

SCHEDULES

SCHEDULE 9

Article 46

DEEMED MARINE LICENCE

PART 1

INTRODUCTION

Interpretation

1.—(1) In this licence—

“the 2009 Act” means the Marine and Coastal Access Act 2009⁽¹⁾;

“AOD” means above ordnance datum;

“authorised development” has the meaning given in paragraph 4;

“BFFS” means the Boston and Boston and Fosdyke Fishing Society Limited (Registration number 16773 R);

“biodiversity units” means the product of the size of an area, and the distinctiveness and condition of the habitat it comprises to provide a measure of ecological value (as assessed using the Defra biodiversity off-setting metric);

“biodiversity off-setting scheme” means a scheme which will deliver biodiversity enhancements which must not be less than the off-setting value;

“business day” means a day other than a Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971⁽²⁾;

“capital dredging” means dredging which comprises the excavation of the seabed, in an area or down to a level (relative to ordnance datum) not previously dredged during the preceding 10 years;

“CEMP” means construction and environmental management plan;

“commence” means beginning to carry out any part of a licensed activity comprised in or carried out for the purposes of the authorised development other than operations consisting of pre-construction ecological mitigation, archaeological investigations, environmental surveys and monitoring, investigations for the purpose of assessing ground conditions (including the making of trial boreholes), receipt and erection of construction plant and equipment, erection of any temporary means of enclosure, the temporary display of site notices or contractors’ signage and notices and “commenced” and “commencement” are to be construed accordingly;

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

“Defra biodiversity off-setting metric” means the mechanism published by Defra to quantify impacts on biodiversity, which allows biodiversity losses and gains affecting different habitats

(1) 2009 c. 23.

(2) 1971 c. 80.

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to be compared and ensures offsets are sufficient to compensate for residual losses of biodiversity;

“designated bird species” means any species which is a constituent named part of The Wash Special Protection Area/Ramsar/Site of Special Scientific Interest (“Protected Sites”) non-breeding waterbird assemblage feature, or any species constituting a site feature in its own right on The Haven above Hobhole Drain; expanded to include any wader, gull, duck, goose, swan, or other waterbird species when monitoring downstream of Hobhole Drain confluence and into The Wash (i.e. inside Protected Sites boundaries);

“environmental statement” means the document of that description certified by the Secretary of State as the environmental statement for the purposes of this Order under article 47 (certification of documents, etc.) as supplemented by the document set out in Part 2 of Schedule 10;

“Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) as amended, updated or superseded from time to time;

“harbour authority” means the Port of Boston Limited;

“licensed activity” means any activity described in Part 2 of this licence;

“maintain” in relation to the authorised development includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve to the extent that such works do not give rise to any materially new or materially different environmental effects than those identified in the environmental statement and “maintenance” and “maintaining” are to be construed accordingly;

“maintenance dredging” means any activity which comprises the removal of recently accumulated sediments such as mud, sand and gravel in order to keep channels, berths and other areas at their designed depths and which takes place in circumstances where—

- (a) the level of the seabed to be restored by the dredging is not lower than it has been at any time during the past 10 years; and
- (b) there is evidence that dredging has previously been undertaken to that level (or lower) during that period;

“the marine area” has the meaning given to ‘UK marine area’ in section 42 of the 2009 Act;

“Marine Case Management System” or “MCMS” means the Marine Management Organisation’s online case management system;

“Marine Noise Registry” means the database developed and maintained by the Joint Nature Conservation Committee on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;

“Maritime and Coastguard Agency” means the executive agency of 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;

“MMO” means the Marine Management Organisation;

“navigation management plan” means the navigation management plan to be produced in accordance with condition 14 and which may be approved by the MMO in accordance with the procedure in Part 4;

“Navigation Management Planning Process: Risk to Birds” means the document of that description certified by the Secretary of State as the Navigation Management Planning Process: Risk to Birds for the purposes of this Order under article 47 (certification of documents, etc.);

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“navigation management plan template” means the document of that description certified by the Secretary of State as the template navigation management plan for the purposes of this Order under article 47 (certification of documents. etc.);

“navigation risk assessment” means the document of that description certified by the Secretary of State as the navigation risk assessment for the purposes of this Order under article 47 (certification of documents. etc.);

“office hours” means the period from 09:00 until 17:00 on any business day;

“off-setting value” means the net biodiversity impact of the authorised development, calculated using the Defra biodiversity off-setting metric, measured in biodiversity units;

“the Order” means the Boston Alternative Energy Facility Development Consent Order 2023;

“other navigation risk assessment” means any assessment of navigation risk required by the harbour authority or the MMO from time to time;

“outline air quality deposition monitoring plan” means the document of that description certified by the Secretary of State as the outline air quality deposition monitoring plan for the purposes of this Order under article 47 (certification of documents, etc.);

“outline landscape and ecological mitigation strategy” means the document of that description certified by the Secretary of State as the outline landscape and ecological mitigation strategy for the purposes of this Order under article 47 (certification of documents, etc.);

“outline marine mammal mitigation protocol” means the document of that description certified by the Secretary of State as the outline marine mammal mitigation protocol for the purposes of this Order under article 47 (certification of documents, etc.);

“The Haven” means the part of the River Witham, known as The Haven; and

“undertaker” means Alternative Use Boston Projects Limited (company number 11013830, whose registered office is at 26 Church Street, Bishop’s Stortford, Hertfordshire, England, CM23 2LY) or any transferee under article 9 (consent to transfer of benefit of Order) of the Order.

(2) Unless otherwise specified, all geographical co-ordinates given in this licence are in latitude and longitude degrees and minutes to two decimal places.

2.—(1) Except where otherwise indicated, the main point of contact with the MMO and the address for email and postal returns and correspondence are as follows—

(a) Marine Management Organisation, Marine Licensing Team, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH; Tel. – 0300 123 1032, Email – marine.consents@marinemanagement.org.uk or such replacement contact details as are notified to the undertaker in writing by the MMO;

(b) The MMO Local Office – Marine Management Organisation, MMO Lowestoft Office, Pakefield Road, Lowestoft, Suffolk, NR33 0HT; Tel. – 01502 573 149, Email – lowestoft@marinemanagement.org.uk or such replacement contact details as are notified to the undertaker in writing by the MMO.

(2) The contact details for the MMO Marine Pollution Response Team are Tel. (during office hours) – 0300 200 2024, Tel. (outside office hours) – 07770 977 825 or 0845 051 8486 and Email – dispersants@marinemanagement.org.uk, or such replacement contact details notified to the undertaker in writing by the MMO.

(3) Unless otherwise stated in writing by the MMO, all notifications required by this licence must be sent by the undertaker to the MMO using the MCMS.

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PART 2

LICENSED ACTIVITIES

3. Subject to the licence conditions in Part 3 of this licence, this licence authorises the undertaker (and any agent, contractor or subcontractor acting on its behalf) to carry out any licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act which—

- (a) form part of, or are related to, the authorised development; and
- (b) are not exempt from requiring a marine licence by virtue of any provision made under section 74 (exemption specified by order) of the 2009 Act.

4.—(1) In this licence, “authorised development” means the construction, maintenance and operation of the following activities authorised in relation to the construction, maintenance and operation of Work No. 4—

- (a) the construction of a suspended deck wharf structure, forming 7.2m AOD flood defence line wall, containing three berthing points and tie-in to the existing flood defence;
- (b) the creation by capital dredging, use and maintenance of a berthing pocket within the following parameters—

Table 1

<i>Dimension</i>	<i>Parameter</i>
Length	570m ±5%
Width	110m ±5%
Depth	-3.5m OD ±5%
Area to be dredged	62,700 m2±10%
Volume of material to be removed	225,000m3±10%

- (c) the construction and maintenance of scour protection;
- (d) the construction of piles and pile caps within The Haven supporting piers and fendering;
- (e) the construction of fendering within The Haven;
- (f) the construction of a mooring within The Haven;
- (g) the implementation of appropriate lighting to ensure safe operation of the wharf;
- (h) the construction of a drainage system for the wharf;
- (i) the implementation of shore to ship power;
- (j) the powers conferred by article 19(1) (powers in relation to relevant navigations or watercourses) of this Order;
- (k) for the purposes of, or in connection with, the construction, operation or maintenance of any of the works and other development mentioned above, ancillary or related development which does not give rise to any materially new or materially different effects than those assessed in the environmental statement, consisting of—
 - (i) activities within The Haven and within the Order limits to—
 - (aa) carry out excavations and clearance, deepening, scouring, cleansing, dumping and pumping operations;
 - (bb) use, appropriate, sell, deposit or otherwise dispose of any materials (including liquids but excluding any wreck within the meaning of the

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- Merchant Shipping Act 1995(3)) obtained in carrying out any such operations;
- (cc) remove and relocate any vessel or structure sunk, stranded, abandoned, moored or left (whether lawfully or not);
 - (dd) temporarily remove, alter, strengthen, interfere with, occupy and use the banks, bed, foreshore, waters and walls of The Haven;
 - (ee) construct, place and maintain works and structures; and
 - (ff) provide lighting, signage and aids to navigation,
- (ii) other works and development—
- (aa) to provide or alter embankments, foundations, retaining walls, drainage works, outfalls, pollution control devices, pumping stations, culverts, wing walls, fire suppression system water tanks and associated plant and equipment, lighting and fencing;
 - (bb) to alter the course of, or otherwise interfere with, navigable or non-navigable watercourses; and
 - (cc) to provide works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, operation or maintenance of the authorised development;
- (iii) such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance, operation or use of the authorised development, including—
- (aa) maintenance dredging; and
 - (bb) other works associated with the provision of ecological mitigation, or to mitigate any adverse effect of the construction, maintenance and operation of the works or to benefit or protect any person or premises affected by the construction, maintenance and operation of the works;
- (iv) activities to carry out works and development of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the operation and maintenance of the authorised development; and
- (l) any other development within the meaning of section 32 (meaning of “development”) of the 2008 Act that is authorised by the Order;
- but does not include the removal, relocation or detonation of ordinance.

(2) The undertaker (and any agent, contractor or subcontractor acting on its behalf) may engage in the licensed activities in the area bounded by the coordinates set out in Table 2 in this paragraph and more particularly shown on the works plans, to the extent that they fall below MHWS at the time the licensed activities are carried out.

Table 2

<i>Point Reference</i>	<i>Easting</i>	<i>Northing</i>
P01	534289.711000	342260.128000
P02	534168.677241	342181.781948
P03	534186.659851	342242.491799
P04	533845.617735	342661.592680

(3) 1995 c. 21.

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<i>Point Reference</i>	<i>Easting</i>	<i>Northing</i>
P05	533947.150000	342716.200000

(3) The undertaker (and any agent, contractor or subcontractor acting on its behalf) may engage in works associated with the provision of ecological mitigation in the area bounded by the coordinates set out in Table 3 in this paragraph and more particularly shown on the works plans, to the extent that they fall below MHWS at the time the works are carried out.

Table 3

<i>Point Reference</i>	<i>Easting</i>	<i>Northing</i>
MP01	534347.890096	342095.811837
MP02	534341.169854	342093.522370
MP03	534338.522725	342044.386572
MP04	534531.722964	341792.122480
MP05	534565.378031	341825.936298

PART 3

CONDITIONS

General conditions

5. The undertaker must notify the MMO at the earliest opportunity of any change to the information upon which the granting of this licence was based.

6.—(1) The undertaker must notify the HM Coastguard (mail to: nmoccontroller@hmcg.gov.uk) prior to commencement of any licensed activities.

(2) A copy of the notification must be provided to the MMO via MCMS within 24 hours of issue of the notification in sub-paragraph (1).

7.—(1) The undertaker must ensure that local mariners and fishermen's organisations are made fully aware of all licensed activities through a local notice to mariners issued at least 5 days before the commencement of the works.

(2) The notice to mariners must be updated and re-issued at fortnightly intervals during construction activities and within 5 days of any planned operations.

(3) A copy of the notice must be provided to the MMO via MCMS within 24 hours of issue of a notice under sub-paragraphs (1) or (2).

Vessels

8.—(1) The MMO must be notified in writing of any vessel being used to carry on any licensed activity on behalf of the undertaker.

(2) Such notification must be received by the MMO in writing not less than 24 hours before the commencement of the licensed activity.

(3) Notification must include the master's name, vessel type, vessel IMO number and vessel owner or operating company.

9. The undertaker must ensure that a copy of this licence and any subsequent revisions or amendments are provided to, read and understood by the masters of any vessel being used to carry on any licensed activity, and that a copy of this licence and subsequent revisions or amendments must be held on board any such vessel.

Agents/contractors/sub-contractors

10.—(1) The undertaker must provide the name, address and function in writing of any agents, contractors or sub-contractors that will carry on any licensed activity on behalf of the undertaker.

(2) Such notification must be received by the MMO in writing not less than 24 hours before the commencement of the licensed activity.

11.—(1) The undertaker must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors and sub-contractors that will be carrying out any licensed activity on behalf of the undertaker.

(2) The undertaker must keep a copy of this license and any subsequent revisions or amendments available for inspection at its registered address and any site office location at or adjacent to a construction site.

Construction environmental management plan

12.—(1) The undertaker must submit a CEMP in writing to the MMO for written approval in accordance with the procedure in Part 4, following consultation with the harbour authority, the relevant statutory nature conservation body and the Environment Agency, at least 13 weeks prior to the commencement of any licensed activity.

(2) Unless otherwise agreed by the MMO in writing, the CEMP must include the following details (where relevant to the particular licensed activity)—

- (a) the detailed construction methodology to be employed by the undertaker in carrying out the licensed activity;
- (b) a construction programme including—
 - (i) a planned timetable for each licensed activity including timings for mobilisation of plant and delivery by sea;
 - (ii) method of delivery of material to site;
 - (iii) a plan for notifying the MMO of the commencement and cessation of licensed activities and phases of activities;
 - (iv) a plan for notifying the MMO of changes to the construction programme;
- (c) the detailed methodology for the excavation and subsequent management of any dredged material removed in the construction and maintenance of the berthing pocket including—
 - (i) the volume of material to be dredged;
 - (ii) sediment sample analysis results, which must not exceed three years in age and which must be completed by a laboratory validated by the MMO and undertaken in accordance with the sample plan approved under condition 25;
 - (iii) where contamination is identified by the sediment sample analysis results, a monitoring and action plan to address the potential release of contaminants from dredged material into the watercourse;

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- (iv) provision that dredging activities must only be undertaken from 1 July to 28 February inclusive and the details on the timing of dredging activities throughout those months;
 - (v) provision that no dredged materials are to be disposed of at sea or in other waters otherwise than in accordance with a marine licence;
 - (d) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (e) a waste management and disposal plan;
 - (f) plans and sections;
 - (g) details of where the licensed activity was assessed in the environmental statement;
 - (h) for any materials to be placed in or removed from the marine area, information on the volume and size of materials, methods of placement and removal of materials, types of materials, source of materials and methods of disposal of materials;
 - (i) environmental mitigation measures, which must be substantially in accordance with the measures set out in chapter 17 (marine and coastal ecology) of the environmental statement; and
 - (j) monitoring measures.
- (3) The undertaker must not commence the licensed activity until the MMO has approved in writing the submitted CEMP.
- (4) Unless otherwise agreed by the MMO in writing, the CEMP must be implemented as approved by the MMO.

Piling

13.—(1) The undertaker must submit a piling method statement in writing to the MMO for written approval in accordance with the procedure in Part 4, following consultation with the Environment Agency, the relevant statutory nature conservation body, Lincolnshire Wildlife Trust and the Royal Society for the Protection of Birds, at least 13 weeks prior to the commencement of any licensed activities consisting of piling.

(2) Unless otherwise agreed by the MMO, the piling method statement must include the following—

- (a) the use of pile pads and pile shrouds at all times;
- (b) measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol approved under condition 17;
- (c) provision that piling activities must only be undertaken between 1 June and 30 September (inclusive) and details on the timing of piling activities throughout those months;
- (d) details of the anticipated spread of piling activity throughout a working day with piling permitted between the hours of 0800 to 2000 hours on Monday to Saturday (with the option of 0700 to 1900);
- (e) provision that no planned simultaneous impact piling will be carried out; and
- (f) monitoring measures.

(3) The undertaker must not commence any licensed activities consisting of piling until the MMO has approved in writing the submitted piling method statement.

(4) Unless otherwise agreed by the MMO in writing, percussive piling must only be carried out in accordance with the relevant piling method statement as approved in writing by the MMO.

Navigation management plan

14.—(1) The undertaker must submit a navigation management plan in writing to the MMO for written approval in accordance with the procedure in Part 4, following consultation with BFFS, the harbour authority, the relevant statutory nature conservation body and the Environment Agency to the extent that it relates to matters relevant to their functions, at least 13 weeks prior to the commencement of any licensed activity.

(2) The navigation management plan submitted for approval under sub-paragraph (1) must be informed by the assessment of risks to navigational safety in the navigation risk assessment or in any other navigation risk assessment and be substantially in accordance with the recommendations as to the management of vessel movements on The Haven as set out in the navigation risk assessment or in any other navigation risk assessment.

(3) The navigation management plan submitted for approval under sub-paragraph (1) must be substantially in accordance with the navigation management plan template.

(4) The navigation management plan must include details of—

- (a) the construction timelines;
- (b) the potential risks to navigation;
- (c) communication measures;
- (d) measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol approved under condition 17;
- (e) measures for managing disturbance to designated bird species developed in accordance with the process in the Navigation Management Planning Process: Risk to Birds;
- (f) measures for managing potential biosecurity risks; and
- (g) how each stage of the construction process and the operation of the authorised development will be managed to ensure a minimal impact on the safety of navigation in The Haven and ensure that any delay or interference that may be caused to vessels which may be using The Haven is minimised as far as reasonably practicable.

(5) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted navigation management plan.

(6) Unless otherwise agreed by the MMO in writing, the navigation management plan must be implemented as approved by the MMO and

- (a) no vessels associated with the construction of the authorised development may be received at Work No. 4 until the measures relating to the matters in sub-paragraph 4(d) as set out in the navigation management plan have been implemented; and
- (b) no vessels associated with the operation of Work No. 1 may be received at Work No. 4 until the measures relating to the matters in sub-paragraph 4(e) as set out in the navigation management plan have been implemented.

(7) Following approval of the navigation management plan in accordance with the procedure in Part 4 the undertaker may from time to time submit revised navigation management plans to the MMO following consultation with BFFS, the harbour authority, the relevant statutory nature conservation body and the Environment Agency to the extent that it relates to matters relevant to their functions.

(8) A revised navigation management plan submitted to the MMO in accordance with sub-paragraph (7) and approved by the MMO in accordance with Part 4 supersedes any other navigation management plan in effect on the date of approval.

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Marine archaeology

15.—(1) The undertaker must submit an archaeological written scheme of investigation (WSI) and protocol for archaeological discoveries (PAD) in writing to the MMO for written approval in accordance with the procedure in Part 4, following consultation with Historic England and the relevant planning authority, at least 6 weeks prior to the commencement of any licensed activity with the potential to affect buried archaeological assets.

(2) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted WSI and PAD.

(3) Unless otherwise agreed by the MMO in writing, all licensed activities must adhere to the terms of the WSI and PAD as approved by the MMO.

Marine pollution contingency plan

16.—(1) The undertaker must submit a marine pollution contingency plan in writing to the MMO for written approval in accordance with the procedure in Part 4, following consultation with the relevant statutory nature conservation body, the Environment Agency and the harbour authority, at least 13 weeks prior to the commencement of any licensed activity.

(2) The marine pollution contingency plan must—

- (a) set out the undertaker's assessment of the likely risks which could arise as a result of a spill or collision during construction and maintenance of the authorised development and the methods and procedures the undertaker intends to put in place to address those risks; and
- (b) set out the undertaker's assessment of the potential for litter derived from either vessels or from land based sources within the authorised development to enter the marine area and identify the management measures to be put in place.

(3) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted marine pollution contingency plan.

(4) Unless otherwise agreed by the MMO in writing, the marine pollution contingency plan must be implemented as approved by the MMO.

Marine mammal mitigation protocol

17.—(1) The undertaker must submit a marine mammal mitigation protocol in writing to the MMO for approval in accordance with the procedure in Part 4, following consultation with the relevant statutory nature conservation body and Lincolnshire Wildlife Trust, at least 13 weeks prior to the commencement of any of licensed activity.

(2) The marine mammal mitigation protocol submitted for approval under sub-paragraph (1) must be substantially in accordance with the outline marine mammal mitigation protocol.

(3) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted marine management protocol.

(4) Unless otherwise agreed by the MMO in writing, the marine mammal mitigation protocol must be implemented as approved by the MMO.

Landscape and ecological mitigation strategy

18.—(1) The undertaker must submit a landscape and ecological mitigation strategy in writing to the MMO for approval in accordance with the procedure in Part 4, following consultation with Boston Borough Council, the Environment Agency, the relevant statutory nature conservation body,

Lincolnshire Wildlife Trust and the Royal Society for the Protection of Birds, at least 13 weeks prior to the commencement of any of licensed activity.

(2) The MMO's approval of the landscape and ecological mitigation strategy is restricted to the parts of that strategy that relate to any activities below MHWS, with the remainder approved by the relevant planning authority under requirement 6 of Schedule 2 (requirements).

(3) The landscape and ecological mitigation strategy submitted for approval under sub-paragraph (1) must be substantially in accordance with the outline landscape and ecological mitigation strategy.

(4) The landscape and ecological mitigation strategy approved under sub-paragraph (1) must include details of—

- (a) mitigation measures required to protect protected habitats and species, non-statutory designated sites and other habitats and species of principal importance during the construction of the authorised development, which must include but is not limited to implementation plans demonstrating how impacts on priority saltmarsh habitats will be avoided and/or reduced including creating areas to provide ornithological mitigation;
- (b) mitigation measures required to protect protected habitats and species, non-statutory designated sites and other habitats and species of principal importance during the operation of the authorised development, which must include but is not limited to implementation plans demonstrating how impacts on priority saltmarsh habitats will be avoided and/or reduced including creating areas to provide ornithological mitigation;
- (c) the results of the Defra biodiversity off-setting metric together with the off-setting value required, the nature of such off-setting and evidence that the off-setting value provides for the required biodiversity compensation, risk factors (including temporal lag) and long term management and monitoring;
- (d) the site or sites on which the compensation off-setting required pursuant to sub-paragraph (c) will be provided together with evidence demonstrating that the site or sites has/have been chosen in accordance with the prioritisation set out in the outline landscape and ecological mitigation strategy;
- (e) certified copies of the completed legal agreements securing the site or sites identified in sub-paragraph (d) to enable enactment of the biodiversity off-setting scheme and the biodiversity off-setting management and monitoring plan as approved in the landscape and ecological mitigation strategy;
- (f) any hard and soft landscaping to be incorporated within Work No. 4 including location, number, species, size of any planting and the management and maintenance regime for such landscaping; and
- (g) an air quality deposition monitoring plan that must be substantially in accordance with the outline air quality deposition monitoring plan and must include the final numbers and locations of deposition monitoring locations, as agreed with the relevant statutory nature conservation body and the Environment Agency.

(5) The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted landscape and ecological mitigation strategy.

(6) Unless otherwise agreed by the MMO in writing, the landscape and ecological mitigation strategy must be implemented as approved by the MMO or the relevant planning authority if applicable pursuant to sub-paragraph (2).

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Concrete and cement

19.—(1) Waste concrete, slurry or wash water from concrete or cement activities must not be discharged, intentionally or unintentionally, into the marine environment.

(2) Concrete and cement mixing and washing areas must be contained and sited at least 10 metres from any watercourse or surface water drain to minimize the risk of run off entering a watercourse.

(3) The containment required under sub-paragraph (2) must be appropriate to the material and include bunding of 110% of the total volume of all reservoirs and containers.

Coatings and treatment

20. The undertaker must ensure that any coatings and any treatments are suitable for use in the marine environment and are used in accordance with either guidelines approved by the Health and Safety Executive or the Environment Agency.

Spills, etc.

21.—(1) The undertaker must—

- (a) store, handle, transport and use fuels, lubricants, chemicals and other substances so as to prevent releases into the marine area, including bunding of 110% of the total volume of all reservoirs and containers;
- (b) report any spill of oil, fuel or chemicals into the marine area to the MMO Marine Pollution Response Team, the harbour master and the Maritime and Coastguard Agency within 12 hours of the spill occurring; and
- (c) store all waste in designated areas that are contained and sited at least 10 metres from any watercourse or surface water drain to minimise the risk of runoff entering a watercourse.

(2) The containment required under sub-paragraph (1)(c) must be appropriate to the material and include bunding of 110% of the total volume of all reservoirs and containers.

Removal of temporary structures etc.

22. The undertaker must remove all equipment, temporary structures, waste and debris associated with the licensed activities within 10 business days of the completion of those activities, unless otherwise agreed in writing by the MMO.

Dropped objects

23.—(1) All dropped objects must be reported to the harbour authority using the Dropped Object Procedure Form within six hours of the undertaker becoming aware of an incident.

(2) The MMO Marine Licensing Team require a copy of the Dropped Object Procedure Form to be submitted no later than 24 hours after reporting to the harbour authority under sub-paragraph (1).

(3) On receipt of the Dropped Object Procedure Form, the harbour authority or the MMO Marine Licensing Team may require relevant surveys to be carried out by the undertaker (such as side scan sonar), and the MMO or the harbour authority may require obstructions to be removed from the seabed at the undertaker's expense, if it is reasonable to do so.

Bathymetric surveys

24.—(1) Pre and post dredge bathymetric surveys must be undertaken for each dredge campaign, and a report containing the survey results submitted in writing to the MMO within 4 weeks of completion of each dredge campaign.

(2) The pre-dredge bathymetric survey must be undertaken within a 3 month period prior to each dredging campaign, and the post-dredge bathymetric survey must be undertaken as soon as reasonably practicable and in any event within 1 week of completion of each dredging campaign.

(3) The report containing the survey results must include—

- (a) an interpretation of the difference between the pre and post dredge survey results and a volume calculation; and
- (b) the survey results on a chart showing the licensed dredge area and dredge depth.

Sediment sampling

25.—(1) The undertaker must submit a sample plan in writing to the MMO for written approval in accordance with the procedure in Part 4, following consultation with the Environment Agency.

(2) The sample plan must be made—

- (a) for capital dredging, at least 6 months prior to the commencement of any capital dredging; or
- (b) for maintenance dredging, at least six months prior to the end of every third year from the date of the previous sediment sample analysis.

(3) The sample plan must include details of—

- (a) the volume of material to be dredged;
- (b) the location of the area to be dredged;
- (c) details of the material type proposed for dredging;
- (d) the type and dredging methodology (including whether it is a capital or maintenance dredge, depth of material to be dredged and proposed programme for the dredging activities); and
- (e) the location and depth of any supporting samples.

(4) Unless otherwise agreed by the MMO in writing, the undertaker must undertake the sampling in accordance with the approved sample plan.

(5) For capital dredging, the undertaker must submit sediment sample analysis results as part of the CEMP in accordance with condition 12 and the undertaker must not undertake the dredging activities until the MMO has approved the CEMP.

(6) For maintenance dredging, the undertaker must submit sediment sample analysis results completed by a laboratory validated by the MMO at least 6 weeks prior to undertaking any maintenance dredging and the undertaker must not undertake any dredging until the MMO has approved the sediment sample analysis results.

Reporting of impact sound to the Marine Noise Registry

26.—(1) Only when impact driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry (MNR)—

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- (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements; and
 - (b) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the exact locations and specific dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements.
- (2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.

Decommissioning

27.—(1) Within 24 months of the permanent cessation of the operation of Work No. 4, the undertaker must submit details of a decommissioning scheme for the restoration and aftercare of the land for Work No. 4 (with the exception of the flood defence line wall which will remain in situ) to the MMO for approval in writing in accordance with the procedure in Part 4.

(2) The scheme must include details of structures and buildings to be demolished or retained, details of the means of removal of materials following demolition, phasing of demolition and removal, details of restoration works (including any monitoring) and phasing thereof.

(3) Unless otherwise agreed by the MMO in writing, the mitigation measures in place for habitat loss as a result of the construction of Work No. 4 must be maintained following the decommissioning of Work No. 4 and any routine maintenance and adaptive management measures and monitoring must continue whilst the measures are in place.

(4) Sub-paragraph (3) does not apply where the MMO, in consultation with the relevant statutory nature conservation body, determines based on monitoring data submitted by the undertaker that the intertidal habitat lost as a result of the construction of Work No. 4 has been restored following the decommissioning of Work No. 4 to provide a similar habitat as was present prior to the works being carried out that has the potential to be used by roosting and foraging birds.

(5) Unless otherwise agreed by the MMO in writing the decommissioning scheme must be implemented in accordance with the phasing set out therein as approved by the MMO.

Notice of completion of licensed activity

28. The undertaker must inform the MMO local office and MMO Marine Licensing Team of completion of the licensed activities, in writing no more than 10 business days following the completion of the last licensed activity.

PART 4

PROCEDURE FOR THE DISCHARGE OF CONDITIONS

Meaning of "return"

- 29.** In this Part, "return" means a submission by the undertaker for approval of—
- (a) a CEMP under condition 12;
 - (b) a piling method statement under condition 13;
 - (c) a navigation management plan under condition 14;
 - (d) a WSI and PAD under condition 15;
 - (e) a marine pollution contingency plan under condition 16;

- (f) a marine mammal mitigation protocol under condition 17;
- (g) a landscape and ecological mitigation strategy under condition 18;
- (h) a sample plan under condition 25; and
- (i) a decommissioning scheme under condition 27.

Further information regarding return

30.—(1) The MMO may request in writing such further information to be provided in writing from the undertaker as is necessary to enable the MMO to consider the return.

(2) If the MMO does not make a request under sub-paragraph (1) within 30 business days of the day immediately following that on which the return is received by the MMO, it is deemed to have sufficient information to consider the return and is not entitled to request further information after this date without the prior agreement of the undertaker.

Determination of returns

31.—(1) In determining the return the MMO may have regard to—

- (a) the return and any supporting information or documentation;
- (b) any further information provided by the undertaker in accordance with paragraph 30; and
- (c) such matters as the MMO reasonably thinks are relevant.

(2) Having considered the return the MMO must—

- (a) grant the return unconditionally;
- (b) grant the return subject to conditions as the MMO thinks fit; or
- (c) refuse the return.

(3) In determining a return, the MMO may discharge its obligations under sub-paragraph (2)(a), (b) or (c) separately in respect of a part of the return only, where it is reasonable to do so.

Notice of determination

32.—(1) Subject to sub-paragraph (2) or (3), the MMO must give notice to the undertaker of the determination of the return within 13 weeks from the day immediately following that on which the return is received by the MMO, or as soon as reasonably practicable after that date.

(2) Where the MMO has made a request under paragraph 30, the MMO must give notice to the undertaker of the determination of the return within 13 weeks from the day immediately following that on which the further information is received by the MMO, or as soon as reasonably practicable after that date.

(3) Where the MMO determines it is not reasonably practicable to make a determination in accordance with sub-paragraphs (1) and (2) in 13 weeks, it must notify the undertaker as soon as reasonably practicable and provide confirmation in writing of the intended determination date.

(4) Where the MMO refuses the return the refusal notice must state the reasons for the refusal.

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PART 5

CHANGES TO THE LICENCE

33.—(1) In the event that the undertaker wishes to undertake the licensed activity contrary to the conditions of this licence, it must inform the MMO at the earliest opportunity and request a variation to the conditions of this licence.

(2) The undertaker must not carry out any licensed activity contrary to the conditions of this licence until a variation to the licence has been approved in writing by the MMO pursuant to its powers under section 72(3) of the 2009 Act.

(3) The MMO must give notice of the determination of the variation to this licence within 13 weeks from the day immediately following that on which the variation was requested, or as soon as reasonably practicable after that date, subject to the undertaker providing an updated CEMP in accordance with condition 12 and adequately justifying the requested variation to the reasonable satisfaction of the MMO.

(4) Where the MMO determines it is not reasonably practicable to make a determination in accordance with sub-paragraph (3) in 13 weeks, it must notify the undertaker as soon as reasonably practicable and provide confirmation in writing of the intended determination date.