

SCHEDULE 2

Article 18

MITIGATION MEASURES

Permitted development rights

1.—(1) In their application to the works, article 3 of, and Class 29 in Part II of Schedule 1 to, the 1992 Order (which permit development authorised by a harbour revision order designating specifically both the nature of the development authorised and the land on which it may be carried out) have effect as if the planning permission granted by that Order were—

- (a) subject to the restrictions contained in this Schedule; and
- (b) did not apply to any permanent alteration, enlargement, replacement, relaying, extension or reconstruction authorised by article 5(3) that may in the opinion of the planning authority have significant adverse effects on the environment.

(2) In their application to other development carried out on land which falls to be treated as operational land of a dock or harbour undertaker by virtue of this Order, article 3 of, and Class 35 in Part II of Schedule 1 to the 1992 Order, have effect as if planning permission granted by that Order were subject to the restrictions contained in this Schedule.

(3) Except to the extent specified, the restrictions contained in this Schedule do not apply to temporary construction activity.

(4) For the purpose of the 1997 Act, the restrictions contained in paragraphs 2 to 4 of this Schedule are deemed to be conditions imposed on the grant of planning permission.

Work No. 21

2.—(1) The Scottish Ministers are, after consultation with Fife Council, Scottish Natural Heritage and Charleston, Limekilns and Pattiesmuir Community Council, to determine whether Work No. 21 requires to be built and are to advise the Company of their determination.

(2) If the Scottish Ministers determine that Work No. 21 requires to be built, it shall be completed before any other works are commenced.

Management of land contamination

3.—(1) No construction works, other than investigative works (which shall inform the Contaminated Land Management Plan) shall be carried out on site prior to the receipt of Fife Council's and Scottish Environment Protection Agency's written approval of that Plan, which is to provide for—

- (a) the identification of unacceptable risks to human health and the wider environment due to the presence of land contamination or unexploded ordnance;
- (b) a remediation strategy to address any such identified unacceptable risks thereby making the site suitable for its intended use;
- (c) procedures to be adopted to mitigate unacceptable risks to human health and the wider environment due to land contamination or unexploded ordnance during construction work (including the implementation of the remediation strategy);
- (d) procedures to deal with previously unsuspected land contamination that becomes evident during construction works (including the implementation of the remediation strategy);
- (e) procedures to be adopted to mitigate release of hazardous substances to land and the water environment during construction works (including the implementation of the remediation strategy); and

- (f) appropriate emergency measures to minimise the impact of any release of a hazardous substance should it occur,

and the works may only be constructed in compliance with the approved Contaminated Land Management Plan.

(2) Following completion of construction works, operation of the site may not commence prior to receipt of Fife Council's and Scottish Environment Protection Agency's written approval of a remediation verification report prepared in accordance with the Contaminated Land Management Plan.

Restrictions on construction

4.—(1) The works specified in article 5 are to be carried out in accordance with the descriptions given in that article and as shown on the deposited plans, subject to the limits of deviation specified in article 7.

(2) For the avoidance of doubt, the limits of deviation shall not apply to the height of the lighting columns, mobile harbour cranes, rubber tyre gantry cranes or rail mounted ship to shore cranes, or the 15 metre height restriction that applies to stacks of containers.

(3) The construction and operational phase lighting must be designed, deployed, constructed and maintained in accordance with the lighting strategy approved by Fife Council.

(4) The normal hours of working for the construction works, other than dredging, shall be between 8:00 am and 7:00 pm on Mondays to Fridays and 8:00 am and 1:00 pm on Saturdays.

(5) No construction activities other than dredging operations are to be undertaken on Sundays, Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971⁽¹⁾ is a bank holiday in Scotland. Where additional or alternative working hours are required, these shall be agreed in advance with Fife Council.

(6) In constructing and operating the works, the Company shall implement the measures on its part set out in and from time to time agreed pursuant to the Traffic Management Plan contained within the CEMP.

(7) Prior to the commencement of any work on site, a Noise Management Plan shall be submitted to and agreed in writing by Fife Council. This Plan shall cover both construction and operational noise matters and the works authorised by articles 5 and 6 shall not commence until Fife Council has approved the Noise Management Plan.

(8) Operational noise emitted from the site shall be monitored in accordance with section 13 of the draft CEMP and, to the extent that such noise is under the control of the Company, it shall be controlled so as not to exceed the limits specified in paragraph 13.1 of the draft CEMP. Monitoring shall be in accordance with paragraph 13.4 of the draft CEMP and should noise levels exceed those limits as provided for in paragraph 13.1 of that document, appropriate remedial action shall be taken by the Company.

(9) The Company shall implement the complaints procedure set out in paragraph 13.6 of the draft CEMP.

(10) All onshore construction activities shall be undertaken in accordance with BS5228: 2009 - Code of Practice for Noise and Vibration Control on Construction and Open Sites, Parts 1 and 2.

(11) All day-time noise conditions in association with construction are related to 1 hour free field noise levels at the boundaries of noise sensitive premises in Limekilns. For the 8 to 10 weeks of driven piling activities, noise levels attributable to site activities shall not exceed 60dB(A) Leq at the boundaries of noise sensitive premises in Limekilns as specified in the Noise Management Plan in consultation with Fife Council and the Charlestown, Limekilns and Pattiesmuir Community

(1) 1971 c.80.

Council. For all other phases of the construction, noise levels attributable to site activities shall not exceed 55dBL Aeq at the boundaries of noise sensitive premises in Limekilns.

(12) Unless otherwise stated, all measurements shall refer to free field conditions measured at a height of 1.2 metres above ground level and wind speeds of 3m/s or below. The sound level meter response shall be set to fast.

(13) Notwithstanding the terms of sub-paragraphs (4) and (5), there shall be no driven piling operations after 6:00 pm on Mondays to Fridays, or at any time on Saturdays, Sundays, Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in Scotland.