—

(a) in subsection (1)(a), after “land” insert “under that provision”; and

(b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 20 (time limit for exercise of authority to acquire land compulsorily) of the Hornsea Four Offshore Wind Farm Order 202[]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)(c)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 25(3) (acquisition of subsoil only) of the Hornsea Four Offshore Wind Farm Order 202[], which excludes the acquisition of subsoil only from this Schedule.”; and

(b) at the end insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 16 (protective work to buildings), article 28 (temporary use of land for carrying out the authorised project) or article 29 (temporary use of land for maintaining the authorised project) of the Hornsea Four Offshore Wind Farm Order 202[]”.

Rights under or over streets

27.—(1) The undertaker may enter on and appropriate so much of the subsoil of or air-space over any street within the Order limits as may be required for the purposes of the authorised project and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised project.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(a) Inserted by section 202(1) of the Housing and Planning Act 2016 (c.22).

(b) Inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).

(c) Inserted by schedule 17(1) paragraph 3 to the Housing and Planning Act 2016 (c.22).

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised project

28.—(1) The undertaker may, in connection with the carrying out of the authorised project—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 8 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access and footpaths), haul roads, security fencing, bridges, services, signage, structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised project;
- (e) construct any works, or use the land, as specified in relation to that land in column 3 of Schedule 8 (land of which temporary possession may be taken), or any mitigation works;
- (f) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised development); and
- (g) carry out mitigation works required pursuant to the requirements in Part 3 of Schedule 1 (authorised development).

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker must not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (3) of Schedule 8 (land of which temporary possession may be taken); or
- (b) in the case of land specified in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of completion of the part of the authorised project for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject

to temporary possession or otherwise agreed with the owners of the land, the undertaker must before giving up possession of land of which temporary possession has been taken under this article, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace any building, structure, drain or electric line removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 2 (streets subject to street works) or any new footpath surface or other enhancements carried out under this article to any footpath or any improvements carried out under this article to any bridge;
- (d) remove any fencing or boundary treatments installed by the undertaker under this article to replace or enhance existing fencing or boundary treatments; or
- (e) restore the land on which any works have been carried out under paragraph (1)(g) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 1.

(5) The undertaker must pay compensation to the owners and occupiers of land which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not precluded from—

- (a) acquiring new rights or imposing restrictive covenants over any part of that land under article 21 (compulsory acquisition of rights etc.) to the extent that such land is listed in column (1) of Schedule 6; or
- (b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 25 (acquisition of subsoil only).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in Schedule 8.

(12) So much of the special category land as is required for the purposes of exercising the powers pursuant to this article is temporarily discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those powers, and only for such time as any special category land is being used under this article.

(13) At any time where the undertaker has taken temporary possession of any part of the Driffield Navigation under this article, on the commencement date specified in the notice given under paragraph (15) and for the duration specified in notice given under paragraph (15), the public right of navigation over that part of the Driffield Navigation is suspended and unenforceable against the Driffield Navigation Trust.

(14) Any person who suffers loss as a result of the suspension of any private right of navigation over the Driffield Navigation under this article is entitled to be paid compensation for such loss by

the undertaker, to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(15) Not later than 28 days prior to the proposed commencement of any suspension of the public right of navigation over the Driffield Navigation under this article, the undertaker must give written notice to The Driffield Navigation Trust except in the case of an emergency when the undertaker must give such notice as is reasonably practicable.

(16) A notice given under paragraph (15) must provide details of the proposed suspension including particulars of the—

- (a) commencement date;
- (b) duration; and
- (c) affected area.

(17) Following receipt of a notice given under paragraph (15), The Driffield Navigation Trust must issue a notice to mariners within 14 days, giving the commencement date and other particulars of the suspension to which the notice relates, and that suspension will take effect on the date specified and as otherwise described in the notice.

Temporary use of land for maintaining the authorised project

29.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project, the undertaker may—

- (a) enter on and take temporary possession of any of the Order land if such possession is reasonably required for the purpose of maintaining the authorised project;
- (b) enter on any of the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised project for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) In this article “the maintenance period” means the period of 5 years beginning with the date on which the authorised project first exports electricity to the national electricity transmission network, unless a different maintenance period is stated in the landscape management plan approved under requirement 8 or in the code of construction practice approved under requirement 18.

(12) So much of the special category land as is required for the purposes of exercising the powers pursuant to this article is temporarily discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those powers, and only for such time as any special category land is being used under this article.

(13) At any time where the undertaker has taken temporary possession of any part of the Driffield Navigation under this article, on the commencement date specified in the notice given under paragraph (15) and for the duration specified in notice given under paragraph (15), the public right of navigation over that part of the Driffield Navigation is suspended and unenforceable against the Driffield Navigation Trust.

(14) Any person who suffers loss as a result of the suspension of any private right of navigation over the Driffield Navigation under this article is entitled to be paid compensation for such loss by the undertaker, to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(15) Not later than 28 days prior to the proposed commencement of any suspension of the public right of navigation over the Driffield Navigation under this article, the undertaker must give written notice to the Driffield Navigation Trust except in the case of an emergency when the undertaker must give such notice as is reasonably practicable.

(16) A notice given under paragraph (15) must provide details of the proposed suspension including particulars of the—

- (a) commencement date;
- (b) duration; and
- (c) affected area.

(17) Following receipt of a notice given under paragraph (15), the Driffield Navigation Trust must issue a notice to mariners within 14 days, giving the commencement date and other particulars of the suspension to which the notice relates, and that suspension will take effect on the date specified and as otherwise described in the notice.

Statutory undertakers

30. Subject to the provisions of Schedule 9 (protective provisions) the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land and described in the book of reference; and
- (b) extinguish or suspend the rights of, or restrictions for the benefit of, or remove, relocate or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Recovery of costs of new connections

31.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 30 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 30 (statutory undertakers), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the 2003 Act; and

“public utility undertaker” has the same meaning as in the 1980 Act.

PART 6 OPERATIONS

Operation of generating station

32.—(1) The undertaker is authorised to operate the generating station comprised in the authorised project.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

Deemed marine licences under the 2009 Act

33. The deemed marine licences set out in Schedules 11 (deemed marine licence under the 2009 Act — generation assets) and 12 (deemed marine licence under the 2009 Act — transmission assets) respectively, are deemed to be granted to the undertaker under Part 4 of the 2009 Act for the licensed marine activities set out in Part 1, and subject to the conditions set out in Part 2 of each of those Schedules.

PART 7 MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

34.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

35. Development consent granted by this Order is treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as not being operational land).

Felling or lopping of trees and removal of hedgerows

36.—(1) Subject to article 37 (trees subject to tree preservation orders) the undertaker may fell or lop or cut back the roots of any tree or shrub within or overhanging land within the Order limits or near any part of the authorised project, or cut back its roots, if the undertaker reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with onshore site preparation works, the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) The undertaker may, for the purpose of the authorised project—

- (a) remove any hedgerows within the Order limits and specified in Schedule 10, Part 1 (removal of hedgerows) that may be required for the purposes of carrying out the authorised project; and
- (b) remove the important hedgerows as are within the Order limits and specified in Schedule 10, Part 2 (removal of important hedgerows).

(3) In carrying out any activity authorised by paragraph (1), the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(4) Any dispute as to a person's entitlement to compensation under paragraph (3), or as to the amount of compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997(a).

Trees subject to tree preservation orders

37.—(1) The undertaker may fell or lop or cut back the roots of any tree within or overhanging land within the Order limits subject to a tree preservation order as specified on the tree preservation order and hedgerow plan, if it reasonably believes it to be necessary to do so in order to prevent the tree from obstructing or interfering with onshore site preparation works the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must do no unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and

(a) S.I. 1997/1160.

(b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act will not apply.

(3) The authority given by paragraph (1) will constitute a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, will be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Certification of plans and documents, etc.

38.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the documents listed in Schedule 15 (documents to be certified) for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where a plan or document certified under paragraph (1)—

(a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and

(b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in this Order as made;

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in this Order as made.

Arbitration

39.—(1) Subject to article 42 (saving provisions for Trinity House), any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration in accordance with the rules at Schedule 14 of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order will not be subject to arbitration.

Requirements, appeals, etc.

40.—(1) Where an application is made to, or a request is made of, the relevant planning authority or any other relevant person for any agreement or approval required or contemplated by any of the provisions of this Order, such agreement or approval must, if given, be given in writing and must not be unreasonably withheld or delayed.

(2) Part 4 of Schedule 1 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements included in Part 3 of that Schedule.

Abatement of works abandoned or decayed

41. Where any of Work Nos. 1, 2, 3 or 5 or all of them or any part of them, is abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense either to repair, make safe and restore one or any of those Works, or any relevant part of them, or to remove them or any relevant part and, without prejudice to any notice served under section 105(2) of the 2004 Act (a) restore the

(a) Section 105(2) was substituted by section 69(3) of the Energy Act 2008 (c.32).

site to a safe and proper condition, to such an extent and within such limits as may be specified in the notice.

Saving provisions for Trinity House

42. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

Crown rights

43.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown and the appropriate Crown authority has consented to the acquisition.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Protective provisions

44. Schedule 9 (protective provisions) has effect.

Funding

45.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place either—

- (a) a guarantee and the amount of that guarantee approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or
- (b) an alternative form of security and the amount of that security for that purpose approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land.

(2) The provisions are—

- (a) article 18 (compulsory acquisition of land);
- (b) article 21 (compulsory acquisition of rights etc.);
- (c) article 22 (private rights);
- (d) article 25 (acquisition of subsoil only);
- (e) article 27 (rights under or over streets);
- (f) article 28 (temporary use of land for carrying out the authorised project);
- (g) article 29 (temporary use of land for maintaining the authorised project); and
- (h) article 30 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

Amendment and modification of statutory provisions

46. The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 is to be amended for the purposes of this Order only as set out in Schedule 13 (modifications to the Dogger Bank Creyke Beck Offshore Wind Farm Order 2015).

Service of notices

47.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978^(a) (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

- (a) in the case of the secretary or clerk of that body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at that time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by the description of “owner”, or as the case may be “occupier” of the land (describing it); and
- (b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any

(a) 1978 c.30. Section 7 was amended by paragraph 19 of Schedule 10 to the Road Traffic Regulation Act 1984 (c.27). There are other amendments not relevant to this Order.

part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Modification of Section 106 agreements relating to land

48. The undertaker will not be bound by any obligation which would fall on any owner or occupier of land which is bound by any of the section 106 agreements.

Compensation provisions

49. Schedule 16 (compensation to protect the coherence of the national site network) has effect.

Signed by authority of the Secretary of State for Business, Energy and Industrial Strategy

	<i>Name</i>
Address	Head of []
Date	Department for Business, Energy and Industrial Strategy

SCHEDULES

SCHEDULE 1

Articles 3 and 4

AUTHORISED PROJECT

PART 1

AUTHORISED DEVELOPMENT

1. A nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act which is located in the North Sea 69 kilometres due east of Flamborough Head at its closest point, comprising—

Work No. 1—

- (a) an offshore wind turbine generating station with a gross electrical output of over 100 megawatts comprising up to 180 wind turbine generators, each fixed to the seabed by one of monopile foundations, mono suction bucket foundations, gravity base structures or jacket foundations;
- (b) one offshore accommodation platform fixed to the seabed within the area shown on the offshore works plan by one of monopile foundations, mono suction bucket foundations, gravity base structures, box-type gravity base structures or jacket foundations, and which offshore accommodation platform may be connected to one of the offshore substations within Work No. 2 by a bridge link; and
- (c) a network of cables between the wind turbine generators, and between the wind turbine generators and Work No. 2, including one or more cable crossings;

and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising—

Work No. 2—

- (a) up to six small offshore transformer substations each fixed to the seabed by one of monopile foundations, mono suction bucket foundations, gravity base structures, box-type gravity base structures or jacket foundations, and which may be connected to each other or the offshore accommodation platform within Work No. 1(b) by a bridge link; or
- (b) up to three large offshore transformer substations each fixed to the seabed by one of monopile foundations, mono suction bucket foundations, jacket foundations, box-type gravity base structures, pontoon gravity base type 1 structures, or pontoon gravity base type 2 structures, and which may be connected to each other or the offshore accommodation platform within Work No. 1(b) by a bridge link;
- (c) in the event that the mode of transmission is HVDC, either up to three large HVDC converter substations or up to six small HVDC converter substations fixed to the seabed by one of monopile foundations, mono suction bucket foundations, jacket foundations, gravity base structures, box-type gravity base structures, pontoon gravity base type 1 structures, or pontoon gravity base type 2 structures;
- (d) a network of interconnector cables;
- (e) up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No. 5 consisting of offshore export cables along routes within the Order limits seaward of MLWS including one or more cable crossings; and
- (f) up to eight temporary horizontal directional drilling exit pits and associated cofferdams;

Work No. 3— in the event that the mode of transmission is HVAC—

- (a) up to three offshore HVAC booster stations fixed to the seabed within the area shown on the offshore works plan by one of monopile foundations, mono suction bucket foundations,

jacket foundations, gravity base structures, pontoon gravity base type 1 structures or pontoon gravity base type 2 structures; and

- (b) up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No. 5 consisting of offshore export cables along routes within the Order limits seaward of MHWS including one or more cable crossings;

Work No. 4— a temporary work area associated with Work No. 2 and Work No. 3 for vessels to carry out anchoring and positioning alongside Work No. 2 or Work No. 3;

Between MHWS and MLWS and in the East Riding of Yorkshire

Work No. 5- up to six cable circuits and associated electrical circuit ducts between Work No. 2 and Work No. 6.

In the East Riding of Yorkshire

Work No. 6— connection works consisting of—

- (a) up to eight horizontal directional drilling launch pits;
- (b) up to six underground cable circuits and associated electrical circuit ducts to Work No. 7;
- (c) up to eight transition joint bays;
- (d) onshore construction works;
- (e) up to 240 link boxes; and
- (f) up to 240 joint bays;

Work No. 7—works consisting of—

- (a) an onshore HVDC/HVAC substation;
- (b) an energy balancing infrastructure;
- (c) up to six cable circuits and electrical circuit ducts;
- (d) vehicular access tracks and footpaths;
- (e) a water attenuation feature;
- (f) landscaping; and
- (g) onshore construction works;

Work No. 8— connection works consisting of up to four underground cable circuits and electrical circuit ducts between Work No. 7 and the Creyke Beck National Grid substation, including a connection above ground and electrical engineering works within or around the National Grid substation buildings and compound, and onshore construction works.

Work No. 9— temporary works as follows—

- (a) temporary vehicular access tracks;
- (b) temporary works area to support the construction activities in Work No.7;
- (c) temporary logistics compounds to support the construction of Work Nos. 5, 6, 7, and 8; and
- (d) temporary construction ramp;

Work No. 10—

- (a) vehicular access tracks to serve Work No. 7, and footpaths; and
- (b) an extension to a layby.

In connection with such Work Nos. 1 to 5 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock, split pipe system, and/or concrete mattresses;

- (c) cable crossings;
- (d) the removal of material from the seabed within the Order limits required for the construction of Work Nos. 1 to 5 and the disposal within Work No. 1 of up to 7,211,601 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin and within Work Nos. 2, 3 and 4 up to 4,105,735 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling, seabed preparation for foundation works, cable installation preparation works (such as sandwave clearance and boulder clearance) and excavation of horizontal directional drilling pits; and
- (e) removal of static fishing equipment;

and in connection with such Work Nos. 6 to 10 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) ramps, bridges, means of access and footpaths and footpath enhancement;
- (b) bunds, embankments, swales, landscaping, signage, fencing and boundary treatments;
- (c) habitat creation and enhancement;
- (d) joint bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable marker, tiles and tape, and lighting and other works associated with cable laying;
- (e) works for the provision of apparatus including cabling, water and electricity supply works, foul drainage provision, surface water management systems and culverting;
- (f) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (g) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (h) landscaping and related works;
- (i) other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised project;
- (j) works for the benefit or protection of land affected by the authorised project;
- (k) working sites in connection with the construction of the authorised project, construction lay down areas and compounds, storage compounds and their restoration; and
- (l) enhancement.

2. The grid coordinates for that part of the authorised project which is seaward of MHWS are specified below—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	54° 2' 7.166" N	0° 12' 58.381" W	68	53° 59' 17.868" N	1° 17' 11.556" E
2	54° 2' 7.022" N	0° 12' 48.680" W	69	53° 58' 55.615" N	1° 16' 14.402" E
3	54° 2' 28.905" N	0° 12' 23.610" W	70	53° 58' 54.680" N	1° 16' 10.907" E
4	54° 3' 4.330" N	0° 9' 20.564" W	71	53° 58' 54.305" N	1° 16' 7.041" E
5	54° 3' 2.961" N	0° 8' 57.136" W	72	53° 58' 48.150" N	1° 9' 3.489" E
6	54° 3' 46.646" N	0° 6' 22.355" W	73	53° 58' 49.099" N	1° 8' 56.253 E
7	54° 3' 55.011" N	0° 6' 0.668" W	74	53° 59' 33.340" N	1° 5' 22.618" E
8	54° 4' 5.592" N	0° 5' 7.239" W	75	53° 59' 16.728" N	1° 0' 29.597" E
9	54° 4' 7.120" N	0° 4' 56.079" W	76	53° 59' 10.802" N	0° 59' 53.488" E
10	54° 4' 7.947" N	0° 4' 12.149" W	77	53° 59' 0.241" N	0° 59' 7.651" E
11	54° 4' 7.646" N	0° 4' 2.450" W	78	53° 58' 58.446" N	0° 58' 57.385" E

12	54° 3' 39.131" N	0° 1' 17.603" E	79	53° 58' 53.673" N	0° 57' 53.130" E
13	54° 3' 36.602" N	0° 1' 19.983" E	80	53° 58' 53.613" N	0° 57' 45.865" E
14	54° 3' 36.653" N	0° 1' 27.388" E	81	53° 58' 54.420" N	0° 57' 26.213" E
15	54° 3' 37.742" N	0° 1' 33.117" E	82	53° 58' 58.248" N	0° 56' 45.174" E
16	54° 3' 31.432" N	0° 2' 43.501" E	83	53° 59' 56.956" N	0° 50' 1.171" E
17	54° 3' 21.791" N	0° 4' 54.431" E	84	54° 0' 12.504" N	0° 48' 1.381" E
18	54° 3' 20.107" N	0° 5' 29.470" E	85	54° 0' 12.515" N	0° 47' 27.367" E
19	54° 3' 20.504" N	0° 5' 36.188" E	86	54° 0' 13.296" N	0° 46' 40.673" E
20	54° 3' 29.852" N	0° 6' 6.995" E	87	54° 0' 12.634" N	0° 46' 30.459" E
21	54° 4' 17.513" N	0° 8' 11.780" E	88	54° 0' 11.415" N	0° 46' 24.233" E
22	54° 4' 19.804" N	0° 8' 20.650" E	89	53° 59' 39.945" N	0° 44' 55.026" E
23	54° 4' 29.084" N	0° 9' 5.618" E	90	53° 59' 33.773" N	0° 44' 35.130" E
24	54° 4' 30.902" N	0° 9' 18.035" E	91	53° 59' 28.402" N	0° 44' 15.020" E
25	54° 4' 31.360" N	0° 9' 29.006" E	92	53° 59' 26.858" N	0° 44' 5.508" E
26	54° 4' 30.770" N	0° 11' 14.823" E	93	53° 59' 23.738" N	0° 43' 35.842" E
27	54° 4' 41.436" N	0° 13' 46.313" E	94	53° 59' 23.191" N	0° 42' 42.267" E
28	54° 4' 51.664" N	0° 18' 10.115" E	95	53° 59' 23.584" N	0° 42' 32.090" E
29	54° 4' 49.674" N	0° 22' 20.794" E	96	53° 59' 29.653" N	0° 41' 39.599" E
30	54° 4' 34.602" N	0° 25' 8.241" E	97	53° 59' 31.433" N	0° 41' 30.497" E
31	54° 3' 47.343" N	0° 28' 41.594" E	98	53° 59' 34.340" N	0° 41' 20.783" E
32	54° 3' 29.522" N	0° 29' 45.309" E	99	54° 1' 11.539" N	0° 37' 38.060" E
33	54° 3' 12.983" N	0° 30' 41.496" E	100	54° 1' 53.954" N	0° 30' 4.210" E
34	54° 3' 11.866" N	0° 30' 46.755" E	101	54° 1' 55.082" N	0° 29' 58.960" E
35	54° 2' 29.831" N	0° 38' 16.384" E	102	54° 2' 16.836" N	0° 28' 45.068" E
36	54° 2' 28.252" N	0° 38' 27.328" E	103	54° 2' 34.272" N	0° 27' 42.729" E
37	54° 2' 25.710" N	0° 38' 37.464" E	104	54° 3' 14.191" N	0° 24' 52.548" E
38	54° 2' 22.467" N	0° 38' 46.275" E	105	54° 3' 28.906" N	0° 22' 9.330" E
39	54° 0' 46.742" N	0° 42' 25.062" E	106	54° 3' 30.827" N	0° 18' 25.085" E
40	54° 0' 44.114" N	0° 42' 47.823" E	107	54° 3' 25.965" N	0° 15' 11.395" E
41	54° 0' 44.168" N	0° 42' 53.983" E	108	54° 3' 10.152" N	0° 11' 26.334" E
42	54° 0' 37.964" N	0° 43' 8.166" E	109	54° 3' 9.658" N	0° 11' 1.640" E
43	54° 0' 33.962" N	0° 43' 31.109" E	110	54° 3' 10.393" N	0° 9' 39.559" E
44	54° 0' 51.704" N	0° 44' 6.496" E	111	54° 3' 7.676" N	0° 9' 26.386" E
45	54° 0' 57.175" N	0° 44' 19.901" E	112	54° 3' 13.846" N	0° 8' 47.985" E
46	54° 1' 20.169" N	0° 45' 45.285" E	113	54° 1' 59.146" N	0° 5' 34.054" E
47	54° 1' 22.890" N	0° 46' 0.288" E	114	54° 1' 59.193" N	0° 5' 24.927" E
48	54° 1' 33.372" N	0° 47' 34.265" E	115	54° 2' 1.399" N	0° 4' 39.525" E
49	54° 1' 33.357" N	0° 48' 6.711" E	116	54° 2' 14.627" N	0° 1' 34.678" E
50	54° 1' 32.702" N	0° 48' 19.691" E	117	54° 2' 13.616" N	0° 1' 29.370" E
51	54° 1' 26.938" N	0° 49' 8.341" E	118	54° 2' 9.931" N	0° 1' 16.745" W
52	54° 1' 15.588" N	0° 50' 33.236" E	119	54° 1' 43.569" N	0° 0' 7.896" W
53	54° 0' 17.357" N	0° 57' 13.969" E	120	54° 1' 31.663" N	0° 0' 25.766" W
54	54° 0' 15.266" N	0° 57' 36.824" E	121	54° 1' 7.679" N	0° 1' 51.463" W
55	54° 0' 14.766" N	0° 57' 48.644" E	122	54° 1' 0.011" N	0° 2' 21.082" W
56	54° 0' 17.493" N	0° 58' 26.081" E	123	54° 1' 0.055" N	0° 4' 18.699" W
57	54° 0' 27.621" N	0° 59' 10.323" E	124	54° 1' 25.632" N	0° 12' 25.517" W
58	54° 0' 36.596" N	1° 0' 6.568" E	125	54° 1' 41.883" N	0° 12' 50.086" W
59	54° 0' 53.351" N	1° 4' 59.324" E	126	54° 1' 39.112" N	0° 12' 50.078" W

60	54° 2' 51.236" N	1° 8' 18.052" E	127	54° 1' 39.246" N	0° 12' 59.069" W
61	54° 7' 24.985" N	0° 59' 54.702" E	128	54° 1' 39.257" N	0° 12' 59.850" W
62	54° 9' 13.497" N	1° 0' 43.850" E	129	54° 1' 39.742" N	0° 12' 59.821" W
63	54° 10' 49.480" N	0° 58' 21.782" E	130	54° 1' 39.731" N	0° 12' 59.103" W
64	54° 12' 37.143" N	0° 58' 31.095" E	131	54° 1' 43.547" N	0° 12' 59.118" W
65	54° 12' 17.413" N	1° 12' 18.263" E	132	54° 1' 43.811" N	0° 12' 59.860" W
66	54° 4' 13.012" N	1° 30' 5.270" E	133	54° 2' 7.201" N	0° 13' 0.387" W
67	53° 59' 15.598" N	1° 17' 20.651" E			

PART 2 ANCILLARY WORKS

1. Works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised development;
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (c) temporary works for the benefit or protection of land or structures affected by the authorised development.

PART 3 REQUIREMENTS

Time limits

1. The authorised project must not be commenced after the expiration of seven years beginning with the date this Order comes into force.

Detailed offshore design parameters

2.—(1) The total number of wind turbine generators comprised in the authorised project must not exceed 180.

(2) Subject to sub-paragraph (3), each wind turbine generator forming part of the authorised project must not—

- (a) exceed a height of 370 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a rotor diameter of 305 metres;
- (c) be less than 42.43 metres from LAT to the lowest point of the rotating blade; and
- (d) be less than 810 metres from the nearest wind turbine generator in all directions.

(3) The minimum distance in sub-paragraph (2)(d) between each wind turbine generator is to be measured from the centre point of the wind turbine generator.

(4) Wind turbine generator foundation structures forming part of the authorised project must be one of either monopile foundations, mono suction bucket foundations, gravity base structures or jacket foundations.

(5) No wind turbine generator—

- (a) jacket foundations employing pin piles forming part of the authorised project may—
 - (i) have a pin pile diameter of greater than four metres; and
 - (ii) employ more than 16 pin piles per jacket foundation; and

(b) monopile foundation forming part of the authorised project may have a diameter greater than 15 metres.

(6) The total combined seabed footprint area for wind turbine generator foundations must not exceed—

(a) 302,180 square metres excluding scour protection; and

(b) 985,240 square metres including scour protection.

(7) The wind turbine generators comprised in the authorised project must be constructed in accordance with the parameters set out in the pro-rata annex.

3.—(1) The total number of offshore electrical installations and offshore accommodation platforms must not exceed ten, consisting of a combination of no more than—

(a) six small offshore transformer substations;

(b) three large offshore transformer substations;

(c) three offshore HVAC booster stations;

(d) six small offshore HVDC converter stations;

(e) three large offshore HVDC converter stations; and

(f) one offshore accommodation platform.

(2) The dimensions of any small offshore transformer substation (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

(a) 100 metres in height when measured from LAT;

(b) 90 metres in length; and

(c) 90 metres in width.

(3) The dimensions of any large offshore transformer substation (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

(a) 100 metres in height when measured from LAT;

(b) 180 metres in length; and

(c) 90 metres in width.

(4) The dimensions of any offshore HVAC booster station (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

(a) 100 metres in height when measured from LAT;

(b) 90 metres in length; and

(c) 90 metres in width.

(5) The dimensions of any small offshore HVDC converter substation (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

(a) 90 metres in height when measured from LAT;

(b) 100 metres in length; and

(c) 100 metres in width.

(6) The dimensions of any large offshore HVDC converter substation (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

(a) 100 metres in height when measured from LAT;

(b) 180 metres in length; and

(c) 90 metres in width.

(7) The dimensions of any offshore accommodation platform forming part of the authorised project must not exceed—

- (a) 64 metres in height when measured from LAT;
- (b) 60 metres in length; and
- (c) 60 metres in width.

(8) Offshore accommodation platform foundation structures forming part of the authorised project must be one of either monopile foundations, mono suction bucket foundations, gravity base structures, jacket foundations or box-type gravity base structures.

(9) Offshore electrical installation foundation structures forming part of the authorised project must be one of the following foundation options—

- (a) for small offshore transformer substations and offshore HVAC booster stations either monopile foundations, mono suction bucket foundations, jacket foundations, gravity base structures or box-type gravity base structures; and
- (b) for large offshore transformer substations and offshore HVDC converter stations either monopile foundations, mono suction bucket foundations, jacket foundations, box-type gravity base structures, gravity base structures, pontoon gravity base type 1 structures, or pontoon gravity base type 2 structures.

(10) No offshore electrical installation or offshore accommodation platform—

- (a) jacket foundation employing pin piles forming part of the authorised project may—
 - (i) have a pin pile diameter of greater than four metres; and
 - (ii) employ more than 16 pin piles per jacket foundation; and
- (b) monopile foundation forming part of the authorised project may have a diameter greater than 15 metres.

(11) The total seabed footprint area for offshore accommodation platform foundations must not exceed—

- (a) 5,625 square metres excluding scour protection; and
- (b) 30,625 square metres including scour protection.

(12) The total seabed footprint area for offshore electrical installation foundations must not exceed—

- (a) 101,250 square metres excluding scour protection; and
- (b) 371,250 square metres including scour protection.

(13) The total number of gravity base structures may not exceed 90, consisting of a combination of no more than—

- (a) 80 for wind turbine generators; and
- (b) ten for offshore electrical installations and offshore accommodation platforms.

(14) The offshore electrical installations and offshore accommodation comprised in the authorised project must be constructed in accordance with parameters set out in the pro-rata annex.

(15) A bridge link forming part of the authorised development must be installed at a minimum height of 20 metres when measured from LAT.

4. The total volume of scour protection for wind turbine generators, offshore accommodation platforms and offshore electrical installations may not exceed 2,172,040 cubic metres and must be in accordance with the pro-rata annex.

5.—(1) The number of cable circuits must not exceed six.

(2) The cables comprising Work No. 1(c) must not—

- (a) exceed 600 kilometres in length; and
- (b) be subject to cable protection with an area greater than 624,000 square metres.

(3) The cables comprising Work No. 2(d) must not—

- (a) exceed 90 kilometres in length; and
 - (b) be subject to cable protection with an area greater than 94,000 square metres.
- (4) The cables comprising Work No. 2(e) must not—
- (a) exceed 654 kilometres in length; and
 - (b) be subject to cable protection with an area greater than 792,000 square metres.
- (5) The total number of the cable crossings must not exceed—
- (a) 32 within the area of Work Nos. 1 and 2(d); and
 - (b) 54 within the area utilised for Work No. 2(e);
unless otherwise agreed with the MMO.
- (6) The total volume of cable protection must not exceed 2,042,000 cubic metres with a maximum footprint of 2,058,000 square metres.
- (7) The cables and cable circuits comprised in the authorised development must be constructed in accordance with the parameters set out in the pro-rata annex.

Biodiversity net gain

6.—(1) No stage of the connection works in Work No. 7 may commence until a net gain strategy (which must accord with the outline net gain strategy) in relation to that stage has been submitted to and approved by the relevant planning authority, in consultation with the relevant SNCBs.

- (2) The net gain strategy must be implemented as approved.

Detailed design approval onshore

7.—(1) Construction of Work No. 7(a) and (b) may not commence until detailed plans and drawings of—

- (a) the layout;
- (b) scale;
- (c) proposed finished ground levels;
- (d) external appearance and materials;
- (e) hard surfacing materials;
- (f) vehicular and pedestrian access, parking and circulation areas;
- (g) minor structures, such as furniture, refuse or other storage units, signs and lighting;
- (h) proposed and existing functional services above and below, ground, including drainage, power and communications cables and pipelines, manholes and supports; and
- (i) means to control operational noise from Work No. 7 to a level no greater than 5dB above representative background (LA90,T) at the nearest identified noise sensitive receptors;

relating to that work of the authorised project have been submitted to and approved by the relevant planning authority.

(2) The details submitted under sub-paragraph (1) must be in accordance with the outline design plan.

(3) The details submitted under sub-paragraph (1) must be subject to a design review process carried out by an independent design review panel to the satisfaction of the relevant planning authority.

- (4) Work No. 7(a) and (b) must be carried out in accordance with the approved details.

(5) Work No. 7(a) and (b) may not commence until confirmation of the choice of HVDC or HVAC or a combination of both has been provided to the relevant planning authority, either before, or at the same time as, the details referred to in sub-paragraph (1).

Provision of landscaping

8.—(1) No stage of the connection works may commence until a written landscape management plan and associated work programme (which accords with the outline landscape management plan and outline ecological management plan) for that stage of the connection works has been submitted to and approved by the relevant planning authority in consultation with the relevant SNCBs and Historic England.

(2) The landscape management plan must include details of—

- (a) surveys, assessments and method statements as guided by BS 5837 and the Hedgerows Regulations 1997;
- (b) location, number, species, size and planting density of any proposed planting;
- (c) cultivation, importing of materials and other operations to ensure plant establishment; and
- (d) implementation timetables for the relevant stage of the landscaping works.

(3) The landscape management plan must be carried out as approved.

Implementation and maintenance of landscaping

9.—(1) All landscape works must be carried out in accordance with the landscape management plans approved under requirement 8 (provision of landscaping), and in accordance with the relevant recommendations of appropriate British Standards.

(2) Unless otherwise stated in the approved landscape management plan or enhancement strategy, any tree or shrub planted as part of an approved landscape management plan that, within a period of five years after planting, is removed by the undertaker, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless otherwise approved by the relevant planning authority.

(3) Unless otherwise stated in the approved landscape management plan or enhancement strategy, within a period of five years after completion of the planting of the approved landscape works comprising Work No. 7(f), a landscape management and maintenance plan for Work No. 7(f) must be submitted to and approved by the relevant planning authority.

(4) The landscape management and maintenance plan for Work No. 7(f) must include details of the management and maintenance of Work No. 7(f) until the connection works are decommissioned in accordance with the onshore decommissioning plan approved under requirement 25 (onshore decommissioning).

(5) The landscape management and maintenance plan for Work No. 7(f) must be carried out as approved.

Ecological management plan

10.—(1) No stage of the connection works may commence until a written ecological management plan (which accords with the outline ecological management plan and the relevant recommendations of appropriate British Standards) for that stage of the connection works reflecting the survey results and ecological mitigation has been submitted to and approved by the relevant planning authority in consultation with the relevant SNCBs and (where works have potential to impact wetland habitats) the Environment Agency.

(2) The ecological management plan must include an implementation timetable for the relevant stage of the connection works and must be carried out as approved.

Highway accesses

11.—(1) Construction of any new permanent or temporary means of access to a highway, or alteration, or use of an existing means of access to a highway, must not commence until an access plan for that access has been submitted to and approved by the relevant highway authority.

(2) The access plan must include details of the siting, design, layout, visibility splays, access management measures, lighting, signing, safety measures and a maintenance programme relevant to the access it relates to.

(3) The highway accesses (including visibility splays) must be constructed and maintained in accordance with the approved details.

Fencing and other means of permanent enclosure

12.—(1) No stage of the connection works may commence until details of all proposed permanent fences, walls or other means of enclosure of that stage of the connection works have been submitted to and approved by the relevant planning authority.

(2) The details submitted under paragraph (1) must be in accordance with the outline design plan.

(3) Any approved permanent fencing in relation to the connection works in Work No. 7 must be completed before those works are brought into use and must be maintained until the connection works are decommissioned in accordance with the onshore decommissioning plan approved under requirement 25 (onshore decommissioning).

Temporary fencing and other temporary means of enclosure

13.—(1) The details of any temporary fences, walls, or other means of enclosure required for the construction of the connection works must be included in the code of construction practice approved under requirement 18 (which must accord with the outline code of construction practice).

(2) All construction sites must remain securely enclosed at all times during construction of the connection works in accordance with the details approved under sub-paragraph (1) above.

(3) The temporary fencing or other temporary means of enclosure must be removed on completion of that stage of the connection works to the satisfaction of the relevant planning authority.

Surface and foul water drainage

14.—(1) No stage of the connection works may commence until written details of the surface and (if any) foul water drainage system (including means of pollution control) (which must accord with the outline onshore infrastructure drainage strategy) for the construction of that stage of the connection works have, after consultation with the relevant sewerage and drainage authorities and the Environment Agency, been submitted to and approved by the lead local flood authority.

(2) No stage of the connection works may commence operation until written details of the surface and (if any) foul water drainage system (including means of pollution control) for that stage of the connection works have, after consultation with the relevant sewerage and drainage authorities and the Environment Agency, been submitted to and approved by the lead local flood authority.

(3) The surface and foul water drainage system must be constructed, operated and maintained in accordance with the approved details.

Contaminated land and groundwater scheme

15.—(1) No stage of the connection works or Work No. 5 may commence until a written scheme to deal with the contamination of any land (including groundwater) of that stage of the connection works or Work No. 5 within the Order limits that is likely to cause significant harm to persons or pollution of controlled waters or the environment has been submitted to, and approved by, the relevant planning authority in consultation with the Environment Agency and, to the extent that the plan relates to the intertidal area, the MMO.

(2) The scheme must include an investigation and assessment report, to identify the extent of any contamination and the remedial measures to be taken for that stage to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(3) Such remediation as may be identified in the approved scheme must be carried out in accordance with the approved scheme.

Surface water

16.—(1) No stage of the connection works in Work No. 7 may commence until, in respect of that installation, a detailed surface water scheme has been prepared in consultation with the relevant sewerage and drainage authorities and the Environment Agency and submitted to and approved by the lead local flood authority.

(2) The detailed surface water schemes must accord with the outline onshore infrastructure drainage strategy and—

- (a) be based on sustainable drainage principles;
- (b) include an assessment of the hydrological and hydrogeological context of the connection works in Work No. 7; and
- (c) include detailed designs of a surface water drainage scheme.

(3) Construction of the connection works in Work No. 7 must be carried out in accordance with the approved scheme.

Onshore archaeology

17.—(1) No stage of the connection works or Work No. 5 may commence until a written scheme of archaeological investigation (which must accord with the outline written scheme of investigation for onshore archaeology) for that stage of the connection works or Work No. 5 has been submitted to and approved by the relevant planning authority in consultation with Historic England.

(2) Archaeological investigations carried out as part of onshore site preparation works must only take place in accordance with a specific written scheme of investigation (which must accord with the outline written scheme of investigation for onshore archaeology) which has been submitted to and approved by the relevant planning authority in consultation with Historic England.

(3) All archaeological investigations (other than archaeological investigations carried out as part of onshore site preparation works referred to in sub-paragraph (2)) must be carried out in accordance with the written scheme of archaeological investigation approved under sub-paragraph (1).

(4) The archaeological site investigations and post investigation assessment must be completed in accordance with the programme set out in the written scheme of archaeological investigation and provision made for analysis, publication and dissemination of results and archive deposition.

Code of construction practice

18.—(1) No stage of the connection works, Work No. 2 (f) or Work No. 5 may commence until a code of construction practice (which must accord with the outline code of construction practice but may not include the outline construction traffic management plan in the event that the outline construction traffic management plan has been, or is in the process of being, approved separately pursuant to requirement 19) for that stage of the connection works has been submitted to and approved by the relevant planning authority, in consultation with the Environment Agency, the relevant SNCBs and, if applicable, the MMO.

(2) All connection works must be undertaken in accordance with the relevant approved code of construction practice.

Construction traffic management plan

19.—(1) No stage of the connection works or Work No. 5 may commence until written details of a construction traffic management plan (which accords with the outline construction traffic management plan) for that stage of the connection works or Work No. 5 has been submitted to and approved by the relevant planning authority in consultation with the relevant highway authorities (and approved by Network Rail in accordance with paragraph 5 of Part 4 of Schedule 9).

- (2) The construction traffic management plan must be implemented as approved.

European protected species onshore

20.—(1) No stage of the connection works may commence until final pre-construction survey work has been carried out to establish whether a European protected species is present on any of the land affected, or likely to be affected, by that stage of the connection works or in any of the trees to be lopped or felled as part of that stage of the connection works.

(2) Where a European protected species is shown to be present, the relevant stage(s) of the connection works must not begin until, after consultation with the relevant SNCBs and the relevant planning authority, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority or a European protected species licence granted by Natural England.

(3) The connection works must be carried out in accordance with the approved scheme.

(4) In this Requirement, “European Protected Species” has the same meaning as in regulations 42 and 46 of the Conservation of Habitats and Species Regulations 2017(a).

Restoration of land used temporarily for construction

21. Any land landward of MLWS within the Order limits which is used temporarily for construction of the connection works and not ultimately incorporated in permanent works or approved landscaping, must be reinstated in accordance with such details as have been submitted to and approved by the relevant planning authority in consultation with, where appropriate, the MMO, and the relevant highway authority, as soon as reasonably practicable and in any event within twelve months of completion of the connection works.

Control of noise during operational phase

22.—(1) Work Nos. 7(a), (b) and (c) must not commence operations until a noise management plan (NMP) for those works has been submitted to and approved by the relevant planning authority.

(2) The NMP must set out the particulars of—

- (a) any necessary noise attenuation and mitigation measures to be taken to minimise noise resulting from Work No. 7, including any noise limits; and
- (b) a scheme for monitoring attenuation and mitigation measures provided under subparagraph (a) which must include—
 - (i) the circumstances under which noise will be monitored;
 - (ii) the locations at which noise will be monitored;
 - (iii) the method of noise measurement (which must be in accord with BS 4142:2014+A1:2019, an equivalent successor standard or other agreed noise measurement methodology appropriate to the circumstances); and
 - (iv) a complaints procedure.

(3) The NMP must be implemented as approved.

Enhancement strategy

23.—(1) No stage of the connection works may commence until written details of an enhancement strategy (which accords with the outline enhancement strategy) for that stage of the connection works has been submitted to and approved by the relevant planning authority.

(2) The enhancement strategy must be implemented as approved.

(a) S.I. 2017/1012.

Ministry of Defence radar mitigation

24.—(1) No wind turbine generator forming part of the authorised development is permitted to rotate its rotor blades on its horizontal axis until the Secretary of State, having consulted with the Ministry of Defence, confirms satisfaction that appropriate mitigation will be implemented and maintained for the life of the authorised development and that arrangements have been put in place with the Ministry of Defence to ensure that the approved mitigation is implemented.

(2) For the purposes of this requirement—

“appropriate mitigation” means measures to prevent or remove any unacceptable effects which the authorised development will have on air defence radar capability of Remote Radar Head (RRH) Staxton Wold and the Ministry of Defence’s air surveillance and control operations that it supports;

“approved mitigation” means the detailed Radar Mitigation Scheme (RMS) that will set out the appropriate measures and timescales for implementation as agreed with the Ministry of Defence at the time the Secretary of State confirms satisfaction in accordance with sub-paragraph (1); and

“Ministry of Defence” means the Ministry of Defence as represented by Defence Infrastructure Organisation – Safeguarding, St George’s House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY or any successor body.

(3) The undertaker must thereafter comply with all other obligations contained within the approved mitigation for the life of the authorised development.

Onshore decommissioning

25.—(1) Within three months of the permanent cessation of operation of the connection works an onshore decommissioning plan must be submitted to the relevant planning authority for approval unless otherwise agreed by the relevant planning authority.

(2) The relevant planning authority must provide its decision on the onshore decommissioning plan required under requirement 25(1) within three months of submission of such plan unless otherwise agreed by the relevant planning authority and the undertaker.

(3) The onshore decommissioning plan must be implemented as approved.

Employment and skills plan

26.—(1) No stage of the connection works may commence until for that stage an employment and skills plan (which accords with the outline employment and skills plan) in relation to the authorised development has been submitted to and approved by the relevant planning authority.

(2) The employment and skills plan must be implemented as approved.

Energy balancing infrastructure safety management

27.—(1) Work No. 7(b) must not commence until an energy balancing infrastructure HazID report (which accords with the outline energy balancing infrastructure HazID report) has been submitted to and approved by the relevant planning authority.

(2) The energy balancing infrastructure HazID report must be implemented as approved.

Stages of authorised development

28.—(1) The authorised development may not be commenced until a written scheme setting out the stages of construction of the authorised project has been submitted to and approved by the relevant planning authority, in relation to the connection works, or the MMO, in relation to works seaward of MHWS.

(2) The stages of construction referred to in sub-paragraph (1) must not permit the authorised development to be constructed in more than one overall phase.

(3) The scheme must be implemented as approved.

Claxby Radar Mitigation

29.—(1) No wind turbine generator blades forming part of the authorised development may be installed until the Secretary of State, having consulted with NATS, has confirmed satisfaction that appropriate mitigation will be implemented and maintained for the required period and that arrangements have been put in place with NATS to ensure that the approved mitigation is implemented and in operation prior to installation of the wind turbine blades.

(2) The undertaker must thereafter comply with the obligations contained within the approved mitigation for the required period.

(3) For the purposes of this requirement—

“appropriate mitigation” means measures to mitigate any adverse effects which the operation of the authorised development will have on the primary surveillance radar at Claxby and NATS’ associated air traffic (surveillance and control) services/operations during the required period;

“approved mitigation” means the detailed Primary Radar Mitigation Scheme setting out the appropriate mitigation approved by the Secretary of State and confirmed in accordance with sub-paragraph (1);

“NATS” means NATS (En-Route) Plc (company number 04129273) or any successor body; and

“the required period” means the shorter of—

- (a) the operational life of the authorised development; or
- (b) the period ending on the date notified to the Secretary of State by the undertaker and confirmed by NATS being the date on which NATS no longer requires the appropriate mitigation to be in place.

Requirement for written approval

30. Where the approval, agreement or confirmation of the Secretary of State, the relevant planning authority or another person is required under a requirement, that approval, agreement or confirmation must be given in writing.

Amendments to approved details

31.—(1) With respect to any requirement which requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another organisation or body, the approved details must be carried out as approved unless an amendment or variation is previously agreed by the relevant planning authority or that other organisation or body in accordance with sub-paragraph (2).

(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or that other organisation or body that the subject matter of the agreement sought is unlikely to give rise to any materially greater environmental effects from those assessed in the environmental statement.

(3) The approved details must be taken to include any amendments that may subsequently be approved by the relevant planning authority or that other person.

PART 4

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

1. In this Part of this Schedule, “discharging authority” means—
 - (a) any body responsible for giving any consent, agreement or approval required by a requirement included in Part 3 of this Schedule, or for giving any consent, agreement or approval further to any document referred to in any such requirement; or
 - (b) the local authority in the exercise of its functions set out in sections 60 (control of noise on construction sites) and 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974 subsequently referred to as “the 1974 Act”(a).

Applications made under requirements

2.—(1) Where an application has been made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 3 of this Schedule, or for any consent, agreement or approval further to any document referred to in any such requirement, the discharging authority must give notice to the undertaker of its decision on the application within a period of eight weeks beginning with—

- (a) the day immediately following that on which a valid application is received by the discharging authority (such validity to be confirmed by the discharging authority within five days of receipt of the application); or
- (b) where further information is requested under paragraph 3 the day immediately following that on which the further information has been supplied by the undertaker, or such longer period as may be agreed in writing by the undertaker and the discharging authority.

(2) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 3 of this Schedule, the discharging authority may—

- (a) give or refuse its consent, agreement or approval; or
- (b) give its consent, agreement or approval either subject to reasonable conditions, or unconditionally,

and where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision.

Further information regarding requirements

3.—(1) In relation to any application referred to in paragraph 2, the discharging authority may request such further information from the undertaker as it considers necessary to enable it to consider the application.

(2) If the discharging authority considers that further information is necessary and the requirement concerned contained in Part 3 of this Schedule does not specify that consultation with a consultee is required, the discharging authority must, within ten working days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement concerned contained in Part 3 of this Schedule specifies that consultation with a consultee is required, the discharging authority must issue the application to the consultee within five working days of receipt of the application, and notify the undertaker in writing specifying any further information requested by the consultee within five working days of receipt of such a request.

(a) 1974 c.40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c.55), Schedule 15 to the Environmental Protection Act 1990 (c.43) and Schedule 24 to the Environment Act 1995 (c.25).

(4) If the discharging authority does not give the notification within the period specified in sub-paragraph (2) or (3) it (and the consultee, as the case may be) is deemed to have sufficient information to consider the application and is not entitled to request further information without the prior agreement of the undertaker.

Appeals

4.—(1) Where a person (“the applicant”) makes an application to a discharging authority, the applicant may appeal to the Secretary of State in the event that—

- (a) the discharging authority refuses an application for any consent, agreement or approval required by—
 - (i) a requirement contained in Part 3 of this Schedule; or
 - (ii) a document referred to in any requirement contained in Part 3 of this Schedule;
- (b) the discharging authority does not determine such an application within the time period set out in paragraph 2(1), or grants it subject to conditions;
- (c) the discharging authority issues a notice further to sections 60 (control of noise on construction sites) or 61 (prior consent for work on construction sites) of the 1974 Act;
- (d) on receipt of a request for further information pursuant to paragraph 3 of this Part of this Schedule, the applicant considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (e) on receipt of any further information requested, the discharging authority notifies the applicant that the information provided is inadequate and requests additional information which the applicant considers is not necessary for consideration of the application.

(2) The appeal process is as follows—

- (a) any appeal by the applicant must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the time period set out in paragraph 2(1), giving rise to the appeal referred to in sub-paragraph (1);
- (b) the applicant must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging authority and any consultee specified under the relevant requirement contained in Part 3 of this Schedule;
- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to consider the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the attention of the appointed person should be sent;
- (d) the discharging authority and any consultee (if applicable) must submit their written representations together with any other representations to the appointed person in respect of the appeal within 20 working days of the start date specified by the appointed person and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the applicant on the day on which they are submitted to the appointed person;
- (e) the applicant must make any counter-submissions to the appointed person within 20 working days of receipt of written representations pursuant to sub-paragraph (d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable after the end of the 20 day period for counter-submissions under sub-paragraph (e).

(3) The appointment of the appointed person pursuant to sub-paragraph 4(2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal the appointed person must as soon as practicable notify

the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required pursuant to sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person. The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten working days of the date specified by the appointed person, but must otherwise be in accordance with the process and time limits set out in sub-paragraphs 4(2)(c) to (e).

(6) On an appeal under this paragraph, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(7) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside of the relevant time limits.

(8) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(9) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for a judicial review.

(10) If an approval is given by the appointed person pursuant to this Part of this Schedule, it is deemed to be an approval for the purpose of Part 3 of this Schedule as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing, but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person are to be met by the applicant.

(12) On application by the discharging authority or the applicant, the appointed person may give directions as to the costs of the appeal and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to relevant guidance on the Planning Practice Guidance website or any official circular or guidance which may from time to time replace it.

SCHEDULE 2

Article 8

STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <i>Street subject to street works</i>	<i>(2)</i> <i>Extent of works</i>
Unnamed Road	Between the reference points 1a and 1b and shaded Green on sheet 1 of the streets plan
Sands Road	Between the reference points 1c and 1d and shaded Brown on sheet 1 of the streets plan
Private Access	Between the reference points 2a, 2b and 2c and shaded Brown on sheets 1 and 2 of the streets plan
Bridlington Road	Between the reference points 3a and 3b and shaded Green on sheets 2 and 3 of the streets plan
Gransmoor Road	Between the reference points 4a and 4b and shaded Green on sheets 3 and 4 of the streets plan
Private Access	Between the reference points 5a and 5b and shaded Brown on sheet 4 of the streets plan
Private Access	Between the reference points 6a and 6b and shaded Brown on sheet 4 of the streets plan
Private Access	Between the reference points 7a and 7b and shaded Brown on sheet 4 of the streets plan
Private Access	Between the reference points 8a and 8b and shaded Brown on sheets 4 and 5 of the streets plan
Lissett Lane	Between the reference points 8c and 8d and shaded Green on sheets 4 and 5 of the streets plan
Private Access	Between the reference points 9a and 9b and shaded Brown on sheet 5 of the streets plan
Private Access	Between the reference points 10a and 10b and shaded Brown on sheet 6 of the streets plan
Gembling Lane	Between the reference points 11a and 11b and shaded Green on sheet 6 of the streets plan
Old Howe Lane	Between the reference points 12a and 12b and shaded Green on sheets 6 and 7 of the streets plan
Main Street	Between the reference points 13a and 13b and shaded Green on sheet 7 of the streets plan
Private Access	Between the reference points 14a and 14b and shaded Brown on sheet 7 of the streets plan
Private Access	Between the reference points 15a and 15b and shaded Brown on sheet 8 of the streets plan
Private Access	Between the reference points 16a and 16b and shaded Brown on sheet 8 of the streets plan
Cowslams Lane	Between the reference points 16c and 16d and shaded Green on sheet 8 of the streets plan
B1249	Between the reference points 17a and 17b and shaded Green on sheets 8 and 9 of the streets plan

B1249	Between the reference points 17c and 17d and shaded Green on sheets 8 and 9 of the streets plan
Private Access	Between the reference points 18a and 18b and shaded Brown on sheets 8 and 9 of the streets plan
B1249	Between the reference points 18c and 18d and shaded Green on sheets 8 and 9 of the streets plan
Private Access	Between the reference points 19a and 19b and shaded Brown on sheet 10 of the streets plan
Rotsea Lane	Between the reference points 20a and 20b and shaded Green on sheet 11 of the streets plan
Rotsea Lane	Between the reference points 20c and 20d and shaded Green on sheet 11 of the streets plan
Private Access	At reference point 20e and shaded Brown on sheet 11 of the streets plan
Private Access	Between the reference points 21a and 21b and shaded Brown on sheet 12 of the streets plan
Private Access	Between the reference points 22a and 22b and shaded Brown on sheet 12 of the streets plan
Carr Lane	Between the reference points 23a and 23b and shaded Green on sheet 13 of the streets plan
Carr Lane	Between the reference points 24a and 24b and shaded Green on sheet 14 of the streets plan
Wilfholme Road	Between the reference points 25a and 25b and shaded Green on sheet 14 of the streets plan
Beswick Road	Between the reference points 26a and 26b and shaded Green on sheet 15 of the streets plan
Station Road	Between the reference points 27a and 27b and shaded Green on sheet 16 of the streets plan
A164	Between the reference points 28a and 28b and shaded Green on sheet 16 of the streets plan
Station Road	Between the reference points 29a and 29b and shaded Green on sheet 16 of the streets plan
A164	Between the reference points 30a and 30b and shaded Green on sheet 17 of the streets plan
Private Access	Between the reference points 31a and 31b and shaded Brown on sheet 17 of the streets plan
Private Access	Between the reference points 32a and 32b and shaded Brown on sheet 17 of the streets plan
Private Access	Between the reference points 33a and 33b and shaded Brown on sheet 18 of the streets plan
Private Access	Between the reference points 34a and 34b and shaded Brown on sheet 18 of the streets plan
Old Road	Between the reference points 34c and 34d and shaded Green on sheet 18 of the streets plan
Miles Lane	Between the reference points 35a and 35b and shaded Green on sheet 19 of the streets plan
Miles Lane	Between the reference points 35c and 35d and shaded Green on sheet 19 of the streets plan
Miles Lane	Between the reference points 36a and 36b and shaded Green on sheet 19 of the streets plan

Rose Lane	Between the reference points 37a and 37b and shaded Green on sheets 19 and 20 of the streets plan
Private Access	Between the reference points 38a and 38b and shaded Brown on sheet 20 of the streets plan
A1035	Between the reference points 39a and 39b and shaded Green on sheet 21 of the streets plan
Dogkennel Lane	Between the reference points 40a and 40b and shaded Green on sheet 21 of the streets plan
York Road	Between the reference points 41a and 41b and shaded Green on sheet 22 of the streets plan
York Road	Between the reference points 41c and 41d and shaded Green on sheet 22 of the streets plan
A1079	Between the reference points 42a and 42b and shaded Green on sheets 22 and 23 of the streets plan
Newbald Road	Between the reference points 43a and 43b and shaded Green on sheet 23 of the streets plan
Newbald Road	Between the reference points 43c and 43d and shaded Green on sheet 23 of the streets plan
Private Access	Between the reference points 44a and 44b and shaded Brown on sheet 23 of the streets plan
B1230	Between the reference points 45a and 45b and shaded Green on sheets 23 and 24 of the streets plan
Private Access	Between the reference points 46a and 46b and shaded Brown on sheet 24 of the streets plan
Copleflat Lane	Between the reference points 47a and 47b and shaded Green on sheet 25 of the streets plan
Copleflat Lane	Between the reference points 48a and 48b and shaded Green on sheet 25 of the streets plan
Copleflat Lane	Between the reference points 49a and 49b and shaded Green on sheets 25 and 26 of the streets plan
Copleflat Lane	Between the reference points 50a and 50b and shaded Green on sheets 25 and 26 of the streets plan
A164	Between the reference points 51a and 51b and shaded Green on sheets 25 and 26 of the streets plan
A164	Between the reference points 51c and 51d and shaded Green on sheets 25 and 26 of the streets plan
Private Access	Between the reference points 52a and 52b and shaded Brown on sheet 26 of the streets plan
Private Access	Between the reference points 53a and 53b and shaded Brown on sheet 28 of the streets plan
Private Access	Between the reference points 54a and 54b and shaded Brown on sheet 28 of the streets plan
A1079	Between the reference points 55a and 55b and shaded Green on sheet 27 of the streets plan

SCHEDULE 3

Article 10

STREETS TO BE TEMPORARILY STOPPED UP

<i>(1)</i> <i>Public rights of way to be temporarily stopped up</i>	<i>(2)</i> <i>Extent of temporary stopping up</i>
Unnamed Road	Between the reference points 1a and 1b and shaded Green on sheet 1 of the streets plan
Sands Road	Between the reference points 1c and 1d and shaded Brown on sheet 1 of the streets plan
Private Access	Between the reference points 2a, 2b and 2c and shaded Brown on sheets 1 and 2 of the streets plan
Bridlington Road	Between the reference points 3a and 3b and shaded Green on sheets 2 and 3 of the streets plan
Gransmoor Road	Between the reference points 4a and 4b and shaded Green on sheets 3 and 4 of the streets plan
Private Access	Between the reference points 5a and 5b and shaded Brown on sheet 4 of the streets plan
Private Access	Between the reference points 6a and 6b and shaded Brown on sheet 4 of the streets plan
Private Access	Between the reference points 7a and 7b and shaded Brown on sheet 4 of the streets plan
Private Access	Between the reference points 8a and 8b and shaded Brown on sheets 4 and 5 of the streets plan
Lissett Lane	Between the reference points 8c and 8d and shaded Green on sheets 4 and 5 of the streets plan
Private Access	Between the reference points 9a and 9b and shaded Brown on sheet 5 of the streets plan
Private Access	Between the reference points 10a and 10b and shaded Brown on sheet 6 of the streets plan
Gembling Lane	Between the reference points 11a and 11b and shaded Green on sheet 6 of the streets plan
Old Howe Lane	Between the reference points 12a and 12b and shaded Green on sheets 6 and 7 of the streets plan
Main Street	Between the reference points 13a and 13b and shaded Green on sheet 7 of the streets plan
Private Access	Between the reference points 14a and 14b and shaded Brown on sheet 7 of the streets plan
Private Access	Between the reference points 15a and 15b and shaded Brown on sheet 8 of the streets plan
Private Access	Between the reference points 16a and 16b and shaded Brown on sheet 8 of the streets plan
Cowslams Lane	Between the reference points 16c and 16d and shaded Green on sheet 8 of the streets plan
B1249	Between the reference points 17a and 17b and shaded Green on sheets 8 and 9 of the streets plan

B1249	Between the reference points 17c and 17d and shaded Green on sheets 8 and 9 of the streets plan
Private Access	Between the reference points 18a and 18b and shaded Brown on sheets 8 and 9 of the streets plan
B1249	Between the reference points 18c and 18d and shaded Green on sheets 8 and 9 of the streets plan
Private Access	Between the reference points 19a and 19b and shaded Brown on sheet 10 of the streets plan
Rotsea Lane	Between the reference points 20a and 20b and shaded Green on sheet 11 of the streets plan
Rotsea Lane	Between the reference points 20c and 20d and shaded Green on sheet 11 of the streets plan
Private Access	At reference point 20e and shaded Brown on sheet 11 of the streets plan
Private Access	Between the reference points 21a and 21b and shaded Brown on sheet 12 of the streets plan
Private Access	Between the reference points 22a and 22b and shaded Brown on sheet 12 of the streets plan
Carr Lane	Between the reference points 23a and 23b and shaded Green on sheet 13 of the streets plan
Carr Lane	Between the reference points 24a and 24b and shaded Green on sheet 14 of the streets plan
Wilfholme Road	Between the reference points 25a and 25b and shaded Green on sheet 14 of the streets plan
Beswick Road	Between the reference points 26a and 26b and shaded Green on sheet 15 of the streets plan
Station Road	Between the reference points 27a and 27b and shaded Green on sheet 16b of the streets plan
A164	Between the reference points 28a and 28b and shaded Green on sheet 16b of the streets plan
Station Road	Between the reference points 29a and 29b and shaded Green on sheet 16 of the streets plan
A164	Between the reference points 30a and 30b and shaded Green on sheet 17 of the streets plan
Private Access	Between the reference points 31a and 31b and shaded Brown on sheet 17 of the streets plan
Private Access	Between the reference points 32a and 32b and shaded Brown on sheet 17 of the streets plan
Private Access	Between the reference points 33a and 33b and shaded Brown on sheet 18 of the streets plan
Private Access	Between the reference points 34a and 34b and shaded Brown on sheet 18 of the streets plan
Old Road	Between the reference points 34c and 34d and shaded Green on sheet 18 of the streets plan
Miles Lane	Between the reference points 35a and 35b and shaded Green on sheet 19 of the streets plan
Miles Lane	Between the reference points 35c and 35d and shaded Green on sheet 19 of the streets plan
Miles Lane	Between the reference points 36a and 36b and shaded Green on sheet 19 of the streets plan

Rose Lane	Between the reference points 37a and 37b and shaded Green on sheets 19 and 20 of the streets plan
Private Access	Between the reference points 38a and 38b and shaded Brown on sheet 20 of the streets plan
A1035	Between the reference points 39a and 39b and shaded Green on sheet 21 of the streets plan
Dogkennel Lane	Between the reference points 40a and 40b and shaded Green on sheet 21 of the streets plan
York Road	Between the reference points 41a and 41b and shaded Green on sheet 22 of the streets plan
York Road	Between the reference points 41c and 41d and shaded Green on sheet 22 of the streets plan
A1079	Between the reference points 42a and 42b and shaded Green on sheets 22 and 23 of the streets plan
Newbald Road	Between the reference points 43a and 43b and shaded Green on sheet 23 of the streets plan
Newbald Road	Between the reference points 43c and 43d and shaded Green on sheet 23 of the streets plan
Private Access	Between the reference points 44a and 44b and shaded Brown on sheet 23 of the streets plan
B1230	Between the reference points 45a and 45b and shaded Green on sheets 23 and 24 of the streets plan
Private Access	Between the reference points 46a and 46b and shaded Brown on sheet 24 of the streets plan
Copleflat Lane	Between the reference points 47a and 47b and shaded Green on sheet 25 of the streets plan
Copleflat Lane	Between the reference points 48a and 48b and shaded Green on sheet 25 of the streets plan
Copleflat Lane	Between the reference points 49a and 49b and shaded Green on sheets 25 and 26 of the streets plan
Copleflat Lane	Between the reference points 50a and 50b and shaded Green on sheets 25 and 26 of the streets plan
A164	Between the reference points 51a and 51b and shaded Green on sheets 25 and 26 of the streets plan
A164	Between the reference points 51c and 51d and shaded Green on sheets 25 and 26 of the streets plan
Private Access	Between the reference points 52a and 52b and shaded Brown on sheet 26 of the streets plan
Private Access	Between the reference points 53a and 53b and shaded Brown on sheet 28 of the streets plan
Private Access	Between the reference points 54a and 54b and shaded Brown on sheet 28 of the streets plan
A1079	Between the reference points 55a and 55b and shaded Green on sheet 27 of the streets plan

SCHEDULE 4

Article 11

PUBLIC RIGHTS OF WAY TO BE STOPPED UP OR DIVERTED
AND ACCESS LAND

PART 1

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP

<i>(1)</i> <i>Public right of way to be temporarily stopped up</i>	<i>(2)</i> <i>Extent of temporary stopping up</i>
Barmston Footpath No. 4	Between points 1a and 1b as shown dashed on sheet 1 of the public rights of way plan
Barmston Footpath No. 3	Between points 2a and 2b as shown dashed on sheets 1 and 2 of the public rights of way plan
Barmston Footpath No. 2	Between points 3a and 3b as shown dashed on sheet 2 of the public rights of way plan
Foston on the Wolds Footpath No. 10	Between points 4a and 4b as shown dashed on sheet 6 of the public rights of way plan
Foston on the Wolds Footpath No. 12	Between points 5a and 5b as shown dashed on sheet 7 of the public rights of way plan
Foston on the Wolds Footpath No. 12	Between points 6a and 6b as shown dashed on sheet 8 of the public rights of way plan
Foston on the Wolds Bridleway No. 6	Between points 7a and 7b as shown dashed on sheet 10 of the public rights of way plan
Hutton Cranswick Footpath No. 10	Between points 8a and 8b as shown dashed on sheets 11 and 12 of the public rights of way plan
Watton Footpath No. 18	Between points 9a and 9b as shown dashed on sheet 12 of the public rights of way plan
Watton Bridleway No. 13	Between points 10a and 10b as shown dashed on sheet 13 of the public rights of way plan
Beswick Bridleway No. 23	Between points 11a and 11b as shown dashed on sheet 15 of the public rights of way plan
Lockington Footpath No. 8	Between points 12a and 12b as shown dashed on sheet 16a and 16b respectively of the public rights of way plan
Leconfield Footpath No. 1	Between points 13a and 13b as shown dashed on sheet 17 of the public rights of way plan
Leconfield Bridleway No. 2	Between points 14a and 14b as shown dashed on sheet 17 of the public rights of way plan
Leconfield Footpath No. 7	Between points 15a and 15b as shown dashed on sheets 17 and 18 of the public rights of way plan
Leconfield Footpath No. 7	Between points 15c and 15d as shown dashed on sheet 18 of the public rights of way plan
Leconfield Bridleway No. 9	Between points 16a and 16b as shown dashed on sheet 18 of the public rights of way plan
Leconfield Footpath No. 10	Between points 17a and 17b as shown dashed on sheet 18 of the public rights of way plan
Leconfield Footpath No. 10	Between points 17c and 17d as shown dashed on sheet 18 of the public rights of way plan

Leconfield Footpath No. 11	Between points 18a and 18b as shown dashed on sheet 18 of the public rights of way plan
Leconfield Bridleway No. 6	Between points 19a and 19b as shown dashed on sheet 18 of the public rights of way plan
Leconfield Bridleway No. 12	Between points 20a and 20b as shown dashed on sheet 18 of the public rights of way plan
Cherry Burton Footpath No. 2	Between points 21a and 21b as shown dashed on sheet 20 of the public rights of way plan
Cherry Burton Footpath No. 3	Between points 22a and 22b as shown dashed on sheet 20 of the public rights of way plan
Walkington Footpath No. 9 (Moor Lane)	Between points 23a and 23b as shown dashed on sheet 24 of the public rights of way plan
Rowley Footpath No.12	Between points 24a and 24b as shown dashed on sheets 25 and 26 of the public rights of way plan
Rowley Footpath No.12	Between points 24c and 24d as shown dashed on sheets 26 and 27 of the public rights of way plan
Skidby Footpath No. 16	Between points 25a and 25b as shown dashed on sheet 26 and 28 of the public rights of way plan
Skidby Footpath No. 16	Between points 25c and 25d as shown dashed on sheet 28 of the public rights of way plan
Skidby Footpath No. 17	Between points 26a and 26b as shown dashed on sheet 28 of the public rights of way plan
Rowley Bridleway No. 13	Between points 27a and 27b as shown dashed on sheet 27 of the public rights of way plan

PART 2

PUBLIC RIGHTS OF WAY TO BE PERMANENTLY DIVERTED

<i>(1)</i> <i>Public right of way to be diverted</i>	<i>(2)</i> <i>Extent of diversion</i>	<i>(2)</i> <i>Extent of substitute right of way</i>
Skidby Footpath No.16	Within area 1 shaded orange on sheet 28 of the public rights of way plan	602 m
Rowley Bridleway No. 13	Between points 27a and 27b dashed blue on sheet 27 of the public rights of way plan	358 m

PART 3

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY DIVERTED

<i>(1)</i> <i>Public right of way to be diverted</i>	<i>(2)</i> <i>Extent of temporary diversion</i>	<i>(3)</i> <i>Extent of substitute right of way</i>
Barmston Footpath No. 4	Between points 1a and 1b as shown dashed on sheet 1 of the public rights of way plan	244 m

PART 4

ACCESS LAND WHERE PUBLIC RIGHTS OF WAY MAY BE TEMPORARILY SUSPENDED

<i>(1)</i> <i>Access Land subject to temporary prohibition or restriction of use</i>	<i>(2)</i> <i>Extent of temporary prohibition or restriction of use of access land</i>
England Coastal Path	Temporarily suspend access to the area shaded green on the public rights of way plan

SCHEDULE 5

Article 12

ACCESS TO WORKS

<i>(1)</i> <i>Location of access</i>	<i>(2)</i> <i>Description of access</i>
Sands Road	Referenced OA_001 and hatched pink on sheet 1 of the access to works plan
Sands Road	Referenced AP_002 and shaded blue on sheet 1 of the access to works plan
Bridlington Road	Referenced AP_003 and shaded blue on sheets 2 and 3 of the access to works plan
Bridlington Road	Referenced AP_040 and shaded blue on sheets 2 and 3 of the access to works plan
Bridlington Road	Referenced OA_002 and shaded pink on sheet 3 of the access to works plan
Fisher Lane	Referenced OA_003 and shaded pink on sheet 4 of the access to works plan
Lissett Lane	Referenced AP_004 and shaded blue on sheets 4 and 5 of the access to works plan
Lissett Lane	Referenced OA_004 and hatched pink on sheets 4 and 5 of the access to works plan
Bridlington Road	Referenced OA_005 and shaded pink on sheet 5 of the access to works plan
Gembling Lane	Referenced OA_027 and shaded pink on sheet 6 of the access to works plan
Gembling Lane	Referenced OA_028 and shaded pink on sheet 6 of the access to works plan
Old Howe Lane	Referenced AP_005 and shaded blue on sheets 6 and 7 of the access to works plan
Old Howe Lane	Referenced AP_039 and shaded blue on sheets 6 and 7 of the access to works plan
Main Street	Referenced OA_029 and shaded pink on sheet 7 of the access to works plan
Cowslams Lane	Referenced AP_006 and shaded blue on sheet 8 of the access to works plan
Cowslams Lane	Referenced OA_006 and hatched pink on sheet 8 of the access to works plan
B1249	Referenced OA_007 and shaded pink on sheets 8 and 9 of the access to works plan
B1249	Referenced AP_007 and shaded blue on sheets 8 and 9 of the access to works plan
B1249	Referenced AP_008 and shaded blue on sheets 8 and 9 of the access to works plan
B1249	Referenced OA_008 and hatched pink on sheets 8 and 9 of the access to works plan
Private Access	Referenced AP_009 and shaded blue on sheet 10 of the access to works plan
Private Access	Referenced OA_009 and hatched pink on sheet 10 of the access to works plan
Rotsea Lane	Referenced AP_010 and shaded blue on sheet 11 of the access to works plan

Rotsea Lane	Referenced AP_038 and shaded blue on sheet 11 of the access to works plan
Rotsea Lane	Referenced OA_010 and hatched pink on sheet 11 of the access to works plan
Rotsea Lane	Referenced OA_031 and shaded pink on sheet 11 of the access to works plan
Carr Lane	Referenced OA_011 and shaded pink on sheet 13 of the access to works plan
Carr Lane	Referenced OA_034 and shaded pink on sheet 13 of the access to works plan
Carr Lane	Referenced AP_011 and AP_037 and shaded blue on sheet 14 of the access to works plan
Wilfholme Road	Referenced OA_012 and shaded pink on sheet 14 of the access to works plan
Wilfholme Road	Referenced OA_013 and shaded pink on sheet 14 of the access to works plan
Wilfholme Road	Referenced AP_012 and AP_036 and shaded blue on sheet 14 of the access to works plan
Beswick Road	Referenced AP_013 and AP_035 and shaded blue on sheet 15 of the access to works plan
Station Road	Referenced OA_015 and shaded pink on sheet 16 of the access to works plan
Station Road	Referenced AP_014 and AP_034 and shaded blue on sheet 16 of the access to works plan
Station Road	Referenced OA_014 and hatched pink on sheet 16 of the access to works plan
Station Road	Referenced AP_015 and shaded blue on sheet 16 of the access to works plan
A164	Referenced AP_016 and shaded blue on sheet 17 of the access to works plan
A164	Referenced OA_017 and hatched pink on sheet 17 of the access to works plan
Old Road	Referenced AP_017 and shaded blue on sheet 18 of the access to works plan
Miles Lane	Referenced OA_018 and shaded pink on sheet 19 of the access to works plan
Miles Lane	Referenced AP_018 and shaded blue on sheet 19 of the access to works plan
Roase Lane	Referenced OA_019 and shaded pink on sheets 19 and 20 of the access to works plan
A1035	Referenced AP_020 and AP_032 and shaded blue on sheet 21 of the access to works plan
Dogkennel Lane	Referenced AP_021 and shaded blue on sheet 21 of the access to works plan
Dogkennel Lane	Referenced OA_020 and hatched pink on sheet 21 of the access to works plan
York Road	Referenced AP_022 and shaded blue on sheet 22 of the access to works plan
York Road	Referenced OA_021 and hatched pink on sheet 22 of the access to works plan
Killingwoldgraves Lane	Referenced OA_022 and shaded pink on sheets 22 and 23 of the access to works plan
Newbald Road	Referenced AP_023 and AP_024 and shaded blue on sheet 23 of the access to works plan

Newbald Road	Referenced OA_040 and hatched pink on sheet 23 of the access to works plan
Coppleflat Lane	Referenced OA_023 and hatched pink on sheet 25 of the access to works plan
Coppleflat Lane	Referenced AP_027 and shaded blue on sheet 25 of the access to works plan
Coppleflat Lane	Referenced OA_024 and shaded pink on sheets 25 and 26 of the access to works plan
Coppleflat Lane	Referenced AP_030 and shaded blue on sheets 25 and 26 of the access to works plan
Coppleflat Lane	Referenced OA_025 and hatched pink on sheets 25 and 26 of the access to works plan
Coppleflat Lane	Referenced AP_028 and shaded blue on sheets 25 and 26 of the access to works plan
A164	Referenced AP_026 and shaded blue on sheet 26 of the access to works plan
A1079	Referenced OA_043 and hatched pink on sheet 27 of the access to works plan
A1079	Referenced AP_025 and hatched blue on sheet 27 of the access to works plan

SCHEDULE 6

Article 21

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights may be acquired and restrictions imposed</i>
1 2 2A 3 3A 4 4A 10 11 12 13 18	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve underground electricity cables, jointing bays, ducting, telecommunications and other ancillary apparatus (including but not limited to access chambers, manholes and marker posts) and any other works as necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said cables, telecommunications and other ancillary apparatus
19 20 21 27 28 29	Rights to pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface) for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development
30 31	Rights to continuous vertical and lateral support for the authorised development
32 33 36 37 38 39	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, services, flues and to drain into and manage waterflows in any drains, watercourses and culverts

40	Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works
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78	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary
86	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development
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1 2 2A 3 3A 4 4A	Rights to ground and lay anchor for vessels within the Order land
308 309 310 315 316 317 318 323 330 332 333 335 336 337 338 339 340 341 342 343 344	<p>Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve pipes, ducts, mains, wires, cables, conduits, flues, fibre optic cables and other conducting media of whatsoever nature</p> <p>Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development</p>

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14	Rights to use, maintain and improve a permanent means of access including visibility splays and bridges
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26	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary
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57	Rights to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development
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100	Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works
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187	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights
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23 25 34 55 91 98 138 152 162 164 185 193 203 206 229 236 247 255 267 287 295 302	<p>Rights to pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface) for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development</p> <p>Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary</p> <p>Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works</p> <p>Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights</p>
323 330 332 333	<p>Rights to construct, use, maintain and improve a permanent means of access including visibility splays</p> <p>Rights to pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface) for all purposes in connection with the construction, use, maintenance and decommissioning of the authorised development</p>

	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve pipes, ducts, mains, wires, cables, conduits, flues, fibre optic cables and other conducting media of whatsoever nature
	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security infrastructure including cameras, perimeter fencing, fencing, gates and any other security measures or ancillary apparatus required in order to ensure an appropriate level of security in respect of the authorised development
	Rights to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works
	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve any boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary
	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights
340 341 342 343 344 345 346 347 348 349 350	Rights to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve electricity poles, overhead electricity lines, underground electricity cables, telecommunications and all equipment and other ancillary apparatus (including but not limited to the use of scaffolding) and any other works as necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said poles, lines, telecommunications and other equipment and ancillary apparatus

351 352 353 354 355 356	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development
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MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973^(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5—

- (a) for the words “land is acquired or taken from” there is substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there is substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

3.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 7 of Schedule 7 to the Hornsea Four Offshore Wind Farm Order 202[]; and
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 10 of Schedule 7 to the Hornsea Four Wind Farm Order 202[] to acquire an interest in the land, and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

Application of Part 1 of the 1965 Act

4.—(1) The 1965 Act is to have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.

(a) 1973 c.26.

5. For section 7 (measure of compensation in the case of severance) of the 1965 Act there is substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (refusal to convey, failure to make title, etc);
- (b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests) (conveyance of the land or interest);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 (powers of entry) of the 1965 Act is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 20), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on specified date), 12 (penalty for unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act is modified correspondingly.

8. Section 20 (protection for interests of tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 (interest omitted from purchase) of the 1965 Act as modified by article 29(3) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

10. For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of

declaration) of the 1981 Act as applied by article 23 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) of the Hornsea Four Offshore Wind Farm Order 202[] in respect of the land to which the notice to treat relates.

(2) But see article 25(3) (acquisition of subsoil only) of the Hornsea Four Offshore Wind Farm Order 202[] which excludes the acquisition of subsoil only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must

determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraw the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

SCHEDULE 8

Article 28

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
East Riding of Yorkshire	5	Temporary use for access to facilitate construction for Work Nos. 5 and 6
East Riding of Yorkshire	6	Temporary use for access to facilitate construction for Work Nos. 5 and 6
East Riding of Yorkshire	6A	Temporary use for access to facilitate construction for Work Nos. 5 and 6
East Riding of Yorkshire	7	Temporary use for access to facilitate construction for Work Nos. 5 and 6
East Riding of Yorkshire	8	Temporary use for access to facilitate construction for Work Nos. 5 and 6
East Riding of Yorkshire	9	Temporary use for access to facilitate construction for Work Nos. 5 and 6
East Riding of Yorkshire	15	Temporary use for access to facilitate construction for Work Nos. 5 and 6
East Riding of Yorkshire	16	Temporary use for access to facilitate construction for Work Nos. 5 and 6
East Riding of Yorkshire	22	Temporary use (including for access and logistics compound) to facilitate construction for Work No. 6
East Riding of Yorkshire	24	Temporary use (including for access and logistics compound) to facilitate construction for Work No. 6
East Riding of Yorkshire	42	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	43	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	44	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	48	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	49	Temporary use for access to facilitate construction for Work No. 6

East Riding of Yorkshire	50	Temporary use (including for access and logistics compound) to facilitate construction for Work No. 6
East Riding of Yorkshire	67	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	79	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	81	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	82	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	83	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	85	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	89	Temporary use (including for access and logistics compound) to facilitate construction for Work No. 6
East Riding of Yorkshire	90	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	97	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	101	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	102	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	103	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	105	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	112	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	115	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	116	Temporary use for access to facilitate construction for Work No. 6

East Riding of Yorkshire	118	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	119	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	120	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	121	Temporary use (including access and bridge inspection, monitoring, maintenance and improvements) to facilitate construction for Work No. 6
East Riding of Yorkshire	122	Temporary use (including access and bridge inspection, monitoring, maintenance and improvements) to facilitate construction for Work No. 6
East Riding of Yorkshire	124	Temporary use (including access and bridge inspection, monitoring, maintenance and improvements) to facilitate construction for Work No. 6
East Riding of Yorkshire	125	Temporary use (including access and bridge inspection, monitoring, maintenance and improvements) to facilitate construction for Work No. 6
East Riding of Yorkshire	131	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	132	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	133	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	136	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	137	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	154	Temporary use (including for logistics compound) to facilitate construction for Work No. 6
East Riding of Yorkshire	197	Temporary use (including for access and logistics compound) to facilitate construction for Work No. 6
East Riding of Yorkshire	198	Temporary use for access to facilitate construction for Work No. 6

East Riding of Yorkshire	202	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	204	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	205	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	207	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	208	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	210	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	217	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	218	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	219	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	220	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	221	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	222	Temporary use (including for access and logistics compound) to facilitate construction for Work No. 6
East Riding of Yorkshire	224	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	225	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	226	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	231	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	232	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	246	Temporary use for access to facilitate construction for Work No. 6

East Riding of Yorkshire	248	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	249	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	251	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	256	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	257	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	259	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	260	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	261	Temporary use (including for logistics compound) to facilitate construction for Work No. 6
East Riding of Yorkshire	270	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	271	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	286	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	288	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	289	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	291	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	297	Temporary use (including for logistics compound) to facilitate construction for Work No. 6
East Riding of Yorkshire	301	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	303	Temporary use for access to facilitate construction for Work No. 6

East Riding of Yorkshire	304	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	306	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	311	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	312	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	313	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	314	Temporary use for access to facilitate construction for Work No. 6
East Riding of Yorkshire	319	Temporary use (including for access and logistics compound) to facilitate construction for Work Nos. 6, 7, 8 and 10
East Riding of Yorkshire	321	Temporary use for access to facilitate construction for Work Nos. 6, 7, 8 and 10
East Riding of Yorkshire	324	Temporary use for access to facilitate construction for Work Nos. 6, 7, 8 and 10
East Riding of Yorkshire	325	Temporary use for access to facilitate construction for Work Nos. 6, 7, 8 and 10

PROTECTIVE PROVISIONS

PART 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

Application

1. For the protection of the affected undertakers referred to in this Part of this Schedule (save for National Grid which is protected by Part 3A and 3B of this Schedule and Northern Powergrid which is protected by Part 11 of this Schedule) the following provisions must, unless otherwise agreed in writing between the undertaker and the affected undertaking concerned, have effect.

2. In this Part of this Schedule—

“affected undertaker” means

- (a) any licence holder within the meaning of Part 1 (electricity supply) of the 1989 Act;
- (b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986(a);
- (c) a water undertaker within the meaning of the Water Industry Act 1991(b);
- (d) a sewerage undertaker within the meaning of Part 1 (preliminary) of the Water Industry Act 1991(c),

for the area of the authorised development but, for the avoidance of doubt, does not include the undertakers specified in Part 3 or Part 11 of this Schedule, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained;

“alternative apparatus” means alternative apparatus adequate to enable the affected undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by that affected undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker—
 - (i) mains, pipes or other apparatus belonging to or maintained by that affected undertaker for the purposes of water supply; and
 - (ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991;
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the affected undertaker in accordance with the Water Industry Act 1991; and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act,

(a) 1986 c.44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c.27).

(b) 1991 c.56.

(c) 1991 c.56.

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties; and

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land.

Precedence of the 1991 Act in respect of apparatus in the streets

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the affected undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

No acquisition etc. except by agreement

4. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of an affected undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the affected undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the affected undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an affected undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the affected undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the affected undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the affected undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 39 (arbitration).

(5) The affected undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 39 (arbitration) and after the grant to the affected undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the affected undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land controlled by the undertaker,

that work, instead of being executed by the affected undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the affected undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

Facilities and rights for alternative apparatus

6.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to an affected undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the affected undertaker in question or in default of agreement settled by arbitration in accordance with article 39 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the affected undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that affected undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

7.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5 that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5, the undertaker must submit to the affected undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the affected undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the affected undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by an affected undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If an affected undertaker in accordance with sub-paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5.

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the affected undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

8.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to an affected undertaker the reasonable expenses incurred by that affected undertaker in, or in connection

with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 5.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 39 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the affected undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (2)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an affected undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the affected undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Expenses and costs

9.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5, any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of an affected undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any affected undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that affected undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that affected undertaker for any other expenses, loss, damages, penalty or costs incurred by the affected undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an affected undertaker, its officers, servants, contractors or agents.

(3) An affected undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

10. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an affected undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1. For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

2. In this Part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system is construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act(a);

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

3. The exercise of the powers of article 30 (statutory undertakers) are subject to Part 10 of Schedule 3A to the Communications Act 2003(b).

4.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator); or

(b) there is any interruption in the supply of the service provided by an operator, the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—

(i) make reasonable compensation to an operator for loss sustained by it; and

(ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(a) See section 106.

(b) 2003 c.21.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand may be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 39 (arbitration).

5. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

6. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER AND NATIONAL GRID GAS PLC AS GAS UNDERTAKER

PART 3A - NATIONAL GRID ELECTRICITY TRANSMISSION PLC

Application

1. For the protection of National Grid as referred to in this Part of this Schedule the following provisions must, unless otherwise agreed in writing between the undertaker and National Grid, have effect.

Interpretation

2. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or must be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 2 (interpretation) of this Order (unless otherwise specified) and for the purposes of this Part of this Schedule must include the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities

and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Grid's approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means National Grid Electricity Transmission PLC (Company No. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed; and

“specified works” means any of the authorised development or activities (including onshore site preparation works, monitoring, ground work operations or the receipt and erection of construction plant and equipment) undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 7 or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7 or otherwise; and/or
- (c) includes in relation to any electricity apparatus any activity that is referred to in development near overhead lines EN43-8 and HSE's guidance note 6 “Avoidance of Danger from Overhead Lines.”

3. Except for paragraphs 4 (apparatus of National Grid in streets subject to temporary stopping up), 9 (retained apparatus: protection of National Grid as electricity undertaker), 10 (expenses) and 11 (indemnity) which must apply in respect of the exercise of all or any powers under this Order affecting the rights and apparatus of National Grid, this Schedule does not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid in streets subject to temporary stopping up

4.—(1) Where any public right of way is stopped up under article 11 (stopping up and diversion of public rights of way and access land), if National Grid has any apparatus in the street or accessed via that street National Grid must be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid, or must procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under paragraph 7 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 9.

(2) Notwithstanding the temporary stopping up under the powers of article 11 (stopping up and diversion of public rights of way and access land), National Grid must be at liberty at all times to take all necessary access across any such street and/or to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street.

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 16 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid which must not unreasonably be withheld.

Acquisition of land

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to this Order, the undertaker must not appropriate or acquire or take temporary possession of any land or apparatus or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid otherwise than by agreement (such agreement not to be unreasonably withheld).

(2) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(3) Any agreement or consent granted by National Grid under paragraph 9 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by the Order, the undertaker acquires any interest in or possess temporarily any Order land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works comprised in the authorised development in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker and agreed with National Grid under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter must be referred to arbitration under paragraph 31 (arbitration) and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph (2) article 39 (arbitration) of this Order must apply.

Retained apparatus: Protection of National Grid as Electricity Undertaker

9.—(1) Not less than 56 days before the commencement of any specified works, the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity assets.

(2) In relation to works which will or may be situated on, over, under or within—

- (a) 15 metres measured in any direction of any apparatus, or
- (b) involve embankment works within 15 metres of any apparatus,

the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes;
- (g) an assessment of risks of rise of earth issues; and
- (h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must in addition to the matters set out in sub-paragraph (2) include a method statement describing—

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
 - (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
 - (c) details of load bearing capacities of trenches;
 - (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
 - (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
 - (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
 - (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
 - (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.
- (4) The undertaker must not commence any works to which sub-paragraph (1), (2) or (3) apply until National Grid has given written approval of the plan so submitted.
- (5) Any approval of National Grid required under sub-paragraph (1), (2), or (3)—
- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (6) or (8); and
 - (b) must not be unreasonably withheld.
- (6) In relation to a work to which sub-paragraph (1), (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.
- (7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (2), (3) or (6) as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (6), (8) and/or (9) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.
- (8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any specified works for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).
- (9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs (1) to (3) and (6) to (7) shall apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).
- (10) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.
- (11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under this Order, the undertaker must comply with National Grid's policies for development near overhead lines ENA TA 43-8 and the Health and Safety Executive's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

10.—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus or alternative apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3); or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement settled by arbitration in accordance with article 39 (arbitration) of this Order to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works (including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works), any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party other than arising from any default by National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid as a consequence of the authorised development or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (2) where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or as otherwise agreed between the undertaker and National Grid.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;
- (b) any authorised development and/or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 5 (benefit of the Order) of the Order subject to the proviso that once such works become apparatus (“new apparatus”), any works yet to be executed and not falling within this sub-paragraph 11(3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11 in respect of such new apparatus; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) National Grid must give the undertaker reasonable notice of any such claim or demand and no settlement, admission of liability or compromise or demand must be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

Enactments and agreements

12. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between the undertaker and National Grid, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or National Grid requires the removal of apparatus under paragraph 7(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 9, National Grid shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid's consent, agreement or approval to is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by National Grid, it must not be unreasonably withheld or delayed.

Access

14. If in consequence of the agreement reached in accordance with paragraph 6 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Save for differences or disputes arising under paragraphs 7(2), 7(4), 8(1) and 9 any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 39 (arbitration).

Notices

16. The plans submitted to National Grid by the undertaker pursuant to paragraph 9(1) must be sent to National Grid LSBUD at <https://lsbud.co.uk/> or assetprotection@nationalgrid.com or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 3B - NATIONAL GRID GAS PLC

Application

17. For the protection of National Grid as referred to in this Part of this Schedule the following provisions must, unless otherwise agreed in writing between the undertaker and National Grid, have effect.

Interpretation

18. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by National Grid for the purposes of gas supply, together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or must be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 2 (interpretation) of this Order (unless otherwise specified) and for the purposes of this Part of this Schedule must include the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Grid’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means National Grid Gas PLC (Company No. 200600) whose registered office is at 1-3 Strand, London, WC2N 5EH, or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Network Code” means the network code prepared by National Grid as from time to time modified pursuant to the licence granted, or treated as granted, to it from time to time under the Gas Act 1986 as amended, in respect of its national transmission system;

“Network Code Claims” means any claim made against National Grid by any person under the Network Code arising out of or in connection with any failure by National Grid to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the National Grid network as a result of the authorised works or any costs and/or expenses incurred by National Grid as a result of or in connection with, it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the National Grid Network which may arise as a direct result of the authorised works;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed; and

“specified works” means any of the authorised development or activities (including onshore site preparation works, monitoring, ground work operations or the receipt and erection of construction plant and equipment) undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 23 or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 23 or otherwise; and/or
- (c) includes in relation to any gas apparatus any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Grid’s policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW/22”).

19. Except for paragraphs 20 (apparatus of National Grid in streets subject to temporary stopping up), 25 (retained apparatus: protection of National Grid as gas undertaker), 26 (expenses) and 27 (indemnity) which must apply in respect of the exercise of all or any powers under this Order affecting the rights and apparatus of National Grid, this Schedule does not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid in streets subject to temporary stopping up

20.—(1) Where any public right of way is stopped up under article 11 (stopping up and diversion of public rights of way and access land), if National Grid has any apparatus in the street or accessed via that street National Grid must be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid, or must procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under paragraph 23 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 25.

(2) Notwithstanding the temporary stopping up under the powers of article 11 (stopping up and diversion of public rights of way and access land), National Grid must be at liberty at all times to take all necessary access across any such street and/or to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street.

Protective works to buildings

21. The undertaker, in the case of the powers conferred by article 16 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid which must not unreasonably be withheld.

Acquisition of land

22.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to this Order, the undertaker must not appropriate or acquire or take temporary possession of any land or apparatus or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid otherwise than by agreement (such agreement not to be unreasonably withheld).

(2) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(3) Any agreement or consent granted by National Grid under paragraph 9 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

23.—(1) If, in the exercise of the powers conferred by the Order, the undertaker acquires any interest in or possess temporarily any Order land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works comprised in the authorised development in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid to its satisfaction (taking into account paragraph 24(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph 7(2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph 7(2) or 7(3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

24.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker and agreed with National Grid under sub-paragraph 8(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter must be

referred to arbitration under paragraph 16 (arbitration) and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph 8(2) article 39 (arbitration) of this Order must apply.

Retained apparatus: protection of National Grid as Gas Undertaker

25.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan and, if reasonably required by National Grid, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to National Grid under sub-paragraph 9(1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs 9(1) and (2) apply until National Grid has given written approval of the plan so submitted.

(4) Any approval of National Grid required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) or (7); and
- (b) must not be unreasonably withheld.

(5) In relation to a work to which sub-paragraphs 9(1) and/or (2) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraphs 9(1) and (2) or as relevant sub-paragraph (5), as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (7) and/or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(7) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any specified works for which protective works are required and National Grid must give notice of its requirement for such protective works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Grid in accordance with sub-paragraph (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs (17) to (19) and (22) to (23) apply as if the removal of the apparatus had been required by the undertaker under paragraph 23(2).

(9) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph 9(1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under this Order the undertaker must comply with National Grid's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and the Health and Safety Executive's HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that National Grid retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 26.

Expenses

26.—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus or alternative apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 23(3); or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph 10(1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement settled by arbitration in accordance with article 39 (arbitration) of this Order to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph 10(1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph 10(3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph 10(1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

27.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works (including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works), any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party and including any Network Code Claims other than arising from any default by National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid as a consequence of the authorised development or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (2) where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or as otherwise agreed between the undertaker and National Grid.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;

- (b) any authorised development and/or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 5 (benefit of the Order) of the Order subject to the proviso that once such works become apparatus (“new apparatus”), any works yet to be executed and not falling within this sub-paragraph 11(3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11 in respect of such new apparatus; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) National Grid must give the undertaker reasonable notice of any such claim or demand and no settlement, admission of liability or compromise or demand must be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

Enactments and agreements

28. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between the undertaker and National Grid, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

29.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or National Grid requires the removal of apparatus under paragraph 23(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 25, National Grid shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of National Grid’s undertaking and National Grid shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid’s consent, agreement or approval to is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by National Grid, it must not be unreasonably withheld or delayed.

Access

30. If in consequence of the agreement reached in accordance with paragraph 22 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

31. Save for differences or disputes arising under paragraphs 23(2), 23(4), 24(1) and 25 any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 39 (arbitration).

Notices

32. The plans submitted to National Grid by the undertaker pursuant to paragraph 25(1) must be sent to National Grid LSBUD at <https://lsbud.co.uk/> or assetprotection@nationalgrid.com or such

other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 4

PROTECTION OF RAILWAY INTERESTS

1. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 15 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

2. In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993(a);

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London, NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006(b) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under—

(a) the Railways Act 1993;

(b) the network licence; and/or

(c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property

(a) 1993 c.43.
(b) 2006 c.46.

and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 4 (maintenance of authorised development) in respect of such works.

3.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

4.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 3 (development consent granted by the Order);
- (b) article 4 (maintenance of authorised project);
- (c) article 15 (discharge of water);
- (d) article 17 (authority to survey and investigate the land onshore);
- (e) article 18 (compulsory acquisition of land);
- (f) article 21 (compulsory acquisition of rights);
- (g) article 25 (acquisition of subsoil only);
- (h) article 24 (power to override easements and other rights);
- (i) article 28 (temporary use of land for carrying out the authorised project);
- (j) article 29 (temporary use of land for maintaining the authorised project);
- (k) article 30 (statutory undertakers);
- (l) article 22 (private rights);
- (m) article 36 (felling or lopping of trees or shrubs);
- (n) article 37 (trees subject to tree preservation orders);
- (o) the powers conferred by section 11(3) (power of entry) of the 1965 Act;
- (p) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;
- (q) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;
- (r) any powers under in respect of the temporary possession of land under the Neighbourhood Planning Act 2017;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 30 (statutory undertakers), article 24 (power to override easements and other rights) or article 22 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any

existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

5.—(1) The undertaker must not submit the construction traffic management plan to the relevant planning authority in accordance with requirement 19 of Part 3 of Schedule 1 (construction traffic management plan) without having first obtained the written approval of Network Rail in respect of all provisions relating to Cranswick Level Crossing, Driffield Level Crossing and safety briefings for HGV drivers on the safe use of level crossings affected by the authorised project in accordance with sub-paragraph (2).

(2) The undertaker must provide Network Rail with a draft of the construction traffic management plan for approval and Network Rail must within a period of 28 days beginning with the date on which the draft construction traffic management plan is received by Network Rail and acting reasonably serve written notice on the undertaker confirming that—

- (a) the draft construction traffic management plan is approved; or
- (b) the draft construction traffic management plan is approved subject to reasonable amendments as required by Network Rail; or
- (c) the draft construction traffic management plan is not approved and the reason for the non-approval; or
- (d) that further information is required in order for Network Rail to make its determination (in which case this paragraph 5(2) must apply to such further information from the date of its receipt by Network Rail).

(3) In the event that Network Rail fails to serve written notice in accordance with paragraph 5(2) within 28 days of receipt Network Rail is deemed to have served a notice pursuant to paragraph 5(2)(a).

(4) The undertaker must include any reasonable amendments which are required by Network Rail and notified to the undertaker by Network Rail in the notice given pursuant to paragraph 5(2)(b) in the draft construction traffic management plan it submits to the relevant planning authority in accordance with requirement 19 of Part 3 of Schedule 1 (construction traffic management plan) and the undertaker must not submit any such written details that relate to Cranswick Level Crossing, Driffield Level Crossing and/or safety briefings for HGV drivers on the safe use of level crossings affected by the authorised project to the relevant planning authority which have not been approved by Network Rail in accordance with paragraphs 5(2) or 5(3).

(5) Each notice and all other information required to be sent to Network Rail under the terms of this paragraph 5 must—

- (a) be sent to the Company Secretary and General Counsel at Network Rail Infrastructure Limited, 1 Eversholt Street, London, NW1 2DN via Royal Mail plc's special delivery service (or if this service is no longer being provided an appropriate recorded delivery postal service) and marked for the attention of the Level Crossing Manager; and
- (b) contain a clear statement on its front page that Network Rail must respond within 28 days of receipt.

(6) In the event that any subsequent changes are made to the construction traffic management plan following consultation with Network Rail, in so far as such changes impact on railway property, the undertaker must not submit any such written details to the relevant planning authorities or finalise

any updates to the construction traffic management plan without further consultation with Network Rail.

6.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

7.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 6(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 6;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants,

contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

8. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

9. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

10.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 6(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 11(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

11. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 6(3) or in constructing any protective works under the provisions of paragraph 6(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the

construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

12.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail’s apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 6(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 6(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 6(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker’s apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail’s apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker’s apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail’s apparatus in the investigation of such EMI;

- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and
- (d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 7.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 16(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 11(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

13. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

14. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

15. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

16.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work,
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be

followed or consents obtained to facilitate the carrying out or operation of the authorised development,

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such claims or demands;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and
- (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

17. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 16) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

18. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

19. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and

- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

20. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

21. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent under article 5 (benefit of the Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

22. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 38 (certification of plans, etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

23. In relation to any dispute arising under this Part of this Schedule (except for those disputes referred to in paragraph 12) the provisions of article 39 (arbitration) shall not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

PART 5

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

1.—(1) The following provisions shall apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this Part of this Schedule—

“the Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” shall be construed accordingly;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“the fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

“main river” means all watercourses shown as such on the statutory main river maps held by the Agency and the Department for Environment, Food and Rural Affairs including any structure or appliance for controlling or regulating the flow of water in or out of the channel;

“plans” includes sections, drawings, specifications, calculations and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;
- (c) cause obstruction to the free passage of fish or damage to any fishery;

- (d) affect the conservation, distribution or use of water resources.; or
- (e) affect the conservation value of the main river and habitats in its immediate vicinity; and
“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.

2.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 11.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval; and
- (c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

3. Without limiting paragraph 2, the requirements which the Agency may have under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

4.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 3, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved under this Part; and
- (b) to the reasonable satisfaction of the Agency, and the Agency shall be entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days’ notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work.

(4) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part, the Agency may by notice in writing require the undertaker at the undertaker’s own expense to comply with the requirements of this Part or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(5) Subject to sub-paragraph (6) and paragraph 9, if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (4) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their

implementation, the Agency may execute the works specified in the notice, and any expenditure incurred by the Agency in so doing shall be recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency shall not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined in accordance with paragraph 11.

5.—(1) Subject to sub-paragraph (6) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (5) and paragraph 9, if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any expenditure incurred by the Agency in so doing shall be recoverable from the undertaker.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these Protective Provisions the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency shall not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 11.

(6) This paragraph does not apply to drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so.

6. Subject to paragraph 9, if by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

7. If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of the undertaker becoming aware of such obstruction.

8.—(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) Subject to paragraph 9, if within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing shall be recoverable from the undertaker.

(4) Subject to paragraph 9, in any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

9. The undertaker shall indemnify the Agency in respect of all costs, charges and expenses which the Agency may incur—

- (a) in the examination or approval of plans under this Part;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part; and
- (c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

10.—(1) The undertaker is responsible for and shall indemnify the Agency against all costs and losses not otherwise provided for in this Part which may be incurred or suffered by the Agency by reason of—

- (a) the construction, operation or maintenance of any specified works comprised within the authorised works or the failure of any such works comprised within them; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised works or dealing with any failure of the authorised works.

(2) For the avoidance of doubt, in sub-paragraph (1)—

“costs” includes—

- (a) expenses and charges;
- (b) staff costs and overheads;
- (c) legal costs;

“losses” includes physical damage.

(3) The undertaker shall indemnify the Agency against all liabilities, claims and demands arising out of or in connection with the authorised works or otherwise out of the matters referred to in sub-paragraph (1)(a) and (1)(b).

(4) For the avoidance of doubt, in sub-paragraph (3)—

“claims” and “demands” include as applicable—

- (a) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand; and
- (b) any interest element of sums claimed or demanded;

“liabilities” includes—

- (a) contractual liabilities;

- (b) tortious liabilities (including liabilities for negligence or nuisance);
- (c) liabilities to pay statutory compensation or for breach of statutory duty;
- (d) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(5) The Agency must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise shall be made without the agreement of the undertaker which agreement shall not be unreasonably withheld or delayed.

(6) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the undertaker from any liability under the provisions of this Part.

11. Any dispute arising between the undertaker and the Agency under this Part shall, if the parties agree, be determined by arbitration under article 39 (arbitration), but shall otherwise be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Business, Energy and Industrial Strategy or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

PART 6

FOR THE PROTECTION OF DRAINAGE AUTHORITIES

1. The provisions of this Part have effect for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

2. In this Part of this Schedule—

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” is to be construed accordingly;

“drainage authority” means in relation to an ordinary watercourse, the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991;

“drainage work” means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence in connection with an ordinary watercourse which is the responsibility of the drainage authority;

“independent review” means a review carried out by a third party confirming the findings of the undertaker in the assessment of the impact of the proposed specified work on flood risk;

“ordinary watercourse” has the meaning given by section 72 (interpretation) of the Land Drainage Act 1991;

“plans” includes any information reasonably required by the drainage authority including location details, grid references, sections, drawings, specifications, assessments and method statements; and

“specified work” means so much of any work or operation authorised by this Order as is in, on, under over or within 9 metres of a drainage work and which comprises any of the following works carried out in relation to or which may affect any ordinary watercourse—

- (a) the erection of any mill, dam, weir, or other similar obstruction to the flow of an ordinary watercourse, or raising or otherwise altering any such obstruction;
- (b) the construction or installation of a bridge or other structure;
- (c) the erection of a culvert in an ordinary watercourse;
- (d) the alteration of an ordinary watercourse or a culvert or other form of drainage infrastructure in a manner that would be likely to affect the flow of an ordinary watercourse;
- (e) the introduction by means of any channel, siphon, pipeline or sluice or by any other means whatsoever any water into any ordinary watercourse within the Order limits so as to directly

or indirectly increase the flow or volume of water in any ordinary watercourse within the Order limits without the previous consent of the drainage authority;

- (f) any work likely to obstruct flow or adversely affect the integrity of any embankment, wall or enclosing structure containing an ordinary watercourse.

3.—(1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work, including an independent review and such further particulars available to it as the drainage authority may within 14 days of the submission of the plans reasonably request.

(2) The undertaker must not commence construction of the specified work until approval, unconditionally or conditionally, has been given as provided in this paragraph.

(3) A specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 12.

(4) Any approval of the drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 56 days of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and
- (c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work, for the protection of any ordinary watercourse or for the prevention of flooding.

(5) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

4. Without limiting paragraph 3, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage by reason of any specified work; or
- (b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired, and that the risk of flooding is not otherwise increased, by reason of any specified work.

5.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 4, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the drainage authority, and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than 7 days after the date of completion.

(3) If the drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work to which the protective works relate.

(4) If any part of a specified work or any protective work required by the drainage authority is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to

remove, alter or pull down the work and, where removal is agreed, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(5) Subject to sub-paragraph (6) and paragraphs 9 and 10, if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice and any reasonable expenditure incurred by it in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 12.

6.—(1) Subject to sub-paragraph (5), the undertaker must from the commencement of the construction of the specified work maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation on land held by the undertaker for the purpose of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of the work, or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) Subject to sub-paragraph (4) and paragraphs 9 and 10, if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is reasonably necessary for such compliance and may recover any reasonable expenditure reasonably incurred by it in so doing from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 12.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the drainage authority, or which the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

7. Subject to paragraphs 9 and 10 and paragraph 6(5)(b), if by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker any expenditure incurred by the drainage authority in so doing from the undertaker.

8. If by reason of the construction of the specified work the drainage authority's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the drainage authority to

maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of the undertaker becoming aware of such obstruction.

9. The undertaker must make reasonable compensation for costs, charges and expenses which the drainage authority may reasonably incur—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the drainage authority under this Part of this Schedule; and
- (c) in the carrying out of any surveys or tests by the drainage authority which are reasonably required in connection with the construction of the specified works.

10.—(1) The undertaker must make reasonable compensation for costs and losses which may be reasonably incurred or suffered by the drainage authority by reason of—

- (a) the construction of any specified work comprised within the authorised works; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction of the specified works.

(2) In sub-paragraph (1)—

“costs” includes—

- (a) expenses and charges;
- (b) staff costs and overheads; and
- (c) legal costs; and

“losses” includes physical damage.

(3) The undertaker must make reasonable compensation for liabilities, claims and demands against the drainage authority arising out of or in connection with the specified works or otherwise out of the matters referred to in sub-paragraphs (1)(a) and (1)(b).

(4) In sub-paragraph (3)—

“claims” and “demands” include as applicable—

- (a) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand; and
- (b) any interest element of sums claimed or demanded; and

“liabilities” includes—

- (a) contractual liabilities;
- (b) tortious liabilities (including liabilities for negligence or nuisance);
- (c) liabilities to pay statutory compensation or for breach of statutory duty; and
- (d) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(5) The drainage authority must give to the undertaker notice of any such claim or demand.

(6) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(7) The drainage authority must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(8) The drainage authority must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(9) The drainage authority must, at the request of the undertaker, afford all reasonable assistance for the purpose of contesting any such claim or action and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

11. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or

in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part of this Schedule.

12. Any dispute arising between the undertaker and the drainage authority under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 39 (arbitration), but otherwise is to be determined by the Secretary of State for Business, Energy and Industrial Strategy on a reference to them by the undertaker or the drainage authority, after notice in writing by one to the other.

PART 7

FOR THE PROTECTION OF DOGGERBANK OFFSHORE WIND FARM PROJECT 1 PROJCO LIMITED AND DOGGERBANK OFFSHORE WIND FARM PROJECT 2 PROJCO LIMITED

1. For the protection of Doggerbank Offshore Wind Farm Project 1 Projco Limited (Company No. 07791991) and Doggerbank Offshore Wind Farm Project 2 Projco Limited (Company No. 07914510) as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Dogger Bank.

2. Part 1 of Schedule 9 shall not apply in respect of the interaction between the Hornsea Four authorised development and the Dogger Bank authorised development.

3. In this Part of this Schedule—

“acceptable insurance” means a third party liability insurance effected and maintained by the undertaker to a level of not less than £50,000,000 (fifty million pounds) (or such lower amount as may be agreed by Dogger Bank) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained for the construction period of the authorised development which constitute specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an “acceptable credit provider”, such policy shall include (but without limitation)—

- (a) Dogger Bank as a Co-Insured;
- (b) a cross liabilities clause; and
- (c) contractors’ pollution liability for third party property damage and third party bodily damage arising from a pollution/contamination event with cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;

“Dogger Bank” means Doggerbank Offshore Wind Farm Project 1 Projco Limited (Company No. 07791991) and Doggerbank Offshore Wind Farm Project 2 Projco Limited (Company No. 07914510) whose registered office is at No.1 Forbury Place, 43 Forbury Road, Reading, United Kingdom, RG1 3JH;

“the Dogger Bank authorised development” means the onshore development authorised by the Dogger Bank Order;

“Dogger Bank limits of deviation” means the areas of the Dogger Bank Order land in respect of which the Dogger Bank authorised development may be constructed, in accordance with article 3(2) of the Dogger Bank Order;

“the Dogger Bank Order” means the Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 (as amended);

“the Dogger Bank Order land” means the land or any part of it shown as falling within the Dogger Bank Order limits;

“ground mitigation scheme” means a scheme approved by Dogger Bank (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the Dogger Bank authorised development which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for Dogger Bank’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme; and

“the Hornsea Four authorised development” means the development authorised by this Order;

“the respective authorised developments” means the Dogger Bank authorised development and the Hornsea Four authorised development;

“specified works” means the carrying out of any of the authorised development over, under or within 15 metres of the Dogger Bank authorised development or in the event that the Dogger Bank authorised development has not been constructed within the Dogger Bank limits of deviation.

Regulation of powers over the Hornsea Four Order land

4.—(1) The undertaker may not exercise the powers under any of the articles of the Order specified in sub-paragraph (2) over or in respect of the Dogger Bank limits of deviation otherwise than with the prior written consent of Dogger Bank.

(2) The articles referred to in sub-paragraph (1) are—

- (a) article 8 (street works);
- (b) article 10 (temporary stopping up of streets and public rights of way);
- (c) article 11 (stopping up and diversion of public rights of way and access land);
- (d) article 12 (access to works);
- (e) article 14 (power to alter layout etc. of streets);
- (f) article 15 (discharge of water);
- (g) article 17 (authority to survey and investigate the land onshore);
- (h) article 18 (compulsory acquisition of land);
- (i) article 19 (compulsory acquisition of land: minerals)
- (j) article 21 (compulsory acquisition of rights);
- (k) article 22 (private rights);
- (l) article 24 (statutory authority to override easements and other rights);
- (m) article 25 (acquisition of subsoil only);
- (n) article 27 (rights under or over streets);
- (o) article 28 (temporary use of land for carrying out authorised project);
- (p) article 29 (temporary use of land for maintaining authorised development);
- (q) article 31 (statutory undertakers);
- (r) article 36 (felling or lopping of trees and removal of hedgerows); and
- (s) article 37 (trees subject to tree preservation orders).

(3) In the event that Dogger Bank withholds its consent pursuant to sub-paragraph (1) it will notify the undertaker in writing of the reasons for withholding such consent and (if applicable) the time period during which such consent will be withheld.

Co-operation during construction

5. The undertaker may not acquire any land interest or override any easement or other interest of Dogger Bank within the Dogger Bank limits of deviation without first obtaining the written consent of Dogger Bank.

6.—(1) Wherever in this Part of this Schedule provision is made with respect to the approval or consent of Dogger Bank, that approval or consent shall be in writing (and subject to such reasonable terms and conditions as Dogger Bank may require), but shall not be unreasonably withheld.

(2) In the event that Dogger Bank does not respond in writing to a request for approval or consent within 28 days of receipt of such a request, Dogger Bank is deemed to have given its consent (without any terms or conditions).

7. Insofar as the construction of the Hornsea Four authorised development is or may be undertaken concurrently with the Dogger Bank authorised development, the undertaker shall—

- (a) co-operate with Dogger Bank with a view to ensuring—
 - (i) the co-ordination of construction programming and the carrying out of works; and
 - (ii) that access for the purposes of constructing the respective authorised developments is maintained for the undertaker and Dogger Bank and their respective contractors.
- (b) use reasonable endeavours to avoid any conflict arising between the carrying out of the respective authorised developments.

8. Insofar as the construction of the Hornsea Four authorised development gives rise to the need to modify any scheme secured by a requirement contained in Part 3 of Schedule 1 to the Dogger Bank Order, the undertaker shall provide such assistance as is reasonably necessary to support Dogger Bank in pursuing any such modification.

Protection of Dogger Bank

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Dogger Bank a plan and, if reasonably required by Dogger Bank, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Dogger Bank under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all Dogger Bank authorised development;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any of the Dogger Bank authorised development; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until Dogger Bank has given written approval of the plan so submitted.

(4) Any approval of Dogger Bank required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) or (7); and
- (b) must not be unreasonably withheld.

(5) In relation to a work to which sub-paragraphs (1) and/or (2) apply, Dogger Bank may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing the Dogger Bank authorised development against interference or risk of damage or for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any of the Dogger Bank authorised development.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraphs (1) and (2) or as relevant sub-paragraph (5), as amended from time to time by agreement between the undertaker and Dogger Bank and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) and/or (7) by Dogger Bank for the alteration or otherwise for the protection of the Dogger Bank authorised development, or for securing access to it, and Dogger Bank will be entitled to watch and inspect the execution of those works.

(7) Where Dogger Bank requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Dogger Bank's satisfaction prior to the commencement of any specified works for which protective works are required and Dogger Bank must give notice of its requirement for such protective works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(9) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Dogger Bank notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (10) at all times.

(10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that Dogger Bank retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 10.

Expenses

10. Save where otherwise agreed in writing between Dogger Bank and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to Dogger Bank within 30 days of receipt of an itemised invoice or claim from Dogger Bank all charges, costs and expenses reasonably incurred by Dogger Bank in, or in connection with this Part of this Schedule including without limitation—

- (a) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (b) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

Indemnity

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the onshore elements of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out the onshore elements of the authorised development (including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works), any damage is caused to any apparatus or property of Dogger Bank, or there is any interruption in any service provided, or in the supply of any goods, by Dogger Bank, or Dogger Bank becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from Dogger Bank the cost reasonably and properly incurred by Dogger Bank in making good such damage or restoring the supply; and
- (b) indemnify Dogger Bank for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Dogger Bank, by reason or in consequence of any such damage or interruption or Dogger Bank becoming liable to any third party as aforesaid other than arising from any default by Dogger Bank.

(2) The fact that any act or thing may have been done by Dogger Bank on behalf of the undertaker or in accordance with a plan approved by Dogger Bank or in accordance with any requirement of Dogger Bank as a consequence of the onshore elements of the authorised development or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (2) where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or as otherwise agreed between the undertaker and Dogger Bank.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of Dogger Bank, its officers, servants, contractors or agents.

(4) Dogger Bank must give the undertaker reasonable notice of any such claim or demand and no settlement, admission of liability or compromise or demand must be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(5) Dogger Bank must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under sub-paragraph (1) applies. If requested to do so by the undertaker, Dogger Bank must provide an explanation of how the claim has been minimised. The undertaker is only liable under sub-paragraph (1) for claims reasonably incurred by Dogger Bank.

(6) The undertaker must not commence construction (and must not permit the commencement of such construction) of any specified works until Dogger Bank is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker or its contractor has procured acceptable insurance (and provided evidence to Dogger Bank that it shall maintain such acceptable insurance for the construction period of the specified works from the proposed date of commencement of construction of the specified works) and Dogger Bank has confirmed the same in writing to the undertaker.

(7) In the event that the undertaker fails to comply with paragraph 11(5) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent Dogger Bank from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Arbitration

12.—(1) Any difference or dispute arising between the undertaker and Dogger Bank under this Part of this Schedule shall, unless otherwise agreed in writing between the undertaker and Dogger Bank, be referred to and settled in arbitration in accordance with the Rules at Schedule 14 of this Order, by a single arbitrator to be agreed upon by the parties within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) Should the Secretary of State fail to appoint an arbitrator under paragraph (1) within 14 days of the application, the referring party may refer to the Centre of Effective Dispute Resolution for appointment of an arbitrator.

(3) Article 39 (arbitration) shall not apply to any difference or dispute under any provisions of the Part of this Schedule.

Access

13. If in consequence of any specified works approved in accordance with this Part or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Dogger Bank to maintain or use the apparatus no less effectively than was possible before such obstruction.

PART 8

FOR THE PROTECTION OF CARBON STORAGE LICENSEE

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PART 9

FOR THE PROTECTION OF NEO ENERGY (SNS) LIMITED

Application

1. For the protection of the licensee from time to time of United Kingdom Petroleum Production Licence P.456 Block 48/2a, unless otherwise agreed in writing between the undertaker and the licensee the provisions of this Part of this Schedule shall have effect for so long as the licence shall remain in full force and effect.

2. In the event that the licence is terminated and no longer has effect, the obligations on the undertaker in this Schedule shall no longer have effect in so far as they relate to the licensee's works under the terminated licence(s).

Interpretation

3. In this Part of this Schedule—

“licence” means United Kingdom Petroleum Production Licence P.456 Block 48/2a;

“licensee” means the licensee from time to time of the licence;

“ministerial statement” means the written statement given by the Secretary of State for Energy and Climate Change to the UK Parliament regarding Crown Estate Leases for Offshore Renewables Projects on 12 July 2011, or any similar supplementary or replacement policy;

“the NEO Protective Provisions Plan” means the plan entitled NEO Protective Provisions Plan as contained with Appendix B of REP7-106 and certified as the NEO Protective Provisions Plan for the purposes of this Part of this Schedule;

“Restricted Area” means the spherical area of seabed having a radius of 3.14 nautical miles from UTM 383,268.00 East, UTM 5,981,086.00 North (International Spheroid, European Datum 1950, Zone 31, Central Meridian 3 degrees East) that point being the centre of the existing Babbage platform in Licence P.456 Block 48/2a operated by the Licensee shown delineated green on the NEO Protective Provisions Plan; and

“relevant activities” means all development activity relating to the carrying on of the undertaker's and licensee's businesses within, or adjacent to the restricted area, including (but not limited to) the preparation of development proposals, the submission of applications for statutory consents associated with those proposals and consultation in respect thereof, the acquisition of or application for new licence oil or gas blocks.

Restriction on authorised development

4. No wind turbine generator shall be erected in the restricted area, unless otherwise agreed in writing between the licensee and the undertaker.

Provision of information

5. Without prejudice to any other rights or obligations under this Part of this Schedule the licensee and the undertaker shall from time to time keep each other informed of relevant activities such that the licensee and the undertaker may seek to agree solutions to allow those activities to successfully co-exist as far as reasonably practicable or if later until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the licence and taking place within the areas subject to the licence.

Compensation

6. Nothing in this Part of this Schedule shall affect any rights or obligations or assessment of compensation in accordance with the ministerial statement and the associated guidance.

PART 10

FOR THE PROTECTION OF NORTHERN POWERGRID (YORKSHIRE) PLC

Application

1. For the protection of Northern Powergrid referred to in this Part of this Schedule the following provisions must, unless otherwise agreed in writing between the undertaker and the affected undertaking concerned, have effect.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable Northern Powergrid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by Northern Powergrid;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“Northern Powergrid” means Northern Powergrid (Yorkshire) PLC (Company Number 04112320) whose registered address is Lloyds Court, 78 Grey Street, Newcastle upon Tyne, NE1 6AF.

Precedence of the 1991 Act in respect of apparatus in the streets

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the Northern Powergrid are regulated by the provisions of Part 3 of the 1991 Act.

No acquisition etc. except by agreement

4.—(1) Regardless of any provision in this Order or anything shown on the land plan or contained in the book of reference, the undertaker shall not acquire any apparatus or override any easement or other interest of Northern Powergrid or acquire any land or other interest of Northern Powergrid or create any new rights over the same otherwise than by agreement of the relevant Northern Powergrid such agreement not to be unreasonably withheld or delayed (having regard to Northern Powergrid’s existing and future requirements for such land or interests).

(2) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker shall not interfere with any communications cables or equipment used by Northern Powergrid in relation to its apparatus or acquire or interfere with any rights or interests supporting the use, maintenance or renewal of such equipment otherwise than by agreement of Northern Powergrid (such agreement not to be unreasonably withheld or delayed).

Removal of apparatus

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of Northern Powergrid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Northern Powergrid.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Northern Powergrid 56 days advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Northern Powergrid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Northern Powergrid the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed—

- (a) the undertaker must in the first instance use reasonable endeavors to acquire all necessary land interests or rights as Northern Powergrid may reasonably require for the relocation and construction of alternative apparatus and must use reasonable endeavours to procure all necessary rights to access and maintain Northern Powergrid's apparatus and alternative apparatus thereafter the terms of such access and maintenance to be agreed by Northern Powergrid (acting reasonably); and
- (b) in the event the undertaker is not able to procure the necessary land interests or rights referred to in sub-paragraph (3)(i) Northern Powergrid must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Northern Powergrid to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Northern Powergrid and the undertaker or in default of agreement settled by arbitration in accordance with article 39 (arbitration).

(5) Northern Powergrid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 39 (arbitration) and after the grant to Northern Powergrid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

6.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Northern Powergrid facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Northern Powergrid or in default of agreement settled by arbitration in accordance with article 39 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Northern Powergrid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and

conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Northern Powergrid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

7.—(1) Not less than 56 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are within 15 metres of, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5, the undertaker must submit to Northern Powergrid a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Northern Powergrid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Northern Powergrid is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Northern Powergrid under sub-paragraph (2) must be made within a period of 49 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If Northern Powergrid in accordance with sub-paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5.

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 35 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to Northern Powergrid notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

8.—(1) Save where otherwise agreed in writing between Northern Powergrid and the undertaker and subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid within 30 days of receipt of an itemised invoice or claim all charges costs and expenses reasonably incurred by Northern Powergrid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as authorised by this Order including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that Northern Powergrid elects to use compulsory purchase powers to acquire any necessary rights under paragraph 7(3) all costs incurred as a result of such action;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Schedule.

(2) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 39 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Northern Powergrid by virtue of sub-paragraph (1) must be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs shall be borne by the undertaker.

(3) For the purposes of sub-paragraph (2)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

Expenses and costs

9.—(1) Subject to sub-paragraphs (2) to (5), if by reason or in consequence of the construction of any such works referred to in this Part of this Schedule, or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker or Northern Powergrid under this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Northern Powergrid, or there is any interruption in any service provided, or in the supply of any goods, by Northern Powergrid, or Northern Powergrid becomes liable to pay any amount to a third party the undertaker must—

- (a) bear and pay the cost reasonably incurred by Northern Powergrid in making good such damage or restoring the supply; and
- (b) indemnify Northern Powergrid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Northern Powergrid, by reason or in consequence of any such damage or interruption or Northern Powergrid becoming liable to any third party.

(2) The fact that any act or thing may have been done by Northern Powergrid on behalf of the undertaker or in accordance with a plan approved by Northern Powergrid or in accordance with any requirement of Northern Powergrid as a consequence of the authorised development or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (2) where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not materially accord with the approved plan or as otherwise agreed between the undertaker and Northern Powergrid.

- (3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to—
- (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of Northern Powergrid, its officers, servants, contractors or agents; or
 - (b) any authorised development and/or any other works authorised by this Part of this Schedule carried out by Northern Powergrid as an assignee, transferee or lessee of the undertaker with the benefit of the Order subject to the proviso that once such works become apparatus (“new apparatus”) any works yet to be executed by the undertaker and not falling within this paragraph 9(3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 9 in respect of such new apparatus.

(4) Northern Powergrid must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) Northern Powergrid must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under sub-paragraph (1) applies. If request to do so by the undertaker, Northern Powergrid must provide an explanation of how the claim has been minimised. The undertaker is only liable under sub-paragraph (1) for claim reasonably incurred by Northern Powergrid.

10. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Northern Powergrid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

11. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Northern Powergrid requires the removal of apparatus under paragraph 5(2) or otherwise or Northern Powergrid makes requirements for the protection or alteration of apparatus under paragraph 7, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the need to ensure the safe and efficient operation of Northern Powergrid’s undertaking taking into account the undertaker’s desire for the efficient and economic execution of the authorised development and the undertaker and Northern Powergrid shall use best endeavours to co-operate with each other for those purposes.

Access

12. If in consequence of an agreement reached in accordance with paragraph 4(1) or the powers granted under this Order the access to any apparatus or alternative apparatus is materially obstructed, the undertaker shall provide such alternative means of access to such apparatus or alternative apparatus as will enable Northern Powergrid to maintain or use the said apparatus no less effectively than was possible before such obstruction.

Notices

13. The plans submitted to Northern Powergrid by the undertaker pursuant to this Part of the Schedule must be sent to Northern Powergrid at property@northernpowergrid.com or such other address as Northern Powergrid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 11

FOR THE PROTECTION OF BRIDGE PETROLEUM 2 LIMITED

Application

1. For the protection of the licensee from time to time of United Kingdom Petroleum Production Licence P.2426, unless otherwise provided for in this Schedule or otherwise agreed in writing between the licensee and the undertaker the provisions of this Part of this Schedule shall have effect for so long as the licence shall remain in full force and effect.

2. In the event that—

- (a) the licence is terminated and no longer has effect;
- (b) within [] months of the coming into force of this Order, the licensee has not obtained the necessary consents;
- (c) the licensee fails to serve notice on the undertaker as required by paragraph 5,

the obligations on the undertaker in this Part of this Schedule shall no longer have effect.

Interpretation

3. In this Part of this Schedule—

“Bridge protected area plan” means the plan entitled Bridge Petroleum: Kumatage Protective Provisions and certified as the Bridge protected area plan for the purposes of this Part of this Schedule;

“emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons, property or the environment;

“exclusion zones” means an area on, under or above the seabed within a distance of 500m of the outer edge of an installed platform or centre point of installed subsea infrastructure (excluding an installed pipeline) and an area of 200m either side of an installed pipeline, in each case forming part of the licensee’s works;

“licence” means United Kingdom Petroleum Production Licence P.2426;

“licensee” means the licensee from time to time of the licence;

“licensee’s works” means exploration, appraisal, development, production, maintenance, interventions and/or decommissioning activity in accordance with and pursuant to the licence;

“necessary consents” means regulatory approval from the North Sea Transition Agency (or any successor in function) and the Offshore Petroleum Regulator for Environment and Decommissioning (or any successor in function) for one or more appraisal well(s) and approval from the North Sea Transition Agency (or any successor in function) of a field development plan;

“pipeline route A” means the route coloured pale yellow on the Bridge protected area plan;

“pipeline route B” means the route coloured red on the Bridge protected area plan;

“primary lines of orientation” means the lines identified as the primary lines of orientation for wind turbine generators comprised in the authorised development running south east to north west on bearing 326.5 degrees as shown on the Bridge protected area plan;

“protected area” means the area of seabed with the coordinates below and shown shaded grey/blue on the Bridge protected area plan, excluding any relinquished area

<i>X UTM31N</i>	<i>Y UTM31N</i>	<i>Latitude</i>	<i>Longitude</i>	<i>Lat DMS</i>	<i>Long DMS</i>
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369758.7442	6001005.102	54.14062859	1.006235389	54° 8' 26.263" N	1° 0' 22.447" E
370895.6849	6000130.985	54.13306382	1.024002362	54° 7' 59.030" N	1° 1' 26.409" E
371000.6638	6000185.22	54.13357734	1.025584881	54° 8' 0.878" N	1° 1' 32.106" E
371114.236	6000217.83	54.13389873	1.027308113	54° 8' 2.035" N	1° 1' 38.309" E
371232.0093	6000227.549	54.13401555	1.029105395	54° 8' 2.456" N	1° 1' 44.779" E
371349.3879	6000214.002	54.13392326	1.030906567	54° 8' 2.124" N	1° 1' 51.264" E
371461.8379	6000177.714	54.13362543	1.032642027	54° 8' 1.052" N	1° 1' 57.511" E
371564.9957	6000120.091	54.13313363	1.03424441	54° 7' 59.281" N	1° 2' 3.280" E
371654.8603	6000043.37	54.13246692	1.035651552	54° 7' 56.881" N	1° 2' 8.346" E
371727.9464	5999950.524	54.13165119	1.03680887	54° 7' 53.944" N	1° 2' 12.512" E
371780.158	5999848.371	54.13074663	1.037650827	54° 7' 50.688" N	1° 2' 15.543" E
371811.9723	5999738.148	54.12976449	1.03818421	54° 7' 47.152" N	1° 2' 17.463" E
371822.2261	5999623.885	54.12874068	1.038389537	54° 7' 43.466" N	1° 2' 18.202" E
371810.5448	5999509.758	54.12771263	1.03825933	54° 7' 39.765" N	1° 2' 17.734" E
371777.3552	5999399.942	54.12671793	1.037798369	54° 7' 36.185" N	1° 2' 16.074" E
371723.8708	5999298.449	54.12579294	1.03702353	54° 7' 32.855" N	1° 2' 13.285" E
371652.0469	5999208.992	54.12497147	1.035963155	54° 7' 29.897" N	1° 2' 9.467" E
371564.5095	5999134.84	54.12428355	1.03465602	54° 7' 27.421" N	1° 2' 4.762" E
371707.0735	5999034.998	54.12342232	1.036878551	54° 7' 24.320" N	1° 2' 12.763" E
371814.9826	5998898.439	54.12222259	1.03858664	54° 7' 20.001" N	1° 2' 18.912" E
371879.1565	5998736.653	54.12078534	1.039636569	54° 7' 14.827" N	1° 2' 22.692" E
371894.1948	5998563.256	54.11923155	1.03994004	54° 7' 9.234" N	1° 2' 23.784" E
371869.3359	5998424.266	54.11797689	1.039618876	54° 7' 4.717" N	1° 2' 22.628" E
371812.684	5998294.935	54.11680105	1.038807534	54° 7' 0.484" N	1° 2' 19.707" E
371727.3768	5998182.423	54.11576916	1.037550984	54° 6' 56.769" N	1° 2' 15.184" E

371618.1385	5998092.963	54.11493834	1.035918829	54° 6' 53.778" N	1° 2' 9.308" E
371517.1978	5998041.233	54.11444847	1.034397558	54° 6' 52.014" N	1° 2' 3.831" E
371408.3254	5998009.424	54.11413554	1.032746584	54° 6' 50.888" N	1° 1' 57.888" E
371295.412	5997998.673	54.11401073	1.031024889	54° 6' 50.439" N	1° 1' 51.690" E
371182.4928	5998009.363	54.1140785	1.029293977	54° 6' 50.683" N	1° 1' 45.458" E
371073.6033	5998041.114	54.11433642	1.027615684	54° 6' 51.611" N	1° 1' 39.416" E
370972.635	5998092.79	54.11477528	1.026049969	54° 6' 53.191" N	1° 1' 33.780" E
370883.1961	5998162.545	54.1153794	1.024652768	54° 6' 55.366" N	1° 1' 28.750" E
370808.4831	5998247.885	54.11612721	1.023474009	54° 6' 58.058" N	1° 1' 24.506" E
370748.8624	5998350.778	54.11703645	1.022518453	54° 7' 1.331" N	1° 1' 21.066" E
370710.7056	5998463.407	54.11803854	1.021886867	54° 7' 4.939" N	1° 1' 18.793" E
370695.5115	5998581.35	54.11909413	1.02160408	54° 7' 8.739" N	1° 1' 17.775" E
370703.8771	5998699.973	54.12016175	1.021681229	54° 7' 12.582" N	1° 1' 18.052" E
370735.4737	5998814.617	54.12119946	1.02211531	54° 7' 16.318" N	1° 1' 19.615" E
370789.0601	5998920.777	54.1221665	1.022889294	54° 7' 19.799" N	1° 1' 22.401" E
370862.5312	5999014.283	54.12302486	1.023972795	54° 7' 22.889" N	1° 1' 26.302" E
370953.001	5999091.462	54.12374082	1.02532326	54° 7' 25.467" N	1° 1' 31.164" E
370856.0517	5999152.369	54.12426358	1.023814676	54° 7' 27.349" N	1° 1' 25.733" E
370772.4368	5999230.583	54.12494512	1.022502564	54° 7' 29.802" N	1° 1' 21.009" E
370705.2009	5999323.255	54.12576063	1.021434697	54° 7' 32.738" N	1° 1' 17.165" E
370656.7919	5999427.012	54.12668043	1.02064996	54° 7' 36.050" N	1° 1' 14.340" E
369290.5479	5999425.493	54.12632131	0.999756873	54° 7' 34.757" N	0° 59' 59.125" E
369409.1471	5999825.625	54.12994553	1.00139754	54° 7' 47.804" N	1° 0' 5.031" E
370629.9711	5999826.982	54.13026636	1.02006844	54° 7' 48.959" N	1° 1' 12.246" E
369634.1373	6000584.701	54.13682085	1.004510756	54° 8' 12.555" N	1° 0' 16.239" E

369758.7442	6001005.102	54.14062859	1.006235389	54° 8' 26.263" N	1° 0' 22.447" E
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“offshore wind infrastructure” means all infrastructure permitted by this Order excluding offshore wind activities and the overhanging of a wind turbine generator blade;

“offshore wind activities” means investigation survey or other activity relating to the evaluation of development construction operation and maintenance and/or decommissioning of the authorised development and shall include the use of a jack-up or other vessel;

“relinquished area” means any part of the protected area that is relinquished by the licensee pursuant to the licence or otherwise removed from the scope of the licence, but which shall not include the exclusion zones; and

“remaining overlap area” means the area of seabed with the coordinates below and shown cross-hatched on the Bridge protected area plan

<i>ETRS89 X</i>	<i>ETRS89 Y</i>	<i>Latitude</i>	<i>Longitude</i>	<i>DDLat</i>	<i>DDLong</i>
369290.5479	5999425.493	54° 7' 34.757" N	0° 59' 59.125" E	54.12632131	0.999756873
370656.7919	5999427.012	54° 7' 36.050" N	1° 1' 14.340" E	54.12668043	1.02064996
370705.2009	5999323.255	54° 7' 32.738" N	1° 1' 17.165" E	54.12576063	1.021434697
370772.4368	5999230.583	54° 7' 29.802" N	1° 1' 21.009" E	54.12494512	1.022502564
370856.0517	5999152.369	54° 7' 27.349" N	1° 1' 25.733" E	54.12426358	1.023814676
370953.001	5999091.462	54° 7' 25.467" N	1° 1' 31.164" E	54.12374082	1.02532326
370862.5312	5999014.283	54° 7' 22.889" N	1° 1' 26.302" E	54.12302486	1.023972795
370789.0601	5998920.777	54° 7' 19.799" N	1° 1' 22.401" E	54.12216649	1.022889294
370735.4737	5998814.617	54° 7' 16.318" N	1° 1' 19.615" E	54.12119946	1.02211531
370703.8771	5998699.973	54° 7' 12.582" N	1° 1' 18.052" E	54.12016175	1.021681229
370695.5115	5998581.35	54° 7' 8.739" N	1° 1' 17.775" E	54.11909413	1.02160408
370710.7056	5998463.407	54° 7' 4.939" N	1° 1' 18.793" E	54.11803854	1.021886867
370748.8624	5998350.777	54° 7' 1.331" N	1° 1' 21.066" E	54.11703645	1.022518453
370808.4831	5998247.885	54° 6' 58.058" N	1° 1' 24.506" E	54.11612721	1.023474009
370883.1961	5998162.545	54° 6' 55.366" N	1° 1' 28.750" E	54.1153794	1.024652768
370972.635	5998092.79	54° 6' 53.191" N	1° 1' 33.780" E	54.11477528	1.026049969
371073.6033	5998041.114	54° 6' 51.611" N	1° 1' 39.416" E	54.11433642	1.027615684
371182.4928	5998009.363	54° 6' 50.683" N	1° 1' 45.458" E	54.1140785	1.029293977

371295.412	5997998.672	54° 6' 50.439" N	1° 1' 51.690" E	54.11401073	1.031024889
371408.3254	5998009.424	54° 6' 50.888" N	1° 1' 57.888" E	54.11413554	1.032746584
371517.1978	5998041.233	54° 6' 52.014" N	1° 2' 3.831" E	54.11444847	1.034397558
371618.1385	5998092.963	54° 6' 53.778" N	1° 2' 9.308" E	54.11493834	1.035918829
371727.3768	5998182.423	54° 6' 56.769" N	1° 2' 15.184" E	54.11576916	1.037550984
371812.684	5998294.934	54° 7' 0.484" N	1° 2' 19.707" E	54.11680105	1.038807534
371869.3359	5998424.266	54° 7' 4.717" N	1° 2' 22.628" E	54.11797689	1.039618876
371894.1948	5998563.256	54° 7' 9.234" N	1° 2' 23.784" E	54.11923155	1.03994004
371879.1565	5998736.653	54° 7' 14.827" N	1° 2' 22.692" E	54.12078534	1.039636569
371814.9826	5998898.439	54° 7' 20.001" N	1° 2' 18.912" E	54.12222259	1.03858664
371707.0735	5999034.998	54° 7' 24.320" N	1° 2' 12.763" E	54.12342232	1.036878551
371564.5095	5999134.84	54° 7' 27.421" N	1° 2' 4.762" E	54.12428355	1.03465602
371652.0469	5999208.992	54° 7' 29.897" N	1° 2' 9.467" E	54.12497147	1.035963155
371723.8708	5999298.449	54° 7' 32.855" N	1° 2' 13.285" E	54.12579294	1.03702353
371777.3552	5999399.942	54° 7' 36.185" N	1° 2' 16.074" E	54.12671793	1.037798369
371810.5448	5999509.758	54° 7' 39.765" N	1° 2' 17.734" E	54.12771263	1.03825933
371822.2261	5999623.885	54° 7' 43.466" N	1° 2' 18.202" E	54.12874068	1.038389537
371811.9723	5999738.148	54° 7' 47.152" N	1° 2' 17.463" E	54.12976449	1.03818421
371780.158	5999848.371	54° 7' 50.688" N	1° 2' 15.543" E	54.13074663	1.037650827
371727.9464	5999950.524	54° 7' 53.944" N	1° 2' 12.512" E	54.13165119	1.03680887
371654.8603	6000043.37	54° 7' 56.881" N	1° 2' 8.346" E	54.13246692	1.035651552
371564.9957	6000120.091	54° 7' 59.281" N	1° 2' 3.280" E	54.13313363	1.03424441
371461.8379	6000177.714	54° 8' 1.052" N	1° 1' 57.511" E	54.13362543	1.032642027
371349.3879	6000214.002	54° 8' 2.124" N	1° 1' 51.264" E	54.13392326	1.030906567
371232.0093	6000227.548	54° 8' 2.456" N	1° 1' 44.779" E	54.13401555	1.029105395

371114.236	6000217.83	54° 8' 2.035" N	1° 1' 38.309" E	54.13389873	1.027308113
371000.6638	6000185.22	54° 8' 0.878" N	1° 1' 32.106" E	54.13357734	1.025584881
370895.6849	6000130.985	54° 7' 59.030" N	1° 1' 26.409" E	54.13306382	1.024002362
369758.744	6001005.102	54° 8' 26.263" N	1° 0' 22.447" E	54.14062859	1.006235386
370188.1134	6002453.716	54° 9' 13.497" N	1° 0' 43.850" E	54.15374908	1.012180474
369052.38	6003839.014	54° 9' 57.254" N	0° 59' 39.116" E	54.1659038	0.994198772
374775.9162	6003680.049	54° 9' 57.253" N	1° 4' 54.768" E	54.1659037	1.081880049
374549.6554	5995336.516	54° 5' 27.244" N	1° 4' 54.777" E	54.09090122	1.081882594
373037.8605	5995377.85	54° 5' 27.247" N	1° 3' 31.553" E	54.09090193	1.058764698
372386.8054	5996013.946	54° 5' 47.237" N	1° 2' 54.774" E	54.09645475	1.048548266
372395.3332	5996323.166	54° 5' 57.244" N	1° 2' 54.773" E	54.09923444	1.048548168
372060.5767	5996332.517	54° 5' 57.247" N	1° 2' 36.341" E	54.09923534	1.043428091
369201.7237	5999125.817	54° 7' 24.985" N	0° 59' 54.702" E	54.12360695	0.998528288
369409.1471	5999825.625	54° 7' 47.804" N	1° 0' 5.031" E	54.12994553	1.00139754
369634.1371	6000584.702	54° 8' 12.555" N	1° 0' 16.239" E	54.13682085	1.004510753
370629.9711	5999826.982	54° 7' 48.959" N	1° 1' 12.246" E	54.13026636	1.02006844

Protected area

4.—(1) Subject to paragraph 7, no offshore wind infrastructure shall be constructed within the protected area.

(2) The undertaker may perform offshore wind activities in the protected area provided that—

- (a) the undertaker provides advance written notice of its activities in the protected area as soon as reasonably practicable and in any event no later than six months prior to the scheduled commencement of such activities;
- (b) the undertaker's notice must describe the nature, extent, anticipated start date and duration of the activities;
- (c) following commencement of the offshore wind activities in the protected area, the undertaker must provide regular updates (no less frequently than every fourteen days) to the licensee throughout the duration of the offshore wind activities in the protected area as to their progress; and
- (d) within 24 hours of the completion of the offshore wind activities, the undertaker provides notice to the licensee that the activities have been completed and the protected area has been vacated.

(3) The requirement for advance notice in sub-paragraph (2)(a) above shall not apply to any offshore wind activities which are emergency works, in which case the undertaker must provide notice as soon as reasonably practicable after commencement of the activities.

(4) Following completion of the relevant offshore wind activities the undertaker shall use reasonable endeavours not to restrict, delay, hinder or prevent in any way the licensee's or its agents' ability to access safely the protected area and to carry out any drilling, development, production or decommissioning activities that the licensee, acting as a reasonable and prudent operator deems necessary from time to time.

5. No later than [] months after the coming into force of this Order, the licensee shall notify the undertaker of its proposed location of its pipeline, such location being either pipeline route A or pipeline route B. From the date the undertaker receives the licensee's notification, the protected area shall include either pipeline route A or pipeline route B (as elected by the licensee).

Line of orientation

6. The licensee shall not carry out, nor procure the carrying out of, the licensee's works in any way that would prevent the undertaker from constructing and maintaining the wind turbine generators comprised in the authorised development in a layout consistent with the primary lines of orientation.

Crossing and proximity

7. The undertaker and the licensee shall use reasonable endeavours to enter into a crossing and/or proximity agreement on standard UK oil and gas industry terms in relation to the licensee's works and the authorised development in relation to the protected area and the remaining overlap area, such agreement to be entered as soon as reasonably practicable after the coming into force of this Order.

PART 12

FOR THE PROTECTION OF HARBOUR ENERGY LIMITED, PERENCO UK LIMITED, PREMIER OIL E&P UK EU LIMITED, DANA PETROLEUM (E&P) LIMITED AND DANA PETROLEUM LIMITED

Application

1. For the protection of the licensee from time to time of United Kingdom Petroleum Production Licences P686 and P380, unless otherwise agreed in writing between the undertaker and the licensee the provisions of this Part of this Schedule shall have effect for so long as the licence shall remain in full force and effect.

Interpretation

2. In this Part of this Schedule—

“aviation access area” means the area coloured pink and annotated and shown as the aviation access area on the Johnston protective provisions plan, and within which the undertaker shall provide an aviation access corridor;

“aviation access corridor” means an 1000m aviation access corridor of clear airspace measured tip to tip from any wind turbine generator, to the aviation corridor, notified by the undertaker to the licensee prior to the commencement of the undertaker's works;

“aviation corridor” means an 1000m aviation corridor of clear airspace measured tip to tip from any wind turbine generator shown coloured blue and annotated and shown as the aviation corridor (along the route of the Johnston pipeline) on the Johnston protective provisions plan;

“block” means a block of the United Kingdom Continental Shelf designated as such on the map deposited at the principal office of the North Sea Transition Authority;

“coexistence and proximity agreement” means an agreement entered on reasonable terms between the undertaker and the licensee in respect of the undertaker’s works and licensee’s works to reconcile and protect the interests of the parties as are known at the time to secure the implementation of the undertaker’s works and the licensee’s works;

“licences” means United Kingdom Petroleum Production Licences P686 block 43/27a and P380 block 43/26a;

“licensee” means the licensee from time to time of the licence;

“licensee’s works” means the decommissioning of the Johnston Field in accordance with the Johnston Decommissioning Programme (Rev B01, March 2022) as approved by the Offshore Petroleum Regulator for Environment and Decommissioning and as amended from time to time, but excluding any post-decommissioning monitoring and evaluation;

“marine corridor” means a 1000m corridor measured from centre to centre from any wind turbine generator (along the route of the Johnston pipeline);

“ministerial statement” means the written statement given by the Secretary of State for Energy and Climate Change to the UK Parliament regarding Crown Estate Leases for Offshore Renewables Projects on 12 July 2011, or any similar supplementary or replacement policy;

“Johnston Assets” means any and all facilities and infrastructure owned, operated, leased and/or otherwise contracted to the licensee from time to time for the purposes of the licences including but not limited to one exploration well, six producer wells, four pipelines and 15 umbilicals located in the Johnston Field and shown on the Johnston protective provisions plan;

“Johnston Field” means the area to which the licensee’s rights granted by the licences relate, being at the date hereof, that area shown by the coordinates detailed on the Johnston protective provisions plan;

“the Johnston protective provisions plan” means the plan entitled Hornsea Four Premier Oil Wellhead Buffer Plan and certified as the Johnston protective provisions plan for the purposes of this Part of this Schedule;

“relevant activities” means all development activity relating to the carrying on of the undertaker’s and licensee’s businesses within, or adjacent to the aviation corridor or a WTG exclusion zone, including (but not limited to) the preparation of development proposals, the submission of applications for statutory consents associated with those proposals and consultation in respect thereof, the acquisition of or application for new licence oil or gas blocks;

“undertaker’s works” means the offshore works permitted by this Order;

“WTG exclusion zone” means an area of three nautical miles radius of clear airspace measured from the centre of each of the Johnston production wellheads and coloured orange on the Johnston protective provisions plan.

Restriction on authorised development

3. Prior to the completion of the licensee’s works, no wind turbine generator shall be erected in the marine corridor, the aviation corridor, the aviation access corridor or in any WTG exclusion zone, unless otherwise agreed in writing between the licensee and the undertaker.

4. In the event the licensee’s works commence prior to the undertaker’s works, the undertaker must not build, construct, erect or lay any temporary infrastructure and/or carry out any activities within the marine corridor, the aviation corridor, the aviation access corridor or in any WTG exclusion zone that would interfere with the licensee’s works causing a delay.

Coexistence and proximity agreement

5. If, at any time the undertaker plans to undertake the undertaker’s works and/or any other work which is within five hundred metres (500m) of the Johnston Assets, the undertaker shall notify the

licensee and the undertaker and the licensee must, unless agreed otherwise, acting reasonably, agree and enter into a crossing and proximity agreement as soon as reasonably practicable.

Provision of information

6. Without prejudice to any other rights or obligations under this Part of this Schedule the licensee and the undertaker shall from time to time keep each other informed of relevant activities such that the licensee and the undertaker may seek to agree solutions to allow those activities to successfully co-exist as far as reasonably practicable until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the licence and taking place within the areas subject to the licence.

Compensation

7. Nothing in this Part of this Schedule shall affect any rights or obligations or assessment of compensation in accordance with the ministerial statement and the associated guidance.

SCHEDULE 10

Article 36

HEDGEROWS

PART 1

REMOVAL OF HEDGEROWS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Location of hedgerow</i>
East Riding of Yorkshire District	The hedgerow shown between points 1a and 1b on sheet 1 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 2a and 2b on sheet 1 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 3a and 3b on sheet 1 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 4a and 4b on sheets 1 and 2 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 5a and 5b on sheet 2 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 6a and 6b on sheets 2 and 3 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 7a and 7b on sheets 2 and 3 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 8a and 8b on sheet 3 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 10a and 10b on sheet 3 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 11a and 11b on sheets 3 and 4 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 12a and 12b on sheets 3 and 4 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 13a and 13b on sheet 4 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 14a and 14b on sheet 4 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 15a and 15b on sheet 5 of the tree preservation order and hedgerow plan

East Riding of Yorkshire District	The hedgerow shown between points 18a and 18b on sheet 6 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 19a and 19b on sheet 6 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 20a and 20b on sheet 6 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 20c and 20d on sheet 6 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 21a and 21b on sheet 6 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 22a and 22b on sheets 6 and 7 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 23a and 23b on sheet 7 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 24a and 24b on sheet 7 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 25a and 25b on sheet 7 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 26a and 26b on sheets 7 and 8 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 27a and 27b on sheets 7 and 8 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 28a and 28b on sheet 8 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 29a and 29b on sheet 8 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 30a and 30b on sheet 8 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 31a and 31b on sheets 8 and 9 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 32a and 32b on sheets 8 and 9 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 33a and 33b on sheets 8 and 9 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 33c and 33d on sheets 8 and 9 of the tree preservation order and hedgerow plan

East Riding of Yorkshire District	The hedgerow shown between points 34a and 34b on sheets 8 and 9 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 35a and 35b on sheet 9 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 36a and 36b on sheet 9 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 37a and 37b on sheet 9 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 38a and 38b on sheet 9 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 39a and 39b on sheet 10 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 40a and 40b on sheet 10 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 41a and 41b on sheet 10 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 42a and 42b on sheet 10 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 43a and 43b on sheet 11 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 43c and 43d on sheet 11 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 44a and 44b on sheets 11 and 12 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 45a and 45b on sheet 12 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 46a and 46b on sheet 12 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 47a and 47b on sheet 13 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 48a and 48b on sheet 13 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 49a and 49b on sheet 13 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 50a and 50b on sheet 14 of the tree preservation order and hedgerow plan

East Riding of Yorkshire District	The hedgerow shown between points 51a and 51b on sheet 14 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 52a and 52b on sheet 15 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 53a and 53b on sheet 15 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 54a and 54b on sheet 15 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 55a and 55b on sheet 15 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 56a and 56b on sheet 15 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 57a and 57b on sheet 15 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 58a and 58b on sheets 15 and 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 59a and 59b on sheets 15 and 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 60a and 60b on sheet 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 61a and 61b on sheet 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 62a and 62b on sheet 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 63a and 63b on sheet 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 64a and 64b on sheet 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 65a and 65b on sheet 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 66a and 66b on sheet 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 67a and 67b on sheet 16 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 73a and 73b on sheets 16 and 17 of the tree preservation order and hedgerow plan

East Riding of Yorkshire District	The hedgerow shown at point 73c on sheet 17 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 74a and 74b on sheet 17 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 75a and 75b on sheet 17 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 76a and 76b on sheets 17 and 18 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 77a and 77b on sheet 18 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 78a and 78b on sheet 18 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 79a and 79b on sheets 18 and 19 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 80a and 80b on sheet 19 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 80c and 80d on sheet 19 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 81a and 81b on sheets 19 and 20 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 82a and 82b on sheet 20 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 83a and 83b on sheet 21 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 84a and 84b on sheet 21 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 85a and 85b on sheet 21 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 86a and 86b on sheet 21 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 87a and 87b on sheet 21 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 88a and 88b on sheet 21 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 129a and 129b on sheet 21 of the tree preservation order and hedgerow plan

East Riding of Yorkshire District	The hedgerow shown between points 89a and 89b on sheet 22 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 90a and 90b on sheet 22 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 91a and 91b on sheet 22 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 92a and 92b on sheets 22 and 23 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 93a and 93b on sheets 22 and 23 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 94a and 94b on sheet 23 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 94c and 94d on sheet 23 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 95a and 95b on sheet 23 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 96a and 96b on sheet 23 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 97a and 97b on sheet 23 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 98a and 98b on sheets 23 and 24 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 99a and 99b on sheets 23 and 24 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 100a and 100b on sheet 24 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 101a and 101b on sheet 24 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 101c and 101d on sheet 24 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 102a and 102b on sheet 24 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 105a and 105b on sheet 25 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 106a and 106b on sheet 25 of the tree preservation order and hedgerow plan

East Riding of Yorkshire District	The hedgerow shown between points 107a and 107b on sheet 25 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 108a and 108b on sheets 25 and 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 110a and 110b on sheets 25 and 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 111a and 111b on sheets 25 and 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 112a and 112b on sheets 25 and 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 114a and 114b on sheet 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 115a and 115b on sheet 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 116a and 116b on sheet 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 117a and 117b on sheet 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 118a and 118b on sheet 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 119a and 119b on sheets 26 and 28 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 120a and 120b on sheets 26 and 28 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 121a and 121b on sheet 28 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 121c and 121d on sheet 28 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 122a and 122b on sheet 28 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 123a and 123b on sheet 28 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 124a and 124b on sheets 27 and 28 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 125a and 125b on sheets 27 and 28 of the tree preservation order and hedgerow plan

East Riding of Yorkshire District	The hedgerow shown between points 126a and 126b on sheets 26, 27 and 28 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 127a and 127b on sheets 26, 27 and 28 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 128a and 128b on sheet 27 of the tree preservation order and hedgerow plan

PART 2

REMOVAL OF IMPORTANT HEDGEROWS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Location of hedgerow</i>
East Riding of Yorkshire District	The hedgerow shown between points 9a and 9b on sheet 3 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 16a and 16b on sheet 5 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 17a and 17b on sheet 6 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 103a and 103b on sheet 24 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 104a and 104b on sheets 24 and 25 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 109a and 109b on sheets 25 and 26 of the tree preservation order and hedgerow plan
East Riding of Yorkshire District	The hedgerow shown between points 113a and 113b on sheets 25 and 26 of the tree preservation order and hedgerow plan

DEEMED MARINE LICENCE UNDER THE 2009 ACT—
GENERATION ASSETS

PART 1

LICENSED MARINE ACTIVITIES

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004(a);

“the 2008 Act” means the Planning Act 2008(b);

“the 2009 Act” means the Marine and Coastal Access Act 2009(c);

“2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“array area” means the area covered by Work No. 1 as shown on the offshore works plan;

“array area disposal site” means the site to be used for disposal of inert material of natural origin produced during construction drilling and seabed preparation for foundation works and cable sandwave clearance to be located within the array area;

“array cable” means the network of offshore subsea cables connecting the wind turbine generators in Work No. 1 and the offshore substations in Work No. 2;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised development” means the development and associated development described in Part 1 of Schedule 1 (authorised development) of the Order and any other development authorised by this Order that is development within the meaning of section 32 (meaning of “development”) of the 2008 Act;

“authorised project” means Work No. 1 described in paragraph 3 of Part 1 of this licence or any stage of that work;

“bridge link” means a steel truss structure with provision for overhead clearance for personnel, lighting fixtures and ancillary cabling, which can be used as a link for interconnection between any combination of permanent offshore electrical installations and/or offshore accommodation platform;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LIDAR and wave buoys;

“cable crossings” means a crossing of existing sub-sea cables or pipelines or other existing infrastructure by a cable or, where cables run together in parallel, a set of cables, authorised by this Order together with cable protection;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses, and/or rock placement (including material used for cable crossings);

“cable protection replenishment” means the restoration to a former level or condition of cable protection lost by natural seabed processes or human activity;

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction surveys and monitoring approved under this licence and the activities set out in article 2(d), and “commenced” and “commencement” must be construed accordingly;

(a) 2004 c.20.

(b) 2008 c.29.

(c) 2009 c.23.

“commissioning” means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation – Safeguarding, St George’s House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY and any successor body to its functions;

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

“dropped object procedure form” means the MMO notification proforma with reference MLDIR1 for reporting the loss or dumping of synthetic materials and other refuse at sea or any other format advised in writing by the MMO;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 Part 4 (marine licensing) of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents, etc.);

“European site” has the meaning given in regulation 27 (meaning of European site) of the 2017 Regulations;

“gravity base structures” means a structure principally of steel, concrete, or steel and concrete with a base which tapers as it rises which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“habitats of principal importance” means a habitat designated as being of principal importance in accordance with section 41 (biodiversity lists and action (England)) of the Natural Environment and Rural Communities Act 2006(a);

“HAT” means highest astronomical tide;

“IHO S44ed5 Order 1a” means order 1a from the fifth edition of the International Hydrographic Organisation’s Standards for Hydrographics Surveys;

“interconnector cables” means a network of cables between the offshore substations;

“jacket foundation” means a lattice type structure constructed of steel, which may include additional equipment such as, J-tubes, corrosion protection systems and access platforms;

“JNCC” means the Joint Nature Conservation Committee;

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“Kingfisher bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“Kingfisher Information Service” means the information service from non-departmental government body Seafish;

“large offshore transformer substation” means the larger version of the offshore transformer substations assessed in the environment statement;

“LAT” means lowest astronomical tide;

“layout principles” means the document certified as the layout principles by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents, etc.);

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection) but does not include the

(a) 2006 c.16.

removal, reconstruction or replacement of foundations associated with the authorised project, to the extent assessed in the environmental statement and “maintenance” must be construed accordingly;

“Marine Management Organisation” or “MMO” means the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH who is the body created under the 2009 Act and who is responsible for the monitoring and enforcement of this licence;

“marine noise registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;

“MCA” means the Maritime and Coastguard Agency, an executive agency for the Department for Transport;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” means the lowest level which spring tides reach on average over a period of time;

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including J-tubes, corrosion protection systems and access platforms and equipment;

“mono suction bucket foundation” means a steel cylindrical structure which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential, and may include additional equipment such as J-tubes;

“offshore accommodation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the wind turbine generators and offshore electrical installations;

“offshore HVAC booster station” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to provide reactive power compensation; and
- (b) housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the substation;

“the offshore Order limits and grid coordinates plan” means the plan certified as the offshore Order limits and grid coordinates plan by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents etc.);

“Offshore Renewables Protocol for Reporting Archaeological Discoveries” means the Offshore Renewables Protocol for Reporting Archaeological Discoveries, the Crown Estate (2014), *Protocol for Archaeological Discoveries: Offshore Renewables Projects*, Salisbury, Wessex Archaeology as amended, updated or superseded from time to time;

“offshore transformer substation” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, radar and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“offshore works plan” means the plan certified as the offshore works plan by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents etc.);

“operation” means the undertaking of the licensed activities which are not part of the construction, commissioning or decommissioning of the authorised development;

“Order” means the Hornsea Four Offshore Wind Farm Order 202[];

“the Order limits” means the limits shown on the offshore Order limits and grid coordinates plans and the onshore Order limits plan within which the authorised project may be carried out, whose grid coordinates seaward of MHWS are set out in paragraph 5 of Part 1 of this Schedule;

“ornithological monitoring plan” means the document certified as the ornithological monitoring plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents etc.);

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents etc.);

“outline marine mammal mitigation protocol” means the document certified as the outline marine mammal mitigation protocol by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents etc.);

“outline marine written scheme of investigation” means the document certified as the outline marine written scheme of investigation by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents etc.);

“outline marine monitoring plan” means the document certified as the outline marine monitoring plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents etc.);

“outline operations and maintenance plan” means the document certified as the outline operations and maintenance plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents etc.);

“outline southern north sea special area of conservation site integrity plan” means the document certified as the outline southern north sea special area of conservation site integrity plan by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents etc.);

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure jacket foundations;

“pontoon gravity base type 1 structure” means a structure principally of steel, concrete, or steel and concrete with a base made up of up to two rectangular pontoons which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“pontoon gravity base type 2 structure” means a structure principally of steel, concrete, or steel and concrete with a base made up of a pontoon arranged in a rectangle around an open centre which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“pro-rata annex” means the document certified as the pro-rata annex by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents etc.);

“small offshore transformer substation” means the smaller version of the offshore transformer substations assessed in the environment statement;

“statutory historic body” means Historic England or its successor in function;

“statutory nature conservation body” means the appropriate nature conservation body as defined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017 or its equivalent in the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“transition piece” means the metal structure attached to the top of the foundation where the base of the wind turbine generator is connected and may include additional equipment such as J-tubes, corrosion protection systems, boat access systems, access platforms, craneage, radar, electrical transmission equipment and associated equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Orsted Hornsea Project Four Limited (company number 08584182);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation or transition piece;

“working day” means a day which is not a weekend, bank holiday or public holiday in England; and

“Work No. 2” means—

- (a) up to six small offshore transformer substations each fixed to the seabed by one of monopile foundations, mono suction bucket foundations, gravity base structures or jacket foundations and which may be connected to each other or one of the offshore accommodation platforms within Work No. 1(b) by a bridge link;
- (b) up to three large offshore transformer substations each fixed to the seabed by one of monopile foundations, mono suction bucket foundations, jacket foundations, box-type gravity base structures, gravity base structures, pontoon gravity base type 1 structures, or pontoon gravity base type 2 structures, and which may be connected to each other or one of the offshore accommodation platforms within Work No. 1(b) by a bridge link;
- (c) in the event that the mode of transmission is HVDC, either up to three large HVDC converter substations or up to six small HVDC converter substations fixed to the seabed within the area shown on the offshore works plan by one of monopile foundations, mono suction bucket foundations, jacket foundations, box-type gravity base structures, gravity base structures, pontoon gravity base type 1 structures, or pontoon gravity base type 2 structures;
- (d) a network of interconnector cables;
- (e) up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No. 5 consisting of offshore export cables along routes within the Order limits seaward of MLWS including one or more cable crossings; and
- (f) up to eight temporary horizontal directional drilling exit pits and associated cofferdams.

“Work No. 3(a)” means, in the event that the mode of transmission is HVAC, up to three offshore HVAC booster stations fixed to the seabed within the area shown on the offshore works plan by one of monopile foundations, mono suction bucket foundations, jacket foundations, gravity base structures, pontoon gravity base type 1 structures or pontoon gravity base type 2 structures; and

“UK Standard Marking Schedule for Offshore Installations” means the Standard Marking Schedule for Offshore Installations published by the Department of Energy & Climate Change with reference DECC 04/11.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time;
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

- (a) Civil Aviation Authority
 - Aviation House
 - Beehive Ringroad
 - Crawley
 - West Sussex
- (b) Historic England
 - 37 Tanner Road
 - York
 - YO1 6WP
- (c) Marine Management Organisation
 - Marine Licensing Team
 - Lancaster House Hampshire Court
 - Newcastle Business Park
 - Newcastle upon Tyne
 - NE4 7YH
 - Tel: 0300 123 1032;
- (d) Marine Management Organisation (Local Office)
 - Room 13, Ground Floor
 - Crosskill House
 - Mill Lane
 - Beverley
 - HU17 9JB
 - Tel: 0208 026 0519;
- (e) Maritime and Coastguard Agency
 - Navigation Safety Branch
 - Bay 2/20, Spring Place
 - 105 Commercial Road
 - Southampton
 - SO15 1EG
 - Tel: 020 3817 2433;
- (f) Ministry of Defence (as requested by Defence Infrastructure Organisation – Safeguarding)
 - St George's House
 - DIO Head Office
 - DMS Whittington
 - Lichfield
 - Staffordshire
 - WS14 9PY;
- (g) Natural England
 - 4th Floor
 - Foss House
 - 1-2 Peasholme Green

York
YO1 7PX
Tel: 0300 060 4911;

(h) Trinity House

Tower Hill

London

EC3N 4DH

Tel: 020 7481 6900;

(i) The United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset

TA1 2DN

Tel: 01823 337 900.

(5) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this licence is marine.consent@marinemanagement.org.uk, or where contact to the Local Office if the MMO is required, beverley@marinemanagement.org.uk.

(6) Unless otherwise advised in writing by the MMO, the Marine Case Management System (“MCMS”) must be used for all licence returns or applications to vary this licence. The MCMS address is: <https://marinelicensing.marinemanagement.org.uk/>.

(7) Any reference in this licence or the documents certified by the Secretary of State for the purposes of the Order under article 38 to a dimension measured from LAT may be converted to a measurement from HAT by subtracting 4.71m from the measurement from LAT.

Details of licensed marine activities

2. Subject to the licence conditions at Part 4, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and within Work No. 1 when combined with the disposal authorised within the array area disposal site by the deemed marine licence granted under Schedule 12 of the Order of up to 7,211,601 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation works within the array area disposal site;
- (b) the construction of works in or over the sea and/or on or under the seabed;
- (c) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) boulder clearance works by displacement ploughing or subsea grab technique or any other comparable method;
- (f) removal of static fishing equipment; and
- (g) site preparation works.

3. Such activities described in paragraph 2 are authorised in relation to the construction, maintenance and operation of—

Work No. 1—

- (a) an offshore wind turbine generating station with a gross electrical output of over 100 megawatts comprising up to 180 wind turbine generators each fixed to the seabed by one of monopile foundations, mono suction bucket foundations, gravity base structures or jacket foundations;
- (b) one offshore accommodation platform fixed to the seabed within the area shown on the offshore works plan by one of monopile foundations, mono suction bucket foundations, a gravity base structure or jacket foundation and which may be connected to each other or one of the offshore substations within Work No. 2 by a bridge link; and
- (c) a network of cables between the wind turbine generators, and between the wind turbine generators and Work No. 2, including one or more cable crossings.

In connection with such Work No. 1 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses; and
- (c) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised development.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling or seabed preparation for foundation works and cable installation preparation works;
- (g) weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and
- (h) marine coatings, other chemicals and timber.

5. The grid coordinates for that part of the authorised development comprising Work No. 1 are specified below and more particularly on the offshore Order limits and grid coordinates plan—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	54° 0' 23.321" N	1° 12' 48.805" E	5	54° 12' 37.143" N	0° 58' 31.095" E
2	54° 7' 24.985" N	0° 59' 54.702" E	6	54° 12' 17.413" N	1° 12' 18.263" E
3	54° 9' 13.497" N	1° 0' 43.850" E	7	54° 4' 13.012" N	1° 30' 5.270" E
4	54° 10' 49.480" N	0° 58' 21.782" E	8	53° 59' 15.598" N	1° 17' 20.651" E

General provisions

6. This licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes) of the 2004 Act, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially greater environmental effects from those assessed in the environmental statement.

PART 2 CONDITIONS

Design parameters

1.—(1) The total number of wind turbine generators comprised in the authorised project must not exceed 180.

(2) Subject to sub-paragraph (3), each wind turbine generator forming part of the authorised project must not—

- (a) exceed a height of 370 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a rotor diameter of 305 metres;
- (c) be less than 42.43 metres from LAT to the lowest point of the rotating blade; and
- (d) be less than 810 metres from the nearest wind turbine generator in all directions.

(3) The minimum distance in sub-paragraph 1(2)(d) between each wind turbine generator is to be measured from the centre point of the wind turbine generator.

(4) Wind turbine generator foundation structures forming part of the authorised project must be one of the following foundation options—

- (a) monopile foundations;
- (b) mono suction bucket foundations;
- (c) gravity base structures; or
- (d) jacket foundations.

(5) No wind turbine generator—

- (a) jacket foundation employing pin piles forming part of the authorised project may—
 - (i) have a pin pile diameter of greater than four meters; and
 - (ii) employ more than 16 pin piles per jacket foundation; and
- (b) monopile foundation forming part of the authorised project may have a diameter greater than 15 metres.

(6) The total seabed footprint area for wind turbine generator foundations must not exceed—

- (a) 302,180 square metres excluding scour protection; and
- (b) 985,240 square metres including scour protection.

(7) The total volume of scour protection material for wind turbine generator foundations must not exceed 1,582,040 cubic metres.

(8) The total number of gravity base structures for wind turbine generators may not exceed 80.

(9) The wind turbine generators comprised in the authorised project must be constructed in accordance with the parameters set out in the pro-rata annex.

2.—(1) The total number of offshore accommodation platforms forming part of the authorised project must not exceed one.

(2) The dimensions of any offshore accommodation platform forming part of the authorised project must not exceed—

- (a) 64 metres in height when measured from LAT;
- (b) 60 metres in length; and
- (c) 60 metres in width.

(3) Offshore accommodation platform foundation structures forming part of the authorised project must be one of either monopile foundations, mono suction bucket foundations, gravity base structures, jacket foundations or box-type gravity base structures.

(4) No offshore accommodation platform—

- (a) jacket foundation employing pin piles forming part of the authorised project may—
 - (i) have a pin pile diameter of greater than four metres; and
 - (ii) employ more than 16 pin piles per jacket foundation; and

- (b) monopile foundation forming part of the authorised project may have a diameter greater than 15 metres.

(5) The total permanent seabed footprint area for offshore accommodation platform foundations must not exceed—

- (a) 5,625 square metres excluding scour protection; and
- (b) 30,625 square metres including scour protection.

(6) The offshore accommodation platform comprised in the authorised project must be constructed in accordance with parameters set out in the pro-rata annex.

(7) A bridge link forming part of the authorised project must be installed at a minimum height of 20 metres when measured from LAT.

3.—(1) The total length of the cables in Work No. 1(c) and the volume of their cable protection (including cable crossings) must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
Work No. 1(c)	600 kilometres	624,000 square metres

(2) The total number of cable crossings associated with the cables in Work No. 1(c) when combined with Work No. 2(d) as licenced under the licence in Schedule 12 of the Order must not exceed 32.

(3) The cables and cable circuits comprised in the authorised development must be constructed in accordance with the parameters set out in the pro-rata annex.

Maintenance of the authorised development

4.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) Maintenance works include but are not limited to—

- (a) major wind turbine component or offshore accommodation platform replacement;
- (b) painting and applying other coatings to wind turbine generators or offshore accommodation platforms;
- (c) bird waste and marine growth removal;
- (d) cable remedial burial;
- (e) cable repairs and replacement;

- (f) cable protection replenishment for a maximum period of ten years post construction;
- (g) access ladder and boat landing replacement;
- (h) wind turbine generator and accommodation platform anode replacement; and
- (i) J-tube repair/replacement.

(3) In undertaking activities under condition 4(2)(f), the undertaker must not reduce water depth by more than 5% unless agreed with the MMO in writing.

(4) An operation and maintenance plan substantially in accordance with the outline operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB at least six months prior to the commencement of the operation of the licensed activities. All operation and maintenance activities shall be carried out in accordance with the approved plan.

Vessels under the undertaker's control

5.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

6. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 16; and
 - (ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 16;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with condition 16 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel and at the office of any offshore operations managers with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must ensure that a copy of this licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to carry on any licensed activity set out in condition 16(3), and that a copy of this licence is held on board any such vessel.

(6) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised project.

(7) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities and within five days of the completion of the licensed activity.

(8) The undertaker must inform the Kingfisher Information Service of details regarding the vessel routes, timings and locations relating to the construction of the authorised project or relevant stage—

(a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Bulletin and offshore hazard awareness data; and

(b) as soon as reasonably practicable, and in any event no later than 24 hours after completion of construction of all offshore activities,

confirmation of notification must be provided to the MMO in writing within five days.

(9) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised project or any relevant stage advising of the start date of Work No. 1 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days of issue.

(10) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and the notices must be supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under deemed marine licence condition 13(1)(b) and monitoring plan approved under condition 13(1)(f). Copies of all local notifications must be provided to the MMO and UK Hydrographic Office within five days of issue, save for in the case of a notice relating to operations and maintenance, which must be provided within 24 hours of issue.

(11) The undertaker must notify the UK Hydrographic Office of the commencement (within fourteen days), progress and completion of construction (within fourteen days) of the licensed activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send a copy of such notifications to the MMO within five days of the notification.

(12) In case of damage to, or destruction or decay of, the authorised project seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MCA, Trinity House, the Kingfisher Information Service and the UK Hydrographic Office.

(13) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, the MCA, Trinity House and the UK Hydrographic Office within five days.

(14) The undertaker must notify the MMO in writing a minimum of five days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity. Such a notification must include proposed timings and a description of proposed methodologies.

(15) The undertaker must ensure that the MMO, the MMO Local Office, local mariners, local fishermen's organisations and the Source Data Receipt Team at the UK Hydrographic Office, Taunton, Somerset, TA1 2DN (sdr@ukho.gov.uk) are notified within five days of completion of each instance of cable repair, replacement or protection replenishment activity.

Aids to navigation

8.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised project to completion of decommissioning of the authorised project seaward of MHWS keep Trinity House and the MMO informed in writing of progress of the authorised project seaward of MHWS including the following—

- (a) notice of commencement of construction of the authorised project within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised project.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 13(1)(i) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS notify Trinity House and the MMO in writing of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 7(12) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

(6) Any jack up barges or vessels utilised during the licensed activities, when jacked up, must exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.

Colouring of structures

9.—(1) The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the wind turbine generators are painted light grey (colour code RAL 7035).

Aviation safety

10.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2016^(a) and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed in writing with the Ministry of Defence.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

- (a) the date of the commencement of the licensed activities;
- (b) the date any wind turbine generators are to be installed;
- (c) the maximum height of any construction equipment or vessels to be used;

(a) S.I. 2016/765.

- (d) the maximum heights of any wind turbine generator and offshore accommodation platform to be constructed (including any antennae);
- (e) the latitude and longitude of each wind turbine generator and offshore accommodation platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph of this condition and of the completion of the construction of the authorised project. Copies of notifications must be provided to the MMO.

Chemicals, drilling and debris

11.—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised project must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a) (as amended) as maintained by the Centre for Environment, Fisheries and Aquaculture Science.

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by Health and Safety Executive.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits seaward of MHWS.

(6) The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised project is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office in writing within 48 hours of becoming aware of it and if the MMO, in consultation with the MCA and Trinity House, reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it at its own expense.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the marine environment through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported in writing to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 13(1)(d)(i).

(10) All dropped objects within the Order limits must be reported to the MMO using the dropped object procedure form as soon as reasonably practicable following the undertaker becoming aware of an incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

(a) S.I. 2002/1355.

Force majeure

12.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO in the manner provided in condition 11(10).

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

13.—(1) The licensed activities for each stage of construction of the authorised project must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, UK Hydrographic Office and relevant SNCB—

(a) A design plan, prepared in accordance with the layout principles at a scale of between 1:25,000 and 1:50,000, or in such other format as may be appropriate, including detailed representation on the most suitably scaled chart, which shows for the relevant stage—

- (i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each wind turbine generator, and offshore accommodation platform within the relevant stage, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions discovered post approval under this condition and choice of foundation types for all wind turbine generators and offshore accommodation platforms within the relevant stage;
- (ii) the number, specifications and dimensions of the wind turbine generators to be installed within the relevant stage;
- (iii) the length and arrangement of cable comprising Work No. 1(c) within the relevant stage;
- (iv) the dimensions of all monopile foundations, mono suction bucket foundations, jacket foundations or gravity base structures within the relevant stage; and
- (v) any exclusion zones or micro-siting requirements identified in any mitigation project pursuant to sub-paragraph 13(2)(d) or relating to any habitats of principal importance identified as part of surveys undertaken in accordance with condition 17;

to ensure conformity with the description of Work No. 1 and compliance with conditions 1, 2 and 3 above;

(b) a construction programme to include details for the relevant stage of—

- (i) the proposed construction start date;
- (ii) proposed timings for mobilisation of plant delivery of materials and installation works; and
- (iii) an indicative written construction programme for all wind turbine generators offshore accommodation platforms and cable comprised in the works at paragraph 1 to 3(b) of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above),

unless otherwise agreed in writing with the MMO;

(c) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details for the relevant stage of—

- (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to sub-paragraph 13(1)(f);
- (ii) advisory safe passing distances for vessels around construction sites;
- (iii) cable (including fibre optic cable) installation;

- (iv) contractors;
 - (v) vessels and vessels transit corridors;
 - (vi) codes of conduct for vessel operators;
 - (vii) associated ancillary works;
 - (viii) guard vessels to be employed;
 - (ix) details of means to address impacts on European sites, habitats of principal importance and any international or nationally designated sites, where relevant; and
 - (x) measures to ensure appropriate co-ordination with the Marine Helicopter Coordination Centre;
- (d) a construction project environmental management and monitoring plan covering the period of construction for the relevant stage to include details of—
- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with and report any spills and collision incidents of the authorised project in relation to all activities carried out;
 - (ii) a chemical risk review to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised;
 - (iv) waste management and disposal arrangements;
 - (v) a vessel management plan, to determine vessel routing to and from construction sites and ports, to include a code of conduct for vessel operators; and
 - (vi) the appointment and responsibilities of a company fisheries liaison officer;
- (e) a scour protection management plan for the relevant stage providing details of the need, type, sources, quantity and installation methods for scour protection, which must be updated and resubmitted in writing for approval if changes to it are proposed following cable laying operations;
- (f) details for the relevant stage of proposed pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 17, 18 and 19;
- (g) in the event that driven or part-driven pile foundations are proposed to be used for the relevant stage, a piling marine mammal mitigation protocol for that stage, in accordance with the outline marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, including details of soft start procedures with specified duration periods following current best practice as advised by the relevant statutory nature conservation bodies;
- (h) a cable specification and installation plan for the relevant stage which accords with the principles of the outline cable specification and installation plan, to include—
- (i) technical specification of offshore cables (including fibre optic cable) below MHWS within that stage, including a desk-based assessment of attenuation of electromagnetic field strengths, shielding and cable burial depth in accordance with good industry practice;
 - (ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;

- (iii) proposals for the volume and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes and areas post construction within that stage; and
- (iv) proposals for monitoring offshore cables within that stage including cable protection during the operational lifetime of the authorised project which includes a risk based approach to the management of unburied or shallow buried cables;
- (i) an aids to navigation management plan for that stage to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 relating to that stage for the lifetime of the authorised project;
- (j) an ornithological monitoring plan for the relevant stage which accords with the principles set out in the outline ornithological monitoring plan setting out the circumstances in which ornithological monitoring will be required and the monitoring to be carried out in such circumstances.

(2) Subject to condition 13(3), the licensed activities or any relevant stage of those activities must not commence unless no later than six months prior to the commencement of the relevant stage a marine written scheme of archaeological investigation for the stage in construction has been submitted to and approved by the MMO in writing, in accordance with the outline marine written scheme of investigation, and in accordance with industry good practice, in consultation with the statutory historic body to include—

- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (b) a method statement for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
- (c) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within six months of any survey being completed;
- (d) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones prior to construction;
- (e) monitoring of archaeological exclusion zones during and post construction, including provision of a report on such monitoring;
- (f) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS (‘online access to the index of archaeological investigations’) form with a digital copy of the report within six months of completion of construction of the authorised project, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
- (g) a reporting and recording protocol, designed in reference to the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by the Crown Estate and reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised project; and
- (h) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a written scheme of investigation specific to the relevant pre-construction activities (which must accord with the details set out in the outline marine written scheme of investigation) which has been submitted to and approved by the MMO in consultation with the statutory historic body.

(4) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive monopile foundations must not exceed 5,000kJ and the hammer energy used to drive or part-drive pin pile foundations must not exceed 3,000kJ.

(5) No more than two vessels may be engaged at any time in activities related to piling for the licenced activities. There will only be a maximum installation of two piled foundations within a 24-hour period. It is possible for installation of the two piled foundations to occur concurrently i.e. within a 24-hour period at up to two locations within the area of Work No. 3(a) or up to two locations within the array. The two piled foundation locations may also be piled simultaneously.

(6) The licensed activities or any part of those activities must not commence until a fisheries coexistence and liaison plan in accordance with the outline fisheries coexistence and liaison plan has been submitted to and approved by the MMO in writing.

(7) The undertaker must, before submitting any pre-construction plans and documentation required under this condition, provide a copy of the plans and documentation to any other undertaker to whom part of the benefit of this Order has been transferred or leased pursuant to article 5 of the Order.

(8) The undertaker to whom part of the benefit of the Order has been transferred or leased pursuant to article 5 must provide any comments on the plans and documentation to the undertaker within 14 days of receipt.

(9) The undertaker and any other undertaker must participate in liaison meetings as requested from time to time by the MMO in writing in advance and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence issued under this Order (including as varied or transferred).

14.—(1) Except where otherwise stated or agreed in writing with the MMO, each programme, statement, plan, protocol or scheme required to be approved under condition 13 (save for that required under condition 13(1)(f)) must be submitted for approval at least six months prior to the intended commencement of the relevant stage of the licensed activities.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 13(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

- (a) at least six months prior to the first survey of the relevant stage, detail of any pre-construction surveys and an outline of all proposed monitoring;
- (b) at least six months prior to construction of the relevant stage, detail on construction monitoring; and
- (c) at least six months prior to commissioning of the relevant stage, detail of post-construction (and operational) monitoring.

(3) The MMO must determine an application for approval made under condition 13 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker such agreement not to be unreasonably withheld or delayed.

(4) The licensed activities for the relevant stage must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 13, unless otherwise agreed in writing by the MMO.

(5) The plans, protocols, statements, schemes and details submitted under condition 13 must ensure that any residual effects fall within the scope of those predicted in the environmental statement.

Offshore safety management

15. No stage of the authorised project may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the authorised project adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

Reporting of engaged agents, contractors and vessels

- 16.—(1) The undertaker must provide the following information to the MMO—
- (a) the name, company number, address and function of any agent, contractor or sub-contractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
 - (b) each week during the construction of the authorised project a list of the vessels currently and to be used in relation to the licensed activities, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.
- (2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.
- (3) The undertaker must notify the MMO in writing not less than 24 hours prior to the commencement of major component exchanges, ladder replacements or cable related works—
- (a) any agents, contractors or subcontractors that will carry out such works; and
 - (b) any vessel proposed to be used for such works, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

Pre-construction monitoring and surveys

- 17.—(1) The undertaker must in discharging condition 13(1)(f) for each stage of construction submit a monitoring plan or plans for that stage in accordance with an outline marine monitoring plan for written approval by the MMO in consultation with the relevant statutory bodies, which must contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report and—
- (a) the survey proposals must be in accordance with the principles set out in the outline marine monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement; and
 - (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the preconstruction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.
- (2) Subject to receipt from the undertaker of specific proposals pursuant to this condition, the pre-construction survey proposals must comprise, in outline—
- (a) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, of the Order limits and a buffer outside to—
 - (i) determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the outline marine monitoring plan;
 - (ii) inform future navigation risk assessments as part of the cable specification and installation plan; and
 - (iii) inform the identification of any archaeological exclusion zone and post consent monitoring of any such archaeological exclusion zone;
 - (b) any ornithological monitoring required by the ornithological monitoring plans submitted in accordance with condition 13(1)(k).
 - (c) a bathymetric survey that meets the requirements of IHO S44ed5 Order 1a of the area within the following coordinates—

<i>Development area node point</i>	<i>WGS84 UTM Zone 31N (metres)</i>		<i>WGS84 (DMS)</i>		<i>WGS84 (decimal degrees)</i>	
	<i>Easting</i>	<i>Northing</i>	<i>Latitude</i>	<i>Longitude</i>	<i>Latitude</i>	<i>Longitude</i>
1	401818	5992480	54° 4' 16.157" N	1° 29' 58.386" E	54.07115	1.49955

2	411109	5984944	54° 0' 18.479" N	1° 38' 37.320" E	54.00513	1.64370
3	397695	5985627	54° 0' 31.626" N	1° 26' 19.993" E	54.00878	1.43889
4	397800	5978992	53° 56' 57.085" N	1° 26' 33.766" E	53.94919	1.44271
5	387657	5983579	53° 59' 17.868" N	1° 17' 11.556" E	53.98830	1.28654
6	401818	5992480	54° 4' 16.157" N	1° 29' 58.386" E	54.07115	1.49955

(3) The pre-construction survey(s) carried out pursuant to condition 17(2)(a)(ii) and 17(2)(c) must fulfil the requirements of MGN654 and its supporting ‘Hydrographic Guidelines for Offshore Renewable Energy Developer’ (as relevant).

(4) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(5) Following completion of a survey carried out pursuant to this condition and prior to construction of the relevant stage, the undertaker must provide a report and full density data of the survey outcomes to the MMO, the relevant statutory nature conservation body, the MCA and UK Hydrographic Office as relevant.

Construction monitoring

18.—(1) The undertaker must in discharging condition 13(1)(f) for each stage of construction submit a construction monitoring plan or plans for that stage in accordance with an outline marine monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body, which must include details of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in accordance with the principles set out in the outline marine monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this condition the construction monitoring plan must include, in outline—

- (a) vessel traffic monitoring by automatic identification system for the duration of the construction period, with provision for a report to be submitted to the MMO, Trinity House, and the MCA annually during the construction period for the authorised development; and
- (b) where piled foundations are to be employed, unless otherwise agreed by the MMO in writing, details of proposed monitoring of the noise generated by the installation of the first four piled foundations of each piled foundation type to be constructed collectively under this licence and the licence granted under Schedule 12 of the Order.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph 18(2)(b) must be provided in writing to the MMO within six weeks of the installation (unless otherwise agreed) of the first four piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the opinion of the MMO in consultation with the statutory nature conservation body, the assessment shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(4) The undertaker must carry out the surveys specified within the construction monitoring plan or plans in accordance with that plan or plans, including any further noise monitoring required in

writing by the MMO under condition 18(3), unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Post-construction monitoring

19.—(1) The undertaker must in discharging condition 13(1)(f) for each stage of construction submit a post-construction monitoring plan or plans for that stage in accordance with an outline marine monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in accordance with the principles set out in the outline marine monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals the post-construction survey plan or plans must include, in outline—

- (a) details of a survey to determine any change in the location, extent and composition of any biogenic or geogenic reef feature identified in the pre-construction survey in the parts of the offshore Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones. The data will be analysed by an accredited archaeologist as defined in the offshore written scheme of investigation required under condition 13(2);
- (c) any ornithological monitoring required by the ornithological monitoring plans submitted in accordance with condition 13(1)(k); and.
- (d) vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of the authorised project, unless otherwise agreed in writing by the MMO, with provision for a report to be submitted annually to the MMO, Trinity House, and the MCA.

(3) The undertaker must carry out the surveys agreed under the post-construction monitoring plan or plans in accordance with that plan or plans and provide the agreed reports in the agreed format, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(4) Within 12 weeks of completion of any cable repair or replacement works, the undertaker must undertake a post installation survey along the section of cable that has undergone repair or replacement to demonstrate the successful burial of the cable, and submit a report to the MMO in writing on its findings.

Timing of monitoring report

20. Any monitoring report compiled in accordance with the monitoring plans provided under conditions 17, 18 and 19 must be provided to the relevant body no later than four months following receipt by the undertaker of the results of monitoring to which it relates, unless otherwise agreed with the relevant body in writing.

Reporting of impact pile driving

21.—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of each stage of construction of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;

- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry’s Close Out requirements; and
 - (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry’s Close Out requirements.
- (2) The undertaker must notify the MMO in writing of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.
- (3) For the purpose of this condition, “Forward Look” and “Close Out” mean the requirements as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) as amended, updated or superseded from time to time.

Maintenance reporting

- 22.—(1) An annual maintenance report must be submitted to the MMO in writing within one month following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.
- (2) The report must provide a record of the licensed activities as set out in condition 4 during the preceding year, the timing of activities and methodologies used.
- (3) Every fifth year, the undertaker must submit to the MMO in writing, within one month of that date, a consolidated maintenance report, which will—
- (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition 22(1) of this licence;
 - (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Stages of construction

- 23.—(1) The licenced activities must not be commenced until a written scheme setting out the stages of construction of the authorised development seaward of MHWS has been submitted to and approved by the MMO in writing.
- (2) The stages of construction referred to in sub-paragraph (1) will not permit the authorised development to be constructed in more than one overall phase.
- (3) The scheme must be implemented as approved.
- (4) The written scheme referred to in sub-paragraph (1) must be submitted to the MMO in writing four months prior to the planned commencement of the licenced activities.

Completion of construction

- 24.—(1) The undertaker must submit a close out report in writing to the MMO and the relevant statutory nature conservation body within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following details—
- (a) the final number of installed wind turbine generators; and
 - (b) the installed wind turbine generator parameters relevant for ornithological collision risk modelling.
- (2) Following completion of construction, no further construction activities can be undertaken under this licence.
25. The undertaker must submit a close out report to the MCA and the UK Hydrographic Office within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following—
- (a) the final number of installed wind turbine generators;

- (b) a plan of the layout of installed wind turbine generators and offshore accommodation platform; and
- (c) latitude and longitude coordinates of the centre point of the location of each wind turbine generator and offshore accommodation platform, provided as Geographical Information System data referenced to WGS84 datum.

Deployment of cable protection

26. Any cable protection authorised under this licence must be deployed within 15 years from the date of the grant of the Order unless otherwise agreed by the MMO in writing.

Southern North Sea Special Area of Conservation Site Integrity Plan

27. – (1) No piling activities can take place until a Site Integrity Plan (SIP), which accords with the principles set out in the outline Southern North Sea SAC Site Integrity Plan, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted to the MMO no later than six months prior to the commencement of the piling activities.

(4) In approving the SIP, the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the preconstruction stage, is in line with the JNCC guidance.

Pre-Construction particle size analysis results

28. No licensable marine activities relating to the dredging or disposal of marine sediments under Paragraph 2 of this licence will take place until the MMO has provided written approval of the laboratory contracted to undertake the particle size analysis of the pre-construction sediment samples.

A request must be submitted for approval at least four months prior to the intended commencement of the licensed activities and the MMO must determine an application for approval within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker. Such agreement is not to be unreasonably withheld or delayed.

DEEMED MARINE LICENCE UNDER THE 2009 ACT –
TRANSMISSION ASSETS

PART 1

LICENSED MARINE ACTIVITIES

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004(a);

“the 2008 Act” means the Planning Act 2008(b);

“the 2009 Act” means the Marine and Coastal Access Act 2009(c);

“2017 Offshore Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“2017 Onshore Regulations” means the Conservation of Habitats and Species Regulations 2017;

“ancillary works” means those works listed in Schedule 1 Part 2 of the Order;

“array area” means the area covered by Work No. 1 as shown on the offshore works plan;

“array area disposal site” means the site to be used for disposal of inert material of natural origin produced during construction drilling and seabed preparation for foundation works and cable sandwave clearance to be located within the array area;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised development” means the development and associated development described in Part 1 of Schedule 1 (authorised development) of the Order and any other development authorised by this Order that is development within the meaning of section 32 (meaning of “development”) of the 2008 Act;

“authorised project” means Work Nos. 2, 3, 4 and 5 as described in paragraph 3 of Part 1 of this licence or any stage of that work;

“box-type gravity base structure” means a structure principally of steel, concrete, or steel and concrete with a square base which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“bridge link” means a steel truss structure with provision for overhead clearance for personnel, lighting fixtures and ancillary cabling, which can be used as a link for interconnection between any combination of permanent offshore electrical installations and/or offshore accommodation platform

“buoy” means any floating device used for navigational or measurement purposes, including LIDAR and wave buoys;

“cable corridor” means that area of Work No. 2 which lies outside of the array area, along with the area of Work Nos. 3, 4 and 5;

“cable corridor disposal site” means the site, within the cable corridor, to be used for disposal of inert material of natural origin produced during construction drilling and seabed preparation for foundation works and cable sandwave clearance;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses, and/or rock placement (including material used for cable crossings);

(a) 2004 c.20.

(b) 2008 c.29.

(c) 2009 c.23.

“cable protection replenishment” means the restoration to a former level or condition of cable protection lost by natural seabed processes or human activity;

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction surveys and monitoring approved under this licence and the activities set out in article 2(e) and “commenced” and “commencement” must be construed accordingly;

“commissioning” means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation – Safeguarding, St George’s House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY and any successor body to its functions;

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

“dropped object procedure form” means the MMO notification proforma with reference MLDIR1 for reporting the loss or dumping of synthetic materials and other refuse at sea or any other format advised in writing by the MMO;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents, etc.);

“European site” has the meaning given in regulation 27 of the 2017 Offshore Regulations or regulation 8 of the 2017 Onshore Regulations as appropriate;

“gravity base structure” means a structure principally of steel, concrete, or steel and concrete with a base which tapers as it rises which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“habitats of principal importance” means a habitat designated as being of principal importance in accordance with section 41 (biodiversity lists and action (England)) of the Natural Environment and Rural Communities Act 2006;

“HAT” means highest astronomical tide;

“HVAC booster station lighting plan” means the plan certified as the HVAC booster station lighting plan by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents, etc.);

“HVDC” means high voltage direct current;

“IHO S44ed5 Order 1a” means order 1a from the fifth edition of the International Hydrographic Organisation’s Standards for Hydrographics Surveys;

“interconnector cables” means a network of cables between the offshore substations;

“jacket foundation” means a lattice type structure constructed of steel, which may include additional equipment such as, J-tubes, corrosion protection systems and access platforms;

“JNCC” means the Joint Nature Conservation Committee;

“JNCC Guidance” means the statutory nature conservation body ‘Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs’ Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

“Kingfisher Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“Kingfisher Information Service” means the information service from non-departmental government body Seafish;

“large offshore HVDC converter substation” means the larger version of the offshore converter substations assessed in the environment statement;

“large offshore transformer substation” means the larger version of the offshore transformer substations assessed in the environment statement;

“LAT” means lowest astronomical tide;

“layout principles” means the document certified as the layout principles by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents, etc.);

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (including replenishment of cable protection) but does not include the removal, reconstruction or replacement of foundations associated with the authorised project, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Management Organisation” or “MMO” means the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH who is the body created under the 2009 Act and who is responsible for the monitoring and enforcement of this licence;

“marine noise registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;

“MCA” means the Maritime and Coastguard Agency, an executive agency for the Department for Transport;;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” means the lowest level which spring tides reach on average over a period of time;

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including J-tubes, corrosion protection systems and access platforms and equipment;

“mono suction bucket foundation” means a steel cylindrical structure which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential, and may include additional equipment such as J-tubes;

“offshore accommodation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the wind turbine generators and offshore electrical installations;

“offshore electrical installations” means the small offshore transformer substations, the large offshore transformer substations, the offshore HVAC booster stations, the small offshore HVDC converter substations and the large offshore HVDC converter substations forming part of the authorised development;

“offshore export cable” means a network of cables for as described in Work No. 2(e) and Work No. 3(d);

“offshore HVAC booster station” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to provide reactive power compensation; and
- (b) housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the substation;

“the offshore Order limits and grid coordinates plan” means the plan certified as the offshore Order limits and grid coordinates plan by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents, etc.);

“Offshore Renewables Protocol for Reporting Archaeological Discoveries” means the Offshore Renewables Protocol for Reporting Archaeological Discoveries, the Crown Estate (2014), *Protocol for Archaeological Discoveries: Offshore Renewables Projects*, Salisbury, Wessex Archaeology as amended, updated or superseded from time to time;

“offshore transformer substation” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform (including bird deterrents), containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, radar and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“offshore works plan” means the plan certified as the offshore works plan by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents, etc.);

“operation” means the undertaking of licensed activities which are not part of the construction, commissioning or decommissioning of the authorised development;

“Order” means the Hornsea Four Offshore Wind Farm Order 20[];

“the Order limits” means the limits shown on the offshore Order limits and grid coordinates plans and the onshore Order limits plan within which the authorised project may be carried out, whose grid coordinates seaward of MHWS are set out in paragraph 5 of Part 1 of this Schedule;

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline marine mammal mitigation protocol” means the document certified as the outline marine mammal mitigation protocol by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline marine monitoring plan” means the document certified as the outline marine monitoring plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline marine written scheme of investigation” means the document certified as the outline marine written scheme of investigation by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline operations and maintenance plan” means the document certified as the outline operations and maintenance plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“outline southern north sea special area of conservation site integrity plan” means the document certified as the outline southern north sea special area of conservation site integrity plan by the Secretary of State for the purposes of this Order;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure jacket foundations;

“pontoon gravity base type 1 structure” means a structure principally of steel, concrete, or steel and concrete with a base made up of up to two rectangular pontoons which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“pontoon gravity base type 2 structure” means a structure principally of steel, concrete, or steel and concrete with a base made up of a pontoon arranged in a rectangle around an open centre which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including J-tubes, corrosion protection systems and access platform(s) and equipment;

“pro-rata annex” means the document certified as the pro-rata annex by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“small offshore HVDC converter substation” means the smaller version of the offshore transformer substations assessed in the environment statement;

“small offshore transformer substation” means the smaller version of the offshore transformer substations assessed in the environment statement;

“statutory historic body” means Historic England, the relevant local authority or its successor in function;

“statutory nature conservation body” means the appropriate nature conservation body as defined in Regulation 5 of the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“transition piece” means the metal structure attached to the top of the foundation where the base of the wind turbine generator is connected and may include additional equipment such as J-tubes, corrosion protection systems, boat access systems, access platforms, craneage, radar, electrical transmission equipment and associated equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Orsted Hornsea Project Four Limited (company number 08584182);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation or transition piece; and

“working day” means a day which is not a weekend, bank or public holiday in England; and

“UK Standard Marking Schedule for Offshore Installations” means the Standard Marking Schedule for Offshore Installations published by the Department of Energy & Climate Change with reference DECC 04/11.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time; and
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Civil Aviation Authority

Aviation House
Beehive Ringroad
Crawley
West Sussex
RH6 0YR

(b) Historic England

37 Tanner Road

- York
YO1 6WP
- (c) Marine Management Organisation
Marine Licensing Team
Lancaster House Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH
Tel: 0300 123 1032;
- (d) Marine Management Organisation (Local Office)
Room 13, Ground Floor
Crosskill House
Mill Lane
Beverley
HU17 9JB
Tel: 0208 026 0519;
- (e) Maritime and Coastguard Agency
Navigation Safety Branch
Bay 2/20, Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2433;
- (f) Ministry of Defence (as represented by Defence Infrastructure Organisation – Safeguarding)
St George’s House
DIO Head Office
DMS Whittington
Lichfield
Staffordshire
WS14 9PY;
- (g) Natural England
4th Floor
Foss House
1-2 Peasholme Green
York
YO1 7PX
Tel: 0300 060 4911;
- (h) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900;

- (i) The United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900.

(5) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this licence is marine.consent@marinemangement.org.uk, or where contact to the Local Office of the MMO is required, beverley@marinemangement.org.uk.

(6) Unless otherwise advised in writing by the MMO, the Marine Case Management System (“MCMS”) must be used for all licence returns or applications to vary this licence. The MCMS address is: <https://marinelicensing.marinemangement.org.uk/>.

(7) Any reference in this licence or the documents certified by the Secretary of State for the purposes of the Order under article 38 (certification of plans and documents, etc.) to a dimension measured from LAT may be converted to a measurement from HAT by subtracting 4.71m from the measurement from LAT.

Details of licensed marine activities

2. Subject to the licence conditions at Part 4, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and within—
- (i) the array area disposal site, when combined with the disposal authorised by the deemed marine licence granted under Schedule 11 of the Order, up to 7,211,601 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation and excavation of horizontal directional drilling pits works within the parts of Work No. 2 that lie within the array area; and
 - (ii) the cable corridor disposal site of up to 4,105,735 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation and excavation of horizontal directional drilling pits works within Work Nos. 2 (which lie within the cable corridor), 3, 4 and 5;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works;
- (d) boulder clearance works by displacement ploughing or subsea grab technique or any other equivalent method;
- (e) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (f) removal of static fishing equipment; and
- (g) site preparation works.

3. Such activities are authorised in relation to the construction, maintenance and operation of—
Work No. 2—

- (a) up to six small offshore transformer substations each fixed to the seabed by one of monopile foundations, mono suction bucket foundations, gravity base structures or jacket foundations, and which may be connected to each other or one of the offshore accommodation platforms within Work No. 1(b) by a bridge link;

- (b) up to three large offshore transformer substations each fixed to the seabed by one of monopile foundations, mono suction bucket foundations, box-type gravity base structures, or jacket foundations, pontoon gravity base type 1 structures, or pontoon gravity base type 2 structures, and which may be connected to each other or one of the offshore accommodation platforms within Work No. 1(b) by a bridge link;
- (c) in the event that the mode of transmission is HVDC, either up to three either large HVDC converter substations or up to six small HVDC converter substations fixed to the seabed within the area shown on the offshore works plan by one of monopile foundations, mono suction bucket foundations, jacket foundations, box-type gravity base structures, gravity base structures, pontoon gravity base type 1 structures, or pontoon gravity base type 2 structures;
- (d) a network of interconnector cables;
- (e) up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No. 5 consisting of offshore export cables along routes within the Order limits seaward of MLWS including one or more cable crossings; and
- (f) up to eight temporary horizontal directional drilling exit pits and associated cofferdams.

Work No. 3—

- (a) in the event that the mode of transmission is HVAC, up to three offshore HVAC booster stations fixed to the seabed within the area shown on the offshore works plan by one of monopile foundations, mono suction bucket foundations, jacket foundations, gravity base structures, pontoon gravity base type 1 structures or pontoon gravity base type 2 structures; and
- (b) in the event that the mode of transmission is HVAC, up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No. 5 consisting of offshore export cables along routes within the Order limits seaward of MHWS including one or more cable crossings.

Work No. 4— a temporary work area associated with Work No. 2 and Work No. 3 for vessels to carry out anchoring and positioning alongside Work No. 2 or Work No. 3.

Work No. 5— works consisting of—

- (a) up to six cable circuits and associated electrical circuit ducts between Work No. 3 to Work No. 6; and
- (b) up to eight horizontal directional drilling exit pits, unless Work No. 2(f) is constructed.

Work No. 9— temporary works as follows—

- (a) temporary vehicular access tracks as shown on the offshore works plans;
- (b) *not used*
- (c) *not used*
- (d) temporary construction ramp as shown on the offshore works plans.

In connection with such Works Nos. 2, 3, 4 and 5 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the provisions of this license, including—

- (a) scour protection around the foundations of the offshore electrical installations;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses;
- (c) the removal of material from the seabed within the Order limits the disposal within—
 - (i) the array area disposal site, in combination with the disposal authorised by the deemed marine licence granted under Schedule 11 of the Order, up to 7,211,601 cubic metres of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable installation preparation works (such as

sandwave clearance and boulder clearance) and excavation of horizontal directional drilling pits works within the parts of Work No. 2 that lie within the array area; and

- (ii) the cable corridor disposal site up to 4,105,735 cubic metres of inert material of natural origin within Order limits produced during construction drilling and seabed preparation for foundation works and cable sandwave clearance works required or the construction of Work Nos. 2 (which lie within the cable corridor), 3, 4 and 5; and
- (d) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works cable installation preparation works and excavation of horizontal directional drilling pits; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for that part of the authorised development comprising Work Nos. 2, 3, 4, 5, 9a and 9d are specified below and more particularly on the offshore Order limits and grid coordinates plan—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	54° 2' 7.166" N	0° 12' 58.381" W	68	53° 59' 17.868" N	1° 17' 11.556" E
2	54° 2' 7.022" N	0° 12' 48.680" W	69	53° 58' 55.615" N	1° 16' 14.402" E
3	54° 2' 28.905" N	0° 12' 23.610" W	70	53° 58' 54.680" N	1° 16' 10.907" E
4	54° 3' 4.330" N	0° 9' 20.564" W	71	53° 58' 54.305" N	1° 16' 7.041" E
5	54° 3' 2.961" N	0° 8' 57.136" W	72	53° 58' 48.150" N	1° 9' 3.489" E
6	54° 3' 46.646" N	0° 6' 22.355" W	73	53° 58' 49.099" N	1° 8' 56.253 E
7	54° 3' 55.011" N	0° 6' 0.668" W	74	53° 59' 33.340" N	1° 5' 22.618" E
8	54° 4' 5.592" N	0° 5' 7.239" W	75	53° 59' 16.728" N	1° 0' 29.597" E
9	54° 4' 7.120" N	0° 4' 56.079" W	76	53° 59' 10.802" N	0° 59' 53.488" E
10	54° 4' 7.947" N	0° 4' 12.149" W	77	53° 59' 0.241" N	0° 59' 7.651" E
11	54° 4' 7.646" N	0° 4' 2.450" W	78	53° 58' 58.446" N	0° 58' 57.385" E
12	54° 3' 39.131" N	0° 1' 17.603" E	79	53° 58' 53.673" N	0° 57' 53.130" E
13	54° 3' 36.602" N	0° 1' 19.983" E	80	53° 58' 53.613" N	0° 57' 45.865" E
14	54° 3' 36.653" N	0° 1' 27.388" E	81	53° 58' 54.420" N	0° 57' 26.213" E
15	54° 3' 37.742" N	0° 1' 33.117" E	82	53° 58' 58.248" N	0° 56' 45.174" E
16	54° 3' 31.432" N	0° 2' 43.501" E	83	53° 59' 56.956" N	0° 50' 1.171" E
17	54° 3' 21.791" N	0° 4' 54.431" E	84	54° 0' 12.504" N	0° 48' 1.381" E
18	54° 3' 20.107" N	0° 5' 29.470" E	85	54° 0' 12.515" N	0° 47' 27.367" E
19	54° 3' 20.504" N	0° 5' 36.188" E	86	54° 0' 13.296" N	0° 46' 40.673" E
20	54° 3' 29.852" N	0° 6' 6.995" E	87	54° 0' 12.634" N	0° 46' 30.459" E
21	54° 4' 17.513" N	0° 8' 11.780" E	88	54° 0' 11.415" N	0° 46' 24.233" E
22	54° 4' 19.804" N	0° 8' 20.650" E	89	53° 59' 39.945" N	0° 44' 55.026" E
23	54° 4' 29.084" N	0° 9' 5.618" E	90	53° 59' 33.773" N	0° 44' 35.130" E
24	54° 4' 30.902" N	0° 9' 18.035" E	91	53° 59' 28.402" N	0° 44' 15.020" E

25	54° 4' 31.360" N	0° 9' 29.006" E	92	53° 59' 26.858" N	0° 44' 5.508" E
26	54° 4' 30.770" N	0° 11' 14.823" E	93	53° 59' 23.738" N	0° 43' 35.842" E
27	54° 4' 41.436" N	0° 13' 46.313" E	94	53° 59' 23.191" N	0° 42' 42.267" E
28	54° 4' 51.664" N	0° 18' 10.115" E	95	53° 59' 23.584" N	0° 42' 32.090" E
29	54° 4' 49.674" N	0° 22' 20.794" E	96	53° 59' 29.653" N	0° 41' 39.599" E
30	54° 4' 34.602" N	0° 25' 8.241" E	97	53° 59' 31.433" N	0° 41' 30.497" E
31	54° 3' 47.343" N	0° 28' 41.594" E	98	53° 59' 34.340" N	0° 41' 20.783" E
32	54° 3' 29.522" N	0° 29' 45.309" E	99	54° 1' 11.539" N	0° 37' 38.060" E
33	54° 3' 12.983" N	0° 30' 41.496" E	100	54° 1' 53.954" N	0° 30' 4.210" E
34	54° 3' 11.866" N	0° 30' 46.755" E	101	54° 1' 55.082" N	0° 29' 58.960" E
35	54° 2' 29.831" N	0° 38' 16.384" E	102	54° 2' 16.836" N	0° 28' 45.068" E
36	54° 2' 28.252" N	0° 38' 27.328" E	103	54° 2' 34.272" N	0° 27' 42.729" E
37	54° 2' 25.710" N	0° 38' 37.464" E	104	54° 3' 14.191" N	0° 24' 52.548" E
38	54° 2' 22.467" N	0° 38' 46.275" E	105	54° 3' 28.906" N	0° 22' 9.330" E
39	54° 0' 46.742" N	0° 42' 25.062" E	106	54° 3' 30.827" N	0° 18' 25.085" E
40	54° 0' 44.114" N	0° 42' 47.823" E	107	54° 3' 25.965" N	0° 15' 11.395" E
41	54° 0' 44.168" N	0° 42' 53.983" E	108	54° 3' 10.152" N	0° 11' 26.334" E
42	54° 0' 37.964" N	0° 43' 8.166" E	109	54° 3' 9.658" N	0° 11' 1.640" E
43	54° 0' 33.962" N	0° 43' 31.109" E	110	54° 3' 10.393" N	0° 9' 39.559" E
44	54° 0' 51.704" N	0° 44' 6.496" E	111	54° 3' 7.676" N	0° 9' 26.386" E
45	54° 0' 57.175" N	0° 44' 19.901" E	112	54° 3' 13.846" N	0° 8' 47.985" E
46	54° 1' 20.169" N	0° 45' 45.285" E	113	54° 1' 59.146" N	0° 5' 34.054" E
47	54° 1' 22.890" N	0° 46' 0.288" E	114	54° 1' 59.193" N	0° 5' 24.927" E
48	54° 1' 33.372" N	0° 47' 34.265" E	115	54° 2' 1.399" N	0° 4' 39.525" E
49	54° 1' 33.357" N	0° 48' 6.711" E	116	54° 2' 14.627" N	0° 1' 34.678" E
50	54° 1' 32.702" N	0° 48' 19.691" E	117	54° 2' 13.616" N	0° 1' 29.370" E
51	54° 1' 26.938" N	0° 49' 8.341" E	118	54° 2' 9.931" N	0° 1' 16.745" W
52	54° 1' 15.588" N	0° 50' 33.236" E	119	54° 1' 43.569" N	0° 0' 7.896" W
53	54° 0' 17.357" N	0° 57' 13.969" E	120	54° 1' 31.663" N	0° 0' 25.766" W
54	54° 0' 15.266" N	0° 57' 36.824" E	121	54° 1' 7.679" N	0° 1' 51.463" W
55	54° 0' 14.766" N	0° 57' 48.644" E	122	54° 1' 0.011" N	0° 2' 21.082" W
56	54° 0' 17.493" N	0° 58' 26.081" E	123	54° 1' 0.055" N	0° 4' 18.699" W
57	54° 0' 27.621" N	0° 59' 10.323" E	124	54° 1' 25.632" N	0° 12' 25.517" W
58	54° 0' 36.596" N	1° 0' 6.568" E	125	54° 1' 41.883" N	0° 12' 50.086" W
59	54° 0' 53.351" N	1° 4' 59.324" E	126	54° 1' 39.112" N	0° 12' 50.078" W
60	54° 2' 51.236" N	1° 8' 18.052" E	127	54° 1' 39.246" N	0° 12' 59.069" W
61	54° 7' 24.985" N	0° 59' 54.702" E	128	54° 1' 39.257" N	0° 12' 59.850" W
62	54° 9' 13.497" N	1° 0' 43.850" E	129	54° 1' 39.742" N	0° 12' 59.821" W
63	54° 10' 49.480" N	0° 58' 21.782" E	130	54° 1' 39.731" N	0° 12' 59.103" W
64	54° 12' 37.143" N	0° 58' 31.095" E	131	54° 1' 43.574" N	0° 12' 59.118" W
65	54° 12' 17.413" N	1° 12' 18.263" E	132	54° 1' 43.811" N	0° 12' 59.860" W
66	54° 4' 13.012" N	1° 30' 5.270" E	133	54° 2' 7.201" N	0° 13' 0.387" W
67	53° 59' 15.598" N	1° 17' 20.651" E			

General provisions

6. This licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of

decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes), and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of sections 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially greater environmental effects from those assessed in the environmental statement.

PART 2

CONDITIONS

Design parameters

1.—(1) The total number of offshore electrical installations must not exceed nine, and consisting of a combination of no more than—

- (a) six small offshore transformer substations;
- (b) three large offshore transformer substations;
- (c) three offshore HVAC booster stations;
- (d) six small offshore HVDC converter substations; and
- (e) three large offshore HVDC converter substations.

(2) The dimensions of any small offshore transformer substations (including auxiliary structures, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

- (a) 100 metres in height when measured from LAT;
- (b) 90 metres in length; and
- (c) 90 metres in width.

(3) The dimensions of any large offshore transformer substations (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

- (a) 100 metres in height when measured from LAT;
- (b) 180 metres in length; and
- (c) 90 metres in width.

(4) The dimensions of any offshore HVAC booster station (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

- (a) 100 metres in height when measured from LAT;
- (b) 90 metres in length; and
- (c) 90 metres in width.

(5) The dimensions of any small offshore HVDC converter substations (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

- (a) 90 metres in height when measured from LAT;
- (b) 100 metres in length; and
- (c) 100 metres in width.

(6) The dimensions of any large offshore HVDC converter substations (including auxiliary structures, such as a helipad, crane, lightning protection, but excluding masts, radar and antennae) forming part of the authorised project must not exceed—

- (a) 100 metres in height when measured from LAT;
- (b) 180 metres in length; and
- (c) 90 metres in width.

(7) Offshore electrical installation foundation structures forming part of the authorised project must be one of the following foundation options—

- (a) for small offshore transformer substations and offshore HVAC booster stations either monopile foundations, mono suction bucket foundations, gravity base structures, jacket foundations or box-type gravity base structures; and
- (b) for large offshore transformer substations and offshore HVDC converter stations either monopile foundations, mono suction bucket foundations, jacket foundations, box-type gravity base structures, gravity base structures, pontoon gravity base type 1 structures, or pontoon gravity base type 2 structures.

(8) No offshore electrical installation—

- (a) jacket foundation employing pin piles forming part of the authorised project may—
 - (i) have a pin pile diameter of greater than four metres; and
 - (ii) employ more than 16 pin piles per jacket foundation; and
- (b) monopile foundation forming part of the authorised project may have a diameter greater than 15 metres.

(9) The total seabed footprint area for offshore electrical installation foundations must not exceed—

- (a) 101,250 square metres excluding scour protection; and
- (b) 371,250 square metres including scour protection.

(10) The area of scour protection material for offshore electrical installation foundations must not exceed 270,000 square metres.

(11) The total number of cable crossings when combined with the deemed marine licence granted under Schedule 11 of the Order must not exceed 86, unless otherwise agreed in writing between the undertaker and the MMO.

(12) The total number of gravity base structures must not exceed ten for offshore electrical installations, or nine where the offshore accommodation platform authorised by the deemed marine licence granted under Schedule 11 of the Order utilises a gravity base structure.

(13) The offshore electrical installations comprised in the authorised project must be constructed in accordance with the parameters set out in the pro-rata annex.

(14) A bridge link forming part of the authorised project must be installed at a minimum height of 20 metres when measured from LAT.

2. The total length of the cables and the volume of their cable protection (including cable crossings) must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
Work Nos. 2 and 3 and 5	744 kilometres	1,068,500 cubic metres

3.—(1) The total length of the cables in Work No. 2(d) and (e) and the volume of their cable protection when combined with the cable authorised under Work No. 1(c) of the deemed marine licence granted under Schedule 11 of the Order must not exceed the following—

<i>Length</i>	<i>Cable protection</i>
1,344 kilometres	1,449,000 cubic metres

(2) No more than 5% of the length of cables within Work No. 2(e) and Work No. 3(b) falling within the Smithic Bank, being the area bounded by the following coordinates, shall be subject to cable protection, unless otherwise agreed in writing with the MMO—

<i>Coordinate ID</i>	<i>Easting (ETRS89 UTM31N)</i>	<i>Northing (ETRS89 UTM31N)</i>	<i>Longitude (WGS84)</i>	<i>Latitude (WGS84)</i>
1	298274.67	5990918.71	-0.07990	54.02704
2	298127.19	5990333.27	-0.08175	54.02172
3	294845.62	5990773.47	-0.13207	54.02438
4	294845.60	5990773.48	-0.13207	54.02438
5	293307.25	5990979.83	-0.15565	54.02562
6	293307.23	5990979.84	-0.15565	54.02562
7	293234.22	5990989.63	-0.15677	54.02568
8	293248.01	5991617.59	-0.15699	54.03132
9	293357.03	5992381.64	-0.15585	54.03822
10	293485.99	5993033.45	-0.15432	54.04412
11	293595.22	5993351.56	-0.15288	54.04702
12	295812.89	5993972.30	-0.11947	54.05347
13	295814.17	5993972.66	-0.11945	54.05348
14	295815.45	5993973.03	-0.11943	54.05348
15	296409.98	5994139.44	-0.11048	54.05521
16	296416.88	5994141.37	-0.11037	54.05523
17	297196.58	5994359.61	-0.09863	54.05749
18	297201.62	5994361.02	-0.09855	54.05751
19	297686.58	5994496.76	-0.09124	54.05892
20	297703.95	5994501.62	-0.09098	54.05897
21	297879.77	5994550.84	-0.08833	54.05948
22	297897.33	5994556.10	-0.08807	54.05953
23	297914.68	5994562.01	-0.08781	54.05959
24	297931.81	5994568.54	-0.08755	54.05966
25	297948.69	5994575.70	-0.08730	54.05973
26	298025.95	5994610.17	-0.08614	54.06007
27	298102.19	5994644.18	-0.08500	54.06040
28	298382.32	5994769.14	-0.08081	54.06163
29	298391.64	5993962.56	-0.08013	54.05440
30	298294.20	5992800.25	-0.08085	54.04393
31	298298.27	5991819.11	-0.08013	54.03513
32	298274.67	5990918.71	-0.07990	54.02704

(3) No cable protection may be employed within 350 metres seaward of MLWS tidal datum, measured as a straight line.

(4) The cables and cable circuits comprised in the authorised development must not exceed the parameters set out in the pro-rata annex.

Maintenance of the authorised development

4.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) Maintenance works include but are not limited to—

- (a) offshore electrical installation component replacement;
- (b) offshore electrical installation painting and applying other coatings;
- (c) bird waste and marine growth removal;
- (d) cable remedial burial;
- (e) cable repairs and replacement;
- (f) cable protection replenishment for a maximum of ten years post construction;
- (g) access ladder and boat landing replacement;
- (h) replacement of offshore electrical installation anodes; and
- (i) J-tube repair/replacement.

(3) In undertaking activities under condition 4(2)(f), the undertaker must not reduce water depth by more than 5% unless agreed with the MMO in writing.

(4) An operation and maintenance plan substantially in accordance with the outline operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB at least six months prior to the commencement of the operation of the licensed activities. All operation and maintenance activities shall be carried out in accordance with the approved plan.

Vessels under the undertaker's control

5.—(1) The undertaker must issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(2) The undertaker must ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

Extension of time periods

6. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 16; and
 - (ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 16.
- (b) within 28 days of receipt of a copy of this licence those persons referred to in sub-paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with condition 16 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;

- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
 - (c) on board each vessel and at the office of any offshore operations manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.
- (5) The undertaker must ensure that a copy of this licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to carry on any licensed activity set out in condition 16(3), and that a copy of this licence is held on board any such vessel.
- (6) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised project.
- (7) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities or any stage of them and within five days of the completion of the licensed activity.
- (8) The undertaker must inform the Kingfisher Information Service of details regarding the vessel routes, timings and locations relating to the construction of the authorised project or relevant stage—
- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Bulletin and offshore hazard awareness data; and
 - (b) as soon as reasonably practicable, and in any event no later than 24 hours after completion of construction of all offshore activities,
- confirmation of notification must be provided to the MMO in writing within five days.
- (9) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised project or any relevant stage advising of the start date of Work No. 1 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days of issue.
- (10) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and the notices must be supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under deemed marine licence condition 13(1)(b) and monitoring plan approved under condition 13(1)(f). Copies of all local notifications must be provided to the MMO and UK Hydrographic Office within five days of issue, save for in the case of a notice relating to operations and maintenance, which must be provided within 24 hours of issue.
- (11) The undertaker must notify the UK Hydrographic Office both of the commencement (within fourteen days), progress and completion of construction (within fourteen days) of the licensed activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send a copy of such notifications to the MMO within five days of the notification.
- (12) In case of damage to, or destruction or decay of, the authorised project seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MCA, Trinity House, the Kingfisher Information Service and the UK Hydrographic Office.
- (13) In case of exposure of cables on or above the seabed, the undertaker must within three days of identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, the MCA, Trinity House and the UK Hydrographic Office within five days.

(14) The undertaker must notify the MMO in writing a minimum of five days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity. Such a notification must include proposed timings and a description of proposed methodologies.

(15) The undertaker must ensure that the MMO, the MMO Local Office, local mariners, local fishermen's organisations and the Source Data Receipt Team at the UK Hydrographic Office, Taunton, Somerset, TA1 2DN (sdr@ukho.gov.uk) are notified within five days of completion of each instance of cable repair, replacement or protection replenishment activity.

Aids to navigation

8.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised project to completion of decommissioning of the authorised project seaward of MHWS keep Trinity House and the MMO informed in writing of progress of the authorised project seaward of MHWS including the following—

- (a) notice of commencement of construction of the authorised project within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised project.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 13(1)(i) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS notify Trinity House and the MMO in writing of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 7(12) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

(6) Any jack up barges or vessels utilised during the licensed activities, when jacked up, must exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.

Colouring of structures

9. The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

Aviation safety

10.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2016(a) and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed in writing with the Ministry of Defence.

(a) S.I. 2016/765.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

- (a) the date of the commencement of licensed activities;
- (b) the date any offshore electrical installations are first used;
- (c) the maximum height of any construction equipment or vessels to be used;
- (d) the maximum heights of any offshore electrical installations to be constructed (including any antennae); and
- (e) the latitude and longitude of each offshore electrical installations to be constructed,

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph of this condition and of the completion of the construction of the authorised project. Copies of notifications must be provided to the MMO within five days of the notification being made.

Chemicals, drilling and debris

11.—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised project must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a) as maintained by the Centre for Environment, Fisheries and Aquaculture Science.

(2) The undertaker must ensure that any coatings or treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by Health and Safety Executive and the Environment Agency.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits seaward of MHWS.

(6) The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised project is misplaced or lost below MHWS, the undertaker must report the loss to the MMO's Local Office in writing within 48 hours of becoming aware of it and if the MMO in consultation with the MCA and Trinity House, reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it at its own expense.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the marine environment through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported in writing to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 13(1)(d)(i).

(10) All dropped objects within the Order limits must be reported to the MMO using the dropped object procedure form as soon as reasonably practicable following the undertaker becoming aware

(a) S.I. 2002/1355.

of an incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

Force majeure

12.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO in the manner provided in condition 11(10).

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

13.—(1) The licensed activities for each stage of construction of the authorised project must not commence until the following (insofar as relevant to that activity or stage of activity) have been submitted to and approved in writing by the MMO in consultation with, where relevant, Trinity House, the MCA, the UK Hydrographic Office and relevant SNCB—

- (a) A design plan or plans prepared in accordance with the layout principles at a scale of between 1:25,000 and 1:50,000, or in such other format as may be appropriate, including detailed representation on the most suitably scaled chart, which shows, for the relevant stage—
 - (i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each offshore electrical installation within the relevant stage, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions discovered post approval under this condition and choice of foundation of all offshore electrical installations within the relevant stage;
 - (ii) the height, length and width of all offshore electrical installations (including any antennae) within the relevant stage;
 - (iii) the length and arrangement of all cables comprised in Work Nos. 2, 3, and 5 within the relevant stage;
 - (iv) the dimensions of all monopile foundations, mono suction bucket foundations, jacket foundations, gravity base structures, pontoon gravity base type 1 structures and pontoon gravity base type 2 structures;
 - (v) the proposed layout of all offshore electrical installations including any exclusion zones identified under sub-paragraph 13(2)(d); and
 - (vi) any exclusion zones or micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph 13(2)(d) or relating to any habitats of principal importance identified as part of surveys undertaken in accordance with condition 17, to ensure conformity with the description of Work Nos. 2, 3, 4 and 5 and compliance with conditions 1, 2 and 3 above;
- (b) a construction programme to include details for the relevant stage of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works; and
 - (iii) an indicative written construction programme for all offshore electrical installations and electrical circuits comprised in the works at paragraph 2 of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in sub-paragraph (ii) above), unless otherwise agreed in writing with the MMO;

- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details for the relevant stage of—
 - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works and having regard to any mitigation scheme pursuant to sub-paragraph 13(1)(f);
 - (ii) advisory safe passing distances for vessels around construction sites;
 - (iii) cable (including fibre optic cable) installation;
 - (iv) contractors;
 - (v) vessels and vessels transit corridors;
 - (vi) codes of conduct for vessel operators;
 - (vii) associated ancillary works;
 - (viii) guard vessels to be employed;
 - (ix) details of means to address impacts on European sites, habitats of principal importance and any international or nationally designated sites, where relevant; and
 - (x) measures to ensure appropriate co-ordination with the Marine Helicopter Coordination Centre;
- (d) a construction project environmental management and monitoring plan covering the period of construction of the relevant stage to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with and report any spills and collision incidents of the authorised project in relation to all activities carried out;
 - (ii) a chemical risk review to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised;
 - (iv) waste management and disposal arrangements;
 - (v) a vessel management plan, to determine vessel routing to and from construction sites and ports, to include a code of conduct for vessel operators; and
 - (vi) the appointment and responsibilities of a company fisheries liaison officer;
- (e) a scour protection management plan for the relevant stage providing details of the need, type, sources, quantity and installation methods for scour protection, which plan must be updated and resubmitted in writing for approval if changes to it are proposed following cable laying operations;
- (f) details for the relevant stage of proposed pre-construction surveys, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 17, 18 and 19;
- (g) in the event that driven or part-driven pile foundations are proposed to be used for the relevant stage, a piling marine mammal mitigation protocol for that stage, in accordance with the outline marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, including details of soft start procedures with specified duration periods following current best practice as advised by the relevant statutory nature conservation bodies;
- (h) a cable specification and installation plan for the relevant stage which accords with the principles of the outline cable specification and installation plan, to include—
 - (i) technical specification of offshore cables (including fibre optic cable) below MHWS within that stage, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with good industry practice;

- (ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;
- (iii) proposals for the volume and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes and areas post construction within that stage; and
- (iv) proposals for monitoring offshore cables within that stage including cable protection during the operational lifetime of the authorised project which includes a risk based approach to the management of unburied or shallow buried cables;
- (i) an aids to navigation management plan for that stage to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 relating to that stage for the lifetime of the authorised project; and

(2) Subject to condition 13(3) the licensed activities or any relevant stage of those activities must not commence unless no later than six months prior to the commencement of a relevant stage a marine written scheme of archaeological investigation for the stage of construction has been submitted to and approved by the MMO in writing, in accordance with the outline marine written scheme of investigation, and in accordance with industry good practice, in consultation with the statutory historic body to include—

- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (b) a method statement for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
- (c) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within six months of any survey being completed;
- (d) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones prior to construction;
- (e) monitoring of archaeological exclusion zones during and post construction;
- (f) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS (‘online access to the index of archaeological investigations’) form with a digital copy of the report within six months of completion of construction of the authorised project, and to notify the MMO (and East Riding of Yorkshire Council where the report relates to the intertidal area) that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
- (g) a reporting and recording protocol, designed in reference to the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by the Crown Estate and reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised project; and
- (h) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a written scheme of investigation specific to the relevant pre-construction activities (which must accord with the details set out in the outline marine written scheme of investigation) which has been submitted to and approved by the MMO in consultation with the statutory historic body.

(4) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive monopile foundations must not exceed 5,000kJ and the hammer energy used to drive or part-drive pin pile foundations must not exceed 3,000kJ.

(5) No more than two vessels may be engaged at any time in activities related to piling for the licenced activities. There will only be maximum installation of two piled foundations within a 24-hour period. It is possible for installation of the two piled foundations to occur concurrently i.e. within a 24-hour period at up to two locations within the area of Work No. 3(a) or up to two locations within the array. The two piled foundation locations may also be piled simultaneously.

(6) The licensed activities or any part of those activities must not commence until a fisheries coexistence and liaison plan in accordance with the outline fisheries coexistence and liaison plan has been submitted to and approved by the MMO in writing.

(7) The undertaker must, before submitting any pre-construction plans and documentation required under this condition, provide a copy of the plans and documentation to any other undertaker to whom part of the benefit of this Order has been transferred or leased pursuant to article 5 (benefit of the Order) of the Order.

(8) The undertaker to whom part of the benefit of the Order has been transferred or leased pursuant to article 5 (benefit of the Order) must provide any comments on the plans and documentation to the undertaker within 14 days of receipt.

(9) The undertaker and any other undertaker must participate in liaison meetings as requested from time to time by the MMO in writing in advance and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence issued under this Order (including as varied or transferred).

14.—(1) Except where otherwise stated or agreed in writing with the MMO, each programme, statement, plan, protocol or scheme required to be approved under condition 13 (save for that required under condition 13(1)(f)) must be submitted for approval at least six months prior to the intended commencement of the relevant stage of the licensed activities.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 13(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

- (a) at least six months prior to the first survey of the relevant stage, detail of any pre-construction surveys and an outline of all proposed monitoring;
- (b) at least six months prior to construction of the relevant stage, detail on construction monitoring; and
- (c) at least six months prior to commissioning of the relevant stage, detail of post-construction (and operational) monitoring.

(3) The MMO must determine an application for consent made under Condition 13 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker such agreement not to be unreasonably withheld or delayed.

(4) The licensed activities for the relevant stage must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 13, unless otherwise agreed in writing by the MMO.

(5) The plans, protocols, statements, scheme and details submitted under condition 13 must ensure that any residual effects fall within the scope of those predicted in the environmental statement.

Offshore safety management

15. No stage of the authorised project may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the authorised project adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

Reporting of engaged agents, contractors and vessels

- 16.—(1) The undertaker must provide the following information to the MMO—
- (a) the name, company number, address and function of any agent, contractor or sub-contractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and
 - (b) each week during the construction of the authorised project a list of the vessels currently and to be used in relation to the licensed activities, including the master’s name, vessel IMO number and vessel owner or operating company.
- (2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.
- (3) The undertaker must notify the MMO in writing not less than 24 hours prior to the commencement of major component exchanges, ladder replacements or cable related works—
- (a) any agents, contractors or subcontractors that will carry out such works; and
 - (b) any vessel proposed to be used for such works, including the master’s name, vessel type, vessel IMO number and vessel owner or operating company.

Pre-construction monitoring and surveys

- 17.—(1) The undertaker must, in discharging condition 13(1)(f), for each stage of construction submit a monitoring plan or plans for that stage in accordance with an outline marine monitoring plan for written approval by the MMO in consultation with the relevant statutory bodies, which will contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report, and;
- (a) the survey proposals must be in accordance with the principles set out in the outline marine monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement; and
 - (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the preconstruction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.
- (2) Subject to receipt from the undertaker of specific proposals pursuant to this condition the pre-construction surveys must comprise, in outline—
- (a) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a of the Order limits and an appropriate buffer outside to—
 - (i) determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the outline marine monitoring plan;
 - (ii) inform future navigation risk assessments as part of the cable specification and installation plan; and
 - (iii) inform the identification of any archaeological exclusion zone and post consent monitoring of any such archaeological exclusion zone.
 - (b) a bathymetric survey that meets the requirements of IHO S44ed5 Order 1a of the area within the following coordinates—

Development area node point	WGS84 UTM Zone 31N (metres)		WGS84 (DMS)		WGS84 (decimal degrees)	
	Easting	Northing	Latitude	Longitude	Latitude	Longitude
1	401818	5992480	54° 4' 16.157" N	1° 29' 58.386" E	54.07115	1.49955
2	411109	5984944	54° 0' 18.479" N	1° 38' 37.320" E	54.00513	1.64370

3	397695	5985627	54° 0' 31.626" N	1° 26' 19.993" E	54.00878	1.43889
4	397800	5978992	53° 56' 57.085" N	1° 26' 33.766" E	53.94919	1.44271
5	387657	5983579	53° 59' 17.868" N	1° 17' 11.556" E	53.98830	1.28654
6	401818	5992480	54° 4' 16.157" N	1° 29' 58.386" E	54.07115	1.49955

(3) The pre-construction survey(s) carried out pursuant to condition 17(2)(a)(ii) and 17(2)(b) must fulfil the requirements of MGN654 and its supporting 'Hydrographic Guidelines for Offshore Renewable Energy Developer' (as relevant).

(4) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(5) Following completion of a survey carried out pursuant to this condition and prior to construction of the relevant stage, the undertaker must provide a report and full density data of the survey outcomes to the MMO, the relevant statutory nature conservation body, the MCA and UK Hydrographic Office (as relevant).

Construction monitoring

18.—(1) The undertaker must in discharging condition 13(1)(f) for each stage of construction submit a construction monitoring plan or plans for that stage in accordance with an outline marine monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body, which will include details of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in accordance with the principles set out in the outline marine monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this condition the construction monitoring plan must include in outline details of—

- (a) vessel traffic monitoring by automatic identification system for the duration of the construction period, with provision for a report to be submitted to the MMO, Trinity House, and the MCA annually during the construction period for the authorised development; and
- (b) where piled foundations are to be employed, unless otherwise agreed by the MMO in writing, details of proposed monitoring of the noise generated by the installation of the first four piled foundations of each piled foundation type to be constructed collectively under this licence and the licence granted under Schedule 11 of the Order.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph 18(2)(b) must be provided in writing to the MMO within six weeks of the installation (unless otherwise agreed) of the first four piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the opinion of the MMO in consultation with the statutory nature conservation body, the assessment shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(4) The undertaker must carry out the surveys specified within the construction monitoring plan or plans in accordance with that plan or plans, including any further noise monitoring required in writing by the MMO under condition 18(3) unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Post-construction monitoring

19.—(1) The undertaker must in discharging condition 13(1)(f) for each stage of construction submit a post-construction monitoring plan or plans for that stage in accordance with an outline marine monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in accordance with the principles set out in the outline marine monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals the post-construction survey plan or plans must include, in outline—

- (a) details of a survey to determine any change in the location, extent and composition of any biogenic or geogenic reef feature identified in the pre-construction survey in the parts of the offshore Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones. The data will be analysed by an accredited archaeologist as defined in the offshore written scheme of investigation required under condition 13(2);
- (c) vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of the authorised project, unless otherwise agreed in writing by the MMO, with provision for a report to be submitted annually to the MMO, Trinity House, and the MCA; and
- (d) a bathymetry survey of the installed export cable that meets the requirements of IHO S44ed5 Order 1a and MGN654 Annex 4 'Hydrography Guidelines for Offshore Renewable Energy Developers'.

(3) The undertaker must carry out the surveys specified within the post-construction monitoring plan or plans in accordance with that plan or plans, and provide the agreed reports in the agreed format unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(4) Within 12 weeks of completion of any cable repair or replacement works, the undertaker must undertake a post installation survey along the section of cable that has undergone repair or replacement to demonstrate the successful burial of the cable, and submit a report to the MMO on its findings.

Timing of monitoring report

20. Any monitoring report compiled in accordance with the monitoring plans provided under conditions 17, 18 and 19 must be provided to the MMO no later than four months following receipt by the undertaker of the results of the monitoring to which it relates, unless otherwise agreed with the MMO in writing.

Reporting of impact pile driving

21.—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and

- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements.
- (2) The undertaker must notify the MMO in writing of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.
- (3) For the purpose of this condition "Forward Look" and "Close Out" means the requirements as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) as amended, updated or superseded from time to time.

HVAC booster station lighting plan

22. The undertaker must ensure that all HVAC booster stations are lit in accordance with the HVAC booster station lighting plan.

Piling restriction

23. In the event that driven or part driven pile foundations are to be used to install Work No. 3, no impact piling may be undertaken between 21st August and 23rd October each year within the area of Work No. 3 as shown on the offshore works plans unless otherwise agreed in writing by the MMO after consultation with the relevant statutory nature conservation body.

Maintenance reporting

24.—(1) An annual maintenance report must be submitted to the MMO in writing within one month following the first anniversary of the date of commencement of operations, and every year thereafter until permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 4 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within one month of that date, a consolidated maintenance report, which will—

- (a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with condition 24(1) of this licence;
- (b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Stages of construction

25.—(1) The licenced activities must not be commenced until a written scheme setting out the stages of construction of the authorised development seaward of MHWS has been submitted to and approved by the MMO in writing.

(2) The stages of construction referred to in sub-paragraph (1) will not permit the authorised development to be constructed in more than one overall phase.

(3) The scheme must be implemented as approved.

(4) The written scheme referred to in sub-paragraph (1) must be submitted to the MMO in writing four months prior to the planned commencement of the licenced activities.

Completion of construction

26. The undertaker must submit a close out report to the MCA and the UK Hydrographic Office within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following—

- (a) a plan of the layout of installed export and inter-array cables, offshore substations and booster stations; and

- (b) latitude and longitude coordinates of the location of export and inter-array cables, offshore substations and booster stations, provided as Geographical Information System data referenced to WGS84 datum.

Deployment of cable protection

27. Any cable protection authorised under this licence must be deployed within 15 years from the date of the grant of the order unless otherwise agreed by the MMO in writing.

Southern North Sea Special Area of Conservation Site Integrity Plan

28. – (1) No piling activities can take place until a Site Integrity Plan (SIP), which accords with the principles set out in the outline Southern North Sea SAC Site Integrity Plan, has been submitted to, and approved in writing, by the MMO in consultation with the relevant statutory nature conservation body.

(2) The SIP submitted for approval must contain a description of the conservation objectives for the Southern North Sea Special Area of Conservation (SNS SAC) as well as any relevant management measures and it must set out the key statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the authorised scheme.

(3) The SIP must be submitted to the MMO no later than six months prior to the commencement of the piling activities.

(4) In approving the SIP, the MMO must be satisfied that the authorised scheme at the pre-construction stage, in-combination with other plans and projects, is in line with the JNCC Guidance.

(5) The approved SIP may be amended with the prior written approval of the MMO, in consultation with the relevant statutory nature conservation body, where the MMO remains satisfied that the Project, in-combination with other plans or projects at the preconstruction stage, is in line with the JNCC guidance.

Pre-Construction particle size analysis results

29. No licensable marine activities relating to the dredging or disposal of marine sediments under Paragraph 2 of this licence will take place until the MMO has provided written approval of the laboratory contracted to undertake the particle size analysis of the pre-construction sediment samples.

A request must be submitted for approval at least four months prior to the intended commencement of the licensed activities and the MMO must determine an application for approval within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker. Such agreement is not to be unreasonably withheld or delayed.

**MODIFICATIONS TO AND AMENDMENTS OF THE DOGGER
BANK CREYKE BECK OFFSHORE WIND FARM ORDER 2015**

Schedule 12 to the Dogger Bank Creyke Beck Offshore Wind Farm Order 2015

1. After Part 5 of Schedule 12 insert new Part 6—

“PART 6

PROTECTION OF ORSTED HORNSEA PROJECT FOUR LIMITED

Application

1. The following provisions of this Part of this Schedule will have effect unless otherwise agreed in writing between the undertaker and Hornsea Four.

Interpretation

2. In this Part of this Schedule—

“acceptable insurance” means a third party liability insurance effected and maintained by the undertaker to a level of not less than £50,000,000 (fifty million pounds) (or such lower amount as may be agreed by Hornsea Four) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained for the construction period of the authorised development which constitute specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an “acceptable credit provider”, such policy shall include (but without limitation)—

- (a) Hornsea Four as a Co-Insured;
- (b) a cross liabilities clause; and
- (c) contractors’ pollution liability for third party property damage and third party bodily damage arising from a pollution/contamination event with cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;

“ground mitigation scheme” means a scheme approved by Hornsea Four (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the Hornsea Four authorised development which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for Hornsea Four’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme; and

“the Hornsea Four authorised development” means the onshore development authorised by the Hornsea Four Order;

“the Hornsea Four Order” means the Hornsea Four Offshore Wind Farm Order 202*;

“the Hornsea Four Order land” has the same meaning as the term “Order land” in article 2(1) of the Hornsea Four Order;

“Hornsea Four” means Orsted Hornsea Project Four Limited, (Company No. 08584182) whose registered office is at 5 Howick Place, London, England, SW1P 1WG or any person having the benefit of the Hornsea Four Order pursuant to article 5 thereof;

“the Order” means this Order;

“the respective authorised developments” means the developments authorised by the Order and the Hornsea Four Order respectively; and

“specified works” means the carrying out of any of the authorised development over, under or within 15 metres of the Hornsea Four authorised development or in the event that the Hornsea Four authorised development has not been constructed within the Hornsea Four Order land.

Regulation of powers over the Hornsea Four Order land

3.—(1) The undertaker may not exercise the powers under any of the articles of the Order specified in sub-paragraph (2) over or in respect of the Hornsea Four Order land otherwise than with the prior written consent of Hornsea Four.

(2) The articles referred to in sub-paragraph (1) are—

- (a) article 13 (street works);
- (b) article 14 (temporary stopping up of streets);
- (c) article 15 (access to works);
- (d) article 17 (discharge of water);
- (e) article 19 (authority to survey and investigate land);
- (k) article 28 (rights under or over streets);
- (l) article 29 (temporary use of land for carrying out authorised project);
- (m) article 30 (temporary use of land for maintaining authorised development); and
- (o) article 36 (felling or lopping of trees and removal of hedgerows).

(3) In the event that Hornsea Four withholds its consent pursuant to sub-paragraph (1) it will notify the undertaker in writing of the reasons for withholding such consent and (if applicable) the time period during which such consent will be withheld.

Co-operation

4. Wherever in this Part of this Schedule provision is made with respect to the approval or consent of Hornsea Four, that approval or consent shall be in writing (and subject to such reasonable terms and conditions as the undertaker may require), but shall not be unreasonably withheld.

5. In the event that Hornsea Four does not respond in writing to a request for approval or consent within 28 days of receipt of such a request, Hornsea Four is deemed to have given its consent (without any terms or conditions).

6. Insofar as the construction of the respective authorised developments is or may be undertaken concurrently, the undertaker shall—

- (a) co-operate with Hornsea Four with a view to ensuring—
 - (i) the co-ordination of construction programming and the carrying out of works; and
 - (ii) that access for the purposes of constructing the respective authorised developments is maintained for the undertaker and Hornsea Four and their respective contractors; and
- (b) use reasonable endeavours to avoid any conflict arising between the carrying out of the respective authorised developments.

7. Insofar as the construction of the authorised development gives rise to the need to modify any scheme secured by a requirement contained in Part 3, Schedule 1 to the Hornsea Four Order, the undertaker will provide such assistance as is reasonably necessary to support Hornsea Four in pursuing any such modification.

Requirements

8. Insofar as compliance with paragraph 3(1) of this Part prevents the undertaker from complying with any requirement contained in Part 2 of Schedule 1 to the Order, the undertaker will not be in breach of such requirement for the time period specified in paragraph 3(3).

9. In the event that paragraph 8 applies, the undertaker will provide the relevant planning authority with a copy of the reasons given by Hornsea Four for refusing consent and the time period pursuant to paragraph 3(3).

10. It will be a defence for any person charged with an offence pursuant to section 161 of the Planning Act 2008 (Breach of terms of order granting development consent) to prove that they were not able to comply with a requirement contained in Part 2 of Schedule 1 to the Order due to the effect of paragraph 3 of this Part.

Protection of Hornsea Four

11.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Hornsea Four a plan and, if reasonably required by Hornsea Four, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Hornsea Four under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all Hornsea Four authorised development;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any of the Hornsea Four authorised development; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until Hornsea Four has given written approval of the plan so submitted.

(4) Any approval of Hornsea Four required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) or (7); and,
- (b) must not be unreasonably withheld.

(5) In relation to a work to which sub-paragraphs (1) and/or (2) apply, Hornsea Four may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing the Hornsea Four authorised development against interference or risk of damage or for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any of the Hornsea Four authorised development.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraphs (1) and (2) or as relevant sub-paragraph (5), as amended from time to time by agreement between the undertaker and Hornsea Four and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) and/or (7) by Hornsea Four for the alteration or otherwise for the protection of the Hornsea Four authorised development, or for securing access to it, and Hornsea Four will be entitled to watch and inspect the execution of those works.

(7) Where Hornsea Four requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Hornsea Four's satisfaction prior to the commencement of any specified works for which protective works are required and Hornsea Four must give notice of its requirement for such protective works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(9) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Hornsea Four notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (10) at all times.

(10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that Hornsea Four retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 12.

Expenses

12. Save where otherwise agreed in writing between Hornsea Four and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to Hornsea Four within 30 days of receipt of an itemised invoice or claim from Hornsea all charges, costs and expenses reasonably incurred by Dogger Bank in, or in connection with this Part of this Schedule including without limitation—

- (a) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (b) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

Indemnity

13.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the onshore elements of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out the onshore elements of the authorised development (including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works), any damage is caused to any apparatus or property of Hornsea Four, or there is any interruption in any service provided, or in the supply of any goods, by Hornsea Four, or Hornsea Four becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from Hornsea Four the cost reasonably and properly incurred by Hornsea Four in making good such damage or restoring the supply; and
- (b) indemnify Hornsea Four for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Hornsea Four, by

reason or in consequence of any such damage or interruption or Hornsea Four becoming liable to any third party as aforesaid other than arising from any default by Hornsea Four.

(2) The fact that any act or thing may have been done by Hornsea Four on behalf of the undertaker or in accordance with a plan approved by Hornsea Four or in accordance with any requirement of Hornsea Four as a consequence of the onshore elements of the authorised development or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (2) where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or as otherwise agreed between the undertaker and Hornsea Four.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of Hornsea Four, its officers, servants, contractors or agents.

(4) Hornsea Four must give the undertaker reasonable notice of any such claim or demand and no settlement, admission of liability or compromise or demand must be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(5) Hornsea Four must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under sub-paragraph (1) applies. If request to do so by the undertaker, Hornsea Four must provide an explanation of how the claim has been minimised. The undertaker is only liable under sub-paragraph (1) for claim reasonably incurred by Hornsea Four.

(6) The undertaker must not commence construction (and must not permit the commencement of such construction) of any specified works until Hornsea Four is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker or its contractor has procured acceptable insurance (and provided evidence to Hornsea Four that it shall maintain such acceptable insurance for the construction period of the specified works from the proposed date of commencement of construction of the specified works) and Hornsea Four has confirmed the same in writing to the undertaker.

(7) In the event that the undertaker fails to comply with paragraph 13(6) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent Hornsea Four from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Arbitration

14.—(1) Any difference or dispute arising between the undertaker and Hornsea Four under this Part of this Schedule shall, unless otherwise agreed in writing between the undertaker and Hornsea Four, be referred to and settled in arbitration in accordance with the Rules at Schedule 14 of the Hornsea Four Order, by a single arbitrator to be agreed upon by the parties within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) Should the Secretary of State fail to appoint an arbitrator under paragraph (1) within 14 days of the application, the referring party may refer to the Centre of Effective Dispute Resolution for appointment of an arbitrator.

(3) Article 4439 (arbitration) will not apply to any difference or dispute under any provision of this Part of this Schedule.

Access

15. If in consequence of any specified works approved in accordance with this Part or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable

Hornsea Four to maintain or use the apparatus no less effectively than was possible before such obstruction.”.

SCHEDULE 14

Article 39

ARBITRATION RULES

Primary objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the arbitrator is appointed pursuant to article 39 of the Order.

(2) The parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the parties. Any dispute which is not resolved amicably by the senior management of the parties within twenty (20) working days of the dispute arising, or such longer period as agreed in writing by the parties, will be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration will be deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

Time periods

2.—(1) All time periods in these Arbitration Rules will be measured in working days and this will exclude weekends, bank holidays and public holidays.

(2) Time periods will be calculated from the day after the arbitrator is appointed which will be either—

- (a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the arbitrator being appointed, the Claimant will provide both the Respondent and the arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant’s contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the Claimant’s statements under sub-paragraph (2) by the arbitrator and Respondent, the Respondent will provide the Claimant and the arbitrator with—

- (a) a written Statement of Defence responding to the Claimant’s Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant’s claim, its acceptance of any element(s) of the Claimant’s claim, its contentions as to those elements of the Claimant’s claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the Claimant’s statements, comments on the Claimant’s expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 5 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the arbitrator with—

- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
- (c) any expert report in response to the Respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The arbitrator will make an award on the substantive difference(s) based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within 10 days of the arbitrator advising the parties that they will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the arbitrator will direct a date and venue which they consider is fair and reasonable in all the circumstances. The date for the hearing will not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any expert(s) attending the hearing may be asked questions by the arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the arbitrator will invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 10 days of the issues being provided; and
- (c) the form and content of a joint report will be as directed by the arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a hearing or a decision by the arbitrator that no hearing is to be held the Parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator will take these submissions into account in the award.

(8) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The arbitrator's award will include reasons. The parties will accept that the extent to which reasons are given will be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these Arbitration Rules.

(2) There will be no discovery or disclosure, except that the arbitrator will have the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales and/or procedure—

- (a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

6.—(1) The costs of the Arbitration will include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be open to and accessible by the public.

(2) The arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph will prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

(a) 1996 c.23.

SCHEDULE 15

Article 38

DOCUMENTS TO BE CERTIFIED

PART 1

DOCUMENTS FORMING THE ENVIRONMENTAL STATEMENT TO BE CERTIFIED

<i>(1)</i> <i>Application Document No.</i>	<i>(2)</i> <i>Examination Library Reference</i>	<i>(3)</i> <i>Document Description</i>	<i>(4)</i> <i>Version</i>	<i>(5)</i> <i>Date</i>
A1, A2 and A3	APP-006 to APP-034	The environmental statement	1	8 October 2021
A4	APP-035 to APP-066	Figures	1	8 October 2021
A5 and A6	APP-067 to APP-128	Technical Appendices	1	8 October 2021

PART 2

EXAMINATION DOCUMENTS FORMING PART OF THE ENVIRONMENTAL STATEMENT TO BE CERTIFIED

<i>(1)</i> <i>Application Document No. (and relevant ES Chapters)</i>	<i>(2)</i> <i>Examination Library Reference (and relevant ES Chapter reference)</i>	<i>(3)</i> <i>Document Description</i>	<i>(4)</i> <i>Version</i>	<i>(5)</i> <i>Date</i>
A2.2	REP7-004	Benthic and Intertidal Ecology	2	10 August 2022
A5.2.1.1	REP7-013	Benthic Intertidal Ecology Technical Report	2	10 August 2022
A2.6	REP5-004	Commercial Fisheries	2	20 June 2022
A4.4.4	REP6-004	Dredging and disposal site	2	27 July 2022
A3.3.1	AS-008	Ecology and Nature Conservation Schedule of Change	1	17 January 2022
A1.5.1	AS-007	Environmental Impact Assessment Methodology Schedule of Change	1	17 January 2022
G1.2	AS-020	Environmental Risk Assessment of the Onshore Substation and Energy Balancing Infrastructure	1	17 January 2022
A6.4.1	REP5-010	Landscape and visual resources wireframes and photomontages	2	20 June 2022
A5.7.1	REP4-009	Navigational risk assessment part 1	2	10 May 2022

A5.7.1	REP4-011	Navigational risk assessment part 2	2	10 May 2022
A5.7.1	REP4-013	Navigational risk assessment part 3	2	10 May 2022
A5.11.1	REP3-005	Offshore installation interfaces part 1	2	21 April 2022
A5.11.1	REP2-059	Offshore installation interfaces part 2	2	29 March 2022
A5.5.2	REP2-003	Offshore ornithology displacement analysis	2	29 March 2022
A5.5.5.1	AS-010	Offshore Ornithology Migratory Birds report Schedule of Change	1	17 January 2022
G5.25	REP6-028	Ornithology Environmental Impact Assessment (EIA) and Habitats Regulation Assessment (HRA) Revision 2	3	27 July 2022
A4.4.8	REP6-006	Pro-rata Annex Revision 4	4	27 July 2022
NTS1.1.1	AS-022	Response to post-Acceptance s51 advice: NTS1.1.1 Non Technical Summary of Schedule of Change	1	17 January 2022
G5.9	REP5a-009	Revised Ornithology Baseline Revision 2	2	4 July 2022
A2.7	REP5-006	Shipping and Navigation	2	20 June 2022
A1.4	REP7-002	Volume A4 Chapter 4: Project Description Revision 7	7	10 August 2022

PART 3

OTHER DOCUMENTS TO BE CERTIFIED

<i>(1)</i> <i>Examination Library Reference</i>	<i>(2)</i> <i>Document Name</i>	<i>(3)</i> <i>Version</i>	<i>(4)</i> <i>Date</i>
APP-213	the access to works plan	1	8 October 2021
REP7-049	the book of reference	4	10 August 2022
REP5-084	the Bridge protected area plan	1	20 June 2022
REP6-008	the commitments register	3	27 July 2022
APP-221	the crown land plans – onshore and offshore	1	8 October 2021
[]	the Endurance protective provisions plan	[]	[]
APP-252	the HVAC booster station lighting plan	1	8 October 2021
REP6-049	Hornsea Four Premier Oil Wellhead Buffer Plan	1	
REP5-016	the kittiwake compensation plan	2	20 June 2022

APP-210	the land plans	1	8 October 2021
REP5-008	the layout principles	3	20 June 2022
APP-206	the location plans – Offshore	1	8 October 2021
APP-207	the location plans - Onshore	1	8 October 2021
REP7-106	the Neo protective provisions plan, Appendix B	1	
APP-208	the offshore Order limits and grid coordinates plan	1	8 October 2021
REP5-037	the offshore works plans	2	20 June 2022
APP-040	the onshore crossing schedule	1	8 October 2021
APP-209	the onshore Order limits plan	1	8 October 2021
REP5-038	the onshore works plans	2	20 June 2022
REP6-013	the outline cable specification and installation plan	3	27 July 2022
REP4-019	the outline code of construction practice	3	10 May 2022
REP4-019	the outline construction traffic management plan	3	10 May 2022
REP4-021	the outline design plan	2	10 May 2022
REP1-029	the outline ecological management plan	2	8 March 2022
APP-253	the outline employment and skills plan	1	8 October 2021
REP2-029	the outline energy balancing infrastructure HazID report	2	29 March 2022
APP-249	the outline enhancement strategy	1	8 October 2021
REP1-033	the outline fisheries coexistence and liaison plan	2	8 March 2022
REP3-010	the outline landscape management plan	4	21 April 2022
REP6-011	the outline marine mammal mitigation protocol	2	27 July 2022
REP7-058	the outline marine monitoring plan	7	10 August 2022
REP5-042	the outline marine written scheme of investigation	2	20 June 2022
APP-251	the outline net gain strategy	1	8 October 2021
APP-241	the outline onshore infrastructure drainage strategy	1	8 October 2021
REP5a-007	the outline operations and maintenance plan	2	4 July 2022
APP-254	the outline ornithological monitoring plan	1	8 October 2021
REP7-054	the outline southern north sea special area of conservation site integrity plan	2	10 August 2022
REP3-012	the outline written scheme of investigation for onshore archaeology	2	21 April 2022
REP6-006	the pro-rata annex	4	27 July 2022

APP-215	the public rights of way plan	1	8 October 2021
APP-214	the streets plan	1	8 October 2021
APP-220	the tree preservation order and hedgerow plan	1	8 October 2021

SCHEDULE 16

Article 49

COMPENSATION TO PROTECT THE COHERENCE OF THE
NATIONAL SITE NETWORK

□

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises the construction, operation and maintenance of an offshore wind farm generating station located in the North Sea 69 kilometres due east of Flamborough Head at its closest point together with associated development including an energy storage facility. This Order imposes requirements in connection with the development and authorises the compulsory purchase of land (including rights in land) and the right to use land and to override easements and other rights.

This Order also grants deemed marine licences under Part 4 of the Marine and Coastal Access Act 2009 in connection with the wind farm. The marine licences impose conditions in connection with the deposits and works for which they grant consent.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 38 (certification of plans and documents, etc.) together with a copy of any guarantee or alternative form of security approved by the Secretary of State pursuant to article 45 (funding), may be inspected free of charge at the offices of East Riding of Yorkshire Council at County Hall, Beverley, East Riding of Yorkshire, HU17 9BA.

END OF VOLUME 3

For additional report content please return to:

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