

# MORGAN OFFSHORE WIND PROJECT: GENERATION ASSETS

Draft Development Consent Order

April 2023  
Rev01

Image of an offshore wind farm

202[ ] No.

**INFRASTRUCTURE PLANNING**

**The Morgan Offshore Wind Farm Generation Assets Order  
202[●]**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* \*\*\*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) for an Order granting development consent.

The application was examined by a panel of [x] members (appointed by the Secretary of State) in accordance with Part 6 of the 2008 Act and carried out in accordance with the Infrastructure Planning (Examination Procedure) Rules 2010(b).

The panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74(2) of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State has considered the [representations made and not withdrawn], and the report and recommendation of the panel, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(c), and, as a national policy statement as effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State, in exercise of the powers conferred by sections [114, 115, 120 and 132, and schedule 5] to the 2008 Act, makes the following Order:

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(a) 2008 c.29. Section 37 was amended by section 128(2) and Schedule 13, Part 1, paragraphs 1 to 5 of the Localism Act 2011 (c.20).  
(b) S.I. 2010/103. This instrument was amended by S.I. 2012/635  
(c) S.I. 2017/572.

# PART 1

## Preliminary

### Citation and commencement

1. This Order may be cited as the Morgan Offshore Wind Farm Generation Assets Order 202[•] and comes into force on [•] 202[•].

### Interpretation

2.—(1) Except for Schedule 6 (deemed marine licence), which is subject to the definitions in that Schedule, in this order—

“1989 Act” means the Electricity Act 1989(a);

“2004 Act” means the Energy Act 2004(b);

“2008 Act” means the Planning Act 2008;

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

“address” includes any number or address used for the purposes of electronic transmission;

“ancillary works” means the ancillary works described in Part 2 of Schedule 1 (ancillary works) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

“authorised development” means the development and associated development described in Part 1 of Schedule 1 (authorised development) and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

“bank holiday” means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(d);

“buoy” means any floating device used for navigational purposes or measurement purposes, including wave buoys, LiDAR and guard buoys;

“business day” means a day other than a Saturday or Sunday or a bank holiday in England and Wales;

“cable” means up to 400kV cables for the transmission of electricity and includes direct lay cables, cables laid in cable ducts or protective covers, and further includes fibre optic and other communications cables either within the cable or laid alongside;

“cable crossings” means the crossing of existing sub-sea cables, pipelines or other existing infrastructure by the cables authorised by this Order together with cable protection;

“cable protection” means measures to protect cables from physical damage including but not limited to concrete mattresses, with or without frond devices, and/or rock placement, the use of bagged solutions filled with grout or other materials;

“commence” means the first carrying out of any licensed activities, save for pre-construction surveys, monitoring surveys, unexploded ordnance surveys and clearance of unexploded ordnance, and “commenced” and “commencement” must be construed accordingly.

[“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

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(a) 1989 c.29.  
(b) 2004 c.20 Section 105 was amended by section 69 of the Energy Act 2008 (c.32)  
(c) 2009 c.23.  
(d) 1971 c.80

*“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;*

“foundation” means any of: a monopile, multi-leg pin-piled jacket, multi-leg suction bucket jacket, or gravity base foundation;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete with a base which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“HVAC” means high voltage alternating current;

“inter-array cables” means the cables linking the wind turbine generators to each other and to the offshore substation platforms;

“interconnector cables” means the cables linking the offshore substation platforms to each other;

“jacket foundation” means a steel jacket/lattice-type structure constructed of steel, fixed to the seabed with steel pin piles or steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“LiDAR” means a light detection and ranging system used to measure weather and sea conditions;

“m” means metres and “m<sup>2</sup>” means metres squared;

“maintain” includes inspect, maintain, repair, adjust and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (Ancillary Works) and any component part of any wind turbine generator or offshore substation platform described in Part 1 of Schedule 1 (Authorised Development) (but not including the alteration, removal or replacement of foundations) to the extent assessed in the environmental statement; and “maintenance” shall be construed accordingly;

“monopile foundation” means a steel pile, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

*[“the offshore in principle monitoring plan means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

“offshore substation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment or fully clad, containing—

- (a) electrical equipment required to switch, transform or convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marketing and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

“Order limits” means the limits shown on the works plans within which the authorised development may be carried out;

*[“the outline fisheries liaison and co-existence plan” plan means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

*[“the outline navigation monitoring plan” plan means the document certified as the outline navigation monitoring plan by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

*[“the outline offshore written scheme of investigation” plan means the document certified as the outline offshore written scheme of investigation by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

*[“the outline offshore operations and maintenance plan” plan means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

“operation” means the undertaking of activities authorised by this Order which are not part of the construction, commissioning or decommissioning of the authorised development;

“pin piles” means steel or concrete cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“platforms” means the offshore structures housing or incorporating electrical equipment such as switchgear and transformers and high voltage reactive controls, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, vessel charging facilities, communication and control systems, auxiliary and uninterruptible power supplies, energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“requirements” means those matters set out in Part 1 of Schedule 2 (requirements) to this Order;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices, and rock and gravel placement;

“scheduled works” means the numbered works specified in Part 1 of Schedule 1 (authorised development) to this Order, or any part of them;

“suction bucket foundation” means a tubular steel structure which partially or fully penetrates the seabed and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“statutory historic body” means an organisation charged by the government with advising on matters related to historic buildings and monuments;

“statutory nature conservation body” means an organisation charged by the government with advising on nature conservation matters;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means Morgan Offshore Wind Limited (company registration number: 13497271) whose registered office address is Chertsey Road, Sunbury on Thames, Middlesex, United Kingdom, TW16 7BP;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment including communications equipment, fixed to a foundation or transition piece;

“works” means Work Area 1 and any related further associated development in connection with that Work; and

“the works plan” means the plans which provide an indicative work area for the purpose of consultation under section 42 of the 2008 Act.

(2) All distances, directions, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(3) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(4) References in this Order to numbered works are references to the works as numbered in Part 1 of Schedule 1 (authorised development).

## PART 2

### Principal Powers

#### **Development consent etc. granted by the Order**

3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) consent for the ancillary works;

to be carried out within the Order limits.

#### **Operation of generating station**

4.—(1) The undertaker is authorised to use and operate the authorised development for which development consent is granted by this Order.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation that may be required from time to time to authorise the operation of the authorised development.

#### **Deemed marine licence under the 2009 Act**

5. The marine licence set out in Schedule 6 is deemed to have been granted to the undertaker under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part 1 of each licence and subject to the conditions specified in Part 2 of each licence.

#### **Power to maintain the authorised development**

6.—(1) Subject to paragraph (2), the undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain any further licence under Part 4 (marine licensing) of the 2009 Act for the offshore works.

#### **Benefit of the Order**

7.—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraph (5), the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (included the deemed marine licences) and such related statutory rights as may be so agreed.

(3) The Secretary of State shall consult the MMO before giving consent to the transfer or grant to another person of the benefit of the provisions of the deemed marine licence.

(4) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (2)—

- (a) the benefit transferred or granted (“the transferred benefit”) shall include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit shall reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit shall not be enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(5) Where this paragraph applies, no consent of the Secretary of State is required. This paragraph applies where—

- (a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply, etc.) of the 1989 Act

(6) Where an agreement has been made in accordance with paragraph (3) references in this Order to the undertaker, will include references to the transferee or lessee.

(7) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and the MMO.

(8) A notice required under paragraphs (2) and (7) must—

- (a) state—
  - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
  - (ii) subject to paragraph (9), the date on which the transfer will take effect;
  - (iii) the provisions to be transferred or granted; and
  - (iv) the restrictions, liabilities, and obligations that, in accordance with sub-paragraph (5)(c), will apply to the person exercising the powers transferred or granted
- (b) be accompanied by—
  - (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
  - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(9) The date specified under paragraph (8)(a)(ii) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

(10) Section 72(7) and (8) of the 2009 Act do not apply to a transfer or grant of the benefit of the provisions of the deemed marine licence to another person by the undertaker pursuant to an agreement under this article.



## PART 3

### Miscellaneous and general

#### **Abatement of works abandoned or decayed**

8. Where any authorised development within Work Area 1 or any part of it is abandoned or allowed to fall into decay, the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense either to repair, make safe and restore one or any of those works, or remove such authorised development within Work Area 1 or any relevant part of it, without prejudice to any notice served under section 105(2) (requirement to prepare decommissioning programmes) of the 2004 Act<sup>(a)</sup>. The notice may also require the restoration of the site of the relevant part(s) of Work Area 1.

#### **Saving provisions for Trinity House**

9. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

#### **Crown rights**

10.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to use, enter upon or in any manner interfere with any rights of any description belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

#### **Protective provisions**

11. Schedule 3 (protective provisions) has effect.

#### **Certification of plans, etc.**

12.—(1) — The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all of the documents listed in Schedule 7 for certification that they are true copies of the documents referred to in this Order—

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

#### **Service of notices**

13.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

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(a) Section 105(2) was substituted by section 69(3) of the Energy Act 2008 (c.32).

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(5) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(6) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (7).

(7) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(8) This article does not exclude the employment of any method of service not expressly provided for by it.

(9) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

### **Requirements, appeals, etc.**

**14.**—(1) Sub-section (1) of section 78 (right to appeal against planning decisions and failure to take such decision) of the 1990 Act applies to the development consent granted by this Order and to the requirements except that it is modified so as to read for the purposes of this Order only as follows—

- (a) after “local planning authority” insert “or Secretary of State”;
- (b) after sub-section (b) insert the following—

“refuse or fails to determine an application for any consent, agreement or approval of that authority required by a requirement imposed on a grant of development consent or contained in a development consent order, or grant it subject to conditions; or”

- (a) after sub-section (1), insert the following—

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(a) 1978 c. 30.

“(1A) Where the appeal under sub-section (1) relates to a decision by the Secretary of State, the appeal will be decided by a Secretary of State who would not be responsible for determining an application for development consent with the subject matter of the Morgan Offshore Wind Farm Generation Assets Order 2021[] section 103(1) of the 2008 Act applied”.

(2) Sections 78 (right to appeal against planning decisions and failure to take such decisions) and 79 (determination of appeals) of the 1990 Act have effect in relation to any appeal under the terms of this article except that the Secretary of State in question is the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order if section 103(1) (Secretary of State is to decide applications) of the 2008 Act applied.

**Arbitration**

**15.**—(1) Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules at Schedule 5 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Signed by authority of the Secretary of State for [Energy Security and Net Zero]

Date

*Signed*  
Title  
Department

## Authorised Development

## Part 1

## Authorised Development

1. A nationally significant infrastructure project as defined in sections 14 (Nationally significant infrastructure projects: general) and 15 (generating stations) of the 2008 Act located in the Irish Sea approximately 36 kilometres from the coast of North West England comprising –

*Work Area 1:*

- (a) An offshore wind generating station with electrical output capacity of over 100MW comprising up to 107 wind turbine generators each fixed to seabed by a foundation;
- (b) Up to four offshore substation platforms each fixed to the seabed by a foundation;
- (c) A network of subsea inter-array cables between the wind turbine generators including cables crossings and cable protection; and
- (d) A network of subsea interconnector cables between the offshore substation platforms including cable crossings and protection.

In connection with the authorised development within Work Area 1 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses;
- (c) the removal of material from the seabed 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 such as sandwave clearance, boulder clearance and pre-trenching; and
- (d) removal of static fishing equipment.

## Part 2

## Ancillary Works

2. Works within the Order limits which fall within the scope of the work assessed by the environmental statement comprising –

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

## SCHEDULE 2

Article 3

### Requirements

#### **Time limits**

1. The authorised development must commence no later than the expiration of seven years beginning with the date this Order comes into force.

#### **Design parameters**

2.—(1) The wind turbine generators to be constructed or operated as part of the authorised development must be located within the area shown on the works plans.

(2) The authorised development must be constructed in accordance with the parameters assessed in the environmental statement and set out in Table 1.

**Table 1**

<i>Parameter</i>	<i>Value</i>
Maximum number of wind turbine generators	107
Maximum total rotor swept area (m <sup>2</sup> )	5,252,350
Maximum height of wind turbine generators when measured from LAT to the tip of the vertical blade (m)	324
Maximum rotor diameter of each wind turbine generator (m)	280
Minimum distance from LAT to the lowest point of the rotating blade for each turbine (m)	34
Minimum distance between wind turbine generators in a row of wind turbine generators (m)	875
Minimum distance between rows of wind turbine generators (m)	1000
Maximum diameter of monopiles for wind turbine generators on monopile foundation (m)	16
Maximum diameter of pin piles for wind turbine generators on jacket pin-pile foundation (m)	5.5
Maximum diameter of gravity base at the seabed for wind turbine generators on gravity base foundations (m)	56
Maximum diameter of buckets for wind turbine generators on suction bucket jackets (m)	18
Maximum diameter of offshore substation platform monopile foundations (m)	16
Maximum diameter of offshore substation platform on jackets pin pile foundation (m)	5.5
Maximum diameter of gravity base at the seabed for offshore substation platforms on gravity base foundations (m)	80
Maximum diameter of buckets for offshore substation platforms on suction bucket jackets (m)	18
Maximum total seabed footprint of wind turbine generators (including scour protection) (m <sup>2</sup> )	735,488
Maximum number of offshore substation platforms	4
Maximum dimensions of offshore substations (excluding towers, helipads, masts, and cranes) :	
(a) Height when measured from LAT (m)	70
(b) Length (m)	80
(c) Width (m)	60
Maximum total seabed footprint area for offshore substation foundations (including scour protection) (m <sup>2</sup> )	24,964

Maximum total length of cables (km)	560
Maximum number of cable crossings	77

### **Aviation safety**

**3.**—(1) The undertaker must exhibit such lights, with such shape, colour and character and at such times as are required by Air Navigation Order 2016 and/or determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed with the Ministry of Defence.

- (a) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the offshore works, of the following—
- (b) the date of the commencement of construction of the offshore works;
- (c) the date any wind turbine generators are brought into use;
- (d) the maximum height of any construction equipment to be used;
- (e) the maximum heights of any wind turbine generator, meteorological mast and offshore electrical platform to be constructed; and
- (f) the latitude and longitude of each wind turbine generator, meteorological mast and offshore electrical platform to be constructed; and

the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the offshore works.

(2) The lights installed in accordance with paragraph (1) will be operated at the lowest permissible lighting intensity level

### **Decommissioning**

**4.** No works may commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) (requirement to prepare decommissioning programmes) of the 2004 Act has been submitted to the Secretary of State for approval.

### **Requirement for written approval**

**5.** Where under any of the above requirements the approval or agreement of the Secretary of State or another person is required, that approval or agreement must be given in writing.

### **Amendments to approved details**

**6.** With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved or agreed by the Secretary of State, or another person.

## SCHEDULE 3

Ref

### Protective provisions

[x]

## SCHEDULE 4

Article 19

### Arbitration rules

#### Primary objective

1.—(1) The primary objective of these arbitration rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within four months from the date the arbitrator is appointed pursuant to article 44 (arbitration) of the Order.

(2) The parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the parties. Any dispute which is not resolved amicably by the senior management of the parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the parties, will be subject to arbitration in accordance with the terms of this Schedule.

(3) The arbitration will be deemed to have commenced when a party (“the claimant”) serves a written notice of arbitration on the other party (“the respondent”).

#### Time periods

2.—(1) All time periods in these arbitration rules will be measured in business days and this will exclude weekends and bank holidays.

(2) Time periods will be calculated from the day after the arbitrator is appointed which will be either—

- (a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the arbitrator is appointed by the Secretary of State.

#### Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

- (a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant’s contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the claimant’s statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

- (a) a written statement of defence responding to the claimant’s statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant’s claim,

its acceptance of any element(s) of the claimant's claim, its contentions as to those elements of the claimant's claim it does not accept;

- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the claimant's statements, comments on the claimant's expert report(s) (if submitted by the claimant) and explanations for the objections.

(4) Within five days of the respondent serving its statements sub-paragraph (3), the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

- (a) a written statement responding to the respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the respondent's submissions;
- (c) any expert report in response to the respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

## **Procedure**

4.—(1) The arbitrator will make an award on the substantive difference based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within five days of receiving the last submission, the arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within ten days of the arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any expert(s) attending the hearing may be asked questions by the arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the arbitrator will invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within ten days of the issues being provided; and
- (c) the form and content of a joint report will be as directed by the arbitrator and must be provided at least five days before the hearing.

(7) Within ten days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator will take these submissions into account in the award.



(8) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The arbitrator's award must include reasons. The parties will accept that the extent to which reasons are given is to be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

### **Arbitrator's powers**

**5.**—(1) The arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these rules.

(2) There will be no discovery or disclosure, except that the arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a redfern schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales and/or procedure—

- (a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

### **Costs**

**6.**—(1) The costs of the arbitration will include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the arbitration.

(2) Subject to sub-paragraph (3), the arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

### **Confidentiality**

**7.**—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be confidential and will only be publically disclosed where required by law or with the agreement of both parties.

(2) The arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph prevents any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

# SCHEDULE 5

## Deemed marine licence under the 2009 Act

### PART 1

#### Licensed marine activities

##### Interpretation

**1.**—(1) In this licence—

“1989 Act” means the Electricity Act 1989(a);

“2004 Act” means the Energy Act 2004(b);

“2008 Act” means the Planning Act 2008;

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

“Annex 1 reef” means a reef of a type listed in Annex 1 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

“address” includes any number or address used for the purposes of electronic transmission;

“ancillary works” means the ancillary works described in Part 2 of Schedule 1 (ancillary works) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised project” means the authorised development within Work Area 1 and the further associated development described in paragraph 3 of Part 1 of this licence or any part of that work or development;

“bank holiday” means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(d);

“buoy” means any floating device used for navigational purposes or measurement purposes, including wave buoys, LiDAR and guard buoys;

“business day” means a day other than a Saturday or Sunday or a bank holiday in England and Wales;

“cable” means up to 400kV cables for the transmission of electricity and includes direct lay cables, cables laid in cable ducts or protective covers, and further includes fibre optic and other communications cables either within the cable or laid alongside;

“cable crossings” means the crossing of existing sub-sea cables, pipelines or other existing infrastructure by the cables authorised by this Order together with cable protection;

“cable protection” means measures to protect cables from physical damage including but not limited to concrete mattresses, with or without frond devices, and/or rock placement, the use of bagged solutions filled with grout or other materials;

“commence” means the first carrying out of any licensed activities, save for pre-construction surveys, monitoring surveys, unexploded ordnance surveys and clearance of unexploded ordnance, and “commenced” and “commencement” must be construed accordingly;

“commercial operation” means in relation to any part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

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(a) 1989 c.29.  
(b) 2004 c.20 Section 105 was amended by section 69 of the Energy Act 2008 (c.32)  
(c) 2009 c.23.  
(d) 1971 c.80

[“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

[“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]

“foundation” means any of: a monopile, multi-leg pin-piled jacket, multi-leg suction bucket jacket, or gravity base foundation;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete with a base which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“HAT” means highest astronomical tide;

“HVAC” means high voltage alternating current;

“inter-array cables” means the cables linking the wind turbine generators to each other and to the offshore substation platforms;

“interconnector cables” means the cables linking the offshore substation platforms to each other;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, temporary deposits and temporary wet storage areas;

“jacket foundation” means a steel jacket/lattice-type structure constructed of steel, fixed to the seabed with steel pin piles or steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“LAT” means lowest astronomical tide;

“LiDAR” means a light detection and ranging system used to measure weather and sea conditions;

“licensed activities” means those activities detailed in under article 2 of Schedule 6 deemed marine licence)

“m” means metres and “m<sup>2</sup>” means metres squared;

“maintain” includes inspect, upkeep, repair, adjust, alter, remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Management Organisation” means the body created under the 2009 Act which is responsible for the regulation of this licence or any successor of that function and “MMO” must be construed accordingly;

“MCA” means the Maritime and Coastguard Agency, the executive agency of the Department for Transport;

[“MCMS” means the Marine Case Management System web portal provided and operated by the MMO;]

“mean high water springs” or “MHWS” means the highest level that spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” means the lowest level that spring tides reach on average over a period of time;

“monopile foundation” means a steel pile, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

*[“the offshore in principle monitoring plan means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

“offshore substation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and open with modular equipment or fully clad, containing—

- (a) electrical equipment required to switch, transform or convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marketing and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

“Order limits” means the limits shown on the works plan within which the authorised development may be carried out;

*[“the outline fisheries liaison and co-existence plan” plan means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

*[“the outline navigation monitoring plan” plan means the document certified as the outline navigation monitoring plan by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

*[“the outline offshore written scheme of investigation” plan means the document certified as the outline offshore written scheme of investigation by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

*[“the outline offshore operations and maintenance plan” plan means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 12 (certification of documents and plans etc) of the Order;]*

“operation” means the undertaking of activities authorised by this Order which are not part of the construction, commissioning or decommissioning of the authorised development;

“pin piles” means steel or concrete cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“platforms” means the offshore structures housing or incorporating electrical equipment such as switchgear and transformers and high voltage reactive controls, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, vessel charging facilities, communication and control systems, auxiliary and uninterruptible power supplies, energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices and rock and gravel placement;

“suction bucket foundation” means a tubular steel structure which partially or fully penetrates the seabed and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“statutory historic body” means an organisation charged by the government with advising on matters related to historic buildings and monuments;

“statutory nature conservation body” means an organisation charged by the government with advising on nature conservation matters;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UKHO” means the United Kingdom Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Morgan Offshore Wind Limited (company registration number: 13497271) whose registered office address is Chertsey Road, Sunbury on Thames, Middlesex, United Kingdom, TW16 7BP;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment including communications equipment, fixed to a foundation or transition piece;

“works” means Work Area 1 and any related further associated development in connection with that work; and

“the works plan” means the plans which provide an indicative work area for the purpose of consultation under section 42 of the 2008 Act.

(2) In this licence a reference to any statute, order, regulation or similar instrument is a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) In this licence, unless otherwise indicated—

(a) all times are Greenwich Mean Time (“GMT”);

(b) all coordinates are latitude and longitude degrees and minutes to two decimal places.

(4) Unless otherwise stated or agreed with the MMO, all notifications must be sent by the undertaker to the MMO using MCMS. Except where otherwise notified in writing by the relevant organisation, the addresses for correspondence for the purposes of this Schedule are—

(a) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Tel: 01502 562 244

(b) Historic England

3rd Floor Canada House

3 Chepstow Street

Manchester

M1 5FW

Tel: 0161 242 1416

(c) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle upon Tyne

NE4 7YH

Email: marine.consents@marinemanagement.org.uk

Tel: 0300 123 1032

- (d) *Marine Management Organisation (local office)*  
*[TBC following discussions with relevant stakeholders]*
- (e) Marine Management Organisation  
Marine Pollution Response Team  
Tel. (during office hours): 0300 200 2024,  
Tel. (outside office hours): 07770 977 825 or 0845 051 8486  
Email: dispersants@marinemanagement.org.uk
- (f) Maritime and Coastguard Agency  
Navigation Safety Branch  
Bay 2/20  
Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2433
- (g) *Natural England*  
*[TBC following discussions with relevant stakeholders]*
- (h) Trinity House  
Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900
- (i) United Kingdom Hydrographic Office  
Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900

## **Details of licensed marine activities**

2. Subject to the conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and objects specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works or cable works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) site clearance and preparation works including debris, boulder clearance and the removal of out of service cables and static fishing equipment; and

- (f) the disposal of up to [x] cubic metres of inert material of natural origin within the Order limits produced during construction drilling or seabed preparation for foundation works, cable works and boulder clearance works at disposal site references to be provided to the MMO within the Order limits.

**3.** Such activities are authorised in relation to the construction, maintenance and operation of—

*Work Area 1:*

- (a) an offshore wind generating station comprising up to 107 wind turbine generators each fixed to the seabed by a foundation;
- (b) a network of subsea inter-array cables between the wind turbine generators including cable crossings and cable protection;
- (c) up to four offshore substation platforms each fixed to the seabed by a foundation; and
- (d) a network of subsea interconnector cables between the offshore substation platforms including cable crossings and cable protection.

In connection with the licensed activities in Work Area 1 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement, including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses;
- (c) the removal of material from the seabed 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 such as sandwave clearance, boulder clearance and pre-trenching; and
- (d) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project;
- (e) removal of static fishing equipment; and
- (f) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

**4.** The substances and objects authorised for deposit at sea are—

- (a) iron, steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the Order limits during construction drilling or seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

**5.** The activities set out in paragraph 3 are to be located within Work Area 1 as delineated on the works plans.

**6.** This licence and any marine licence granted for the Morgan offshore wind transmission works when taken together do not authorised the construction of more than one Work Area 1 or the construction of Work Area 1 in excess of the maximum parameters for that work set out table 2 of this licence.

**7.** This licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act.

8. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence apply only to a transfer not falling within article 7 (benefit of order) of the Order.

9. With respect to any condition which requires the licensed activities be carried out in accordance with the details, plans or schemes approved under this licence, the approved details, plans or schemes are taken to include any amendments that may subsequently be approved in writing by the MMO.

10. Any amendments to or variations from the approved details, plans or schemes must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

## PART 2

### Conditions

#### Design parameters

11. The authorised project must be constructed in accordance with the parameters assessed in the environmental statement and set out in Table 2.

**Table 2**

<i>Parameter</i>	<i>Value</i>
Maximum number of wind turbine generators	107
Maximum total rotor swept area (m <sup>2</sup> )	5,252,350
Maximum height of wind turbine generators when measured from LAT to the tip of the vertical blade (m)	324
Maximum rotor diameter of each wind turbine generator (m)	280
Minimum distance from LAT to the lowest point of the rotating blade for each turbine (m)	34
Minimum distance between wind turbine generators in a row of wind turbine generators (m)	875
Minimum distance between rows of wind turbine generators (m)	1000
Maximum diameter of monopiles for wind turbine generators on monopile foundation (m)	16
Maximum diameter of pin piles for wind turbine generators on jacket pin-pile foundation (m)	5.5
Maximum diameter of gravity base at the seabed for wind turbine generators on gravity base foundations (m)	56
Maximum diameter of buckets for wind turbine generators on suction bucket jackets (m)	18
Maximum diameter of offshore substation platform monopile foundations (m)	16
Maximum diameter of offshore substation platform on jackets pin pile foundation (m)	5.5
Maximum diameter of gravity base at the seabed for offshore substation platforms on gravity base foundations (m)	80
Maximum diameter of buckets for offshore substation platforms on suction bucket jackets (m)	18
Maximum total seabed footprint of wind turbine generators (including scour protection) (m <sup>2</sup> )	735,488
Maximum number of offshore substation platforms	4



Maximum dimensions of offshore substations (excluding towers, helipads, masts, and cranes) :	
(a) Height when measured from LAT (m)	70
(b) Length (m)	80
(c) Width (m)	60
Maximum total seabed footprint area for offshore substation foundations (including scour protection) (m <sup>2</sup> )	24,964
Maximum total length of cables (inter-array and interconnector) (km)	560
Maximum number of cable crossings (inter-array and interconnector) (km)	77

### **Maintenance of the authorised project**

**12.**—(1) The undertaker may at any time maintain the authorised project, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) Maintenance works include but are not limited to—

- (a) Major wind turbine component or offshore substation platform replacement;
- (b) Painting and applying other coatings to wind turbine generators or offshore substation platforms;
- (c) Bird waste and marine growth removal;
- (d) Cable remedial burial;
- (e) Cable repairs and replacement;
- (f) Access ladder and boat landing replacement;
- (g) Wind turbine generator and substation platform anode replacement; and
- (h) J-tube repair/replacement.

(3) No maintenance works authorised by this licence may be carried out until an operations and maintenance plan substantially in accordance with the outline operations and maintenance plan has been submitted to and approved by the MMO in writing.

### **Extension of time periods**

**13.** Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party such agreement not to be unreasonably withheld or delayed.

### **Notifications and inspections**

**14.**—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with condition 21;
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 21;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) must confirm receipt of this licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 21 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;

- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
  - (c) on board each vessel and at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b).
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised project.
- (6) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the licensed activity.
- (7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details of the vessel routes, timings and locations relating to the construction of the authorised project or relevant part—
- (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data;
  - (b) on completion of construction of all offshore activities, and confirmation of notification must be provided to the MMO within five days.
- (8) The undertaker must ensure that a notice to mariners is issued at least 14 days prior to the commencement of the authorised project or any part thereof advising of the start date of each of Work No 1 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UKHO within five days.
- (9) The undertaker must ensure that notices to mariners are updated and reissued at regular intervals during construction activities and at least five days before any planned operations and maintenance works (or otherwise agreed) and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 19(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.
- (10) The undertaker must notify UKHO of completion (within 14 days) of the authorised project or any part thereof in order that all necessary amendments to nautical charts are made. Copies of all notices must be provided to the MMO and MCA within five days.
- (11) In case of damage to, or destruction or decay of, the authorised project or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and UKHO.
- (12) In case of the exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of Seafish of the location and extent of exposure. Copies of all notices must be provided to the MMO, MCA, Trinity House, and UKHO within five days.

### **Aids to navigation**

**15.—**(1) The undertaker must during the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as Trinity House may from time to time direct.

(2) The undertaker must during the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project keep Trinity House and the MMO informed of progress of the authorised project including—

- (a) notice of commencement of construction of the authorised project within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised project.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 19(1)(h) using the reporting system provided by Trinity House.

(4) The undertaker must during the period from commencement of the licensed activities to completion of decommissioning of the authorised project notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 14(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### **Chemicals, drilling and debris**

**16.—**(1) Unless otherwise agreed in writing by the MMO, the carriage and use of chemicals in the construction of the authorised project must comply with the International Convention for the Prevention of Pollution from Ships.

(2) The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110 percent of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO in writing of the location and quantities of material disposed of each month under this licence by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits.

(6) The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised project is misplaced or lost within the Order limits, the undertaker must report the loss in writing to the local enforcement office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must, in that event, demonstrate to the MMO that reasonable attempts have been made to locate, remove or move any such material.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 19(1)(e).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

## **Force majeure**

17. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

## **UXO clearance**

18.—(1) No removal or detonation of unexploded ordnance can take place until the following have been submitted to and approved in writing by the MMO in consultation with the relevant statutory nature conservation body and, in respect of the method statement, the MCA—

- (a) a method statement for unexploded ordnance clearance which must include—
  - (i) methodologies for—
    - (aa) identification and investigation of potential unexploded ordnance targets;
    - (bb) clearance of unexploded ordnance;
    - (cc) removal and disposal of large debris;
  - (ii) a plan showing the area in which clearance activities are proposed to take place;
  - (iii) a programme of works; and
  - (iv) any exclusion zones/ environmental micro-siting requirements;
- (b) a marine mammal mitigation protocol in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body.

(2) The method statement (excluding the information required under sub-paragraphs (1)(a)(ii) and (1)(a)(iii)) and the marine mammal mitigation protocol must be submitted to the MMO for approval at least three months prior to the date on which it is intended for unexploded ordnance clearance activities to begin.

(3) Any unexploded ordnance clearance activities must be undertaken in accordance with the method statement and marine mammal mitigation protocol approved under sub-paragraph (1).

(4) Subject to paragraph (6), an unexploded ordnance close out report must be submitted to the MMO and the relevant statutory nature conservation body within three months following the end of the unexploded ordnance clearance activity and must include the following for each detonation undertaken—

- (a) co-ordinates, depth, current speed, charge utilised and the date and time of each detonation; and
- (b) whether any mitigation was deployed including feedback on practicalities of deployment of equipment and efficacy of the mitigation where reasonably practicable, or justification if this information is not available.

(5) Should there be more than one unexploded ordnance clearance activity, the report required under paragraph (5) will be provided at intervals agreed with the MMO.

## **Pre-construction plans and documentation**

19.—(1) The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO, in consultation with Trinity House, the MCA and UKHO as appropriate—

- (a) a design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be approved in writing by the MMO in consultation with Trinity House and the MCA setting out proposed details of the authorised project, including the:

- (i) number, dimensions, specification, foundation type(s) and depth for each wind turbine generator and offshore substation platform;
  - (ii) grid coordinates of the centre point of the proposed location for each wind turbine generator and offshore substation platform;
  - (iii) proposed layout of all cables;
  - (iv) location and specification of all other aspects of the authorised project; and
  - (v) any archaeological exclusion zones
- to ensure conformity with the description of Work Area 1 and compliance with conditions 11 and 12;
- (b) A construction programme to include details of—
    - (i) the proposed construction start date;
    - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
    - (iii) an indicative written construction programme for all wind turbine generators and offshore substation platforms forming part of the authorised project and licensed activities;
  - (c) A monitoring plan (which accords with the offshore in principle monitoring plan) to include details of proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 22, 23, 24 to be submitted to the MMO in accordance with the following:-
    - (i) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
    - (ii) at least four months prior to construction, detail on construction monitoring;
    - (iii) at least four months prior to completion of construction, details of operational monitoring, if required;

unless otherwise agreed in writing with the MMO.
  - (d) an offshore construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—
    - (i) cable specification, installation and monitoring, to include—
      - (aa) the technical specification of the inter-array cables and interconnector cables,
      - (bb) a detailed cable specification and installation plan for the authorised project, incorporating a cable burial risk assessment encompassing the identification of any cable protection that exceeds 5 percent of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5 percent of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
      - (cc) details of cable monitoring including details of cable protection until the authorised project is decommissioned which includes a risk based approach to the management of unburied or shallow buried cables;
    - (ii) scour protection management and cable protection management including details of the need, type, sources, quantity and installation methods for scour protection and cable protection, with details updated and resubmitted for approval if changes to it are proposed following cable laying operations;
    - (iii) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to subparagraph 1(j);
    - (iv) contractors;

- (v) associated ancillary works; and
- (vi) guard vessels to be employed;
- (e) an offshore environmental management plan covering the period of construction and operation to include details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised project in relation to all activities carried out;
  - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) waste management and disposal arrangements;
  - (iv) the appointment and responsibilities of a fisheries liaison officer;
  - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 3 and to address the interaction of the licensed activities with fishing activities; and
  - (vi) measures to minimise disturbance to marine mammals and rafting birds from vessels;
  - (vii) measures to minimise the potential spread of invasive non-native species
- (f) an offshore written scheme of investigation for archaeology in relation to the Order limits, which must accord with the outline offshore written scheme of investigation and industry good practice, in consultation with the statutory historic body to include—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
  - (v) monitoring of archaeological exclusion zones during and post construction;
  - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS (Online Access to the Index of archaeological investigations) form with a digital copy of the report within six months of completion of construction of the authorised project, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised project; and
  - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;
- (g) an offshore operations and maintenance plan (in accordance with the outline offshore operations and maintenance plan), to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase;
- (h) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House specifying how the undertaker will ensure compliance with condition 8 from the commencement of construction of the authorised project to the completion of decommissioning;

- (i) in the event that driven or part-driven pile foundations are proposed to be used or in the event that unexploded ordnance clearance is required, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body; and
- (j) A mitigation scheme for any benthic habitats of conservation, and/or importance constituting Annex I reef habitats identified by the survey referred to in condition 22(4)(a) and in accordance with the offshore in principle monitoring plan

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the outline offshore written scheme of investigation) which has been submitted to and approved by the MMO.

### **Offshore safety management**

**20.** No part of the authorised project may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (or any equivalent guidance that replaces or supersedes it) and its annexes.

### **Reporting of engaged agents, contractors and vessels**

**21.**—(1) The undertaker must provide the following information in writing to the MMO—

- (a) the name, function, company number (if applicable), registered or head office address (as appropriate) of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised project a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) The undertaker must notify the MMO in writing of any vessel being used to carry on any licensed activity listed in this licence on behalf of the undertaker. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity. Notification must include the master’s name, vessel type, vessel IMO number and vessel owner or operating company

(3) Any changes to the supplied details must be notified to the MMO in writing at least 24 hours before the agent, contractor or vessel engages in the licensed activities.

### **Pre-construction monitoring and surveys**

**22.**—(1) The undertaker must, in discharging condition 19(1)(c) submit a monitoring plan or plans in accordance with the offshore in principle monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body, which must contain details of proposed monitoring and surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report.

(2) The survey proposals submitted under sub-paragraph (1) must be in general accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The baseline report proposals submitted under sub-paragraph (1) must ensure that the outcome of the agreed surveys, together with existing data and reports, are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(4) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine the location, extent and composition of any benthic habitats of conservation, and/or ecological importance constituting Annex 1 reef habitats in the parts of the Order limits in which it is proposed to carry out construction works; and
- (b) a swath-bathymetry survey to IHO Order 1a standard that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works.

(5) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

### **Construction monitoring**

**23.—**(1) The undertaker must, in discharging condition 19(1)(c), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised project. The monitoring proposals must specify each monitoring proposal's objectives.

(2) In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of underwater sound generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(3) The undertaker must carry out the monitoring approved under sub-paragraph (1), including any further underwater sound monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) The results of the initial underwater sound measurements monitored in accordance with sub-paragraph (2) must be provided to the MMO within six weeks of the installation of the first four piled foundations. The assessment of this report by the MMO will determine whether any further underwater sound monitoring is required. If, in the reasonable opinion of the MMO in consultation with the relevant statutory nature conservation body, the assessment shows significantly different underwater sounds modelling result to those predicted to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(5) The undertaker must carry out the surveys specified in the offshore monitoring plan in accordance with that plan, including any further underwater sound monitoring required in writing by the MMO under sub-paragraph (4), unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(6) Construction monitoring must include vessel traffic monitoring in accordance with the outline navigation monitoring strategy, including the provision of reports on the results of that monitoring at the end of each year of the construction period to the MMO, MCA and Trinity House.

(7) In the event that piled foundations are proposed to be used, the details submitted in accordance with the marine mammal mitigation protocol must include proposals for monitoring marine mammals to ensure the ongoing efficacy of the marine mammal mitigation protocol.

### **Post-construction monitoring**

**24.—**(1) The undertaker must, in discharging condition 19(1)(c) submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with relevant statutory nature conservation bodies of proposed post-construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results.



(2) The monitoring proposals must specify each monitoring proposal's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The post-construction monitoring referred to in sub-paragraph (1) must, unless otherwise agreed in writing with the MMO, have due regard to, but not be limited to, the need to—

- (a) in the event that such habitats were identified in the pre-construction survey undertake appropriate monitoring to determine any change in the location, extent and composition of any benthic habitats of conservation, and/or ecological importance constituting Annex 1 reef habitats in the parts of the Order limits in which construction works were carried out. The monitoring design must be informed by the results of the pre-construction benthic survey;
- (b) undertake, within 12 months of completion of the licensed activities, a full sea floor coverage swath-bathymetry survey that meets the requirements of MGN 654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected; and
- (c) undertake post-construction traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring to the MMO, MCA and Trinity House.

(4) The undertaker must carry out the monitoring agreed under sub-paragraph (1) and provide the agreed reports to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(5) Following the installation of cables, details of cable monitoring required under 19(1)(d) must be updated with the results of the post installation surveys. The statement must be implemented until the authorised scheme is implemented and reviewed as specified within the statement, following cable burial surveys, or as instructed by the MMO.

### **Reporting of scour and cable protection**

**25.—**(1) Not more than 6 months following completion of the construction of the authorised project, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection and scour protection used for the authorised project.

(2) The report must include the following information—

- (a) the location of cable protection and scour protection;
- (b) the volume of cable protection and scour protection; and
- (c) any other information relating to the cable protection and scour protection as agreed between the MMO and the undertaker.

### **Completion of construction**

**26.—**(1) The undertaker must submit a close-out report to the MMO and the relevant statutory nature conservation body within six months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following details—

- (a) the final number of installed wind turbine generators;
- (b) the installed wind turbine generator parameters;
- (c) as built plans;
- (d) latitude and longitude coordinates of the centre point of the location for each wind turbine generator and substation provided as Geographical Information System data referenced to WGS84 datum; and

