

**DECC RESPONSE TO THE CONSULTATION ON
GUIDANCE RELATING TO THE CONSENT TO
LOCATE PROCESS UNDER PART 4A OF THE
ENERGY ACT 2008**

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Website: <https://www.gov.uk/government/organisations/department-of-energy-climate-change>

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The consultation can be found at the following website address:
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ACRONYMS AND ABBREVIATIONS

AIS	Automatic Identification System
ARPA	Automatic Radar Plotting Aids
AtN	Aids to Navigation
CDSP	Carbon Dioxide Storage Permit
CIL	Commissioner of Irish Lights
CPA	Coastal Protection Act 1949
CRA	Collision Risk Assessment
CtL	Consent to Locate
DECC	Department of Energy and Climate Change
DepCon	Deposit Consent
DfT	Department for Transport
EA	Energy Act 2008
EDU	Energy Development Unit
EERV	Emergency Evacuation and Response Vessels
EIA	Environmental Impact Assessment
EMT	Environmental Management Team
ES	Environmental Statement
FDP	Field Development Plan
FPSO	Floating Production Storage and Offloading
GLA	General Lighthouse Authority
GSDP	Gas Storage Development Plan
IALA	International Association of Marine Aids to Navigation and Lighthouse Authorities
IAN	Immediate Action Notice
LED	Licensing, Energy Development
MCAA	Marine and Coastal and Access Act 2009
MOD	Ministry of Defence
MoDU	Mobile Drilling Unit
PON	Petroleum Operations Notice
PA	Petroleum Act
PWA	Pipeline Works Authorisation
ROV	Remotely Operated Vehicle
SoS	Secretary of State
TH	Trinity House
VTs	Vessel Traffic Survey

DECC response to the consultation on guidance relating to the consent to locate process under Part 4A of the Energy Act 2008

1 Introduction

1.1 Background to consultation

The Department of Energy and Climate Change (DECC) assumed responsibility for administration of Section 34 of The Coast Protection Act 1949 (CPA), in relation to offshore oil and gas operations in October 2005. Since then, DECC had been issuing 'Consents to Locate' (CtLs) under Part II of Section 34 of the CPA on behalf of the Department for Transport (DfT).

As of April 2011, the CtL provisions of Section 34 of the CPA were incorporated into The Marine and Coastal Access Act 2009 (MCAA). The MCAA provided a regulatory framework for a new marine licensing regime that included consideration of works detrimental to navigation. Although the MCAA licensing regime applies to a number of offshore oil and gas operations, including the disturbance of the seabed and the deposit and removal of substances or articles during the course of decommissioning operations, Section 77 of the MCAA exempts the vast majority of offshore oil and gas operations and carbon dioxide storage operations controlled under The Petroleum Act 1998 (PA) or The Energy Act 2008 (EA). To maintain the CtL provisions for these excluded operations, Section 314 of the MCAA created a new Part 4A of the EA, transferring the provisions of Section 34 of the CPA to the EA and transferring regulatory competence from DfT to DECC.

1.2 Scope of consultation

As part of this change, DECC determined to revise the procedures in place under the CPA, to ensure that the new consenting process under Part 4A of the EA reflected the specific requirements of the operations that are covered by the MCAA exemption. The revision took account of the requirements set out in Part 4A of the EA, practices that were not envisaged when the CPA was drafted and alignment of the regime with other permitting, consenting and approval processes administered by the DECC Environmental Management Team (EMT). It also took account of the views of the bodies consulted prior to issuing consents under the CPA, who will continue to provide advice to DECC in relation to navigational matters under the new consenting regime.

The consultation on guidance relating to the CtL process under Part 4A of the EA was launched on 11 October 2012 and closed on 30 November 2012. Details can be found at:

<https://www.gov.uk/government/consultations/guidance-relating-to-the-consent-to-locate-process-under-part-4a-of-the-energy-act-2008>

The proposed regime and the consultation only applied to the CtL process under Part 4A of the EA, where consenting will be the responsibility of the DECC Secretary of State, and addressed the following issues:

- Scope of the legislation;
- Consent types, and the application and consenting process;
- Requirements relating to Aids to Navigation (AtN) and emergency safety provisions; and
- Regulatory compliance, inspections and enforcement.

The aim of the consultation was to seek the views of relevant stakeholders (e.g. offshore oil and gas and carbon dioxide storage operators; government departments and agencies and bodies that have an interest in navigational matters; and individuals or groups, including Non-Governmental Organisations, who have an interest in the marine environment).

To aid the consultation process, the following questions were asked:

No.	Question
1	Do you agree with the approach outlined in relation to the consents and the types of consent?
2	Do you agree with the application process and the level of information proposed to enable DECC and its consultees to make an informed decision, and are you content with the proposed 28-day determination period?
3	Do you agree with the approach taken with respect to consent conditions?
4	Do you agree with the approach taken to accommodate operational changes?
5	Do you agree with the procedure for reporting failures of aids to navigation and non-compliance with the consent conditions, and the actions that could be taken in response to such events?
6	Do you agree with the enforcement proposals?
7	Do you have any other comments on the proposals put forward in this consultation, including the annexed documents? Are there other issues which should be covered by the consenting regime that are not addressed? All comments will be taken into consideration, and there is no requirement to restrict your comments to the specific questions detailed in the consultation document.

Question 7 provided an opportunity to comment on any relevant issues beyond the scope of the main questions.

This document summarises the comments received and details the DECC response to those comments.

2 Consultation Responses

2.1 Responses received

Responses to the consultation were received from Anatec, BBL Company (BBL), the British Marine Aggregate Producers Association, Centrica Energy (Centrica), the Commissioner for Irish Lights (CIL), ConocoPhillips UK Limited (Conoco), the Crown Estate (CE), Oil and Gas UK (O&GUK), Renewables UK, Shell (UK) Limited (Shell), Talisman Energy (UK) Limited (Talisman), Taqa Bratani Limited (Taqa), Total E&P UK (Total), Trinity House (TH) and Xcite Energy Resources Limited (Xcite).

Whilst the responses were generally supportive of the proposed CtL regime, there was a broad range of comments and a number of questions seeking clarification for a variety of issues. The DECC responses are summarised in section 2.2, and the specific responses to the comments received are included in Annex A.

2.2 Key issues raised

2.2.1 Consent to locate requirements for vessels

DECC discussed the issue of CtL requirements for vessels undertaking offshore oil and gas operations with the navigational consultees, and it was concluded that, in some instances, the vessels would pose a danger or obstruction to navigation. Those activities involved vessels physically connected to the seabed or seabed infrastructure, where the vessels could not

disconnect or move off station in the event of a potential collision. DECC is aware that the consultation document did not specify the types of activities that would require a CtL and will endeavour to provide further information in the amended guidance. However, we still take the view that the operator is best-placed to decide whether the proposed activities pose a navigational risk, and should be able to determine whether or not the proposed activities require consent. Over time, DECC will gain a better understanding of the activities performed, and be able to further improve the guidance to implement the CtL regime in a fit-for-purpose manner.

2.2.2 'Life consents' and 500 metre zones

It is expected that 'Life' consents for all existing surface installations will be issued by the end of June. Where there are bridge-linked platforms or accommodation units, including Mobile Drilling Units (MoDUs) being used as accommodation units, a single consent will be issued for the entire complex. Following issue of the consent, the location of additional installations within the 500 metre (m) safety zone will require a variation of the life consent, for example to locate a MoDU or temporary accommodation unit alongside a platform; and the withdrawal or removal of consented surface installations will require a further variation or revocation of the consent.

2.2.3 Consultation with other users of the sea and marine planning concerns

It is acknowledged that oil and gas operations can interfere with other legitimate uses of the sea, and DECC is fully aware of potential conflict of interest issues pertaining to other offshore industries, such as shipping, fisheries, windfarms and aggregate extraction. Where possible, issues of this nature are highlighted at the licensing / operatorship stage and/or assessed at Environmental Statement (ES) stage of a proposed oil and gas development. Operators should always approach key stakeholders to resolve potential conflict of interest issues. The CtL process is a navigational provision, and DECC will undertake appropriate notification and consultation as part of the application process to ensure that there are no outstanding issues.

2.2.4 Review period

The review period for the CtL process under the CPA was 30 days. The period has been reduced to 28 days to align it with other permit and consent review periods administered by EMT. DECC will always endeavour to determine consents to meet the operator's requirements, and therefore avoid any unnecessary delays. However this depends to a great extent upon the nature and quality of the application. In common with other consent and permit processes administered by EMT, the CtL process will allow for variations (including for life permits) and, depending on the nature and scale of the changes and the issues raised, DECC will endeavour to determine variations in a relatively short period of time (e.g. 3 days).

3 Next Steps

DECC has already issued letters to industry and the application consultees detailing the revised consultation process for Pipeline Works Authorisations (PWAs), applications for environmental approvals for pipeline works (currently the PON15C process) and applications for navigational approvals for pipeline systems (the revised CtL process). EMT and the Consents and Authorisation Team responsible for the PWA process will continue to work together to align their processes to make the application processes as smooth as possible.

DECC has also already issued letters to industry to initiate the 'roll-out' of the life consents for all existing surface installations, requesting details of all eligible installations. Providing responses are received by the specified deadline, DECC hopes to issue the life permits by the end of June.

Full implementation of the CtL regime under Part 4A of the EA will commence on Friday 7th June. Applications submitted after this date will be considered under the new regime, following the processes outlined in the guidance document. (The revised consultation processes for PWAs,

PON15Cs and CtL applications has already been implemented for all relevant applications submitted after the 1st May 2013).

The GOV.UK webpage relating to the CtL process has been updated and provides detailed information relating to the new regime. The information includes the consultation document this response to the consultation, the letters already issued to industry and consultees and the new application forms. The guidance document is currently being updated to incorporate comments received in response to consultation and will be completed as soon as possible to replace the consultation draft.

The DECC Offshore Environmental Inspectorate will consult with navigational consultees to develop a fit-for-purpose enforcement regime that aligns with current DECC enforcement policy.

4 DECC Contacts

Any queries relating to this response, or relating to the CtL process under Part 4A of the EA, should be addressed to Sarah Dacre or Jennie Smith:

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**Department of Energy and Climate Change (DECC)
Energy Development Unit (EDU)
Environmental Management Team (EMT)**

**Collation of consultee comments
and DECC responses**

Note: Some respondents did not allocate their comments to specific questions. Wherever possible, DECC has therefore assigned the comments to relevant questions. Where responses contained more than one reference to a particular issue, DECC has also collated the related comments. To make these changes, it has sometimes been necessary to make minor amendments to the original texts to clarify the meaning for other readers.

Question 1 Do you agree with the approach outlined in relation to the consents and the types of consent?

	Responder	Comments	DECC Response
1.1	Anatec	<p>For CtL 4 and 5 (sub surface) we are being requested to look at the construction phase which is sensible.</p> <p>However in practice we are also being asked increasingly to assess the operational risks of subsea installations to mariners, e.g. fishermen and trawl gear snagging. This provides a basis for determining methods of mitigation along the pipeline, etc. which will tend to be dependent on fishing and anchoring practices in the area. Is this a consenting issue that should be considered within the applications process?</p> <p>This would be in line with the decommissioning process also as again we are carrying out works looking at various options giving account to the risks to fishermen.</p>	<p>Consent to locate provisions will cover the construction and operational phases, and the conditions within the consents will address all phases of the activity.</p> <p>The CtL regime has been put in place for the consideration of works detrimental to navigation, which includes fishing vessels. Fisheries interference issues should continue to be addressed at the design and environmental impact assessment stages, and operators are encouraged to seek safety zones for structures that pose a significant risk. We do not consider that issues of this nature are directly relevant to the CtL consenting process, although we are currently discussing a linkage with the safety zone process with the HSE.</p> <p>Decommissioning activities fall under the MCAA, which includes combined environmental impact assessment and navigational consenting provisions. It is therefore appropriate to include risks to fishermen in the licensing process.</p>
1.2	Conoco	<p>In the section on CtL 2 on page 13 of 31, it is implied that geotechnical coring vessels would require a CtL, as they would be connected to the seabed by a drillstring. This work is currently covered under a PON 14A. If a CtL is required, this would add a significant amount of administrative work to the process for an operation which frequently takes less than one day to complete. Can you please advise.</p>	<p>Vessels undertaking geotechnical coring operations, and other survey vessels, will not require consent. Further information will be provided in the guidance.</p>
1.3	O&GUK	<p>Regulatory Boundary - Section 2.3 states there are exceptions to DECC jurisdiction and refers to MCAA guidance but that guidance is not specific about the boundary between DECC and MCAA in relation to some CtL activities. It is important to clearly identify the boundary between DECC and MCAA to ensure any application is made to the correct regulatory body. This will avoid applications being delayed through incorrect application or through generating debate between regulators determining which regulation the activity falls under.</p> <p>In relation to subsea inspection, maintenance and construction activities such as DSV, ROV and pipelay operations, which appear to be included under Section 3.2 of the Act, it is our view that these operations should be excluded from the scope of the proposed changes to the legislation, for the following reasons:</p> <ul style="list-style-type: none"> It is our position that, as the requirement to apply for consent duplicates information already submitted in the PWA and Depcon processes, the proposed application approach is 	<p>This will be addressed in more detail in the guidance. It should be noted that DECC is also the MCAA licensing authority for offshore oil and gas activities, and errors relating to contact with the incorrect licensing body are therefore unlikely.</p> <p>DECC does not agree. Responses are provided in relation to the bulleted comments (DECC has broken down the O&GUK comments into a number of separate issues, to simplify the responses).</p> <p>It seems to have been accepted that pipeline systems require consent, as this requirement has been in place for a number of years. The objection therefore seems to relate to the proposal to require a separate application for the CtL. Decoupling the</p>

		<p>unnecessary.</p> <ul style="list-style-type: none"> The shipping navigation aids for all construction vessels comply with maritime legislation and often have various AIS ARPA devices fitted. The only data this process adds is timing for the operations. These dates change regularly due to weather and other project delays and we consider that it will require a disproportionate level of administration to ensure DECC is kept informed of changes to these dates. We believe that a 28 day approval period may also be restrictive to efficient vessel operations where plans may need to change at short notice due to changing priorities. The proposal contained in 4.10 for managing operational changes will result in the period specified in the original application being longer than necessary to limit the need to resubmit the application. The enforcement proposals do not appear to add any powers that are not available under the Petroleum Act 1998 or the Energy Act 2008 in relation to PWA consents. <p>Whether a CtL is required - Whilst the second paragraph of 2.2 states “the deposit or removal of any substance or article” requires a CtL, para 3.1 (CtL2) states vessels that could move off in an emergency do not require consent. These statements are contradictory therefore clarification of the criteria is needed to enable unequivocal determination of whether a CtL is required or not. This is further reinforced by the statement at 3.2 last para which states “operators should be able to decide whether a CtL is likely to be required”; given the lack of clarity we doubt whether this is the case.</p> <p>Other than moored rigs which would come under the requirements of CtL1 we are not aware of any moored well intervention vessel that would be used and hence, all well intervention vessels could disconnect and move off location in an emergency. We would be grateful for clarification in this regard as all well intervention vessels would fall into ‘no consent required’.</p> <p>The term ‘immediate’ is used in relation to disconnection to move off-station. We would seek clarity on exactly what performance standard is expected in relation to what “immediate” is?</p>	<p>PWA and CtL processes will be more efficient and will ensure that DECC and the navigational consultees receive all the information they require to make an informed assessment and DECC can draft an appropriate consent, which is not the case for many PWA applications; and it will also simplify the consultation process.</p> <p>The navigational aids must be mandatory requirements, rather than based on an assumption that the vessels will be in compliance, as GLAs consistently find deficiencies during their annual inspections but we currently have no powers to take enforcement action. As operators have no problem advising date changes for other environmental approvals, we cannot understand why the same requirement would be a problem for the CtL process.</p> <p>This is currently accommodated via the variation process for existing environmental approvals, and do not understand why it should be a problem for the CtL process.</p> <p>This is not an issue, as separate notifications to relevant bodies are required for commencement and completion of operations, and there are no objections to the notification processes.</p> <p>The main difference is that breaches of consent conditions will be enforceable, whereas we are not aware of any enforcement action being taken under the cited Acts.</p> <p>See Section 2.2.1 of main response, and comments in Q1, Section 1.6. DECC will review the relevant text and, wherever possible, provide additional clarification.</p> <p>If this statement is accurate, we do not understand what further clarification would be required, as the well intervention vessels would not require consent. It is therefore surprising that so many respondents have requested further clarification, which suggests the statement is not totally accurate. We therefore need to confirm whether there are any intervention operations where the vessel could not easily disconnect in an emergency.</p> <p>See Section 2.2.1 of main response, and comments in Q1, Section 1.6. Further information will be provided in the guidance.</p>
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		<p>DECC offer of discussion - Whilst the offer of early discussion with DECC is made in a number of places within the consultation document, such consultation should be the exception. The guidance must look to comprehensively cover all potential activities to create certainty and avoid unnecessary delay.</p> <p>The guidance states that DECC intends to re-issue consents for all surface manned platforms etc. we would be interested to find out what will need to be undertaken by operators in order to facilitate this and the timeframe as per page 14.</p> <p>Section 3.1 needs to clearly address the different type of consents to ensure that new applications for units which would fall into this category [can be included in the consent for an existing surface installation] are not submitted, and in particular units where an anchor pattern would extend out-with the existing surface asset 500m safety zone for temporary mooring. Consideration should be given to whether placement of a self-elevating unit and the associated moorings would require a separate consent.</p> <p>New seabed structures Section 3.1 last paragraph states “new permanent or fixed seabed infrastructure will be issued with life consents”. Where maintenance or replacement of existing structures is taking place will this be regarded as “new” and hence require its own CtL or will this be excluded?</p>	<p>DECC will endeavour to make the guidance as comprehensive as possible. However, the Department will not be aware of all circumstances or scenarios where there is a clear-cut requirement for consent, and would therefore encourage dialogue so that DECC can update the guidance.</p> <p>All surface installations will automatically be issued with life consents. Letters have already been sent to industry to collate the information we require to prepare the consents and, assuming responses are received by the requested deadline, we hope to issue the consents by the end of June 2013. Retrospective life consents will not be issued for existing subsea infrastructure.</p> <p>It will be clearly stated that any installation to be located within the 500m safety zone of an existing consented surface installation does not require a separate consent, but can be added to the consent of the existing surface installation using the consent variation process. This arrangement would not be affected by any moorings extending outwith the 500m safety zone.</p> <p>Any amendment to existing infrastructure will not require a new consent, but if there is an existing consent it may require to be updated through the variation process. This would not apply in the case of ‘like-for-like’ replacements of subsea infrastructure, for example where replacement of a pipeline component does not require a PWA variation or where a wellhead requires replacement. (For complete replacement of a platform or FPSO etc., the existing CtL would be surrendered and a new CtL required).</p>
1.4	Shell	<p>Why is it deemed necessary to remove the exemption process for vessels working within the 500m zone of a fixed installation? This will create increased workload for operators and DECC given the sheer increase in the number of applications that will result. It is unclear why the current approach for this scenario is no longer suitable.</p> <p>There needs to be more clarification on the DECC interpretation of the CtL2 requirements. The interpretation of disconnecting in an emergency situation needs to be further discussed, as if it is interpreted that a hose cannot be disconnected from a subsea facility “quickly” in an emergency then a CTL2 will be necessary for almost every job that we do and have a subsequent knock on effect to our operations. This is somewhat onerous for temporary works where other controls are also in place to prevent collision.</p> <p>If we did have to do this, then it would be useful to have a field CTL2, which would cover multiple operations in the field which our IRM team complete annually.</p>	<p>Under the current system, a notification is required, and the administrative burden is very similar to applying for consent. Under the new system, qualifying activities within the 500m zone will require an application for a variation of the CtL3, which will allow DECC to amend the consent conditions to meet the requirements of the General Lighthouse Authorities.</p> <p>See Section 2.2.1 of main response, and comments in Q1, Section 1.6. It is not the case that all activities undertaken by a vessel will require consent.</p> <p>If all the relevant details are available, the multiple deployments could be covered in a single application. When the CtL process is transferred to the UK Oil Portal, it will be possible to link the CtL process to an annual PON15F for operations within the same</p>

		<p>The wording is a bit vague – under item 3.2 it says “A list of operations that may fall into this category is appended below” and “Operators should be able to decide whether a CtL is likely to be required” it is not clear whether geotechnical sampling is included or not. Can this be clarified and communicated before finalisation.</p> <p>Section 3.1 of the Consultation document states that DECC intends to re-issue Consents for all surface manned platforms etc. Will the installation of a new platform bridge linked to an existing platform within an existing 500m zone require a CtL3 Application or a Variation to the new, yet to be re-issued, consent.</p>	<p>field or field complex.</p> <p>The guidance will be strengthened to address this comment, but we still consider it reasonable to suggest that operators will be best-placed to assess the risks and the requirement for a CtL. DECC will also be able to update the guidance following any dialogue with operators seeking clarification. With regard to the specific enquiry about geotechnical sampling, DECC can confirm that vessels involved in survey work will not require consent.</p> <p>See Section 2.2.2 of main response. There will be a single consent.</p>
1.5	Taqa	<p>The document is ambiguous and doesn't fully define what is and isn't required to be under a CtL. Without definition on what does/does not need a CtL e.g. DSV's, it is not very easy to respond to the consultation. We have concerns about the lack of clarity as to the type of vessel / activity which would require a CtL. No mention is made of DSV's, which if in scope would have huge ramifications on the industry.</p> <p>Would we have to seek advice/confirmation from DECC every time we used a vessel which did not have a physical connection to the seabed to confirm that no consent is required?</p> <p>Provide clarification on how quickly a vessel would need to move off location in an emergency to not warrant a consent.</p> <p>CtL5 – Instead of creating a new consent, why isn't the navigational information required added into a PWA instead? Where is the sense in submitting 2 applications to different parts of DECC rather than one to a single Dept?</p> <p>CtL requirements for other operations (Section 3.2):</p> <ul style="list-style-type: none"> Confirm that a consent is only required for testing equipment that would be used in an emergency and not when it would be deployed in an emergency. How would it work giving consent to survey vessel which isn't static during operations? Also how would this be approached in the application? 	<p>See Section 2.2.1 of main response, and comments in Q1, Section 1.6. The guidance will be amended to provide more clarity in relation to the CtL requirement for mobile vessels. It is not anticipated that consent would normally be required for diving operations.</p> <p>DECC does not believe that this would be the case, as a consent will not be required if there is no connection to the seabed or subsea infrastructure and the vessel has sufficient mobility to be able to undertake the limited relocation required to avoid a collision. The guidance will be strengthened to provide greater clarity, and will be further updated to reflect experience gained during the implementation of the regime.</p> <p>See Section 2.2.1 of main response, and comments in Q1, Section 1.6. Further information will be provided in the guidance.</p> <p>DECC are not creating a new consent. Pipeline systems have always required a consent to locate, but the linkage to a PWA was cumbersome and inefficient. It was therefore considered appropriate to bring the process into line with other CtL processes, and require a separate application. The CtL process is now being transferred to the UK Oil Portal so that the procedure will be linked to the PON15C process.</p> <p>If any consent is necessary, it would only be required for the testing of such equipment.</p> <p>Survey vessels will not require consent under the regime. This will be made clear in the guidance.</p>
1.6	Total	<p>TEPUK agrees with the approach relating to the consents, however seeks clarification in the following:</p>	

		<p>Consent to Locate (CTL) 2 – in the event of an emergency most light well intervention vessels can disconnect from the sea bed at very short notice and move off. This is not an ideal situation but can be done.</p> <p>Can DECC clarify if Vessel Traffic Surveys (VTS) will be required for all light well applications if connected to the sea bed or seabed infrastructure?</p> <p>In the response, can DECC consider both near installation infrastructure and remote tie backs, where the infrastructure may be a significant distance from the nearest fixed installation.</p> <p>CTL6 - TEPUK also requests clarification on the requirement for a CTL for operations which do not involve well intervention (for example inspection, repair and maintenance operations and / or subsea pigging) but where the vessel is connected to the infrastructure either by flexible hose or downline, but which can quickly move off station.</p> <p>TEPUK requests clarification on CTL requirements for operations involving diving operations.</p> <p>The consultation does state “if there is any uncertainty...seek advice from DECC”, however it may be more advantageous to Operator and DECC if clarification is provided within the guidance on the specific operations considered above.</p> <p>Can DECC also confirm that for deployment of mobile installations, flotels or MODUs within the 500m zone, notification will no longer be a requirement as previously DECC had to be notified?</p>	<p>If the vessel can disconnect quickly at all stages of the proposed operations, for example during the time it would take an average vessel to pose a significant risk following detection by radar, a CtL would not be required.</p> <p>A VTS would only be required if it was determined that a consent was appropriate.</p> <p>If the proposed location is within the 500m safety zone of an existing surface installation, the operations should be covered by applying for a variation of the consent of the existing installation. More distant locations would require a separate consent.</p> <p>Deciding whether the operations require consent would follow the same procedure as that identified above for LWI vessels. It should also be noted that only limited relocation may be sufficient to eliminate the risk, and that we would not expect vessels that are only on location for a very short period to apply for consent. Further information will be provided in the guidance.</p> <p>Deciding whether the operations require consent would follow the procedure identified above. It isn't anticipated that consent would normally be required for diving operations.</p> <p>We will try to provide additional information in the guidance, and can build on that over time when we have more experience of different types of operations. Dialogue with the operators will inform the development of the guidance.</p> <p>Locating mobile installations within the 500m safety zone of an existing surface installation will be covered by applying for a variation of the consent of the existing installation. The same procedure would apply if a new permanent installation was to be installed and bridge-linked to the original installation.</p>
1.7	Xcite	<p>The consultation document fails to offer information on the extent to which the offshore renewable energy industry is subject to a comparable regime and DECC and the relevant navigational bodies are therefore able to consider possible interactions between renewable and O&G offshore developments when issuing a consent to locate.</p> <p>Not sure why Ctl's 3 & 4 and 5 & 6 cannot be combined, seems an over complication to have 6 separate categories.</p>	<p>The renewable energy industry and the oil and gas industry are subject to different regulatory regimes. The renewable energy industry is subject to licensing under the Marine and Coastal Access Act 2009, and navigational provisions are included in the licences. That navigational regime, and the consultation under the regime, are directly comparable, and DECC is a consultee if deployments could impact existing oil and gas infrastructure.</p> <p>CtL3s are for surface permanent structures and CtL4s are for subsea structures that are not included as part of a pipeline system (as defined by the Pipeline Works Authorisation application). CtL5s are for pipeline and cable systems and CtL6s are for structures such as buoys. (DECC envisage that CtL6s will be rarely used). In all cases the application and consent conditions will be different, e.g. the required Aids to Navigation.</p>

Question 2 Do you agree with the application process and the level of information proposed to enable DECC and its consultees to make an informed decision, and are you content with the proposed 28-day determination period?

	Responder	Comments	DECC Response
2.1	BBL	<p>May it be clarified whether the consultation period for an application is a maximum of 28 days?</p> <p>May it be clarified, in the event of an emergency incident requiring offshore intervention, how long the consultation period for a CtL application would be?</p>	<p>Applications should be submitted at least 28-days prior to the start of operations. However, it is advisable that applications relating to larger developments or activities in navigationally sensitive areas should be submitted as early as possible.</p> <p>Under exceptional circumstances, the Department would take a pragmatic approach and DECC would work with the operator and consultees to ensure that the consent was issued within a timescale to allow urgent action to prevent any escalation of the incident.</p>
2.2	British Marine Aggregate Producers Association	<p>The need for an applicant to consult widely on issues of navigational risk through the CtL process is welcomed. However, it is important that the scope of any potential consultation properly identifies all the potential navigation risk issues that may arise – including those associated with existing or planned areas of marine aggregate extraction. At present, we do not consider that these issues could necessarily be fully or thoroughly identified through the consultees currently listed under section 4.7 of the document.</p> <p>Without accurate and relevant information on any local marine aggregate interests, the Environmental Management Team would be unable to determine ‘Any constraints on local navigation as a consequence of the operations’ or ‘Collision risks with respect to vessels and the operations, and between vessels as a result of the action taken to avoid the operations’ (section 4.8). It is therefore essential that the CtL consultation process be required to take into account the potential local navigational impacts upon any current or planned areas of marine aggregate interest within a defined proximity (say 5km) of any planned oil and gas development. Information on the location of all marine aggregate interests and the individual operators concerned is available on the website of The Crown Estate at: http://www.thecrownestate.co.uk/marine/aggregates/our-portfolio/ Information on the transit routes employed by marine aggregate dredgers is available from the BMAPA website: http://www.bmapa.org/issues/renewable_energy.php Additionally, BMAPA should become the first point of contact for all CtL consultation enquiries concerning marine aggregate interests via: bmapa@mineralproducts.org BMAPA would then undertake to circulate any requests for information to operating companies within the sector, who would then be responsible for responding to applicants directly to highlight any site specific issues that may be involved. We would note that this approach,</p>	<p>Interference with other uses of the sea is addressed at the development approval stage, and the CtL consultation process concentrates on bodies with navigational expertise. However, the CtL process acknowledges the importance of informing other users of the sea, and appropriate Notices to Mariners are issued prior to proposed activities. DECC is willing to consider additional notification arrangements if that would be useful.</p> <p>There is already a link to the CE website on the oil and gas website, to alert operators to areas leased for current or potential aggregate extraction and windfarms, and to encourage dialogue with relevant lease holders. The additional information on the BMAPA website is very useful and we will add both links to the guidance.</p> <p>DECC will consider providing an additional notification of applications to the BMAPA, to initiate dialogue between the developers if this has not already taken place.</p>

		whereby BMAPA acts as the lead consultation contact for the sector, mirrors that already adopted within DECC for ensuring that marine aggregate issues are fully and consistently taken into account during offshore renewable developments.	
2.3	CIL	Generally yes, however under Aids to navigation/proposed mitigation where it states.....requirement to provide brief details of any proposed AtN and/or other navigational mitigation measures ... and, if available, a plan or diagram of the proposed AtN can be provided to support the assessment. If any special, non-standard, marking arrangements are required or proposed, detailed plans or diagrams may be requested. The details of the AtN should show the standard information including, position, size and type of AtN. The proposed AtoNs should be provided on an admiralty chart in WGS 84 datum.	DECC note your comments and will contact you for further information so that appropriate text can be included in the guidance. As the AtN are invariably provided on the installation or vessel undertaking the work, we do not understand how they could be provided on an admiralty chart.
2.4	Crown Estate	<p>We would suggest that key to the application process should be consultation with the Marine Management Organisation (MMO), with regard to aligning to their licensing process and considering other uses of the marine environment. For example, their determination period lasts 42 days, therefore the proposed 28 days would be inconsistent with this, which may cause confusion to applicants. In our view it would be helpful to provide consistency in approach to applications, consultation, consenting, licensing and enforcement across marine users and uses:</p> <p>As the statutory marine planning authority in England, it would be useful for the applicant to have engaged with the MMO in the planning of all the potentially competing uses. By engaging closely with the MMO, the statutory marine planning authority for English waters, DECC would enable a clear, consistent and transparent process in the licensing of temporary activities under Part 4A Energy Act 2008 with other potentially competing uses and activities in the marine environment.</p> <p>We would wish to see The Crown Estate as a listed application consultee. As highlighted in section 1, our responsibilities provide us with expertise and knowledge regarding the potential for overlapping interest between activities licensed by DECC and those licensed via the marine licensing process and commercially leased/licensed by The Crown Estate that we can provide during determination of applications. We would also be able to provide information on existing uses in proposed application areas which would enable early dialogue between developer and marine user.</p> <p>In order to enable early consultation between developers and existing (and planned) activities/ uses, we would recommend a broad list of consultees is used for the application process. Both The Crown Estate and statutory marine planners would be able to provide further information on existing uses and trade associations (such as</p>	<p>The licensing processes of the MMO and the regulatory processes governing the oil and gas industry are distinct, and we do not consider there is a requirement to standardise the processes. For oil and gas operations the environmental impact assessment process is separate from the CtL process, whereas they are combined for the MCAA licensing process and a longer and more extensive consultation process is appropriate. A longer consultation process for oil and gas operations would seriously inconvenience offshore operators, as has been shown where there are overlaps with the MMO processes.</p> <p>DECC already engage with the MMO, and consult them on a range of oil and gas applications. They have no expertise in relation to navigational issues, and consultation on the CtL process is therefore unnecessary and would duplicate existing consultation arrangements for related applications where the MMO is already a consultee.</p> <p>See section 2.2.3 of main response. DECC would have no objection to the CE receiving notification of applications, but we believe it is more important to erect procedures to ensure that oil and gas operators identify potential conflicts and take them into consideration at an earlier stage in the process. We will consider how the guidance could be improved to ensure that there is dialogue with relevant developers.</p> <p>As indicated above, we consider it important to initiate dialogue with relevant bodies, rather than leaving potential problems to the CtL application stage, and will consider how the guidance could be improved to ensure that there is that dialogue. We do not consider this matter would be best addressed at the consultation stage.</p>

		<p>Renewable UK and the British Marine Aggregates Producers Association) and DECC could play a key role in facilitating engagement between developers and existing (and planned) activities/users.</p> <p>As per Section 4.8, determination of applications, it will be important to highlight any constraints imposed on location navigation, not limited to shipping but also dredging, the construction, operation and maintenance of renewable installations, as well as other marine users.</p>	<p>The consent conditions relate to constraints on the operator applying for consent, and do not relate to constraints on other uses of the sea. Where appropriate they are dealt with using safety zones, notices to mariners etc.</p>
<p>2.5</p>	<p>O&GUK</p>	<p>Definition of significant – Section 4.3 notes the requirements for Environmental Statements. As ES’s currently cover navigational issues, we would seek clarification of what DECC would regard as “significant environmental or navigational issues” and how the Department would wish to see these addressed within the ES. Further, we would ask whether existing ES’s close to submission or already with DECC would require any further consideration.</p> <p>Requirement for VTS – Section 4.4 (b) states a VTS is required “if significant interference is likely”. We would ask DECC to clarify what it regards as “significant” to enable us to establish the criteria for commissioning a VTS. This is especially important given the lack of clarity around which activities may or may not justify a CtL application.</p> <p>The consent review period is a 28 day minimum. However, we have, on occasion, had to chase DECC for consents within this 28 day period and hence, would question whether this period is adequate. We would also prefer to see a minimum period whereby DECC must respond before the intended start date. We would propose that this is 2 months prior to start of operations for submission with DECC response required within one month of the start of operations.</p> <p>The CtL1 form asks for the admiralty chart number. There are a number of admiralty charts applicable to a particular area or location and hence, we would be grateful for clarification as to what exactly is required in this regard.</p> <p>The CtL6 form appears to be a bit of a ‘catchall’ to capture anything that does not fit in the other CtL forms. Whilst the intent is valid, the examples confuse the issue in that the use of surface buoys or deploying moorings is used where in most cases any surface buoys or moorings would be deployed in association with a vessel or MoDU mobilisation which would fall under CtL1. As such, we query whether a CtL6 would be required for early deployment of a system associated with a CtL1 application. We would seek clarity.</p>	<p>With respect to the CtL process, significant navigational issues would include, but not limited to operations within or the vicinity of a shipping lane, where shipping density is particularly high; and operations in the vicinity of a deepwater route or traffic separation scheme. There could also be adverse impacts on other uses of the sea, such as fishermen, offshore windfarm or marine aggregate operations. The requirement to address these issues is not new, and they are usually adequately addressed in the ES. DECC now consults the navigational consultees at the ES stage, so that they can flag up any significance issues and initiate dialogue.</p> <p>There is already clarity, as the application form confirms the requirement for a VTS (conducted within 12 months of the proposed works), and the guidance confirms that if significance interference is likely a CRA would also be required. Whether a CtL is required is a separate issue, and is addressed elsewhere in this document.</p> <p>DECC has aligned the CtL process with the review period of other consents, permits etc, administered by EMT. Industry has often debated whether approvals should be issued with a specified period following submission of the application, or prioritised according to the date the approval is required. DECC takes the view that the former could lead to delays, as operators would have to wait their turn behind applications that were not required for a considerable period of time. We would also suggest that this is only an issue for the consents required for mobile drilling units and, post-Macondo, it is DECC senior management policy not to issue any approvals until close to the date when they are required.</p> <p>Comments noted. This hasn’t been a problem in the past, but additional information will be provided in the guidance.</p> <p>CtL6s could be used for the deployment of surface buoys and moorings that are not connected with vessel or MoDU mobilisation. Buoys are occasionally used for the deployment of scientific instruments, to mark anchors that are left in place for future moorings and to mark equipment that has been lost from MoDUs and will be recovered at a later date. Further information will be provided in the guidance.</p>

2.6	Renewable UK	<p>We are reasonably content with the application process but believe that the guidance could be improved by encouraging oil and gas developers to engage with relevant offshore wind developers. This could be done through amending the guidance slightly and through discussions with DECC LED.</p> <p>We also suggest that The Crown Estate is added to the consultee list to ensure any potential issues are identified.</p> <p>In future we would ask to be consulted on consultation relating to the oil and gas consenting process</p> <p>We note that the recent PON14a draft application form sent to oil and gas operators had a section on consultation and liaison which asks applicants: "If the survey extends into a Crown Estate leased area, have you contacted the relevant lease holder?" and "Which lease holders e.g. renewable or aggregate extraction companies, were involved?". We suggest that it may be beneficial to add similar questions to the Consent to Locate application form.</p>	<p>This engagement is encouraged at an early stage in the planning of oil and gas operations, and any conflict with offshore wind developments should be identified and resolved before submission of a CtL application. DECC will refer to this issue in the guidance, and consider if it is appropriate to build a check into the CtL process to ensure that any relevant dialogue has taken place.</p> <p>Crown Estates are consulted for other consenting processes, and we will review existing processes to determine the best way to ensure that potential issues are identified. Links to the Crown Estate website, which details existing leased areas for windfarms and aggregate extraction, are also provided on the DECC website so that operators can identify potential conflicts and initiate dialogue with the developers.</p> <p>DECC will consider whether Renewable UK could receive notification of applications, but we believe it is more important to erect procedures to ensure that oil and gas operators identify potential conflicts and take them into consideration when preparing environmental submissions. We will consider how the guidance could be improved to ensure that there is dialogue with relevant developers.</p> <p>We will review the CtL application form and/or reinforce the guidance.</p>
2.7	Shell	<p>The level of information request in the application is deemed acceptable. Whilst the 28 day determination period appears excessive for an application of this type, it is welcomed that this has been aligned with other permits</p>	<p>Comment noted.</p>
2.8	Taqa	<p>It says that supporting information, such as a vessel traffic survey – what other supporting information would suffice?</p> <p>Will there be a set area (10nm, 15nm, 20nm) which the VTS should cover?</p> <p>Do existing mitigation measures already in place (such as lighting, ERRV etc) in relation to MODU operations mean that a VTS is not required?</p> <p>If DSV's are deemed 'in scope' then there is a real risk of this becoming an unwieldy nightmare which could result in DSV's being tied up in port</p>	<p>The requirement for a VTS is not negotiable, and may be supplemented by a requirement for a CRA if the level of shipping is high. Apart from the requirements detailed in the application forms, it is not envisaged that any additional supporting information will be required, and not envisaged that alternative supporting information would be accepted in lieu of the VTS / CRA requirements. This will be made clear in the guidance.</p> <p>A VTS normally considers an area within 10nm radius from the central point of the installation or proposed works, but a larger area could be considered if this was relevant for a particular application</p> <p>A VTS will always be required for new applications, unless a valid VTS has already been submitted in support of a related application. This is required to inform whether there is significant potential for navigational interference.</p> <p>For the majority of the activities that will require a CtL, there will also usually be a requirement to obtain other environmental consents, permits etc. that will also attract a</p>

		<p>on hire to Operators who are awaiting CtL approvals. DSV's are often required on a short notice, short term basis and the nature of the business and the weather in the UKCS is such that this can be a constantly moving target at times.</p> <p>Has the Department considered the impact on their workload and ability to process applications/variations in short time frames for DSV work which fits into the above areas – also with emergency scenarios there is no indication of turnaround time? We do not believe that a 28 day window is practical for DSV's and LWIV's</p> <p>With respect to DSV work there is a real threat of a subsea leak e.g. on a pipeline not getting fixed because we are awaiting a CtL application to be prepared and then approved – there is absolutely no environmental benefit in this and I see nothing in the document which addresses these situations.</p> <p>The increase in activities which require to be covered compared to CPA seems to be unnecessary. Given the Government's 'challenge on red tape' initiative, how can this be justified?</p> <p>Where an ES is involved the proposed change makes sense and is received positively.</p> <p>Is there any scope for the CtL to be a dual consent between the licence operator and the MODU/vessel owner? Given the purpose of this is to ensure no navigational issues arise should more emphasis not be put on the vessel owner than the Operator of the Block where the work is being carried out.</p>	<p>28-day review period. It is therefore not accepted that vessels requiring a CtL will be tied-up in port waiting for consent issue.</p> <p>DECC is aware that there may be circumstances where other approvals are not required, and will take this into consideration when updating the guidance. DECC also has a very good record of dealing with urgent applications that do not satisfy the 28-day requested notification. In all cases, DECC always endeavours to issue approvals to meet the operator's schedule.</p> <p>DECC is aware that there may be circumstances where consents, permits etc are urgently required, and will continue to approve these to prevent a delay in the operations.</p> <p>The navigational bodies were consulted and confirmed that the regime needed strengthening to take account of activities and vessel movements that were not envisaged when the CPA was drafted in 1949, and because the requirements of the regulations were not being fulfilled</p> <p>Comments noted.</p> <p>At the moment, all consents, permits, etc. are issued to the licence operator, and it is their responsibility to ensure that contractors are compliant. However, enforcement action can be taken against third parties if they are considered to be responsible for the non-compliance. In future, under the new EU safety and environment directive, the owner of the non-production facility will have a more formal role in relation to legislative compliance, and we will consider whether this could be relevant to the CtL process.</p>
2.9	Total	<p>TEPUK agrees with the approach relating to the consents, however seeks clarification in the following: Section 4.3 Environmental Statements - In the consultation document it states "the relevant navigational consultees.... will therefore be consulted if any significant navigational issues are identified". TEPUK request clarification of the expectations of DECC as to how these issues will be identified. For example does DECC anticipate that the Environmental Statements will be required to include Vessel Traffic Surveys and Collision Risk Assessments?</p> <p>If so, DECC should consider the potential for a long period between the submission of the ES and the actual installation of the infrastructure and the impact that this will have on the applicability of the VTS and CRA. If not then does DECC anticipate a further full CtL application for the developments covered in the ES, supported by VTS and CRA at a</p>	<p>All ESs are sent to the relevant navigational consultees in order for them to determine if there are any significant issues based on navigational grounds. Operators have always been required to include assessments of impacts on 'other uses of the sea', including potential navigational constraints, for all new developments, pipelines or wells that are subject to an EIA requirement. Whether a VTS and CRA are required at this stage will depend on the project area, and will be at the discretion of the operator preparing the ES. In many cases, general information about shipping levels will be sufficient for the navigational consultees to decide if there are likely to be significant issues, and the VTS and CRA will not be required until the operator applies for the CtL.</p> <p>This is referred to in the above comments. A VTS and CRA are usually considered to be valid for a period of 12 months, as the base data is updated annually. A VTS and, where relevant, a CRA would be required to support a subsequent application for a CtL, before the infrastructure could be located, but is not usually required to support the ES or EIA. We will update the guidance and refer to VTS and CRA validity.</p>

		<p>later stage in the project?</p> <p>Can guidance be provided on the area of coverage for a Vessel Traffic Survey, for example if two well locations are 5nm apart, will one VTS suffice? If the locations are 12nm apart will the same VTS be sufficient?</p>	<p>The guidance will address this issue. A VTS normally considers an area within 10nm radius from the central point of the installation or proposed works, and DECC would have no objections in using one VTS for a number of operations in close proximity. Operators should ask their consultants whether a standard survey would be acceptable for operations 12nm apart, or whether a modified survey could be undertaken to serve that purpose.</p>
2.10	Trinity House	<p>The General Lighthouse Authorities to be included in the list of relevant consultees.</p>	<p>Trinity House and other GLAs are established consultees and this will not change.</p>
2.11	Xcite	<p>The VTS process is very monopolistic and as DECC agree that surveys will be valid for 1 year there should be scope for completed surveys to be published and become available to any future applicants within the one year period.</p> <p>The application process, related application form and 28 day determination period are generally acceptable. With regard to the variation requirement for activities within an existing 500m safety zone for a fixed surface installation when a rig or flotel is to be located within the safety zone of a consented installation it could be argued that a 28 day determination period is not required or appropriate.</p> <p>There's no mention of the application process and its relationship to the Safety Case Regulations 2005, in particular Navigation ID is also addressed in the SC's. Surely there some interface between the two.</p>	<p>DECC has no objection in principle to operators sharing the information, although it is questionable whether developments would be sufficiently close to make sharing a viable proposition. Operators would also need to carefully consider data management and protection rights. This is an industry issue, and will not be addressed by DECC.</p> <p>This type of application would be a variation of an existing consent, and would not be subject to the 28-day review period. Depending on the nature and location of the facilities, it would usually only involve an administrative process, to amend the consent conditions, and the determination would be made at the earliest possible opportunity and before the consent was required by the operator.</p> <p>The Safety Case Regulations are administered by the Health and Safety Executive (HSE) and relate to the installation being fit for purpose and they do not consider navigational issues relating to its proposed location. However, previous CtL consultations have raised issues relating to navigational identification and markings; so we will discuss this with the HSE and, if necessary, address any overlap in the guidance.</p>

Question 3 Do you agree with the approach taken with respect to consent conditions?

	Responder	Comments	DECC Response
3.1	Anatec	It tends to be reasonably standard practice that regular runners are notified. Should this be introduced to the list of possible conditions to increase awareness	Notification of shippers regularly using a route is a condition of some consents. DECC will review the consent documents to confirm that the condition is included in appropriate consents, and will highlight this potential requirement in the guidance.
3.2	Taqa	There is a mention of guard vessels in section 4.9, but the document is vague with regards the issue of what activities specific conditions will be imposed on.	All applications are assessed on a case-by-case basis, and it isn't possible to confirm the activities where the navigational consultees would request additional activity-specific consent conditions. We are not aware of any instances where consultees have requested a guard vessel that hasn't already been included in proposals.
3.3	Trinity House	Trinity House would want to be consulted on all proposed consent types to determine what marking requirements (if any) should apply. (a) Standard Marking Schedule – The additional condition that offshore structures must be marked in accordance with IALA recommendations should be referenced to relevant GLA as there are circumstances when additional marking is required.	Trinity House is already a consultee for all consent types within its area of interest. This is already covered by the existing consultation procedure, which would allow the relevant GLA to identify additional marking requirements.
3.4	Xcite	There is no mention of an appeal process and it is almost certain that miss-interpretation or misunderstandings will occur. Operators should have an opportunity to respond to a proposed Consent determination before the Consent and its conditions are imposed. The extension (c) requirements [for extending consents] are rather demanding.	Operators should be aware of any potential significant navigational issues when preparing EIAs or CtL applications, and can contact EMT to discuss such issues. If they are not identified and the determination is that it is unlikely that consent can be issued, the operator will be notified at once by the Department, and a dialogue initiated with the navigational consultees. As with all other consents, permits etc. administered by EMT, if the operator disagrees with the determination and/or the conditions imposed, EMT can be contacted to discuss the situation. The requirements are in line with how other consents, permits etc. are dealt with. We cannot retrospectively approve operations (it is not legal), so expired approvals cannot be extended. As long as operators request an extension before expiry, the extension will be granted, even if the approval cannot be issued until after the expiry date.

Question 4 Do you agree with the approach taken to accommodate operational changes?

	Responder	Comments	DECC Response
4.1	O&GUK	Reference is made to updates and variations being submitted by an amended copy of the original application. We would be grateful for confirmation that the system will allow retrieval of the original form and up-date for re-submission or whether this would require to be handled in another way?	DECC would expect applications to be submitted via e-mail, and it would be the responsibility of the operator to retain a copy for future reference and potential variation submissions. If applications are 'lost' DECC will be able to provide an electronic copy. When the application process is transferred to the UK Oil Portal, copies will be accessible via the operator's workbasket.
4.2	Shell	We would be grateful if DECC could provide some indication on the timescale of approval for such updates, variations and extensions. Will the approval time be similar to those of PON's?	Depending on the nature and location of the application, determination would be given at the earliest possible opportunity and before it was required by the operator. The timeframe would be similar to other processes administered by EMT (i.e. about 3 days).
4.3	Taqa	Agree with the structure of the changes, e.g. for updates, variations and /extensions. It appears unclear if we would need to submit a variation to extend all the current life permits so that they have no end date?	Comments noted. All surface installations will automatically be issued with life consents, and letters have been sent to industry to implement that process. Existing permanent subsea structures will not be retrospectively issued with life consents, but they will be issued in response to all new applications.
4.4	Total	TEPUK agrees with the approach towards operational changes, however seeks clarification on the following. If the extension required is made during the period of validity of the original consent will a new VTS be required? Can consideration be made to situations where the original VTS is less than 12 months old and to situations where the original consent is valid but the VTS is over 12 months old.	In the vast majority of cases, a new VTS would not be required for a consent extension. However, there could be exceptional circumstances requiring a new VTS, dependent on the navigational sensitivity, the operations that are being undertaken and the duration of the required extension.
4.5	Xcite	Generally the arrangements proposed are satisfactory There would be merit in DECC consulting with an operator when determining the need for wider consultation as there may be flexibility in the modification or change that would ameliorate the need to approach navigational consultees. There's no time frame given for EMT to respond, this could have a serious impact on operations.	DECC will consider whether it would be useful to contact applicants before involving additional consultees. It should also be noted that wider consultation is very rarely necessary, and the routine navigational consultees very rarely object to consent amendments. Please see comments in Q4, Section 4.2. DECC is very aware of the implications of a delay in terms of the impact this may have on operations, and always endeavours to avoid late issue of all consents, permits etc..

Question 5 Do you agree with the procedure for reporting failures of aids to navigation and non-compliance with the consent conditions, and the actions that could be taken in response to such events?

	Responder	Comments	DECC Response
5.1	O&G UK	<p>The suggested notification process would be difficult to achieve and we would suggest that this be amended to require verbal notification within 24 hours, followed by the submission of a completed reporting form within 5 working days.</p> <p>Failure of AtN – Section 5.1 states “immediate notification” of a failure of aids to navigation is required. We assume this means once becoming aware of the failure. Whilst we recognise the importance of speedy reporting, this may distract the crew, especially of a smaller vessel, from seeking a resolution and would therefore seek the qualification “unless actions to secure the safety of people or resolve the AtN failure take precedence where notification within six hours of becoming aware of the failure is acceptable”.</p> <p>Compliance with IAN – Section 5.4 requires compliance within a 24 hour period or as soon as practicable. We do not see the need for the 24 hour requirement to comply with an IAN. Given the resolution may involve offshore or onshore action and the transportation of equipment/personnel the condition “as soon as practicable and in consultation with DECC” would seem to be more appropriate and a specific timescale can be set based upon that consultation. It may also be practical to resolve an issue more rapidly than the 24 hours so, again, this does not drive a resolution based on the circumstances of the event.</p>	<p>The reporting requirements for emergencies and non-compliances will be reviewed to ensure they are in line with other environmental notification processes.</p> <p>As indicated above, DECC will review the requirements to align the notification procedures with other reporting procedures e.g. the PON1, and to acknowledge that notifications should be submitted as soon as the failure is noted. If there is a delay for safety reasons, this should be confirmed in the notification and would be taken into consideration by the Offshore Environmental Inspectorate.</p> <p>The Regulations include “... or as soon after the end of that period [when notice is served] as is reasonably possible”. Both Emergency and Immediate Action Notices will specify reasonable periods to implement the required action, taking account of the circumstances and the severity of the danger to navigation.</p>
5.2	Taqqa	Will there be alternative methods for reporting non-compliance other than via email?	It is eventually hoped that all emergency and non-compliance notifications will be mediated via the UK Oil Portal. Until then, notifications should be submitted by e-mail, and emergency out-of-hours notifications should be supplemented by contacting the on-call Inspector. If e-mail facilities are not available, reports can be submitted by fax.
5.3	Total	TEPUK request that DECC give consideration to the time required for reporting of non safety critical non compliances. If the non compliance is not a safety hazard, then would DECC consider 48 hours a more appropriate timeframe for reporting it to DECC. This would remove the potential requirement for call outs during the weekend.	Please see comments in Q5, Section 5.1.
5.4	Xcite	<p>Generally the arrangements proposed are satisfactory</p> <p>There is no mention of penalties for third parties who infringe on operations when a consent is held by a licensee, or the arrangements for reporting this situation to DECC and other relevant parties. The procedure should address this type of situation.</p>	The consent details the consent holder's obligations, which would extend to third parties acting on behalf of the consent holder. It is not clear what consent conditions could be breached by other third parties. Infringements such as entering safety zones or ignoring navigational requirements should be reported to DECC, but would be dealt with under other legislative regimes.

Question 6: Do you agree with the enforcement proposals?

	Responder	Comments	DECC Response
6.1	O&GUK	Enforcement seems excessive for what could be innocent failings in the process. On page 23 of the consultation document, a due diligence defence is proposed only in relation to bullet point 4 (i.e. where it is an offence to fail to comply with a Direction served by the SoS). It appears then that offences contained in bullets 1 and 5 could still occur whether or not due diligence was exercised. We would suggest that a general due diligence defence may be more suitable.	It should be noted that this comment relates to the legislation rather than the guidance, and there were no objections when Defra consulted on the MCAA, which implemented the amendment to the EA. We would nevertheless point out that a due diligence defence is not relevant to the first three offences (bullet points) detailed in section 6.1, as there is no due diligence justification for undertaking operations without a consent, or knowingly making a false statement or failing / refusing to disclose information relevant to an application. Due diligence is included in relation to the issue of a Direction, but is not appropriate for the issue of an Emergency Safety Notice or an Immediate Action Notice because remedial action is essential within the specified deadline to mitigate the immediate danger to navigation.
6.2	Total	Yes, TEPUK is in agreement with the enforcement principles TEPUK seek clarification on the following: Where the DECC Inspectorate are assigned to inspect compliance with the consent to locate, will additional training be provided to the inspectorate to ensure the team have sufficient specialist marine knowledge for the inspection.	DECC works closely with the navigational consultees, who already undertake annual AtN inspections using their own vessels. DECC will ensure that its Inspectors are fully aware of the consent requirements, and that they seek advice from the navigational consultees as and when required.
6.3	Xcite	There is no mention of penalties for third parties flagrantly ignoring the consent. Non-compliance of 3rd parties should be addressed The linkage with GLA (General Lighthouse Authority) annual inspections is appropriate	This was addressed in response to Xcite's previous comments (see comments in Q5, Section 5.2 Comments noted.

Question 7: Do you have any other comments on the proposals put forward in this consultation document, including the annexed documents? Are there other issues which should be covered by the consenting regime that are not addressed? All comments will be taken into consideration, and there is no requirement to restrict your comments to the specific questions detailed in the consultation document.

	Responder	Comments	DECC Response
7.1	British Marine Aggregate Producers Association	<p>As the consultation document explains, ‘...the issue of a ‘Consent to Locate’ (CtL) to an individual or organisation by the DECC Secretary of State under Part 4A of the Energy Act 2008 (EA) indicates that the impact of the proposals with respect to navigation has been considered, and that no significant obstruction or danger is anticipated as a consequence of the proposed offshore structure or operations providing they are undertaken in accordance with the consent conditions’. The marine aggregate industry operates and manages licensed or exclusive option areas in many regions where offshore oil and gas interests occur – most notably in the Southern North Sea/English Channel, the Celtic/South Irish Sea and the North Irish Sea. As a consequence, there are a range of broad navigation safety issues that will inevitably arise as both interests seek to develop and operate in close proximity to one another. As a sector, we believe that the potential navigational risks and impacts of new oil and gas developments on marine aggregate activities and interests have not always been appropriately considered in the past.</p> <p>In terms of the spatial extent of the aggregate industry’s interest, these can be considered at three distinct levels:</p> <ul style="list-style-type: none"> • Production areas from which material is actively being dredged. These comprise an exclusive Crown Estate Production Agreement, coupled with a Marine Licence issued by the Marine Management Organisation/Welsh Government. The limits of these, together with the operators’ details are freely available from the Crown website. • Application areas represent areas for which a Marine Licence is actively being sought by the developer, following award of an exclusive option agreement by The Crown Estate. The consent process itself can take anything between 5-10 years to complete. • Prospecting areas are awarded by The Crown Estate under a similar tendering process to offshore wind farm options. They provide developers with the exclusive right to prospect for marine mineral resources, the discovery of which will normally lead to the application status referred to above. <p>Beyond the immediate potential for direct interaction with marine</p>	<p>DECC have been working with the CE and individual marine aggregate and oil and gas developers to establish a better understanding between the two industries and to promote dialogue to resolve any conflict of interest issues. These issues should be, and are now being, captured at the development approval stage in the environmental statements, in advance of any activity-based applications such as the CtL.</p> <p>We are aware of the levels described, but are reproducing the text of your submission for the benefit of oil and gas operators. We already include links to the CE website in the environmental section of our website, to encourage operators to take dredging interests into consideration and initiate dialogue with the aggregate extraction operators.</p>

		<p>aggregate interests through the placing of permanent/fixed surface and subsurface structures and infrastructure within exclusive option areas, there is also significant potential for indirect conflict with marine aggregate operations should such developments take place nearby. From a production perspective, a dredging licence for 1 million tonnes/year could see 200 cargoes of 5,000 tonnes being dredged – each representing 4-8 hours on site. Dredging vessels therefore require the ability to safely access and operate within areas of exclusive use while dredging operations are underway.</p> <p>In a broader sense, the potential for interaction with the marine aggregate industry also needs to be considered even when a development site may appear to be considerably distant from existing or planned aggregate interests. The British fleet of marine aggregate dredgers totals some 25 vessels, all of which operate in coastal waters. In producing over 20 million tonnes of marine aggregate every year, some 7000 cargoes are dredged – equivalent to 4-5 cargoes per vessel every week. Dredgers are therefore constantly transiting British coastal waters, as they navigate between production licence areas and the various ports being supplied. To illustrate of the level of use, in 2011 wharf facilities in the River Thames received just under 7 million tonnes of marine aggregate – equivalent to 1400 cargoes of 5,000 tonnes. This represents nearly 4 cargoes (or 8 vessel movements in the region) per day, 365 days a year.</p> <p>We trust that you find this response helpful in developing an appropriate way forward which ensures that all matters of navigational risk and safety are fully taken into account through the Consent to Locate process. However, if you require further information please do not hesitate to contact the undersigned.</p>	<p>The CtL process acknowledges the importance of informing other users of the sea, and appropriate Notices to Mariners are issued prior to proposed activities.</p> <p>Comments noted – thank you.</p>
7.2	Centrica	<p>Main concern is a practical observation of the Irish Sea region in relation to the need for seeing the bigger picture of marine spatial planning. With conservation zones, fishing, oil and gas, wind farms, extraction, tourism etc etc all tripping over each other and causing temporary and permanent clashes, the whole offshore planning process, environmental statement evaluations and strategic objectives for all sectors need to be taken into proper consideration and aligned between regional governments and the different sectors.</p>	<p>Comments noted and agreed. Conflicting interests are a significant issue, particularly in the Irish Sea area, and are becoming increasingly important in the preparation of robust environmental statements. We believe that the strategic importance of the UK's oil and gas reserves is acknowledged, and this is reflected in the approval of proposed developments.</p>
7.3	Crown Estate	<p>The Crown Estate welcomes the opportunity to contribute to this consultation and believes that overall the document is a positive step forward in reducing unnecessary regulatory burden. We have a good working relationship with the Department of Energy and Climate Change (DECC) and engage with them on matters relating to offshore oil and gas infrastructure and associated licensing rounds. We would wish to see this engagement extended to cover licensed activities in Part 4a of the Energy Act 2008 and we are happy to provide any</p>	<p>Comments noted – thank you.</p>

		<p>additional information as useful to DECC in the development of their guidance.</p> <p>As per the marine planning comments made against question 2, with increasing competition for space and a variety of temporary works being undertaken for a range of activities, health and safety considerations are paramount,. we welcome the pragmatic consideration of navigational risk in the process for determining applications. We feel it will be important to direct the applicant to early consideration of any statutory marine plan, or marine plan development, but also the activities referenced with the plan. Early engagement with other marine users and developers will minimise conflict and increase early mitigation against any navigational risk.</p> <p>We wish to emphasise that navigational risk should be a broad term used to cover a variety of vessel operations including dredging, renewable installation and other marine uses and not restricted to shipping activity. Navigation risk referenced within the proposed guidance needs to be broader than just shipping, and we would suggest that all other vessel related activities are considered.</p>	<p>These considerations in relation to activities where there could be conflict are addressed at an earlier stage in the process, in the Environmental Statement. We agree that early engagement with other marine users and developers will minimise conflict and mitigate any conflict or navigational safety risk, and this will be emphasised in the guidance.</p> <p>The guidance will address these issues, although we feel they are better addressed in other regulatory processes. The CtL process is primarily concerned with safe navigation, but includes a number of notification processes to provide adequate warning to other users of the sea.</p>
7.4	Renewables UK	<p>We suggest amending paragraph 4.3 along the lines of: “In the case of ESSs that relate to the approval of a Field Development Plan (FDP), a Gas Storage Development Plan (GSDP) or a Carbon Dioxide Storage Permit (CDSP), DECC Licensing, Exploration and Development (LED) will need to be content that there are no significant environmental or navigational issues at this stage in the project’s planning and development, and the navigational consultees will always be consulted and asked to provide their initial comments, to ensure that there are no potential ‘show-stoppers’ on navigational grounds. <i>It is also recommended that applicants discuss their proposals with any offshore wind developers.</i> This early consultation will also provide the operator with notification of any project-specific conditions that may be requested by the navigational consultees.”</p> <p><i>Section 4.4 b) Supporting information</i> could also be helpfully amended as this paragraph notes that applicants should be aware that some blocks or sub-blocks may lie within a designated MOD “Danger Area” and encourages early dialogue with the MOD. We suggest that it would also useful to highlight that some blocks lie with areas leased for offshore wind farms and that operators should be encouraged to discuss their development proposals with the offshore wind developers. It may also be worth noting that offshore wind farm sites, particularly during construction, can dramatically increase the vessel traffic in an area and that this may need to be considered within any Navigation Risk Assessment.</p>	<p>Comments noted. The guidance will be amended,</p> <p>Comments noted. The guidance will be amended,</p>
7.5	Shell	<p>We would be grateful if DECC could give an indication of when this CtL</p>	<p>Industry will be informed in advance of when the relevant changes will be put into place.</p>

		<p>process is to be adopted to enable us time to ensure we comply.</p> <p>One item to question – section 5.1 “EERV” – should this be “ERRV”?</p>	<p>There was some discussion with regard to terminology and Emergency Evacuation and Response Vessel (EERV) was used for consistency. However, the term Emergency Response and Rescue Vessel (ERRV) is considered to be equivalent.</p>
7.6	Talisman	<p>CtL5 application form within the annex – In the form for location of the proposed operations it states ‘Start of pipeline system or cable’ twice, should the latter location not relate to the proposed ‘End’ of the pipeline or cable system?</p> <p>Also can DECC advise if there will be a charging scheme for the issue and maintenance of these consents?</p>	<p>Comments noted - thank you.</p> <p>Part 4A of the Energy Act 2008 does not include a charging mechanism, but cost recovery is being considered in relation to a number of environmental requirements to accompany the regulatory amendments necessary to implement the new EU safety and environment directive.</p>
7.7	Trinity House	<p>The GLA inspections are carried out by the GLAs on behalf of DECC who are advised of all non compliance. The GLAs notify the operators immediately of any significant failures. The full inspection results are also forwarded to DECC for the necessary course of action.</p> <p>These are our initial comments on the proposals but please do not hesitate to contact me if you wish to discuss these matters further.</p>	<p>Comments noted. We will ensure this is reflected in the guidance.</p> <p>Comments noted.</p>
7.8	Xcite	<p>Given the current consultation on cost recovery for other consents it is reasonable to ask when it is envisaged CtLs will be subject to a charging regime.</p> <p>The revised regime, described in the consultation document, will impose additional demands on DECC personnel. How will this be addressed? Does the organisation have the capability to absorb this additional workload or will additional staff be required?</p>	<p>Please see comments in Q7, Section 7.6.</p> <p>The Department does not consider that the new regime will result in significant additional administrative or assessment burdens, but inspection and enforcement procedures will become part of the compliance regime. The CtL process is also currently being transferred to the UK Oil Portal, for roll-out at the end of September 2013, which should reduce the administrative burden for both DECC and operators and make the entire process more efficient.</p>

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