

SCHEDULES

SCHEDULE 9

DEEMED MARINE LICENCE

PART 3

CONDITIONS

General conditions

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

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

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

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

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

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

Vessels

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

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

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

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

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Agents/contractors/sub-contractors

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

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

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

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

Construction environmental management plan

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

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

- (a) the detailed construction methodology to be employed by the undertaker in carrying out the licensed activity;
- (b) a construction programme including—
 - (i) a planned timetable for each licensed activity including timings for mobilisation of plant and delivery by sea;
 - (ii) method of delivery of material to site;
 - (iii) a plan for notifying the MMO of the commencement and cessation of licensed activities and phases of activities;
 - (iv) a plan for notifying the MMO of changes to the construction programme;
- (c) the detailed methodology for the excavation and subsequent management of any dredged material removed in the construction and maintenance of the berthing pocket including—
 - (i) the volume of material to be dredged;
 - (ii) sediment sample analysis results, which must not exceed three years in age and which must be completed by a laboratory validated by the MMO and undertaken in accordance with the sample plan approved under condition 25;
 - (iii) where contamination is identified by the sediment sample analysis results, a monitoring and action plan to address the potential release of contaminants from dredged material into the watercourse;
 - (iv) provision that dredging activities must only be undertaken from 1 July to 28 February inclusive and the details on the timing of dredging activities throughout those months;
 - (v) provision that no dredged materials are to be disposed of at sea or in other waters otherwise than in accordance with a marine licence;
- (d) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;

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- (e) a waste management and disposal plan;
 - (f) plans and sections;
 - (g) details of where the licensed activity was assessed in the environmental statement;
 - (h) for any materials to be placed in or removed from the marine area, information on the volume and size of materials, methods of placement and removal of materials, types of materials, source of materials and methods of disposal of materials;
 - (i) environmental mitigation measures, which must be substantially in accordance with the measures set out in chapter 17 (marine and coastal ecology) of the environmental statement; and
 - (j) monitoring measures.
- (3) The undertaker must not commence the licensed activity until the MMO has approved in writing the submitted CEMP.
- (4) Unless otherwise agreed by the MMO in writing, the CEMP must be implemented as approved by the MMO.

Piling

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

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

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

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

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

Navigation management plan

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

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

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

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

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

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

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

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

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

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

Marine archaeology

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

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

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

Marine pollution contingency plan

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

(2) The marine pollution contingency plan must—

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

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

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

Marine mammal mitigation protocol

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

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

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

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

Landscape and ecological mitigation strategy

18.—(1) The undertaker must submit a landscape and ecological mitigation strategy in writing to the MMO for approval in accordance with the procedure in Part 4, following consultation with Boston Borough Council, the Environment Agency, the relevant statutory nature conservation body, Lincolnshire Wildlife Trust and the Royal Society for the Protection of Birds, at least 13 weeks prior to the commencement of any of licensed activity.

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

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

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

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

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

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

Concrete and cement

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

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

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

Coatings and treatment

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

Spills, etc.

21.—(1) The undertaker must—

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

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

Removal of temporary structures etc.

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

Dropped objects

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

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

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

Bathymetric surveys

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

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

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

- (a) an interpretation of the difference between the pre and post dredge survey results and a volume calculation; and

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- (b) the survey results on a chart showing the licensed dredge area and dredge depth.

Sediment sampling

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

(2) The sample plan must be made—

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

(3) The sample plan must include details of—

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

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

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

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

Reporting of impact sound to the Marine Noise Registry

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

- (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements; and
- (b) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the exact locations and specific dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements.

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.

Decommissioning

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

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

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

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

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

Notice of completion of licensed activity

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