

RAMPION 2 OFFSHORE WIND FARM

RAMPION 2 OFFSHORE WIND FARM ORDER

EXPLANATORY MEMORANDUM

THE PLANNING ACT 2008

**THE INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS
AND PROCEDURE) REGULATIONS 2009**

REGULATION 5(2)(c)

1. **Introduction**

- 1.1 This Explanatory Memorandum has been prepared on behalf of Rampion Extension Development Limited ("the Applicant") to explain the purpose and effect of each article of and Schedule to the draft Rampion 2 Offshore Windfarm Order ("Order"). It forms part of the application ("Application") for a Development Consent Order ('DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy, under section 37 of the Planning Act 2008 (the '2008 Act').
- 1.2 The Applicant is seeking development consent for an offshore generating station and all infrastructure required to transmit the power generated to the existing Bolney National Grid substation (the 'Authorised Project'). It will comprise a maximum of 116 wind turbine generators. The Authorised Project array area is approximately 270km², and is located approximately 13km off the Sussex coast in the south of England. A detailed description of the Proposed Development is set out in the Environmental Statement submitted with the Application (Application document xx)
- 1.3 As the Order seeks to apply and modify statutory provisions, including concerning the compulsory acquisition of land and the treatment of certain requirements as planning conditions, in accordance with sections 117(4) and 120(5) of the Planning Act 2008 (**2008 Act**), it has been drafted as a statutory instrument.
- 1.4 It is anticipated that subject to the DCO having been made by the SoS, construction work on the Authorised Project would commence in [20xx]. The construction phase would be for a period of up to 4 years.

2. **The Applicant**

- 2.1 The Applicant company is a joint venture between RWE Renewables UK Ltd ("RWE"), Enbridge, and a Macquarie led consortium. RWE ranks among the largest global players in renewable power generation with a total installed generation capacity of 9 gigawatts and an additional 2.6 gigawatts under construction. The company specialises in onshore and offshore wind, utility-scale photovoltaic (PV) solar power and energy storage projects and has already delivered the Rampion Wind Farm, which is located adjacent to the offshore Order limits and to which the current proposal will be an extension. As such RWE can demonstrate a strong track record in delivery of projects such as the Authorised Project.
- 2.2 RWE employs 3,600 renewables professionals who develop, build and operate large renewable energy assets in 15 countries across Europe, the Americas and Asia-Pacific. Further details on the corporate structure between RWE and the Applicant is included in the funding statement which is submitted in support of the Application.
- 2.3 The Macquarie consortium, which is also a shareholder in Rampion 1 and investor in many other UK renewable energy assets, includes Macquarie European Infrastructure Fund 5, the Green Investment Group and USS pension fund.
- 2.4 Enbridge, also a shareholder in Rampion 1, is a Canadian energy infrastructure company with core businesses including oil and gas transmission distribution and storage in North America, as well as investments in the renewable energy sector in North America and Europe.

3. **The Purpose of the Order**

- 3.1 The purpose of the Order is to grant the Applicant development consent for a Nationally Significant Infrastructure Project ("NSIP"). In summary the Proposed Development will comprise
- 3.1.1 an offshore generating station with an electrical export capacity of in excess of 100MW comprising up to 116 wind turbines and array cables, in an area

approximately 270km², located approximately 13km south of the Sussex coast located to the west of the existing Rampion Offshore Windfarm

- 3.1.2 associated development comprising
 - 3.1.2.1 up to three offshore substations
 - 3.1.2.2 export cables between the wind turbine generators ("WTG"), between the WTGs and the offshore substations, and between the offshore substations themselves and the landfall location at Climping, West Sussex
 - 3.1.2.3 an underground cable connection between the landfall and a satellite substation in the vicinity of the existing National Grid substation at Bolney, and a connection into that substation

3.2 The proposed development comprises an NSIP pursuant to sections 14(1)(a) and 15(3) of the 2008 Act as an offshore generating station having a capacity of more than 100MW. Pursuant to section 31 of the 2008 Act a Development Consent Order ("DCO") is required to authorise an NSIP. The components set out in paragraph 3.1.2 above comprise associated development linked to the NSIP, and can therefore be authorised by the DCO pursuant to section 115 of the 2008 Act.

3.3 The Order refers to the person authorised to exercise the powers in the Order as 'the undertaker', and defines the undertaker as Rampion Extension Development Limited.

4. **The Scope of the Order**

4.1 In addition to providing for the construction and operation of the Authorised Project, the Order will, in accordance with section 120(3) and Schedule 5, and section 122 of the 2008 Act, authorise the acquisition of land and rights over land, and the extinguishment of, or interference with, interests in or rights over land. The Book of Reference (Application Document Ref. xx) sets out a description of the land and interests included in the Order, and this is shown on the Land Plans (Application Document Ref. xx). The Order provides for the areas which can be compulsorily acquired and what rights can be acquired, and other rights and interests that will be affected. The Order and the Book of Reference should be read together with the Statement of Reasons (Application Document Ref. xx) which accompanies the Application and sets out the justification for the acquisition or interference with the Order land.

4.2 Pursuant to section 120(3) the Order also includes provision for the operation of the generating station, and deemed marine licences pursuant to section 66 of the Marine and Coastal Access Act 2009. Two deemed marine licences are included in the draft Order, one in relation to the generation assets and the second in relation to the transmission assets.

4.3 Section 115(1) of the 2008 Act provides that development consent may be granted for "(a) development for which development consent is required, or (b) associated development". The SoS must therefore be satisfied that all the elements included within the 'Authorised Project' are either part of the NSIP or are associated development, in order to include them in the Order pursuant to section 115 of the 2008 Act.

4.4 The generating station and related development within Work Nos. 1 constitute "development for which development consent is required" and thus comprises an NSIP, as set out above. The Order also includes other development which is associated development comprising Work No. 2 to Work No 12. The scope of the proposed 'associated development' is set out below. The Applicant has considered these works against the statutory definition of associated development and the criteria in DCLG 'Guidance on associated development applications for major infrastructure Authorised Projects' (April 2013) and is satisfied that all of these works are capable of being granted development consent by the SoS pursuant to section 115.

- 4.5 The works specified in Works 2 to 12 are not an aim in themselves but are required to facilitate the delivery of the energy generated by the generating station to the national grid. The Order requires that this associated development must be carried out within the Order limits, but the detailed design will be finalised post consent either through conditions of the deemed marine licence for offshore works or pursuant to the discharge of requirements in relation to onshore works. In particular it should be noted that the laying of cables for the Proposed Development is aimed to cause as little disruption as possible and includes the ability to install cables by horizontal directional drilling to avoid major crossings and protected or sensitive sites.
- 4.6 Requirement 27 of the Order requires any land landward of mean low water within the Order limits which is used temporarily for the connection works and not ultimately incorporated in permanent works or approved landscaping to be reinstated in accordance with such details as the relevant planning authority may approve. Restoration must take place as soon as reasonably practicable.
- 4.7 The areas of land to be used temporarily will comprise, broadly, the land required for the haul road and soil storage areas along the onshore cable corridor, the construction compounds and temporary vehicular access tracks. The details for the restoration will be approved by the relevant authority pursuant to the requirements in the Order.
- 4.8 Landscaping is also required, specifically in and around the satellite substation location. This is secured by requirements imposed through the Order.
- 4.9 The approach taken by the Applicant between those parts of the Authorised Project which form the NSIP and those parts that form Associated Development follows the approach taken by all DCO applications for offshore windfarms to date.
- 4.10 The main components of the Proposed Development are summarised below:

The Generating Station

- 4.10.1 Work No.1: consists of the nationally significant infrastructure project, being the offshore wind turbine generating station comprising up to 116 wind turbine generators which may be connected to each other and to up to three substations comprising Work No. 2 by a network of cables

The 'Associated Development'

- 4.10.2 The Associated Development for the purposes of section 115 of the 2008 Act comprises Work Nos. 2 to 12 of the Authorised Project. They are as follows:
- 4.10.3 Work No.2 - Up to 3 offshore substations, which may be connected to each other via interconnector cables;
- 4.10.4 Work No. 3- up to four export cables to be laid on or beneath the seabed, connecting the offshore substations to the landfall location and which shall include the construction of up to four temporary exit pits for horizontal directional drilling;
- 4.10.5 Work No.4 – works in the intertidal area, comprising the installation of up to four cable circuits and associated ducts underground by means of horizontal directional drilling;
- 4.10.6 Work No. 5 – the onshore connection works to connect the offshore export cables to the onshore cables. This will include launch and exit pits for the horizontal directional drills, transition joint bays and the installation of the cables themselves. Work No. 6 - onshore connection works comprising the installation of the onshore cable underground. It is anticipated that the majority of the installation works will be undertaken by way of trenching but other trenchless

technologies may be used. The works will consist of cable circuits, ducts between Work No.5 to each of the areas comprising Work No.7 and to Work 11A.

- 4.10.7 Work No. 7 comprises all those elements of the onshore cable connection works where there is a commitment to install by horizontal directional drilling. Each part of Work No. 7 comprises launch and exit pits for the drills. ;
- 4.10.8 Work No. 8A comprises each of the temporary construction compounds required for installation of the onshore connection works. Work No. 8B comprises the areas temporarily required for storing soil during whilst the connection works are carried out;
- 4.10.9 A number of temporary accesses will be required to facilitate the onshore connection works; these are included as Work No.9. A further number of accesses will be required during the installation phase, and will also be required to be retained during the operational phase for maintenance. These comprise Work No. 10;
- 4.10.10 Work No. 11A-D are associated with the construction of a satellite substation and associated infrastructure.
- 4.10.11 The satellite substation will be connected to the existing National Grid substation at Bolney and Work No, 12 comprises this element of the onshore connection works.
- 4.11 The Associated Development includes in connection with such Work Nos. 1 to 4 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—
 - 4.11.1 scour protection around the foundations of the offshore structures;
 - 4.11.2 cable protection measures such as the placement of rock and/or concrete mattresses;
 - 4.11.3 the removal of material from the seabed required for the construction of Work Nos. 1 to 4 and the disposal of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation and excavation of exit pits;
 - 4.11.4 removal of static fishing equipment; and
 - 4.11.5 disposal of drill arisings in connection with foundation drilling.
- 4.12 Further in connection with such Work Nos. 5 to 12 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. —
 - 4.12.1
Ancillary Works
- 4.13 In addition the Order is proposed to grant consent for the Ancillary Works, the environmental impact of which have been assessed and recording in the Environmental Statement, comprising:
 - 4.13.1 temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development;

- 4.13.2 marking buoys, beacons, fenders and other navigational warning or ship impact protection works;
 - 4.13.3 temporary works for the benefit or protection of land or structures affected by the authorised development; and
 - 4.13.4 temporary excavation of floatation pits in connection with the installation of the export cable within the offshore Order limits.
- 4.14 A more detailed description of the Authorised Project is provided at Schedule 1 'Authorised Project' of the draft DCO and Chapter 2 of the ES Volume 1 (Application Document Ref. xx) and the areas within which each of the main components of the Authorised Project are to be built is shown by the coloured and hatched areas on the Works Plans (Application Document Ref xx).

5. **Flexibility in the Order**

- 5.1 The description of Work No.1 refers to the wind generating station having a gross electrical output of over 100 megawatts. This is consistent with sections 14 and 15 of the 2008 Act which stipulates that an offshore windfarm which exceeds an electrical capacity of 100 megawatts will be an NSIP and therefore development consent will be required for the generating station and the associated development . It is not considered that imposing an upper limit to the generating capacity is desirable or necessary.
- 5.2 The Authorised Project described in Schedule 1 (part 1 and part 2) of the Order and the design parameters secured in requirements 2 to 5 of Schedule 1 (part 3) provide flexibility in the delivery of the Authorised Project.
- 5.3 Offshore
 - 5.3.1 The constituent elements of the generating station are specified in Work No. 1, together with offshore associated development in Work Nos. 2 to 4 which are expressly limited to the Order Limits seaward of Mean High Water Springs (**MHWS**). Works No. 5 to 12 specify the onshore associated development linked to the NSIP within the Order Limits landward of Mean Low Water Springs (**MLWS**) and Part 2 of Schedule 1 specifies the ancillary works.
 - 5.3.2 There is no reason to limit the electrical output capacity of the Authorised Project provided the parameters of development are not exceeded. There are advantages in not imposing an upper limit so that the Undertaker can take advantage of technical advancements that emerge in the coming years in terms of wind turbine efficiency which would enable it to still construct the Authorised Project within the existing parameters but to increase capacity beyond the capacity which is currently anticipated based on existing technology. The maximum number of turbines is, however, specified at 116 being the number of turbines constructed at the existing Rampion 1 wind farm..
 - 5.3.3 Flexibility has been provided in relation to the generating station and its associated development, to allow the Applicant to take advantage of new developments and emerging products in the market for offshore wind turbine generators and other equipment and as such helps to manage and drive down the cost of offshore wind developments; it also ensures the maintenance of competitive tension in the procurement process driving down costs, and the need to drive down the cost of energy for the purposes of tendering for Contracts for Difference.
 - 5.3.4 The final design of a windfarm depends on a number of factors which include the size, height and capacity of the chosen turbine type; electrical design; length of cables; areas where development is constrained; the outcomes of site investigations, and ongoing wind monitoring results. All these are considered post-consent at the stage of detailed design and optimisation when the final

number and type of turbines and their location will be decided as a function of site constraints and viable layout.

- 5.3.5 This final design of the offshore works will be approved under the provisions of the deemed marine licences.

5.4 Onshore

- 5.4.1 Similar flexibility is required for the onshore elements of the development. With regard to the onshore substation, the optimal design will be determined through the contracting process. Each tenderer will offer different technologies, designs and layouts for the onshore substations within the parameters of any consent obtained, which enables the optimal design solution to be chosen. Final detailed design of the onshore substation will not be settled until after the appointment of a contractor.

- 5.4.2 This flexibility will allow the Applicant freedom to optimise Rampion 2 as technology advances and to take advantage of variability in the supply chain whilst ensuring that the Proposed Development is delivered in accordance with the parameters set through the consents which have been assessed through the Environmental Impact Assessment.

Policy Support for Flexibility

- 5.5 The use of flexibility in project details within an Order is expressly endorsed by National Policy Statements EN-1 (at paragraphs 4.2.7 to 4.2.10) and EN-3 (at paragraphs 2.6.42 to 2.6.45), provided that the variables are fully assessed in terms of worst case effects. Paragraph 4.2.9 of EN-1 explains that where flexibility is sought, it will be necessary to include appropriate requirements within the Order to ensure that the project "envelope" is limited to that which has been assessed in the Environmental Statement.

- 5.6 This approach, known as the "Rochdale Envelope", has been followed numerous times in relation to offshore wind farms consented under section 36 of the Electricity Act 1989 and the 2008 Act, as well as other NSIPs under the 2008 Act. It is an approach to consenting which is well established under the Town and Country Planning Act 1990, and as such is well known and understood by statutory consultees. It is also endorsed by PINS Advice Note 9 which recognises the need for flexibility to address inherent uncertainties for a proposed development against which the need to ensure that the significant effects of a Proposed Development have been properly assessed must be balanced. It acknowledges at paragraph 5.5 that an Applicant may choose to include parameters within the DCO as a practical way to address uncertainty and provide the required flexibility before setting out example parameters which include *'maximum/ minimum number of turbines, or maximum turbine blade tip height, associated with an offshore wind farm'*.

- 5.7 As the size of turbine has not yet been established for the Authorised Development the environmental impact assessment undertaken has considered the impacts of 75 'larger' sized turbines and 116 'smaller' sized turbines in order to establish parameters. Each chapter of the Environmental Statement has assessed the worst case scenario in respect of the potential final design of the project for the aspect under consideration, and has also considered whether these worst case scenarios also apply to a size and number of turbines falling between these two scenarios.

6. **Parameters**

- 6.1 The parameters included in the Order and against which the environmental impact assessment has been carried out are set out in Appendix 1 to this document. They include the following:

- 6.1.1 Maximum number of Wind turbines generators ("WTG");

- 6.1.2 Maximum dimensions of WTG including rotor diameter, tip height and air gap;

- 6.1.3 The maximum rotor swept area for the turbines;
- 6.1.4 The foundation parameters of WTG, and volume of scour protection that can be used;
- 6.1.5 Maximum number of offshore substations, their foundations and dimensions, and volume of scour protection that can be used; and
- 6.1.6 The length of cable systems and volume of cable protection offshore within the array, linking the offshore substations and for the export cable;
- 6.2 The maximum number of turbines and their rotor swept area are the key parameters for the project and represent the overarching project description to which all other parameters are subordinate. It is not considered that the inclusion of a minimum number of turbines or capacity would be appropriate; the minimum capacity for an NSIP is already specified by the 2008 Act at 100MW. Further, the economic viability of an offshore wind farm will require a certain scale of development to be delivered..
- 6.3 It is accepted that it is appropriate to imposed a maximum hub height, tip height, rotor diameter and a minimum air gap for the wind turbines as these are all key criteria for the assessment of the environmental impact of the Proposed Development and have been presented in the Environmental Statement
- 6.4 Two different foundation types are provided for; monopile, and jacket. The choice of foundations will be influenced by a variety of factors, as explained in Volume 2, Chapter 4 of the Environmental Statement. In terms of the Order, the Applicant has considered which design parameters for each type of foundation are important to ensure a complete and robust EIA, and these have been included in the Order.
- 6.5 There will be no more than 3 offshore substations. Their location, type and design are not capable of being fixed at this stage and will be determined post consent in the detailed design and optimisation process as informed by the ultimate final layout decision. Accordingly, parameters limiting their dimensions and foundation arrangements are included in the draft Order.
- 6.6 The precise number, layout and total length of the inter-array, export and interconnector cables cannot be fixed until post consent design optimisation. The key factor for assessment purposes is the total cable length, based on the maximum number of turbines and the maximum length has been included as a parameter in the draft Order
- 6.7 It is important to bear in mind that under the deemed marine licences contained in Schedules 11 and 12of the draft Order, the undertaker must submit final construction details for approval by the MMO before construction. The MMO must ensure that final construction details conform with the description of Works Nos. 1 to 3 and compliance with the design parameters in Part 2, in conditions [1 to 6] in the deemed marine licences. Those submitted details will specify the number, dimensions and layout of the WTGs, offshore electrical substations, and the network of cables. There will, therefore, be a further stage of regulatory control of the final form of the development prior to construction.
- 6.8 The parameters for the Authorised Project within the onshore Order limits are necessary to allow the project to respond to the final design and layout of the generating station and to respond to ground conditions as the project is undertaken. The precise footprint and design of the onshore substation is not capable of being fixed at this stage and will be determined post consent in the detailed design and optimisation process and secured by requirements. Accordingly, parameters limiting its dimensions are included in the draft Order
- 7. **Provisions of the Order**
- 7.1 Part 1 of the Order confirms how it should be referred to, when it comes into force and defines terms used.

7.1.1 Article 1 sets out what the Order may be cited as and when it comes into force.

7.1.2 Article 2 sets out the meaning of various terms used in the Order;

In the Order 'commence' is defined as follows:

(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 pre-construction surveys and monitoring approved under the deemed marine licences or

(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 operations consisting of site clearance, demolition work, archaeological investigations, 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, temporary hard standing, and the temporary display of site notices or advertisements.

The effect of the definition is that certain 'carved out' works can be carried out prior to the requirements contained in Schedule 1 to the Order being discharged. The ability to do this is of critical importance to the Applicant in the context of the envisaged construction programme. It is considered that the works that are 'carved out' would not have any impact on the effectiveness of the requirements from an environmental protection perspective. This approach has been accepted in the recently granted Hornsea Three Offshore Wind Farm Order 2020.

However, requirements are specifically included in Schedule 1, Part 3 of the Order to ensure that pre-commencement works consisting of site clearance and archaeological investigations are carried out in accordance with an ecological management plan and an archaeological written scheme of investigation as appropriate.

7.1.3 In the Order 'maintain' is defined to cover both the onshore works and the offshore works, In terms of the deemed marine licences this term can only relate to the offshore works, but the definitions remain aligned to maintain consistency. In the Order, maintain is defined to include inspect and survey, upkeep, repair, adjust, and alter, and further includes remove, reconstruct and replace, to the extent assessed in the environmental statement

7.2 Part 2 provides the principal powers for the Proposed Development

7.2.1 Article 3 provides the development consent for the 'authorised development' and separate consent for the ancillary works, provided that they are carried out within the Order limits.

7.2.2 Article 4 makes provision for the maintenance of the authorised project. It was used in the Hornsea Three Offshore Wind Farm Order 2020. Article 4 reflects the terms of the model provisions, but text has been added to make it clear that the powers conferred by the Article do not negate the need for the undertaker to obtain further marine licences for offshore works not covered by the deemed marine licences included in the Order. This approach is precedented in numerous recent DCOs including the Hornsea Three Offshore Wind Farm Order 2020.

7.2.3 Article 5(1) (Benefit of Order) overrides Section 156(1) of the 2008 Act (which is permitted by Section 156(2)) and provides that the benefit of the Order is for the undertaker, rather than anyone with an interest in the land. Given the nature of the authorised development and the fact that powers of compulsory acquisition are sought it would be impracticable and inappropriate for the Order

to be 'open' as to who may implement it, as might occur without this provision. The undertaker is defined as the Applicant.

- 7.2.4 It also provides for the transfer of the whole or part of the benefit of the Order with the consent of the Secretary of State (the SoS), subject to certain exceptions. It also provides for the transfer of any of the deemed marine licences with the consent of the SoS. The requirement to obtain the SoS's consent is unnecessary in the circumstances referred to in sub paragraph (7) of the Article. These circumstances include where the transferee or lessee is a holder of a transmission licence under the Electricity Act 1989 and where the time limits for claims of compensation in respect of the acquisition of land or effects upon land as a consequence of the Order has elapsed
- 7.2.5 Article 5 includes a procedure to be adopted when making an application to the Secretary of State for consent and follows the approach in the Hornsea Three Wind Farm Order 2020. It is considered necessary to provide certainty in the absence of any other statutory procedure for obtaining consent. The essential elements of this procedure are as follows:
- 7.2.5.1 Before any application is made to the SoS the Undertaker shall consult with the SoS and the SoS will provide a response within four weeks of receipt of the notice;
- 7.2.5.2 The SoS may not provide consent before consulting the MMO;
- 7.2.5.3 The SoS shall determine an application for consent under this article within 8 weeks commencing on the date the application is received. This period can be extended where agreed in writing with the Undertaker;
- 7.2.5.4 Where the SoS is minded to refuse any application or fails to determine an application within 8 weeks of receipt then the Undertaker may refer the matter for determination under article 46 (arbitration);
- 7.2.5.5 Prior to any transfer or grant taking effect the Undertaker is required to notify in writing the SoS and so far as relevant the MMO and the relevant planning authorities.
- 7.2.6 Article 5(6) provides that where the Undertaker has transferred the benefit of the Order or granted the benefit of the Order to a lessee then:
- 7.2.6.1 the transferred benefit will include any rights that are conferred and any obligations that are imposed;
- 7.2.6.2 the transferred benefit will reside exclusively with the transferee or the lessee and shall not be enforceable against the Undertaker;
- 7.2.6.3 the benefits or rights conferred under sub paragraph (1) of the article is subject to the same restrictions, liabilities and obligations as applies to the Undertaker.
- 7.2.7 Article 6 (application and modification of legislative provisions) has the effect of dis-applying legislative provisions as they would apply but for this article.
- 7.2.8 Article 6(1)(a) dis-applies the provisions of regulation 6 of the Hedgerows Regulations 1997 and allows those hedgerows specified in Schedule 13 of the Order to be removed so as to allow the Applicant to carry out the Authorised Project. The form of wording used in this article is precedent and has been used in many made orders, including the Hornsea Three Offshore Wind Farm Order 2020.

- 7.2.9 Article 6(1)(b) dis-applies provisions of the Neighbourhood Planning Act 2017. This disapplication would provide that the temporary possession provisions in that enactment would not take effect at the expense of the temporary possession provisions contained in the Order. The provisions relating to temporary possession in the Neighbourhood Planning Act 2017 have not yet come into force and that regulations required to provide more detail on the operation of the regime have not yet been made. As such, it is considered appropriate to apply the 'tried and tested' temporary possession regime which has been included in numerous DCOs and Orders made under the Transport and Works Act 1992 to date and the form of wording in this article is has most recently been used in the Hornsea Three Offshore Wind Farm Order.
- 7.2.10 Sub paragraph (3) provides for the disapplication of various additional consents which would otherwise be required from the Environment Agency, internal drainage boards or lead local flood authorities under the Water Resources Act 1991 and the Land Drainage Act 1991. These are the requirements for consents to place structures on or over rivers under the Water Resources Act, the requirement for approval under flood defence and land drainage byelaws made or deemed to be made under the Water Resources Act, the prohibition on placing obstructions in waterways which are not main rivers under the Land Drainage Act and byelaws made under the Land Drainage Act regulating the use and obstruction of watercourses, which consents are included in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. The Order dis-applies the requirement for in-principle consent in order to ensure that the project can proceed. Instead protection for watercourses and their banks is provided in article 16 [and it is anticipated that protective provisions will be agreed with the Environment Agency]. This follows the approach taken in The Triton Knoll Electrical System Order 2016.
- 7.2.11 Article 7 disapplies the Rampion Offshore Wind Farm Order 2014 in respect of the 'overlap area'. Notwithstanding the scope of the Rampion Offshore Wind Farm Order 2014, the wind farm was not built out to its full permitted extent, either spatially or in terms of number of turbines and power generating capacity: only 116 turbines were ultimately installed, and these were not located across the full extent of the consented array area. The authorised project is intended to make optimum use of the opportunity to apply for an extension to the existing Rampion Offshore Wind Farm and proposes installation of up to 116 wind turbines generators in the optimum locations within an array area which includes the extension area identified by the Crown Estate and other areas of seabed which comprise the balance of 'Zone 6' as identified during the previous Crown Estate leasing round. Pursuant to this article, no further development will be capable of being undertaken pursuant to the Rampion Offshore Wind Farm Order 2014 in the area of overlap only. The article is also intended to avoid any conflict of powers within the overlap area.
- 7.2.12 Article 8 (*Defence to proceedings in respect of statutory nuisance*) provides that no one is able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise, if the noise is created in the course of carrying out construction or maintenance or decommissioning of the Authorised Project, and for which notice has been given under section 60 or consent obtained under section 61 or 65 of the Control of Pollution Act 1974 or which cannot be reasonably avoided as a consequence of the Authorised Project. As stated in the Environmental Statement it is not considered that any properties will be affected beyond statutory nuisance thresholds, as mitigation measures will be used to control noise emissions. However, the Applicant considers that this Article should be included in the event that proceedings are brought under Section 82 of the Environmental Protection Act 1990. This article was a model provision and has been used in numerous DCOs for offshore wind farms, most recently the Hornsea Three Offshore Wind Farm Order 2020.

7.3 Part 3 (Streets)

- 7.3.1 Article 9 (*Street works*) authorises the undertaker to carry out various works within the streets specified in Schedule 2 of the Order, which are within the Order limits. The right given by the article is a statutory right for the purposes of 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the New Roads and Street Works Act 1991. The undertaker needs the power to remove or use earth and materials in or under the streets in order to lay the cables for authorised project under the streets.
- 7.3.2 Article 10 (*application of the 1991 Act*) confirms that a number of the provisions of the New Roads and Street Works Act 1991 apply to the carrying out of street works under article 9 and the temporary stopping up, alteration or temporary diversion of a street under article 11. The relevant provisions are referred to in sub-paragraph 2 of the Article. This approach has been adopted in numerous DCOs for energy generating stations including the Hornsea Three Offshore Wind Farm Order 2020.
- 7.3.3 Article 11 (*Temporary stopping up of streets*) provides for the temporary stopping up, alteration or diversion of streets for a reasonable time for the purposes of carrying out the authorised development. It follows the approach set out in previous DCOs for offshore wind farms. It includes
- 7.3.3.1 the additional power in Article 11 given to the Undertaker which allows it to use any street temporarily stopped up as a temporary working site. The Undertaker may not use any street which is referenced in Schedule 3 without first consulting the street authority and any other street without having obtained the consent of the street authority who may attach reasonable conditions;
- 7.3.3.2 the requirement to consult the street authority in relation to the stopping up, diversion or alteration of a street specified in a Schedule to the Order but no need to obtain its consent. In respect of other streets not specified in a schedule to the Order, there would be a requirement to obtain the consent of the street authority.
- 7.3.4 Article 12 (*public rights of way*) allows the Undertaker, where it is in connection with the carrying out of the Authorised Project, to temporarily stop up a public right of way where it is specified in Schedule 4 of the Order to the extent stipulated in the same schedule. This article follows the approach adopted in the Hornsea Three Offshore Wind Farm Order 2020. It also provides that where a right of way is to be permanently stopped up, a substitute way must be provided on an alignment agreed with the highway authority and the way must not be stopped up until an alternative has been provided to the reasonable satisfaction of the highway authority.
- 7.3.5 Article 13 (*Access to works*) was formerly a model provision and permits the undertaker to form new or to improve existing means of access in the locations specified in Schedule 5 of the Order. Other means of access or works can also be provided in other locations reasonably required for the Authorised Project with the approval of the relevant planning authority, in consultation with the highway authority. This is subject to a deemed approval in the absence of a notification from the relevant planning authority within 28 days, and follows the approach accepted in the Hornsea Three Offshore Wind Farm Order 2020.
- 7.3.6 Article 14 (*Agreements with street authorities*) allows street authorities and the Undertaker to enter into agreements relating to any stopping up, alteration or diversion of a street and the carrying out of any works referred to in Article 9(1). This approach has been adopted in a number of DCOs for offshore wind farms including the Hornsea Three Offshore Wind Farm Order 2020.
- 7.3.7 Article 15 (*Power to alter layout etc. of streets*) allows for the alteration of the layout of any street for the purposes of construction, operation or maintenance,

subject to obtaining the consent of the street authority, and to the restoration of such streets to the reasonable satisfaction of the street authority. This follows the approach adopted in numerous DCOs including the Hornsea Three Offshore Wind Farm Order 2020.

7.4 Part 4 (Supplemental Powers)

- 7.4.1 Article 16 (*Discharge of water*) is based on a former model provision and enables the Undertaker to discharge water into any watercourse, public sewer or drain in connection with the construction and maintenance of the Authorised Project with the approval of the owner of the watercourse, public sewer or drain (such approval not to be unreasonably withheld) and subject to certain other conditions. A deemed approval applies if notification is not received within 28 days. The Article has been further modified to provide that the undertaker will have powers to alter watercourses, with the consent of the Environment Agency, the Internal Drainage Board or West Sussex County Council as appropriate in recognition of the disapplication of legislation by article 6.
- 7.4.2 Article 17 (*Protective work to buildings*) is based on a former model provision that allows the Undertaker, at its own expense, to carry out protective works to any building within the Order limits. Such protective works can be undertaken at any time before or during the carrying out in the vicinity of the relevant building works forming part of the Authorised Project. Protective works can also be undertaken after the carrying out the of works forming part of the Authorised Project for a period of 5 years from the day on which that part of the Authorised Project first becomes operational.
- 7.4.3 In addition to the powers to undertake protective works the article includes powers to enter any building and land within its curtilage to survey to determine whether protective works are needed and there are powers to enter adjacent land to carry out any protective works. However there is a requirement, before utilising the powers in the article, to serve notice on owners and occupiers with at least 14 days' notice of the said works. In respect of some of the powers included in the article there is an ability for a counter notice to be served by the land owner/occupier within a period of 10 days from the day on which the notice was served.
- 7.4.4 The article includes compensation provisions both in relation to the consequences of the protective works being undertaken, but also where protective works are undertaken but they are inadequate to protect the building or land from damage (within a period of 5 years from the date that part of the development is first operational).
- 7.4.5 The model provision has been modified to provide that section 13 (refusal to give possession to acquiring authority) of the Compulsory Purchase Act 1965 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. In this context the Article follows the approach adopted in the Hornsea Three Offshore Wind Farm Order 2020.
- 7.4.6 Article 18 (*Authority to survey and investigate the land onshore*) is based on a former model provision and allows the Undertaker to survey and investigate land, including bringing equipment onto the land and making trial pits and boreholes. The power is subject to a number of conditions including a requirement for 14 days' notice to be given and is subject to the payment of compensation.
- 7.4.7 Sub paragraph (4) provides that no trial pits or boreholes may be made in land forming part of a railway or land held by or in right of the Crown without the consent of Network Rail or the Crown respectively, and trial holes may not be made in a highway or private street without the consent of the highway or street authority. The deeming provision does not extend to Network Rail or the

Crown. Section 13 (refusal to give possession to acquiring authority) of the Compulsory Purchase Act 1965 will apply in respect of entry onto, or possession of land under the article. This approach follows that adopted in the Hornsea Three Offshore Wind Farm Order 2020 as well as several previous DCOs for energy generating stations.

7.4.8 Article 19 (*Removal of human remains*) enables the undertaker to remove human remains from the Order limits, and provides a process for notification and identification of the human remains as well as their re-internment or cremation. The undertaker would be required to pay the reasonable expenses associated with this process. Whilst it is not anticipated that any human remains will be encountered during construction works, it is possible that human remains could be found within the Order limits. This Article follows the former model provisions, save that the Article applies to the entire Order Limits rather than a defined area.

7.4.9 Article 20 (Public rights of navigation) enables the suspension of public rights of navigation where any of the permanent structures (wind turbine generators, meteorological mast or offshore substation) are located, As there will be a physical obstruction in the marine environment there will no practical ability to navigate through these specific locations and the approach to extinguish public rights of navigation formalises this situation. The final locations of structures including WTG foundations and the offshore substations will be submitted for approval under the condition 13 of the Deemed Marine Licence (DML). Implementation of the extinguishment to public rights of navigation fourteen days after giving notice to the SoS, Trinity House, the MMO and the MCA is appropriate to allow construction to commence as soon as reasonable following consultation and approval of the locations of structures under condition 13 of the DML. The MMO, the MCA and Trinity House as the key marine stakeholders for public rights of navigation will have been involved in the process of finalising the design of wind farm in accordance and will therefore already be aware of the locations of these structures. In addition, this notice period is greater than that required for formal notices to mariners and the period required by the UKHO to make all necessary amendments to nautical charts as set out in DML condition 7 (Notifications and inspections). This period has been accepted on other DCOs including Kentish Flats Extension Offshore Wind Farm Order 2013 and Walney Extension Offshore Wind Farm Order 2014.

7.4.10 Article 21 (temporary suspension of public access to access land) enables the suspension of public access to specified areas of access land during the construction and maintenance of the authorised project, subject to advance notice being provided and subject to the undertaker keeping the area of land and the period of closure to a minimum. This article follows the approach which was taken and accepted in the Rampion Offshore Wind Farm Order 2014.

7.5 Part 5 (Powers of Acquisition)

7.5.1 Article 22 (*Compulsory acquisition of land*) provides for the compulsory acquisition of such land as is required for the Authorised Project (or to facilitate the Authorised Project or is incidental to the Authorised Project). Article 24 makes consequential provision for the extinguishment of rights in the land in order to ensure that they cannot impact on implementation or use of the Authorised Project. The article broadly follows the former model provision and follows that adopted in the Hornsea Three Offshore Wind Farm Order 2020.

7.5.2 Article 23 (*Time limit for exercise of authority to acquire land compulsorily*) is a model provision which imposes a time limit of 5 years for the exercise of powers of compulsory acquisition.

7.5.3 Article 24 (*Compulsory acquisition of rights and imposition of restrictive covenants*) entitles the undertaker to acquire rights over land and impose restrictive covenants which may be compulsorily acquired, including rights

already in existence, or to create new rights. The article provides that in respect of the Order land specified in Schedule 7 of the Order the undertaker's powers of acquisition are limited to the purposes specified in that same schedule. The ability to acquire new rights ensures that the undertaker is able to seek a lesser interference with land where this is appropriate (whether in the context of new or existing rights) as the Authorised Project is implemented.

- 7.5.4 Sub paragraphs (5) and (6) provide, where the acquisition of new rights or the imposition of a restriction under the Order is required for a statutory undertaker, the undertaker may, with the consent of the SoS transfer the powers to the statutory undertaker. The approach adopted in the article follows that of the Hornsea Three Offshore Wind Farm Order 2020 and was previously adopted in DCOs for other offshore wind farms.
- 7.5.5 Article 25 (*Private rights*) is based on a former model provision and has the effect of extinguishing private rights over land where: (1) land is subject to compulsory acquisition under article 22 of the Order; or (2) land is subject to compulsory acquisition of rights or the imposition of restrictive covenants under article 24. The article also suspends private rights for as long as the undertaker is in temporary possession of land under the Order.
- 7.5.6 In sub-paragraph (4) reference is made to section 152 of the 2008 Act to make it clear that compensation is payable and that such compensation would be payable under this section of the 2008 Act rather than the Compulsory Purchase Act 1965.
- 7.6 Article 26 (*Power to override easements and other rights*), this article provides that, by virtue of section 158 of the 2008 Act, in carrying out or using the development authorised by the Order and doing anything else authorised by the Order, the undertaker (or any person deriving title from the undertaker or any contractor, servant or agent of the undertaker) may interfere with any interest or right to which the article applies or breach any restriction as to the use of land arising by virtue of a contract. It also provides that, by virtue of section 152 of the 2008 Act, compensation may be payable under section 10 of the 1965 Act for any such interference or breach.
- 7.7 This is not a model provision, but is added to clarify the position with regard to rights burdening land required for the authorised development. The article has precedent in article 20 of the Brechfa Forest Wind Farm Connection Order 2016.
- 7.8 Article 27 (*Application of the Compulsory Purchase (Vesting Declarations) Act 1981*) applies the vesting procedures in the Compulsory Purchase (Vesting Declarations) Act 1981 to the exercise of powers of compulsory acquisition pursuant to the Order. It gives the Undertaker the option to acquire land via the process set out under the 1981 Act, rather than the notice to treat procedure. This article has been updated to incorporate and reflect the changes brought about by the Housing and Planning Act 2016.
- 7.9 The article has also been modified to allow the compulsory acquisition of rights and land in favour of a third party such as a statutory undertaker. These provisions are not contained in the Model Provisions but are intended to provide confirmation that the 1981 Act can be used to acquire rights and land on behalf of third parties, without the need to acquire the land in favour of the undertaker and then transfer such land or rights to a third party, thereby causing a delay to any transfers of land or rights to those who are intended to benefit from such acquisition.
- 7.10 Article 28 (*Modification of the 2017 Regulations*) modifies the Compulsory Purchase of Land (Vesting Declaration) (England) Regulations 2017 to ensure that the interests and rights in land which are intended to benefit a third party, such as a statutory undertaker whose apparatus may be re-located in order to construct the authorised development, will vest in that third party instead of the undertaker, who would otherwise be the acquiring authority in respect of those interests and rights. The amendments to these regulations also confirm the position that notwithstanding references in the 1981 Act and 2017 Regulations to vesting land "in themselves" (i.e., in the Acquiring Authority), land and rights can be

acquired by the undertaker in favour of any third party identified directly. This is a drafting change which confirms the ability for the undertaker to acquire such rights and land (where such powers of acquisition are not transferred to another person to acquire rights/land directly), and is not a substantive change to the rights or land sought for permanent acquisition.

- 7.11 Article 29 (*Modification of Part 1 of the Compulsory Purchase Act 1965*) modifies the provisions Part 1 of the Compulsory Purchase Act 1965 as applied to the Order by section 125 of the 2008 Act. This provision reflects recent changes introduced by the Housing and Planning Act 2016. Paragraphs (1) to (3) amend the provisions of the Compulsory Purchase Act 1965 so they are consistent with the terms of the Order and paragraph (4) makes it clear that the notice periods introduced by the Housing and Planning Act 2016 do not apply to the temporary possession or use of land under articles 32 or 33 of this Order. The approach adopted follows that of the Hornsea Three Offshore Wind Farm Order 2020 in addition to previously granted orders for NSIPs.
- 7.12 Article 30 (*Acquisition of subsoil only*) permits the Undertaker to acquire only the subsoil of land which is to be compulsorily acquired (either pursuant to article 22 or 24), and gives the Undertaker the ability to minimise the extent of interests acquired from owners. This article is appropriate in the context of cables or pipes to be laid underground as part of the Authorised Project, where acquisition of the 'entire' freehold may not be required. This is based on a former model provision.
- 7.13 Article 31 (*Rights under or over streets*) is a former model provision which allows the Undertaker to enter on and appropriate interests within streets where required for the purpose of the Authorised Project without being required to acquire that land. Provision is made for the payment of compensation in certain circumstances.
- 7.14 Article 32 (*Temporary use of land for carrying out the authorised development*) allows two categories of land to be temporarily used for the carrying out of the Authorised Project. These are:
- 7.14.1 The land specified in Schedule 9 of the Order for the purposes specified in that Schedule;
- 7.14.2 Any other land within the Order limits land where no notice of entry or general vesting declaration has been served.
- 7.15 In addition to the ability to enter on and take temporary possession of Order land Article 32(1)(b)-(g) stipulate various activities that can be undertaken pursuant to the Article. This list has been modified from the former model provision to include project specific activities and follows the approach adopted in the Hornsea Three Offshore Wind Farm Order 2020.
- 7.16 Sub-paragraph 10 provides that the Undertaker may not compulsorily acquire any of the land specified in Schedule 9, except that the Undertaker may acquire new rights or impose new restrictive covenants where that land is also specified in Schedule 7 of the Order and it may acquire rights in the subsoil.
- 7.17 There is a limit on the length of time that the Undertaker can use land under this article: being a period of 1 year beginning on the day of completion of that part of the Authorised Project, unless the Undertaker has already served a notice to treat or general vesting declaration.
- 7.18 In addition the article includes several other components, including:
- 7.18.1 the Undertaker must provide at least 14 days' notice to the relevant owner/occupiers' before entering the land;
- 7.18.2 before giving up occupation of land the Undertaker must remove the temporary works and restore the land to the reasonable satisfaction of the owner save that certain operations are not required to be removed; and

- 7.18.3 compensation provisions are included to compensate owner/occupiers' affected by their land being temporarily used for carrying out the Authorised Project.
- 7.19 The article follows the approach adopted in the Hornsea Three Offshore Wind Farm Order 2020.
- 7.20 A similar provision is made in article 33 (*Temporary use of land for maintaining the authorised project*) for the temporary use of land for maintenance of the Authorised Project. The maintenance period in which the power can be exercised is beginning with the date on which a phase of the Authorised Project first exports electricity to the national electricity transmission network. The article is a former model provision and allows an Undertaker to take temporary possession of land within the Order limits if it is reasonably required to maintain the Authorised Project, and also allows temporary works and buildings to be constructed if reasonably necessary. The power is limited and cannot be exercised in respect of a house, garden or any other building where it is occupied.
- 7.21 The article requires the Undertaker to provide at least 28 days' notice to the relevant owner/occupiers' before taking temporary possession, and it may only retain possession for as long as is reasonably necessary to carry out the maintenance. When returning the land after the temporary possession the Undertaker must remove temporary works and restore the land to the reasonable satisfaction of the owners. Compensation provisions are included.
- 7.22 Article 34 (*Incorporation of the mineral code*) provides for the incorporation of Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 to be incorporated in to the Order to exclude its application to mines under the Order limits.
- 7.23 Article 35 (*Statutory undertakers*) is based on the former model provision which has been used in numerous previous Orders for offshore wind farms and provides for the acquisition of land belonging to statutory undertakers that is identified in the Book of Reference (Application Document Ref. xx). This includes a power to move the apparatus of those statutory undertakers and to extinguish their rights. This article is subject to the protective provisions (see article 51 below) included at Schedule 10 of the Order.
- 7.24 Article 36 (*Apparatus and rights of statutory undertakers in stopped up streets*) governs what happens to statutory undertakers' apparatus (e.g. pipes, cables) under streets that are stopped up by the Order. Without the article, the statutory undertaker would not have access to the apparatus, since there will no longer be a right of way along the street. Under paragraph (2), the statutory undertaker may remove, relocate or replace any affected apparatus of its own volition, or must do so if it is reasonably requested by the undertaker. Under paragraph (3), the statutory undertaker would receive compensation from the undertaker for any relocation works and associated costs. Paragraphs (4) and (5) discount from this compensation the cost associated with a higher specification in the replacement apparatus. Paragraph (6) discounts from this compensation the increase in value to the statutory undertaker for having new rather than old (i.e., older than 7½ years) apparatus. Paragraph (7) provides that where statutory undertakers are affected by a stopping up in relation to those parts of the Project that constitute "major bridge works", "major transport works" or "major highways works", as defined in the 1991 Act, the cost sharing provisions under that Act will apply instead of the compensation provision in this article. This article is a standard provision for DCOs (see, for example, article 36 of the A30 Chiverton to Carland Cross Development Consent Order 2020).
- 7.25 Article 37 (*Recovery of costs of new connections*) provides that persons who have to create a new connection following the exercise of powers under article 35 may recover the costs of new connections from the Undertaker and follows the wording of a former model provision used in numerous orders for offshore wind farms.
- 7.26 Article 38 (*Special Category Land*) applies to land to which section 131 of the 2008 Act applies: an order granting development consent is subject to Special Parliamentary Procedure when it authorises compulsory acquisition of land comprising a common, open space or fuel or field garden allotment unless the Secretary of State is satisfied that certain tests under section 131(3) are met. These tests include that the Secretary of State is satisfied that the use of the land when burdened by the new rights is no less advantageous

than it was beforehand. The Applicant submits that this is the case, for the reasons set out in the Statement of Reasons (Application Document reference xx).

- 7.27 The land specified in article 38 is therefore proposed to be released from all rights, trusts and incidents to which that land was previously subject without the requirement to provide replacement land in accordance with section 131(4) of the 2008 Act.

8. **Part 6 (Operations)**

- 8.1 Article 39 (*Operation of generating station*) permits the operation and use of the offshore wind turbine generating station comprised in the Authorised Project. Article 37(2) specifically preserves the need for the undertaker to obtain any other operational consent that may be needed, in addition to the Order.

- 8.2 Article 40 (*deemed marine licences under the 2009 Act*) grants the deemed marine licences included in schedule 11 (*deemed generator assets marine licence*) and schedule 12 (*deemed transmission assets marine licence*). The deemed consent is provided for under 149A of the 2008 Act and under section 65 of the Marine and Coastal Access Act 2009, the successor provision to section 34 of the Coast Protection Act 1949.

9. **Part 7 (Miscellaneous and general)**

- 9.1 Article 41 (*Application of landlord and tenant law*) is based on a former model provision which would override landlord and tenant law so far as it would prejudice the operation of any agreement for leasing the whole of the Authorised Project or the right to operate the same or any agreement entered into by the Undertaker for the construction, maintenance, use or operation of the Authorised Project.

- 9.2 Article 42 (*Operational land for purposes of the 1990 Act*) is based on a former model provision which has the effect of ensuring that the land on which the Authorised Project is constructed will be "operational land" under section 263 of the 1990 Act.

- 9.3 Article 43 (*Felling or lopping of trees and removal of hedgerows*) provides that the Undertaker may fell or lop or cut back the roots of any tree which is not subject to a tree preservation order or shrub to prevent it obstructing or interfering with the onshore site preparation works, construction, maintenance or operation of the Authorised Project. Compensation is provided for if loss or damage is caused. The article is consistent with the model provision, except the Undertaker has further limited the power so that it does not apply to trees subject to a tree preservation order which are subject to article 42 (*Trees subject to a tree preservation order*). The article follows the approach adopted in the Hornsea Three Offshore Wind Farm Order 2020.

- 9.4 Article 44 (*trees subject to tree preservation orders*) provides that the Undertaker may fell or lop or cut back the roots of any tree which is subject to a tree preservation order or shrub to prevent it obstructing or interfering with onshore site preparation works, the construction, maintenance or operation of the Authorised Project. This applies to a tree subject to a tree preservation order made before or after the date of the Order. The article also authorises removal of hedgerows within the Order limits as identified in Schedule 13. Compensation is provided for if loss or damage is caused. The article follows the approach adopted in the Hornsea Three Offshore Wind Farm Order 2020.

- 9.5 Article 45 (*Abatement of works abandoned or decayed*) This article is intended to make sure that the Undertaker will not abandon or allow to fall into decay Work Nos 1 to 4. It provides a power which enables the SoS, following consultation with the Undertaker, to serve notice on the Undertaker requiring it, at its own expense, to remove or restore those works. Section 105 of the Energy Act 2004 makes provision for the SoS being able to serve notice on the Undertaker requiring it to submit a decommissioning programme for approval. The provisions of this article do not cut across this statutory provision but supplement it and follow the approach adopted in the Hornsea Three Offshore Wind Farm Order 2020.

- 9.6 Article 46 provides a procedure for securing approvals under the terms of the Order. The details of the procedure are set out in Schedule 14 and follow the approach recommended in Planning Inspectorate Advice Note fifteen: Drafting Development Consent Orders and its annex.
- 9.7 Article 47 (Arbitration) provides a procedure for arbitration in respect of any differences arising under the Order which follows the approach adopted in both the Hornsea Three Offshore Wind Farm Order 2020. The process provides certainty to all parties. It applies Schedule 15 of the Order and provides for the process set out therein to be applied to differences under the Order unless another means of resolving a dispute is provided for in the Order. The arbitrator will be appointed by the parties within 14 days of receipt of a notice of arbitration or failing agreement within this time period then by the SoS following application by one of the parties. If the SoS fail to make an appointment within 14 days of referral the referring party may refer to the Centre for Effective Dispute Resolution for appointment of an arbitrator. Where the referral to arbitration relates to a difference with the SoS and the parties cannot agree an arbitrator then either party may refer the matters to the Centre for Effective Dispute Resolution for appointment of an arbitrator. It expressly excludes any matter that requires the approval of the SoS or the MMO.
- 9.8 Article 48 (Saving provisions for Trinity House) is a model provision for harbours and is commonly used in DCOs for offshore wind farm turbine generating stations to provide protection to Trinity House in relation to its statutory functions.
- 9.9 Article 49 (Crown rights) reflects the terms of section 135 of the 2008 Act and has been used in a number of previous orders for NSIPs including the Hornsea Three Offshore Wind Farm Order 2020. The intention is to protect the Crown in respect of its land and interests, both where it holds the land and where it is held by another person (such as a government department). In particular it provides that nothing in the Order authorises the undertaker (or licensee of the undertaker) to interfere with any land or rights in that land as follows:
- 9.9.1 Where that interests belongs to Her Majesty in right of the Crown and forms part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
- 9.9.2 Where it belongs to Her Majesty in right of the Crown, but does not form part of the Crown Estate without the consent in writing of the government department that is managing that land; or
- 9.9.3 Where it belongs to a government department or is held in trust for Her Majesty for the purposes of a government department without the consent of that government department.
- 9.10 Sub-paragraph (2) provides that the prohibition in sub-paragraph (1) of the article does not apply where it is proposed to compulsory acquire an interest in Crown land which is held by a person which is not Her Majesty in right of the Crown or it is not being held on the Crown's behalf, provided consent is provided in writing by the appropriate Crown authority.
- 9.11 Article 50 (*Certification of plans and documents, etc.*) is based on a former model provision which requires the submission of various documents referred to in the Order for certification as true copies.
- 9.12 Article 51 (*Protective provisions*) introduces Schedule 9 to the Order which protects the interests of certain statutory undertakers, to have effect; this Schedule is also referred to in article 34 above in relation to the apparatus of statutory undertakers.
- 9.13 Article 52 (*Funding*) provides that the Undertaker may not exercise a number of powers prior to it putting into place a guarantee equal to liabilities upon the Undertaker to pay compensation under the relevant provisions (such sum to be approved by the SoS) or an alternative form of security approved by the SoS for a period of 15 years.

- 9.14 Article 53 (*No double recovery*) prevents compensation being payable in respect of the same matter both under the Order and under any other enactment, contract or rule of law
- 9.15 Article 54 (*Disregard of certain improvements, etc.*) provides for the Lands Chamber of the Upper Tribunal to disregard certain interests in and enhancements to the value of land for the purposes of assessing compensation with respect to its compulsory acquisition where the creation of the interest or the making of the enhancement was designed with a view to obtaining compensation or increased compensation. It complies with section 126 of the 2008 Act as it does not have the effect of modifying or excluding the application of an existing provision relating to compulsory purchase compensation. The article has precedent in the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (article 37), the River Humber Gas Pipeline Replacement Order 2016 (article 29) and the Lake Lothing (Lowestoft) Third Crossing Order 2020 (article 38). The wording of this article mirrors section 4 (assessment of compensation) of the Acquisition of Land Act 1981 (in this paragraph "the 1981 Act"). It is necessary to specifically apply the effect of section 4 of the 1981 Act in the Order. This is because the 1981 Act only applies to a compulsory purchase to which any other statutory instrument has applied its provisions and neither the 2008 Act, nor standard Order provisions, apply these. Sections 120(3) and 120(5)(a) and Schedule 5 (by virtue of section 120(3)) of the 2008 Act allow the application in a DCO of statutory provisions which relate to the payment of compensation
- 9.16 Article 55 (*Set off for enhancement in value of retained land*) provides that, in assessing the compensation payable to any person in respect of the acquisition of any land, the Tribunal shall set off against the value of the land any increase in value of any contiguous or adjacent land belonging to that person arising out of construction of the authorised development. This article complies with section 126(2) of the 2008 Act as it does not have the effect of modifying the application of an existing provision relating to compulsory purchase compensation. The article has precedent in the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (article 38) and the Lake Lothing (Lowestoft) Third Crossing Order 2020 (article 39), and orders under the Transport and Works Act 1992 such as the London Underground (Northern Line Extension) Order 2014 (article 33) and the Midland Metro (Wolverhampton City Centre Extension) Order 2016 (article 36). The principle in this article is established in section 7 of the Land Compensation Act 1961 (effect of certain actual or prospective development of adjacent land in same ownership), which needs to be applied. Sections 120(3) and 120(5)(a) and Schedule 5 (by virtue of section 120(3)) of the 2008 Act allow the application in a DCO of statutory provisions which relate to the payment of compensation
- 9.17 Article 56 (*Service of notices*) makes provision as to the service of notices or other documents for the purposes of the Order.

10. **Schedules**

- 10.1 Schedule 1 describes the authorised project in detail, split into the authorised development which comprises 'work numbers', each of which represents different elements of the authorised development, in respect of which the schedule also describes associated development and ancillary development. This split of the authorised Project between different work numbers enables the Order to refer to different parts of the Authorised Project by citing the relevant work number.
- 10.1.1 The works set out in Schedule 1 to the Order are explained in paragraph 4.10 above.
- 10.1.2 Part 3 of Schedule 1 sets out the requirements which apply to the carrying out of and operation of the Authorised Project under the Order. The requirements closely relate to the mitigation set out in the ES (Application Document Ref. xx) and the commitments register (Application Document xx).
- 10.1.3 Many of the requirements require submission of details for approval to the Relevant Planning Authorities and some include for specific approval from the South Downs National Park Authority. Those requirements are drafted with a view to enabling the Undertaker to obtain approval for part of the Authorised Project and not require it to discharge the requirement for the whole of the

Authorised Project where this approach has been taken. This approach permits an appropriately flexible approach to the discharge of requirements by the Undertaker. This provides an appropriate balance between development not starting until details are approved, and allowing other parts of the Authorised Project (where details are already approved) to be constructed.

- 10.1.4 Many of the requirements provide for a document (such as details, a method statement, a plan, a programme or scheme) specifying how the undertaker will construct, operate or maintain the Authorised Project to be submitted for approval to the Relevant Planning Authorities (and South Downs National Park Authority where relevant). The model provisions have been adapted throughout to provide that it is for the Relevant Planning Authorities to approve the relevant document rather than the Planning Inspectorate (in place of the Infrastructure Planning Commission).
- 10.1.5 Where consultation is required under the draft Order it is, in each case, the Relevant Planning Authority's duty to carry it out before approving a document submitted to it (rather than this being the undertaker's duty before submitting the document. Where it is considered that it would be particularly relevant for the Relevant Planning Authority to consult a third party, that third party has been named within the relevant requirement.
- 10.1.6 In all cases where a scheme or plan is to be submitted for approval to an approving authority there is a requirement for the Undertaker to implement the approved scheme or plan.
- 10.1.7 The approach to the Requirements has been followed in a number of orders for NSIPs including the Hornsea Three Offshore Wind Farm Order 2020.
- 10.1.8 Requirement 1: Commencement of the authorised project - This requirement is based upon the model provisions.
- 10.1.9 Requirements 2 to 4: Detailed offshore design parameters - These requirements set out the detailed design parameters within which the Authorised Project must be constructed. The relevant design parameters are shown in the table included at Appendix 1. In summary the design parameters are as follows:
 - 10.1.9.1 Requirement 2 sets out the maximum design parameters for the wind turbine generators, and identifies a marine cable link area where no wind turbine generators are to be constructed;
 - 10.1.9.2 Requirement 3 sets out the maximum design parameters for the offshore substations;
 - 10.1.9.3 Requirement 4 sets out the maximum scour protection for offshore installations;
- 10.1.10 Requirement 5 stipulates the maximum number of cables and stipulates the maximum length of the cables compromised in Work Nos. 1 to 3. Further it sets out that the total area and volume of cable protection. The total number of cable crossings is limited to 4, unless agreed otherwise with the MMO.
- 10.1.11 Requirement 6 confirms that Works numbered 4 and 7 will be installed by horizontal directional drilling in accordance with the assessment in the environmental impact assessment and reported in the Environmental Statement. It also confirms that in all other locations along the cable corridor the cable will be installed underground.
- 10.1.12 Requirement 7: *Onshore design parameters*, confirms the parameters for the landfall construction compound

- 10.1.13 Requirement 8: *Detailed design approval onshore* – This requirement provides that the Undertaker must obtain approval from the Relevant Planning Authority for the details of:
- 10.1.13.1 the layout;
 - 10.1.13.2 scale;
 - 10.1.13.3 proposed finished ground levels;
 - 10.1.13.4 external appearance;
- prior to the commencement of the connection works in Work No.11A The details submitted must be in accordance with design and access statement.
- 10.1.14 Requirement 9: *Programme of Works* – This requirement secures the submission and approval of a programme of works, identifying stages for construction of the authorised project within the onshore Order limits. Following approval of this programme, the various of the requirements may be discharged in relation to the discrete stages as approved.
- 10.1.15 Requirements 10 to 12: *Provision of landscaping and implementation and maintenance of landscaping* – The Undertaker is required, before it commences any phase of the connection works, to submit a written landscape management plan and associated works programme which accords with the outline landscape plan and outline ecological management plan for approval to the Relevant Planning Authority in consultation with the relevant SNCBs and the Historic Buildings and Monuments Commission for England and to the South Downs National Park Authority when the works are to be undertaken within the National Park. The requirement stipulates what matters must be included in the landscape management plan. All landscaping works are required to be carried out in accordance with the approved documents and the relevant recommendations of appropriate British Standard. If any tree or shrub which is planted is, within the period of five years following planting, removed by the undertaker, dies or becomes damaged or diseased then it must be replaced in the first available planting season with a specimen of the same species and size.
- 10.1.16 Requirements 13 and 14: *Ecological management plan* – An ecological plan, which is in accordance with the outline ecological management plan, is required to be approved for each phase of the connection works prior to that phase commencing. The ecological management plan is to be approved by the Relevant Planning Authority, but also in consultation with the relevant SNCB and the Environment Agency, and by the South Downs National Park Authority in respect of stages within the National Park. The onshore site preparation works may not commence until a written ecological management plan for those works, in accordance with the outline ecological management plan, has been approved by the relevant planning authority in consultation with the relevant SNCBs or the South Downs National Park Authority.
- 10.1.17 Requirements 15 and 16: *Highway accesses* – Construction of any permanent or temporary means of access, or use of an existing access, shall not be commenced by the Undertaker until it has obtained the written approval of an access plan for that access, including for the siting, design, layout and any access management measures for any new, permanent or temporary means of access to a highway to be used by vehicular traffic or any alteration to an existing means of access to a highway to be used by vehicular traffic, for each stage of the connection works prior to that stage commencing. The approving authority is West Sussex County Council as the local highway authority. Where the access is located in the South Downs National Park their approval must also be sought in respect of the operational accesses.
- 10.1.18 Requirements 17 and 18: *Fencing and other means of enclosure* – The Undertaker is required to obtain the written approval from the Relevant

Planning Authority for any proposed permanent fences, walls or other means of enclosure for each phase of the connection works prior to that phase commencing. Where the fencing or means of enclosure is located in the South Downs National Park their approval must also be sought.

- 10.1.19 All temporary fences, walls or other means of enclosure must be provided, for a phase, in accordance with the outline code of construction practice. Construction sites must remain securely fenced in accordance with the code of construction practice and any temporary fencing must be removed once the relevant phase of the connection works are complete.
- 10.1.20 Requirement 19: *Surface and foul water drainage* – There is a requirement for the Undertaker to obtain the written approval of the lead local flood authority in respect of surface water treatment and where relevant foul water drainage system (including means of pollution control), for the onshore substation before its construction commences. The lead local flood authority will need to consult with the sewage and drainage authorities as well as the Environment Agency before providing approval.
- 10.1.21 Requirement 20: *Contaminated land and groundwater scheme* - No phase of the authorised development may be commenced until a scheme dealing with any contamination of land, to include groundwater, which is likely to cause significant harm to persons or controlled waters or the environment has been submitted to the Relevant Planning Authority in consultation with the Environment Agency and to the extent that the plan relates to the intertidal area, the MMO. The scheme to be submitted to discharge this requirement must include a investigation and assessment report, prepared by a specialist consultant, approved by the Relevant Planning Authority, to identify the extent of contamination and necessary remedial measures, together with a management plan which sets out long term measures with respect to any contaminants remaining on the site.
- 10.1.22 Requirement 21: *Surface water* – Construction works (or part thereof) relating to the substation shall not commence until a detailed surface water scheme in accordance with the outline code of construction practice and based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the onshore substation has been submitted to and approved by the West Sussex County Council, in consultation with the Environment Agency.
- 10.1.23 Requirement 22: *Onshore Archaeology* – The Undertaker must submit to the Relevant Planning Authority a written scheme of archaeological investigation for approval, for each stage of the connection works, before that stage commences. For the purpose of this article the term 'commence' (for each stage) includes onshore site preparation works. Thereafter the scheme must be undertaken in accordance with the approved details.
- 10.1.24 Requirement 23: *Public Rights of Way* – The Undertaker must secure the approval of the relevant planning authority and West Sussex County Council for a public rights of way management plan for a stage prior to the commencement of that stage of the authorised project. For the purpose of this requirement the term 'commence' includes site preparation works.
- 10.1.25 Requirement 24: *Code of construction practice* - The Undertaker must submit to the Relevant Planning Authority (in consultation with the Environment Agency, the relevant SNCBs, the relevant highway authority and, if applicable, the MMO) a code of construction practice for approval, for each stage of any works landward of MLWS, before that stage commences. The details submitted must accord with the outline code of construction practice. Thereafter the construction works must be undertaken in accordance with the approved code. For the purpose of this requirement the term 'commence' includes site preparation works.

- 10.1.26 Requirement 25: *Construction traffic management plan* - The Undertaker must submit to the Relevant Planning Authority a construction traffic management plan for approval, before the connection works commence. The Relevant Planning Authority is required to consult the relevant highway authority before approving the construction traffic management plan. Thereafter the construction traffic management plan must be implemented as approved.
- 10.1.27 Requirement 26: *European protected species onshore* - Prior to any stage of the connection works commencing a final pre-construction survey must be undertaken to establish whether any European protected species are present on the affected land or in any of the trees to be lopped or felled. If the pre-construction surveys identify any European protected species then the relevant stage of the connection works cannot commence until the Relevant Planning Authority has approved a scheme of protection and mitigation measures or a European protected species licence has been granted. The scheme may only be approved by the Relevant Planning Authority in consultation with the relevant SNCBs.
- 10.1.28 Requirement 27: *Restoration of land used temporarily for construction* - Land will be used onshore during the construction period but which will not be incorporated into the permanent works or approved landscaping. In respect of this land it must be reinstated in accordance with details to be approved by the Relevant Planning Authority (in consultation with the relevant highways authority and where appropriate the MMO). Such reinstatement works should be completed as soon as reasonably practicable but at the latest within 12 months of completion of the works.
- 10.1.29 Requirement 28 - *Effect on Local Wildlife Sites and sites of ecological importance* ensures that the construction corridor is limited where it crosses local wildlife sites and sites of ecological importance.
- 10.1.30 Requirement 29: *Control of noise during operational phase* - Prior to commissioning of the onshore substation comprising Work No. 11A a noise management plan ("NMP") must be submitted by the Undertaker to the Relevant Planning Authority for approval. The NMP must detail appropriate noise attenuation and mitigation measures necessary to attenuate noise from the onshore substation, including any relevant noise limits and a scheme for monitoring the effectiveness of the measures identified in the NMP. The NMP must be implemented as approved.
- 10.1.31 Requirement 30: *Onshore decommissioning* - Once the connection works are no longer in commercial operation there is a requirement for the Undertaker to submit an onshore decommissioning plan to the Relevant Planning Authority for approval within 3 months of the connection works ceasing to be used. The undertaker must implement the decommissioning plan as approved unless otherwise approved by the relevant planning authority.
- 10.1.32 Requirement 31: *Requirement for written approval* - This requirement confirms where the approval of a party is required that it must be in writing.
- 10.1.33 Requirement 3 2: *Amendments to approved details* - This requirement allows details which have been submitted and approved by the Relevant Planning Authority (or another person) to be amended/varied in writing by the Relevant Planning Authority. The amendment or variation must always be in accordance with the principles and assessment undertaken in the environmental statement and must not give rise to any materially new or different environmental effects from those assessed in the original environmental statement.
- 10.2 Schedule 2 (*Streets subject to street works*) sets out the streets that would be subject to street works (including reference to the location and the specific street).

- 10.3 Schedule 3 (*Streets to be temporarily stopped up*) sets out the streets to be temporarily stopped up. It references the street and the extent of the street that may be stopped up.
- 10.4 Schedule 4 (*Public rights of way*) Part 1 identifies public rights of way that are to be stopped up permanently and the extent of the stopping up, and specifies the point by which the new rights or way must be provided. Part 2 sets out the public rights of way to be temporarily stopped up. It references the public right of way and the extent of the public right of way that may be stopped up.
- 10.5 Schedule 5 (*Access to works*) sets out those accesses that will be created to carry out the Authorised Project.
- 10.6 Schedule 6 (*Temporary suspension of public access to Access Land*) sets out the areas of land where public access will be temporarily suspended.
- 10.7 Schedule 7 (*Land in which only new rights etc. may be acquired*) specifies both the areas of land in which only new rights may be acquired by the Undertaker and the nature of the rights that may be acquired.
- 10.8 Schedule 8 (*Modification of compensation and compulsory purchase enactments for creation of new rights*) modifies existing compensation legislation including the Land Compensation Act 1973 and the Compulsory Purchase Act 1965. This has been updated to reflect any necessary changes arising as a result of the Housing and Planning Act 2016.
- 10.9 Schedule 9 (*Land of which temporary possession may be taken*) sets out the land of which only temporary possession may be taken, pursuant to article 30.
- 10.10 Schedule 10 (Provisions relating to Statutory Undertakers) provides protection for statutory undertakers generally and for specific undertakers.
- 10.11 Schedules 11 and 12(*Deemed Marine Licence*) sets out the marine licences referred to in article 38 which would be deemed to be granted for works comprised in the Authorised Project.
- 10.12 Schedule 13 (*Hedgerows*) sets out the hedgerows that may be removed pursuant to article 41.
- 10.13 Schedule 14 (*Procedure for discharge of certain approvals*) sets out the procedure which is to apply to the discharge of approvals pursuant to the articles and specified requirements of the Order
- 10.14 Schedule 15 (*Arbitration*) provides a process pursuant to which arbitration shall be conducted. As explained in relation to article 45 a process for arbitration is secured through the Order which is consistent with the approach followed in the Hornsea Three Offshore Wind Farm Order 2020 and is consistent with the recommendation in PINS advice note 15: Drafting development consent orders. The intention is to achieve a fair, impartial and binding award on substantive differences between the parties (with the exception of costs) with a timely resolution.

11. **Marine Licences**

Schedule 11 includes the Deemed Marine Licence for generation assets. A standard structure has been developed by previous applications for development consent for offshore wind farms. The Applicant has adopted a similar approach for the Authorised Project.

11.1 Part 1 – Licenced activities

11.1.1 Paragraph 1 (Interpretation) – provides the definition and interpretation of key terms used in the licence. Many of the terms included in this paragraph are identical to the terms in Article 2 of the Order.

- 11.1.2 Paragraphs 2 to 4 (Details of licenced marine activities) - provides details of the licensable marine activities as they relate to the generation assets, both in terms of construction as well as operation. It replicates the description of the Authorised Development in Schedule 1 of the Order and it also describes the substances that may be disposed of as part of construction of the Authorised Development.
- 11.1.3 Paragraph 5 sets out the grid co-ordinates for the Authorised Development comprising Work No.1.
- 11.1.4 Paragraph 6 confirms that the deemed marine licence remains in force until the Authorised Project has been decommissioned.
- 11.1.5 Paragraph 7 confirms that the provisions of section 72(7) of the 2009 Act do not apply to any transfer of the deemed marine licence unless it is a transfer not falling within Article 6 of the Order. This is necessary to ensure that there is no conflict between the operation of Article 5 of the Order and Section 72(7) of the 2009 Act.
- 11.1.6 Paragraph 8 confirms that where any licenced activity is to be undertaken in accordance with a plan, protocol or statement approved under the licence, the approved details will include any amendments approved by the MMO.
- 11.1.7 Paragraph 9 confirms that any amendments made to any approved details must be in accordance with the principles and assessments set out in the Environmental Statement.
- 11.1.8 Paragraph 10 provides that the arbitration procedure set out in Schedule 15 will apply to any differences between the parties.
- 11.2 Part 2 – Conditions
 - 11.2.1 Conditions 1 to 3 (*Design parameters*) repeat the design parameters included in Schedule 1, Part 3 of this Order.
 - 11.2.2 Condition 4 (*Phases of authorised development*) – sets out a requirement for a written phasing scheme setting out the phases of construction to be submitted and approved by the MMO. The definition of phase provided for the purpose of the deemed marine licence confirms that boulder clearance and site preparation works may comprise phases.
 - 11.2.3 Condition 5 (Maintenance of the authorised project) – confirms that the Undertaker may maintain the authorised project except where the terms of the licence provides otherwise. All maintenance works must have been assessed in the Environmental Statement.
 - 11.2.4 Condition 6 (Extension of time periods) – confirms that any time period for either the MMO or the Undertaker may be extended with the agreement of the other party.
 - 11.2.5 Condition 7 (Notifications and inspections) - provides for a procedure of supplying copies of the licence to agents, contractors, restricting the use of contractors and vessels notified to the MMO and publicising commencement of the licenced activities.
 - 11.2.6 Condition 8 and 9 (Aids to navigation) – provides for various matters in respect of aids to navigation including the requirement to maintain navigation aids and a procedure to be followed where an aid to navigation fails. There is also a requirement to provide notice to mariners and notification of the progress of works to Trinity House.

- 11.2.7 Condition 10 (Aviation safety) - requires the Undertaker to notify the Defence Infrastructure Organisation Safeguarding regarding the construction and dimensions of the authorised project.
- 11.2.8 Condition 11 (Chemicals, drilling and debris) - sets standards that must be met by the Undertaker in respect of the chemicals and other substances that can be used.
- 11.2.9 Condition 12 (Force majeure) – provides for deposits during an emergency situation and the requirement for the Undertaker, at its own cost, to recover that deposit unless written approval is otherwise received.
- 11.2.10 Condition 13 and 14 (Pre-construction plans and documentation) – provides a requirement for the Undertaker to obtain the approval, before the commencement of a phase of the licenced activities, of a range of documentation. The documentation includes a design plan, construction programme, construction method statement, project management and monitoring plan, scour protection management plan, pre-construction monitoring surveys, a piling marine mammal mitigation protocol, cable specification and installation plan, offshore operations and maintenance plan, an aid to navigation management plan and a project environmental monitoring plan Paragraph (2) includes a requirement to submit a written scheme of archaeological investigation, paragraph (3) requires works involving intrusive seabed works to have a specific outline written scheme of investigation, and paragraph (4) states that where driven or part driven pile foundations are used the hammer energy must not exceed 5,000kJ.
- 11.2.11 Condition 14 stipulates time scales for the submission of the relevant programmes, plans, protocols or schemes and the time period in which they should be determined by the MMO.
- 11.2.12 Condition 15 – (Safety zones) prevents licensed activities from taking place until an application has been made for a safety zone insofar as relevant for that phase.
- 11.2.13 Condition 16 (Offshore safety management) requires the submission of an Emergency Response Co-operation Plan by the undertaker and provides that no part of the authorised scheme can commence until it has been approved by the MMO.
- 11.2.14 Condition 17 (Reporting of engaged agents, contractors and vessels) requires the Undertaker to provide the MMO details of agents and contractors engaged in licenced activities.
- 11.2.15 Condition 18 (Timing of monitoring report) provides that monitoring reports under condition 13 must be provided to the MMO no later than four months after completion of the relevant monitoring.
- 11.2.16 Condition 19 (Updating of cable monitoring plan) – requires an update to the cable monitoring plan with details of the post-installation surveys.
- 11.2.17 Condition 20 (piling) – limits the piling activity that can be undertaken in each 24 hour period.
- 11.2.18 Condition 21 (Reporting of cable protection) – requires the Undertaker to provide the MMO and relevant SNCBs with a report of all cable protection used for the authorised scheme not more than four months following completion of construction.
- 11.2.19 Condition 22 (Decommissioning mammal protection protocol) secures a mammal protection protocol prior to decommissioning.

- 11.3 Schedule 12 includes the deemed marine licence for transmission assets. It largely duplicates the provisions of the deemed marine licence for the generation assets in Schedule 11 of the Order.

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