

SCHEDULES

SCHEDULE 12

Article 55

DEEMED MARINE LICENCE

PART 1

GENERAL

Interpretation

1. In this licence—

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“AB Ports” means Associated British Ports, company reference number ZC000195, whose registered office address is 25 Bedford Street, London WC2E 9ES;

“the authorised development” has the meaning given in paragraph 3(2);

“commence” means beginning to carry out any part of a licensed activity and “commenced” and “commencement” are to be construed accordingly;

“condition” means a condition in Part 2, Part 3 and Part 4 of this licence;

“construction activity” means—

(a) any licensed activity to be undertaken during the construction of the authorised development; and

(b) any licensed activity to be undertaken for the purposes of maintaining the authorised development, with the exception of any maintenance dredging activity;

“capital dredging activity” means an activity 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;

“the environmental statement” means the documents of that description as reference in Schedule 14 (documents to be certified) to the Order, certified by the Secretary of State for the purposes of the Order;

“the harbour authority” means AB Ports in its role as the owner and operator of, and the statutory harbour authority for, Lowestoft Harbour as established by section 8 of, and paragraph 2 of Schedule 3 to the Transport Act 1981(1);

“the harbour master” has the same meaning as is given to that term in article 2 of the Order;

“Lake Lothing” means the navigable saltwater lake within the town of Lowestoft in the area of East Suffolk Council between the North Sea and Oulton Broad, as identified by reference points 652111E, 292801N, 655207E, 292615N respectively;

(1) 1981 c.56.

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“the licence holder” means the undertaker or any transferee under article 49 (transfer of benefit of Order, etc) of the Order;

“licensed activity” means any of the activities specified in Part 1 of this licence;

“maintenance dredging activity” 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;

“marine pollution contingency plan” means the plan as required by condition 8 of this licence;

“the Order” means the Lake Lothing (Lowestoft) Third Crossing Order 2020; and

“the scheme-wide written scheme of investigation” means the document of that description as identified in Schedule 14 to the Order, and certified by the Secretary of State as the scheme-wide written scheme of investigation for the purposes of the Order;

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, Fax – 0191 376 2681, Email –marine.consents@marinemangement.org.uk;
- (b) Marine Management Organisation, MMO Lowestoft, Pakefield Road, Lowestoft, Suffolk, NR33 0HT; Tel. – 01502 573 149 or 01502 572 769, Email – lowestoft@marinemangement.org.uk.

(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@marinemangement.org.uk, or such replacement contact details notified to the licence holder in writing by the MMO.

(3) Unless otherwise stated in writing by the MMO, all notices required by this licence to be sent by the licence holder to the MMO must be sent by email.

Details of licensed marine activities

3.—(1) Subject to the licence conditions in Part 2, this licence authorises the licence holder (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.

(2) In this paragraph “the authorised development” means—

- (a) the construction of piers in Lake Lothing;
- (b) the construction of piles and pile caps within Lake Lothing supporting piers and fendering;
- (c) the construction of fendering within Lake Lothing;
- (d) the construction of a mooring within Lake Lothing;
- (e) the powers conferred by article 44(1) (subsidiary works and operations in Lake Lothing) of the Order;

- (f) for the purposes of or in connection with the construction 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 environmental effects than those assessed in the environmental statement, consisting of—
 - (i) activities within Lake Lothing to—
 - (aa) alter, clean, modify, dismantle, refurbish, reconstruct, remove, relocate or replace any work or structure (including lake walls);
 - (bb) carry out excavations and clearance, deepening, scouring, cleansing, dumping and pumping operations;
 - (cc) carry out dredging, which may include such dredging works as may be required to provide side slopes or otherwise secure the dredged area against siltation, scouring or collapse;
 - (dd) use, appropriate, sell, deposit or otherwise dispose of any materials (including liquids but excluding any wreck within the meaning of the Merchant Shipping Act 1995(2)) obtained in carrying out any such operations;
 - (ee) remove and relocate any vessel or structure sunk, stranded, abandoned, moored or left (whether lawfully or not);
 - (ff) temporarily remove, alter, strengthen, interfere with, occupy and use the banks, bed, foreshore, waters and walls of the lake;
 - (gg) construct, place and maintain works and structures including piled fenders, protection piles and cofferdams; and
 - (hh) provide lighting, signage and aids to navigation,
 - (ii) other works and development—
 - (aa) to place, alter, divert, relocate, protect, remove or maintain services, plant and other apparatus and equipment belonging to statutory undertakers, utility companies and others in, under or above land, including mains, sewers, drains, pipes, cables, lights, cofferdams, fencing and other boundary treatments including bollards and security cameras;
 - (bb) embankments, viaducts, bridges, aprons, abutments, shafts, foundations, retaining walls, drainage works, outfalls, pollution control devices, pumping stations, culverts, wing walls, fire suppression system water tanks and associated plant and equipment, highway lighting and fencing; and
 - (cc) to alter the course of, or otherwise interfere with, navigable or non-navigable watercourses;
 - (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) works to divert, remove or replace apparatus, including mains, sewers, drains, pipes, conduits, cables, electrical substations and electrical lines; and
 - (bb) landscaping and other works 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; and

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- (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
 - (g) any other development within the meaning of section 32 (meaning of “development”) of the 2008 Act that is authorised by the Order.
- (3) The coordinates for the area of Lake Lothing within which the licence holder may carry out licensed activities except for the disposal of materials at sea are specified below and more particularly shown on the works plans—

<i>Point reference</i>	<i>Northing</i>	<i>Easting</i>
1	52.474911207	1.733489517
2	52.474849891	1.733838101
3	52.474859620	1.733843345
4	52.474284891	1.737130879
5	52.473912859	1.739236608
6	52.473894308	1.739340178
7	52.472403935	1.739857854
8	52.472377859	1.739259917
9	52.472651586	1.739120380
10	52.472715280	1.739125784
11	52.473064828	1.738231175
12	52.473243521	1.737535204
13	52.473977989	1.733117287

- (4) The licence holder must ensure that dredged material approved for disposal at sea pursuant to condition 15(4) must be disposed of within the disposal site TH005 Lowestoft Circular North within the coordinates set out in the table below (or any other disposal site approved in writing by the MMO).

<i>Northing</i>	<i>Easting</i>
52.48163	1.7867
52.48161	1.786138
52.48156	1.785583
52.48147	1.785042
52.48135	1.784515
52.4812	1.784013
52.48102	1.783538
52.4808	1.783098
52.48056	1.782697

<i>Northing</i>	<i>Easting</i>
52.4803	1.782337
52.48002	1.782023
52.47971	1.781758
52.4794	1.781547
52.47907	1.78139
52.47873	1.78129
52.47839	1.781247
52.47804	1.781262
52.4777	1.781333
52.47737	1.781462
52.47705	1.781647
52.47674	1.781885
52.47644	1.782173
52.47617	1.782512
52.47592	1.782893
52.47569	1.783315
52.47549	1.783772
52.47532	1.784262
52.47518	1.784775
52.47508	1.78531
52.47501	1.78586
52.47497	1.78642
52.47497	1.78698
52.47501	1.78754
52.47508	1.78809
52.47518	1.788625
52.47532	1.789138
52.47549	1.789628
52.47569	1.790085
52.47592	1.790507
52.47617	1.790888
52.47644	1.791227
52.47674	1.791515

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<i>Northing</i>	<i>Easting</i>
52.47705	1.791753
52.47737	1.791938
52.4777	1.792067
52.47804	1.792138
52.47839	1.792153
52.47873	1.79211
52.47907	1.79201
52.4794	1.791853
52.47971	1.791642
52.48002	1.791377
52.4803	1.791063
52.48056	1.790703
52.4808	1.790302
52.48102	1.789862
52.4812	1.789387
52.48135	1.788885
52.48147	1.788358
52.48156	1.787817
52.48161	1.787262

PART 2

CONDITIONS APPLYING TO CONSTRUCTION ACTIVITIES

Construction method statement

4.—(1) The licence holder must submit a method statement, for approval by the MMO following consultation with the Environment Agency and the harbour authority, at least 13 weeks prior to the commencement of any construction activity.

(2) The method statement must include the following details—

- (a) the detailed construction methodology to be employed by the licence holder in carrying out the construction activity;
- (b) in the case of construction of the authorised development, the detailed dredging methodology to be employed by the licence holder and confirmation as to whether the dredging proposed is to be a capital dredging activity or a maintenance dredging activity;
- (c) a programme of works including timings and durations, method of delivery of material to site and plant to be used during the works;
- (d) a report of the consultation with the Environment Agency and the harbour authority carried out under sub-paragraph (1);

- (e) provision that within the marine environment vibro piling techniques are to be used as standard, with percussive piling only used if required to drive a pile to its design depth. If percussive piling is necessary, soft-start procedures are to be used to ensure incremental increase in pile power, over a period of not less than 20 minutes, until full operational piling power is achieved; and where percussive piling ceases for a period longer than 10 minutes, the soft-start procedure must be repeated; and
 - (f) where dredged materials arising are intended to be disposed of at sea, the method statement must be accompanied by valid sediment sampling analysis pursuant to condition 15.
- (3) The licence holder must not commence the construction activity concerned until the MMO has approved in writing the submitted method statement.
- (4) The construction activity concerned must be carried out in accordance with the approved method statement, unless otherwise agreed in writing by the MMO.

Post construction

5. The licence holder must remove all temporary structures, waste and debris associated with all construction activities within Lake Lothing within 4 weeks of completion of the final construction activity.

PART 3

CONDITIONS APPLYING TO MAINTENANCE DREDGING TO BE UNDERTAKEN POST CONSTRUCTION

Maintenance dredging method statement

- 6.—(1) The licence holder must submit a method statement, for approval by the MMO following consultation with the Environment Agency and the harbour authority, at least 13 weeks prior to the commencement of any maintenance dredging activity that is to be carried out by the licence holder following completion of construction of the authorised development.
- (2) The method statement must include the following details—
- (a) the detailed methodology to be employed by the licence holder in carrying out the maintenance dredging activity;
 - (b) a programme of works including timings and durations and plant to be used during the maintenance dredging activity;
 - (c) a report of the consultation with the Environment Agency and the harbour authority carried out under sub-paragraph (1); and
 - (d) where dredged materials arising are intended to be disposed of at sea, the method statement must be accompanied by valid sediment sampling analysis pursuant to condition 15.
- (3) The licence holder must not commence the maintenance dredging activity until the MMO has approved in writing the submitted method statement.
- (4) The maintenance dredging activity must be carried out in accordance with the approved method statement, unless otherwise agreed in writing by the MMO.

PART 4

CONDITIONS APPLYING TO ALL LICENSABLE ACTIVITIES INCLUDING CONSTRUCTION ACTIVITIES AND MAINTENANCE DREDGING ACTIVITIES

Notification of commencement and completion of construction activities only

- 7.—(1) The licence holder must—
- (a) inform the MMO local office in writing at least 5 days prior to the commencement of the first construction activity and within 5 days of completion of the final licensed construction activity;
 - (b) send copies of the notifications required under paragraph (a) to the MMO Marine Licensing Team within 5 days of the date of these notifications;
 - (c) send a notification of the commencement of works to the UK Hydrographic Office at least two weeks prior to the commencement of the works together with a request for confirmation as to whether an update of published nautical charts and marine safety information is required;
 - (d) send copies of the notifications required under paragraph (c) to the MMO Marine Licensing Team within 24 hours of issue;
 - (e) send a notification of the final completion of licensed activities to the Source Data Receipt team, UK Hydrographic Office, Taunton, Somerset, TA1 2DN (Email: sdr@ukho.gov.uk; Tel: 01823 337900) within two weeks of the date of final completion of the licensed activities;
 - (f) send a copy of the notification required under paragraph (e) to the MMO Licensing Team within one week of the notification being first issued;
 - (g) issue a notice to mariners at least 5 days prior to the commencement of the first construction activity and within 5 days of completion of the final construction activity, or, if the MMO agrees in writing, request that the harbour master issues the notice of mariners on its behalf; and
 - (h) send copies of the notifications required under paragraph (g) to the MMO Marine Licensing Team within 5 days of the date of these notifications.
- (2) Where impact piling is required as part of a construction method statement approved by the MMO under condition 4 the licence holder must—
- (a) prior to the commencement of a licensed activity in Lake Lothing which involves impact piling—
 - (i) submit details of the expected location, start and end dates of impact pile driving to the Marine Noise Registry in order to satisfy the ‘Forward Look’ requirements of the Registry; and
 - (ii) send copies of the notifications required under sub-paragraph (i) to the MMO Marine Licensing Team within 5 days of the date of these notifications; and
 - (b) within 12 weeks of completion of a licensed activity in Lake Lothing which involves impact piling—
 - (i) submit details of the expected location, start and end dates of impact pile driving to the Marine Noise Registry in order to satisfy the ‘Close Out’ requirements of the Registry; and

- (ii) send copies of the notifications required under sub-paragraph (i) to the MMO Marine Licensing Team within 5 days of the date of these notifications.

Marine pollution contingency plan

8.—(1) The licence holder must submit a marine pollution contingency plan, for approval by the MMO, at least 13 weeks prior to the commencement of any construction activity.

(2) The marine pollution contingency plan must set out the licence holder'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 licence holder intends to put in place to address those risks.

(3) The licence holder must consult the Environment Agency and the harbour authority on the marine pollution contingency plan before submitting it to the MMO and must submit a report of the consultation undertaken at the same time as submitting the marine pollution contingency plan under sub-paragraph (1).

(4) The licence holder must not commence the construction activities until the MMO has approved in writing the submitted marine pollution contingency plan.

(5) The construction activities must be carried out in accordance with the approved marine pollution contingency plan, unless otherwise agreed in writing by the MMO.

Vessels

9.—(1) The licence holder must notify the MMO Licensing Team in writing of any vessel being used to carry on any licensed activities on behalf of the licence holder.

(2) A notification under sub-paragraph (1) must—

- (a) be received by the MMO no less than 24 hours before the commencement of the relevant construction activity; and
- (b) include the name of the master of the vessel, the vessel type, the vessel IMO number and details of the vessel owner or operating company.

(3) The licence holder must ensure that a copy of this licence and any subsequent revisions or amendments have been read and understood by the master of any vessel being used to carry out any construction activities, and that a copy of this licence is held on board any such vessel.

Concrete and cement

10.—(1) The licence holder must ensure that waste concrete, slurry or wash water from concrete or cement activities are not discharged, intentionally or unintentionally, into the marine environment.

(2) Unless otherwise agreed in writing by the MMO in approving a construction method statement under condition 4, the licence holder must contain and site concrete and cement mixing and washing areas away at least 10 metres away from Lake Lothing or any surface water drain to minimise the risk of run off entering Lake Lothing or any surface water drain.

(3) If concrete is to be sprayed, suitable protective sheeting must be provided to prevent rebounded or windblown concrete from entering the marine environment.

(4) Rebounded concrete material must be cleared away before protective sheeting is removed.

Coatings and treatments

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

Spills, etc.

12. The licence holder must—

- (a) install bunding and/storage facilities to contain and prevent the release of, fuels, oils, and chemicals associated with plant, refuelling and construction equipment, into the marine environment;
- (b) use secondary containment with a capacity of no less than 110% of the container's storage capacity;
- (c) 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 no later than 12 hours after the spill occurs; and
- (d) store all waste in designated areas that are isolated from surface water drains and open water and are bunded to contain any spillage.

Scheme-wide written scheme of investigation

13. All licensed activities must be carried out in accordance with the scheme-wide written scheme of investigation.

Dropped objects

14. All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within twenty four hours of the licence holder 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 licence holder (such as side scan sonar), and the MMO may require obstructions to be removed from the seabed at the licence holder's expense, if it is reasonable to do so.

Disposal at sea

15.—(1) Where dredged materials arising from a capital dredging activity or a maintenance dredging activity are intended to be disposed of at sea by the licence holder, the licence holder must submit to the MMO for its approval a sediment sampling plan request prior to the commencement of the capital dredging activity or maintenance dredging activity.

(2) A request for a sample plan under sub-paragraph (1) must include—

- (i) a detailed dredging methodology;
- (ii) dredge locations;
- (iii) dredge amounts (total and annual, if applicable);
- (iv) dredge depths;
- (v) duration of dredging activities;
- (vi) whether the dredge is a capital dredging activity or a maintenance dredging activity; and
- (vii) specific gravity of the material or material type.

(3) Where dredged materials arising from a maintenance dredging activity are intended to be disposed of by the licence holder, a sediment sampling plan is not required where valid analyses

(carried out in accordance with an MMO-approved sample plan and undertaken by a laboratory validated by the MMO) is obtainable via the MMO's Public register.

(4) Any sediment sampling analyses undertaken by a laboratory validated by the MMO and approved by the MMO under sub-paragraph (1) is valid for a period of 3 years from the date when those analyses were undertaken.

16. The licence holder must not dispose of any dredged materials at sea until written approval is provided by the MMO, such approval to be given at the same time as any approval of a method statement under condition 4 or condition 6.

17. The licence holder must inform the MMO of the location and quantities of material disposed of each month under this licence. This information must be submitted to the MMO by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

18. The material to be disposed of within the disposal site referred to in condition 3(4) must be placed within the boundaries of that site.

19. During the course of disposal at sea, material must be distributed evenly over the disposal site.

PART 5

PROCEDURE FOR THE DISCHARGE OF CONDITIONS

Meaning of “application”

20. In this Part, “application” means a submission by the licence holder for approval by the MMO of any method statement, plan or samples under conditions 4, 6, 7 and 8.

Further information regarding application

21. The MMO may request in writing such further information from the licence holder as is necessary to enable the MMO to consider the application.

Determination of application

22.—(1) In determining the application, the MMO may have regard to—

- (a) the application and any supporting information or documentation;
- (b) any further information provided by the licence holder in accordance with paragraph 11; and
- (c) such other matters as the MMO thinks relevant.

(2) Having considered the application, the MMO must—

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

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

Notice of determination

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

(2) Where the MMO has made a request under condition 21, the MMO must give notice to the licence holder of the determination of the application no later than 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 pursuant to sub-paragraph (1) or (2) in 13 weeks, it must notify the licence holder as soon as reasonably practicable and provide confirmation in writing of the intended determination date.

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