



Ministerie van Economische Zaken
en Klimaat

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**Ministerial Order of the Minister for Climate and Energy Policy of ,
no. WJZ/ , containing rules regarding the offshore wind energy permit
for Hollandse Kust (west) Wind Farm Site VI (Ministerial Order for
granting the offshore wind energy permit for Hollandse Kust (west) Wind
Farm Site VI)**

The Minister for Climate and Energy Policy,

Having regard to Section 10(2) and (3), Section 12a (2), (5), and (6), Section 14(2), Section 14a(2), Section 15a(2) and (4), and Section 25b(3) and (4) of the Offshore Wind Energy Act (*Wet windenergie op zee*);

has decided as follows:

Article 1

In this Ministerial Order, the following terms shall have the following meanings:

Wind Farm Site VI: Wind Farm Site VI of the Hollandse Kust (west) Wind Farm Zone as indicated in Wind Farm Site Decision VI for the Hollandse Kust (west) Wind Farm Zone (Government Gazette 2022, no. 4381);

Minister: the Minister for Climate and Energy Policy;

P50 value net electricity production: expected annual energy production for a particular offshore wind farm at a specific location, determined with a probability of 50%;

Act: Offshore Wind Energy Act.

Article 2

An application for a permit for Wind Farm Site VI shall be submitted in the period between 14 April 2022 and 12 May 2022, 17:00 CET.

Article 3

1. The design for the wind farm, as referred to in Section 12a(4a) of the Act, shall at least include:

a. A wind energy yield calculation prepared by an independent organisation with expertise in the field of wind energy yield calculations, with use made of reputable calculation models, environmental models, wind models, and wind maps, and which contains at least the location data, make, type, and technical specifications of the wind turbines, including axis height, rotor diameter, and capacity curve, the local wind data for the wind farm, and a calculation of the P50 value for net electricity production of the wind farm;

b. Documents demonstrating the applicable Wind Farm Site Decision is being complied with;

c. Information demonstrating the declaration referred to in Section 6.16d(1)(c) of the Water Decree (*Waterbesluit*) can be submitted in good time.

2. In calculating the P50 value for net electricity production, the availability, wake effects, electricity losses, and curtailment losses are taken into account; for the wake effect, only the wind farm for which the application is made is taken into account.

3. The timetable for construction and operation of the wind farm, as referred to in Section 12a(4)(b) of the Act, shall include dates for the following activities:

- a. The wind farm operator's agreement to the offshore grid operator's conditions for connection and transmission of electricity, in accordance with the Electricity Act 1998 (*Elektricitwet 1998*);
 - b. Awarding contracts to suppliers and installers;
 - c. Installation of the first foundation;
 - d. Installation of the first wind turbine;
 - e. Start date for electricity supply;
 - f. Full commissioning of the wind farm; and
 - g. Decommissioning of the wind farm.
4. The estimate of costs and revenue, as referred to in Section 12a(4)(c) of the Act, shall at least contain an operation calculation including:
- a. Specification of the investment costs for each component of the offshore wind farm;
 - b. An overview of all costs and benefits of the offshore wind farm;
 - c. A calculation of the return on investment over the project period.
5. The parties involved in the construction and operation of the wind farm, as referred to in Section 12a(4)(d) of the Act, shall include:
- a. The applicant and, if the applicant is a partnership, each participant in the partnership;
 - b. The party responsible for project management;
 - c. The supplier of the wind turbines;
 - d. The installer of the wind turbines;
 - e. The supplier of the foundations;
 - f. The installer of the foundations;
 - g. The supplier of the infield cabling;
 - h. The installer of the infield cabling; and
 - i. The party responsible for operation and maintenance of the wind farm.
6. The description of the knowledge and experience of the parties involved, as referred to in Section 12a(4)(e) of the Act, relates to knowledge and experience of offshore wind farms and shall include:
- a. The installed capacity of the wind farms for which the party responsible for project management during construction performed the project management;
 - b. The number of wind turbines supplied by the supplier;
 - c. The number of wind turbines installed by the installer;
 - d. The number of foundations produced by the supplier;
 - e. The number of foundations installed by the installer;
 - f. The number of offshore electricity connections for which the supplier supplied cabling;
 - g. The number of wind turbines connected by the installer of the infield cabling; and
 - h. The cumulative installed capacity of wind farms which the party responsible for operations and maintenance has operated and maintained.

Article 4

In addition to that which is stated in Section 12a(4) of the Act and Article 3, applications shall also include the following:

- a. A summary of the construction, operation, and decommissioning of the wind farm;
- b. A financing plan, including the intended investors and the share they are expected to contribute;
- c. If the applicant is a partnership, a statement of participation in the partnership signed by each participant;
- d. The most recently adopted financial statements of the applicant, its parent company, each of the participants in the partnership, or their parent companies,

for a year no more than three calendar years prior to the year in which the application is submitted.

e. Where applicable, a description of the investments which contribute to the ecology of the North Sea;

f. Where applicable, a description of the innovations which contribute to the ecology of the North Sea; and

g. Where applicable, proof of financial guarantees given by the parent organisation or organisations.

Article 5

1. The cost for processing an application for a permit, as referred to in Section 12a(6) of the Act, is €0.

2. The period referred to in Section 14(1)(d) of the Act is 48 months after the permit has become irrevocable.

Article 6

1. The assessment of the technical feasibility of the construction and operation of a wind farm shall in any case take account of the following:

a. The design for the wind farm submitted by the applicant, as referred to in Section 12a(4)(a) of the Act;

b. The information submitted by the applicant with regard to its knowledge and experience of offshore wind farms, as referred to in Article 3(6).

2. The assessment of the financial feasibility of the construction and operation of a wind farm shall, in any event, take account of the estimate submitted by the applicant of the costs and revenue, as referred to in Section 12a(4)(c) of the Act, and the data referred to in Article 4(b), (c), and (d). The applicant's equity capital shall amount to at least 20% of the total investment costs for the wind farm to which the application relates.

3. At the applicant's request, the following factors will be taken into account when determining the equity capital referred to in the second paragraph:

a. If the applicant is a partnership, the equity capital of each of the participants in the partnership;

b. If the applicant or a participant in a joint venture is a subsidiary company, the additional equity capital of the parent company, provided the parent company assents to such in writing.

4. The assessment relating to if it will be feasible to start construction and operation of the wind farm within four years of the date on which the permit becomes irrevocable shall, in any event, take account of the timetable proposed by the applicant, as referred to in Section 12a(4)(b) of the Act.

5. The assessment of the economic feasibility of the construction and operation of a wind farm shall, in any event, take account of the estimate submitted by the applicant of the costs and revenue, as referred to in Section 12a(4)(c) of the Act.

Article 7

1. Award of a permit shall be undertaken subject to application of the procedure that combines a comparative assessment with a financial bid.

2. In addition to Section 25b(2) of the Act, when ranking applications, the Minister takes into account the contribution of the applicant's project to the ecology of the North Sea from the wind farm at Wind Farm Site VI.

3. The applicant's project shall be regarded as contributing to the ecology of the North Sea only:

- a. To the extent that an investment or innovation is made within Wind Farm Site VI; and
 - b. Where the timetable for implementation of the project shows an investment or innovation becomes operational no later than 60 months after the date on which the permit becomes irrevocable.
4. If, or in so far as, the project referred to in the third paragraph involves the demonstration of an innovation, the project plan shall indicate that when carrying out a demonstration this will include a prototype in an operational environment in the form of a pilot project.

Article 8

1. The respective weighting of the ranking criteria, as referred to in Section 25b(2)(a), (b), and (c) of the Act and Article 7(1) and (2), shall take place in accordance with the rating in points as set out in the Appendix. The higher the score, the higher the ranking.
2. Where, during the ranking of applications based on the respective weighting of the ranking criteria, as referred to in paragraph 1, two or more applications are ranked equal highest, the criterion specified in Section 7(2) of the Act shall have greater weight than the criteria specified in Section 25b(2)(a), (b), and (c) combined.
3. Where, in application of the second paragraph, two or more applications are ranked equal highest, the criterion specified in Section 25b(2)(c) of the Act shall have greater weight than the criteria specified in Section 25b(a) and (b) of the Act.
4. Where, in application of the third paragraph, two or more applications are ranked equal highest, the criterion specified in Section 25b(2)(b) of the Act shall have greater weight than the criterion specified in Section 25(2)(a) of the Act.
5. Where, in application of the fourth paragraph, two or more applications are ranked equal highest, the rating in points for the financial bid made shall have greater weight.

Article 9

1. The costs referred to in Section 10(1) of the Act are €13,465,191.35.
2. The party to whom the permit is granted shall pay the costs into an account identified by the Minister, no later than the day on which the period stipulated in Section 10(2) expires.

Article 10

1. The amount of the bank guarantee referred to in Section 15a(1) of the Act is €70,000,000.
2. The period within which the bank guarantee is to be provided is four weeks after the date on which the Minister granted the permit.
3. The period for which the bank guarantee is to be provided shall end no later than the date on which the Minister is informed that the wind farm has been fully commissioned.
4. The amount of the bank guarantee to be forfeited under Section 15a(4) of the Act is:
 - a. €7,000,000 for each period within which the holder of the permit fails to perform the activities specified in the permit for that period; and
 - b. €7,000,000 for each month following the period within which, according to the permit, the construction of the wind farm must be completed.

Article 11

This Ministerial Order shall enter into effect on 1 April 2022.

Article 12

This Ministerial Order is referred to as: Ministerial Order for Granting the Offshore Wind Energy Permit for Hollandse Kust (west) Wind Farm Site VI.

This Ministerial Order and associated explanatory notes will be published in the Government Gazette.

The Hague

The Minister for Climate and Energy Policy

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Appendix to Article 8(1) of the Ministerial Order for Granting the Offshore Wind Energy Permit for Hollandse Kust (west) Wind Farm Site VI

Respective weighting of the ranking criteria specified in Section 25b(2)(a), (b) and (c) of the Act and Article 7 (1) and (2) of the Ministerial Order

Table 1

Criterion: Amount of the financial bid (Section 25b(2) of the Act) Maximum score: 20				
		Qualitative criteria	Assessment criterion	Score
1	Amount of the financial bid	Amount of the financial bid	Less than €2.5 million	0
			≥ €2.5 million and < €5 million	1
			≥ €5 million and < €7.5 million	2
			≥ €7.5 million and < €10 million	3
			≥ €10 million and < €12.5 million	4
			≥ €12.5 million and < €15 million	5
			≥ €15 million and < €17.5 million	6
			≥ €17.5 million and < €20 million	7
			≥ €20 million and < €22.5 million	8
			≥ €22.5 million and < €25 million	9
			≥ €25 million and < €27.5 million	10
			≥ €27.5 million and < €30 million	11
			≥ €30 million and < €32.5 million	12
			≥ €32.5 million and < €35 million	13
			≥ €35 million and < €37.5 million	14
			≥ €37.5 million and < €40 million	15
			≥ €40 million and < €42.5 million	16
			≥ €42.5 million and < €45 million	17
			≥ €45 million and < €47.5 million	18
≥ €47.5 million and < €50 million	19			
≥ €50 million	20			

Table 2

Criterion: Certainty of the wind farm being completed (Section 25b(2)(b) of the Act) Maximum score: 40				
		Qualitative criteria	Assessment criterion	Score
1	Knowledge and experience of the parties responsible for project management	These parties have been responsible for the project management of offshore wind farms	These wind farms have a combined capacity of less than 25 MW	0
			These wind farms have a combined capacity of 25 MW or more	3
2	Knowledge and experience of foundation suppliers	These parties have supplied foundations for offshore wind farms	Fewer than 10 foundations have been supplied	0
			Ten or more foundations have been supplied	1
3	Knowledge and experience of the foundation installers	These parties have installed foundations for offshore wind farms	Fewer than 10 foundations have been installed	0
			Ten or more foundations have been installed	1
4	Knowledge and experience of the wind turbine suppliers	These parties have supplied wind turbines for offshore wind farms	Fewer than ten wind turbines have been supplied	0
			Ten or more wind turbines have been supplied	1
5	Knowledge and experience of the wind turbine installers	These parties have installed wind turbines for offshore wind farms	Fewer than ten wind turbines have been installed	0
			Ten or more wind turbines have been installed	1
6	Knowledge and experience of suppliers of the cables which connect the individual wind turbines and link them to the substation platform	These parties have supplied cables which are used for offshore electricity connections	Cables supplied for fewer than ten offshore connections	0
			Cables supplied for ten or more offshore connections	1
7	The knowledge and experience of installers of the cables which connect the individual wind turbines and link them to the substation platform	These parties have installed cables which connect individual wind turbines and link them to an offshore substation platform	Cables installed for the connection of fewer than ten wind turbines to a platform	0
			Cables installed for the connection of ten or more wind turbines to a platform	1
8	Knowledge and experience of the parties responsible for	These parties have been responsible for operation and maintenance of offshore wind	Experience of operating and maintaining offshore wind farms with a combined capacity of less than 25 MW	0

	the operation and maintenance of the wind farm	farms	Experience of operating and maintaining offshore wind farms with a combined capacity of 25 MW or more	1
9	Financial strength of the party or parties responsible for project management	The party's equity capital in proportion to the wind farm investment costs	The equity capital amounts to less than 20% of the investment costs	0
			The equity capital amounts to at least 20% but less than 40% of the investment costs	3
			The equity capital amounts to at least 40% and less than 60% of the investment costs	6
			The equity capital amounts to at least 60% but less than 80% of the investment costs	9
			The equity capital amounts to at least 80% but less than 100% of the investment costs	12
			The equity capital amounts to at least 100%	15
10	Financial guarantees provided by the group	The parent organisation(s) have/has issued a Parent Company Guarantee which meets the following requirements: -The guarantee must be unconditional. -The guarantee must be governed by Dutch law. -The guarantee must apply during the entire wind farm construction period.	The guarantee has been issued for a sum of less than €100,000,000	0
			The guarantee has been issued for a sum at least €100,000,000 but less than €200,000,000	3
			The guarantee has been issued for a sum at least €200,000,000 but less than €300,000,000	6
			The guarantee has been issued for a sum at least €300,000,000 but less than €400,000,000	9
			The guarantee has been issued for a sum at least €400,000,000 but less than €500,000,000	12
			The guarantee has been issued for a sum at least €500,000,000	15

Table 3

Criterion: The wind farm's contribution to energy supply (Section 25b(2)(c) of the Act)					
Maximum score: 40					
		Qualitative criteria	Assessment criterion	Score	
1	The wind farm's contribution to energy supply	The calculated P50 value for annual net electricity production supplied to the offshore grid	Less than 3,000,000 MWh a year	2	
			Equal to or greater than 3,000,000 MWh and less than 3,100,000 MWh a year	8	
			Equal to or greater than 3,100,000 MWh and less than 3,200,000 MWh a year	16	
			Equal to or greater than 3,200,000 MWh and less than 3,300,000 MWh a year	24	
			Equal to or greater than 3,300,000 MWh and less than 3,400,000 MWh a year	32	
			Equal to or greater than 3,400,000 MWh a year	40	

Table 4

Criterion: The contribution to the ecology of the North Sea (Section 25b(3) of the Act and Article 7(2) of the Ministerial Order)						
Maximum score: 100						
		Qualitative criteria	Assessment criterion	Subcategories	Score	
1	Stimulation of investments in Wind Farm Site VI in addition to the measures prescribed in the Hollandse Kust (west) Wind Farm Site Decision VI to benefit naturally occurring biodiversity in the Dutch part of the North Sea (species, populations and habitats)	<p>The investments potentially contribute towards:</p> <ul style="list-style-type: none"> limiting negative impacts on the conservation of species and populations protected under the EU Birds Directive (BD) and the EU Habitats Directive (HD); <p>or</p> <ul style="list-style-type: none"> promoting positive effects on the conservation of marine habitat types under the EU Habitats Directive or promoting positive effects on the 	<p>Potential impact of the investment in Wind Farm Site VI on:</p> <ul style="list-style-type: none"> limiting negative impacts on the conservation of species and populations (BD/HD); <p>or</p> <ul style="list-style-type: none"> promoting the conservation of marine habitat types (HD) and/or of a good environmental status (MSFD; fish community; benthic habitats) in the Dutch part 	The potential impact of the investments on the reduction or prevention of negative effects on the populations referred to in Section 7.5.8 of the Hollandse Kust (west) Wind Farm Site Decision VI of the species listed in Appendix I to the Site Decision	0-6	0-30
				The potential impact of the investments on promoting <ul style="list-style-type: none"> a favourable national conservation status for marine habitat types H1110 or H1170 (HD) or of a good environmental 	0-4	

		<p>environmental status (EU Marine Strategy Framework Directive, MSFD) in the Dutch part of the North Sea for the 'fish community' and/or 'benthic habitats'.</p> <p>The investments are integrated into the design, construction, and operation of the planned offshore wind farm (including site cabling and an armour layer for erosion protection) within Wind Farm Site VI.</p> <p>The permitted turbine dimensions (bandwidth), the number of turbines, and the maximum swept area for each wind farm site, laid down as binding in Regulation 3 of the Wind Farm Site Decision are not taken into account.</p> <p>The investment must become operational no later than 60 months after the date on which the permit becomes irrevocable.</p>	<p>of the North Sea.</p>	<p>status (MSFD) in the Dutch part of the North Sea for the fish community (overarching or D1C2 or D1C3) or for benthic habitats (overarching or D6C3 or D6C5), as formulated in Marine Strategy, Part 1 (2018)</p>		
			<p>The extent to which it is demonstrated the investment can be successfully applied in an operational environment.</p>		0-10	
			<p>The extent to which it is clear what specific, measurable, and time-bound progress the investment will make and how that will be made known during the execution of the investment.</p>		0-10	
		<p>The extent to which knowledge and experience regarding the investments is shared.</p> <p>The aforementioned ecological knowledge and experience is relevant in relation to:</p> <ul style="list-style-type: none"> the desire to limit negative effects on the conservation of species and populations protected under the EU 	<p>The extent to which knowledge and experience helps close knowledge gaps (including those in the Site VI EIA) and takes place in conjunction with existing research projects.</p>			0-10

		<p>Birds Directive (BD) and the EU Habitats Directive (HD);</p> <p>or</p> <ul style="list-style-type: none"> • promoting positive impacts on the conservation of marine habitat types under the EU Habitats Directive; <p>or</p> <ul style="list-style-type: none"> • promoting positive effects on the environmental status (EU Marine Strategy Framework Directive, MSFD) in the Dutch part of the North Sea for the 'fish community' and/or 'benthic habitats'. 	<p>The quality of a dissemination and communication plan, including the extent to which the plan describes the knowledge to be shared in specific, measurable, and time-bound terms; plus the extent to which the target groups have been specified and the resources that are in line with this.</p>			
2	<p>Stimulation of innovation and the development of solutions to benefit naturally occurring biodiversity in the Dutch part of the North Sea (species, populations and habitats) from Wind Farm Site VI and future Dutch offshore wind farms</p>	<p>A contribution towards the development and/or demonstration of innovative solutions in relation to:</p> <ul style="list-style-type: none"> • mitigating negative effects on the conservation of species and populations protected under the EU Birds Directive (BD) and the EU Habitats Directive (HD) and enhancing positive effects on the conservation of marine habitat types under the EU Habitats Directive <p>or</p> <ul style="list-style-type: none"> • promoting positive effects on the environmental status (EU Marine Strategy Framework Directive, MSFD) in the Dutch 	<p>Potential impact of the contribution towards the development and/or demonstration of the innovation from the Hollandse Kust (west) Wind Farm Site VI and offshore wind farms in the future if the innovation is made market ready on:</p> <ul style="list-style-type: none"> • limiting negative effects on the conservation of species and populations (BD/HD); <p>or</p> <ul style="list-style-type: none"> • promoting the conservation of marine habitat types (HD) and/or of the environmental 	<p>The potential impact of the innovation and/or knowledge development on the reduction or prevention of negative effects on the populations referred to in Section 7.5.8 of the Hollandse Kust (west) Wind Farm Site Decision VI of the species listed in Appendix I to the Site Decision.</p>	0-12	0-50
				<p>The potential impact of the innovation or knowledge development on the promotion of:</p> <ul style="list-style-type: none"> • a favourable national conservation status for marine habitat types H1110 and/or H1170 (HD) <p>or</p> <ul style="list-style-type: none"> • a Good Environmental 	0-6	

		<p>part of the North Sea for the 'fish community' and/or 'benthic habitats'.</p> <p>When carried out, each demonstration should at least include the demonstration of a prototype in an operational environment (TRL7) in the form of a pilot.</p> <p>Other innovations and solutions that cannot be managed at a TRL level must have been sufficiently developed for application in an operational environment.</p> <p>The demonstration and applications of solutions must become operational no later than 60 months after the date on which the permit becomes irrevocable.</p> <p>The innovations will be integrated into the design, construction, and operation of the offshore wind farm to be completed by the permit holder (including the rock armour to protect against erosion and site cabling) within Wind Farm Site VI.</p> <p>The permitted turbine dimensions (bandwidth), the number of turbines, and the maximum swept area for each wind farm site, laid down as binding in regulation 3 of the Wind Farm Site Decision are not taken into account.</p>	<p>status (MSFD; fish community; benthic habitats).</p>	<p>Status (MSFD) in the Dutch part of the North Sea for the fish community (overarching or D1C2 or D1C3) or benthic habitats (overarching or D6C3 or D6C5, as formulated in Marine Strategy, Part 1 (2018)</p>		
			<p>The ingenuity and inventiveness of the innovation in comparison with best products, services, or processes currently available on the market</p>			0-8
			<p>The extent to which the innovation is based on latest scientific knowledge at the time of submitting the application</p>			0-8
			<p>The extent to which it is demonstrated the innovation can be successfully applied in an operational environment, on the one hand through substantiation based on the literature, on the other hand through monitoring effectiveness following installation of the pilot</p>			0-8
			<p>The extent to which it is clear what specific, measurable, and time-bound progress the demonstration will make and how that will be made known during the execution of the innovation</p>			0-8
		<p>The extent to which knowledge and experience regarding the innovation demonstrated is shared.</p>	<p>The extent to which knowledge and experience helps close knowledge gaps</p>			0-10

		<p>The aforementioned ecological knowledge and experience is relevant in relation to:</p> <ul style="list-style-type: none"> the desire to limit negative effects on the conservation of species and populations protected under the EU Birds Directive (BD) and the EU Habitats Directive (HD); <p>or</p> <ul style="list-style-type: none"> promoting positive effects on the conservation of marine habitat types under the EU Habitats Directive; <p>or</p> <ul style="list-style-type: none"> promoting positive effects on the environmental status (EU Marine Strategy Framework Directive, MSFD) in the Dutch part of the North Sea for the 'fish community' and/or 'benthic habitats' <p>At the time of submitting the application, the contribution must be additional to or take place in close cooperation with existing research.</p>	<p>(including those in the Site VI EIA) and takes place in conjunction with existing research projects</p> <p>The quality of a dissemination and communication plan, including the extent to which the plan describes the knowledge to be shared in specific, measurable, and time-bound terms; plus the extent to which the target groups have been specified and the resources that are in line with this</p>			
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2. Indicative values on a continuous scale from 0 to 100 expressed as percentages for the criteria referred to in Section 25b(4) of the Act and for part 2 in the 'Criterion: the wind farm's contribution to the ecology of the North Sea' table, referred to in part 1 of this Appendix:

Indicative interim values on a continuous scale	
Excellent, with added value	100%
Very good, with some added value	90%
Good	80%
Very satisfactory	70%
Satisfactory	60%
Average	50%
Unsatisfactory	40%
Very satisfactory	30%
Poor	20%
Very poor	10%

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EXPLANATORY NOTES

1. Background and objective

On 27 March 2018, with the publication of the Offshore Wind Energy Roadmap 2030, the Rutte III Cabinet acted upon its ambition to make more wind farm sites available for offshore wind energy.¹ The great potential offshore wind has to offer in achieving the 2030 and 2050 climate goals was confirmed in the Climate Agreement, published on 28 June 2019. The Climate Agreement includes a package of measures with the broadest possible public support, which has the active support of as many contributing parties as possible, and with which the Government's greenhouse gas reduction target of 49% will be achieved in 2030. To realise this target, under the Climate Agreement, it has been agreed to scale up electricity production from renewable sources to 84 TWh by 2030. Offshore wind will account for 49 TWh of this.

The European Climate Law² sets a target for EU member states of reducing CO₂ emissions by 55% by 2030, which may require more offshore wind farms. This will be subject to prerequisites such as sufficient space for nature and fisheries, as well as sound administrative agreements on spatial planning. Under the Dutch Climate Agreement, it has been agreed that the 2030 Roadmap will have been implemented by end 2030. It has also been agreed that offshore wind will be further scaled up after 2030. This will be conditional upon the construction of new large wind farms being dependent on, and ideally coinciding with, the growing demand for green energy. Lastly, the 2021-2025 Coalition Agreement – Looking out for each other, looking ahead to the future (Omzien naar elkaar, vooruitkijken naar de toekomst), published on 15 December 2021, focuses on additional offshore wind energy.

Hollandse Kust (west) Wind Farm Site VI, under the 2030 Roadmap, and the further development of offshore wind energy, builds on the Energy Agreement concluded in 2013 and the subsequent award to date of nine wind farm sites and the innovation site: Borssele Sites I, II, III, and IV, Borssele Innovation Site V, Hollandse Kust (zuid) Sites I, II, III, and IV, and Hollandse Kust (noord) Site V.

With the Supporting Offshore Wind Energy Declaration of 30 June 2021 (Government Gazette 424), amending the Offshore Wind Energy Act, coming into force on 11 November 2021, the full legal framework underpinning the roll-out of offshore wind was updated to allow for changing circumstances and takes greater account of further possible changes in the future. For example, the number of procedures for issuing a permit has been increased in order to deal more effectively with the situation where offshore wind energy no longer needs subsidies. The amended Act provides for four procedures for granting permits for sites: an auction process, a comparative assessment with a financial bid, a comparative assessment without a financial bid, and a procedure linked to subsidies. The new division of powers of ministers has also been established and the Act has been modified to accommodate energy carriers other than electricity.

¹ 2017–2021 Coalition Agreement: Vertrouwen in de toekomst[Trust in the future]

² Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999.

This Ministerial Order is one of two for granting a permit for a wind farm site under the 2030 Roadmap and one of the first two based on the new principles in the Offshore Wind Energy Act (hereinafter referred to as the Act). The other is the Ministerial Order for granting the offshore wind farm permit for Hollandse Kust(west) Site VII and it will be published simultaneously with this one.

This Ministerial Order adopts a procedure without subsidy. Of the three permit procedures without a subsidy, this Ministerial Order uses the procedure with a comparative assessment plus financial bid. Given current market conditions, the scarcity of space in the North Sea, and the substantial competition for it, as well as the great importance of ecological innovation to the continued growth of offshore wind, this is the most appropriate procedure for granting a permit.

The technology for offshore wind is developing rapidly. The cost of an offshore wind farm varies greatly depending on the choices a producer makes regarding turbine technology, foundation technology, and the operational approach. Significant cost reductions have been achieved in recent years. In addition, the more ambitious commitment to climate goals by the private and public sector is having a positive impact on growth in demand. In view of these national and international developments and the fact the Hollandse Kust (west) Wind Farm Zone is very similar to Hollandse Kust (noord), albeit with the period for which the permit is granted being five years longer, now is the time to take a step further by adding a financial offer to the procedure.

Under Section 14a(2) of the Act, before choosing which procedure to apply, the market conditions are analysed and discussed with the Minister of Finance. Notwithstanding the fact that auctions are a step too far for the offshore wind business case at the moment (Afry, 2020), in light of the uncertainty surrounding future demand for renewable electricity and the cannibalisation effect, in particular, this site represents significant market value. The addition of a carefully designed financial bid is desirable in order to show the connection between costs, revenues, and assessments, and to grant permits for sites at a fair, or fairer, price. Added to this is the fact there is no way of knowing in advance what ecological solutions will be available. This makes it impossible to set minimum conditions in advance for an auction or a wind farm site decision, for example. The comparative assessment combined with a financial bid, on the other hand, involves a comprehensive steering mechanism that gives explicit incentives encouraging the market to innovate when it comes to ecological innovation *in addition* to that which is already prescribed.

2. Designation of offshore wind energy sites

Wind Farm Sites are designated exclusively within a zone allocated in the National Water Plan. The National Water Plan is a policy plan adopted on the basis of the Water Act (*Waterwet*). The Hollandse Kust Wind Farm Zone was designated in the National Water Plan 2016-2021. This Water Plan was amended in 2016 to offer the option of building wind farms within a 10-12 nautical mile zone off the coast. The Wind Farm Site Decision specifies where and under which conditions a wind farm may be built and operated. TenneT has been designated offshore grid operator and is therefore responsible for connecting the wind farms to the offshore grid. TenneT's technical concept is based on substation platforms to which a maximum of 760 MW of wind capacity can be connected. If, within the conditions of the Wind Farm Site Decision, total installed capacity exceeds 760 MW, all turbines present are deemed part of the wind farm. Connection of turbines to points other than the offshore grid is not provided for in this Wind Farm Site

Decision. The installation of additional connection points, for example electrolysis installations, as well connection of turbines to such additional connection points, is considered subject to a permit under the Water Act.

3. Applying for a permit

This Ministerial Order lays down further rules for granting a permit for construction and operation of the wind farm at Site VI in connection with the application, the assessment of applications, and the respective weighting of the ranking criteria required if two or more applications for a permit are eligible.

Under the Act, one permit is granted for each Wind Farm Site. Article 2 of this Ministerial Order lays down the period within which applications for the permit for Site VI can be submitted. This period runs parallel to the period within which applications can be submitted for the permit for Wind Farm Site VII (Ministerial Order for granting the offshore wind farm permit for Hollandse Kust (west) Wind Farm Site VII).

A means of submitting applications will be provided through the RVO.nl website. This will also specify the address applications should be sent to. Articles 3 and 4 of this Ministerial Order stipulate the data and documents to be submitted with the application. For the information to be submitted regarding the P50 value for net electricity production under Article 3(2) of this Ministerial Order, the wind farm's availability can be assumed to be 96%.

The rules regarding the bank guarantee as a suspensive condition, as referred to in Section 15a of the Act, are laid down in Article 10 of this Ministerial Order. No costs shall be charged for processing an application for a permit. The cost for processing applications is set to zero (€0) in Article 5 of this Ministerial Order. However, costs incurred by the Government in preparing the Wind Farm Site Decision for Site VII shall be charged to the party awarded the permit. That amount is fixed at €13,465,191.35 in Article 9. This Article also states when and how that amount must be paid. Finally, the party awarded the permit must pay the bid made. The permit will state the period within which and how this must be done.

It has been decided not to limit the number of applications an applicant may submit. Consequently, a variety of project proposals for ecological benefit and the amount of the financial bids is expected. Such variations could provide insight into market costs and benefits, feasibility, and ecological considerations. This will enable the Ministry to gain knowledge relevant for the design of future permit procedures for offshore wind farms.

4. Assessment of applications

The Act provides for four procedures for granting permits for sites: an auction process, a comparative assessment with a financial bid, a comparative assessment without a financial bid, and a permitting process linked to the award of a subsidy. In all procedures, the permit will only be granted where the construction and operation of the wind farm is technically, financially, and economically feasible, complies with the Wind Farm Site Decision, and can be started within four years of the date on which the permit becomes irrevocable. Article 4 of this Ministerial Order sets out additional rules for these assessment criteria where necessary.

The size of the shareholder's equity, among other things, is one of the factors considered in the assessment of financial feasibility. The construction and operation of a wind farm are only regarded as financially feasible when the applicant's equity amounts to at least 20% of total investment cost for the project. If the applicant is a joint venture, the level of equity of participants in the joint venture and their parent company or companies can be included to determine the level of the equity capital.

If the applicant is a subsidiary company, the equity of the parent company or companies can be included. If an application is submitted jointly by collaborating parties, it qualifies as an application by a partnership. If several parties set up a new company together and that company submits an application, the application will be regarded as an application by this company and not as an application from a partnership.

The wind farm site for which a permit is to be awarded under this Ministerial Order is not located in Dutch territorial waters. Therefore, a right of superficies does not apply for the construction of installations on this seabed, meaning the successful applicant does not have to pay costs in this respect. However, the costs of the environmental impact report and the site studies carried out by the Netherlands Enterprise Agency (RVO), amounting to €13,465,191.35, are charged. This sum does not constitute the net present value because it represents the cost incurred by the Minister of Economic Affairs and Climate Policy in preparing the Wind Farm Site Decision. In addition, a financial offer must be submitted as part of the application. Applications without a financial offer will be rejected under Section 25a of the Act. Therefore, in order to assess the financial and economic feasibility of a project, consideration will also be given as to whether the applicant has taken account of the costs payable under Article 9 and the financial offer made.

The purpose of the capital requirement in Article 6(2) of this Ministerial Order is to prevent permits being awarded to parties which are not financially strong. An applicant can be deemed financially sound based on the assets of others participating in the application. This is expressed in Article 6(3). The assets and equity of other entities will be included only if the applicant requests it. The written consent of the parent company is required if its equity capital is to be included.

This is not intended to constitute any obligation on the other party to stand surety for the applicant's liabilities. Hence, the concepts of parent company and subsidiary in Article 6 of this Ministerial Order must be broadly interpreted. For example, if the applicant is a joint venture, the equity of all partners in the venture and their parent companies can be included. In the case of a private limited company in formation, both the assets of the parent company or companies and that of the founding party can be included. If an application is submitted by a limited partnership (hereinafter referred to as a CV), the equity of the general partner and its parent company or companies can be included in addition to the CV's separate assets.

5. Ranking of applications

Pursuant to Section 25b(4) of the Act, where two or more applications meet the requirements referred to in Section 12a and Section 14 of the Act, the permit shall

be awarded in accordance with the ranking based on the three qualitative criteria specified in Section 25b(2) of the Act. It is also possible, as is the case in this Ministerial Order, to set further rules for the criteria and determine additional criteria for the ranking procedure.

The Appendix to the Ministerial Order sets out how the different ranking criteria are weighted. In ranking applications, greatest weight is given to the criterion that contributes to the ecology of the North Sea. Therefore, this criterion receives a maximum of 100 points and represents up to 50% of the total score.

As regards the 'amount of the financial bid' criterion (Table 1), an application will be ranked in accordance with a graduated amount of the offer in Euros. The maximum score can be achieved with a financial offer of €50 million or more.

As regards the 'certainty of the wind farm being completed' criterion (Table 2), an application will be ranked higher on two fronts; experience and then financial strength and guarantees. In other words, the more experience the key parties have in offshore wind development and the greater the equity capital in proportion to the wind farm investment costs and the financial guarantees given, the higher an application will be ranked for this criterion.

As regards the 'wind farm's contribution to energy supply' criterion (Table 3), the greater the annual electricity production fed into the offshore grid - within the limits of the Wind Farm Site Decision - the higher an application will be ranked. It is accepted that more installed capacity contributes to a higher level of energy production by the wind farm.

As regards 'the contribution to the ecology of the North Sea' criterion (Table 4), the better the quality the applications are, based on assessments by the independent expert committee, the higher the applications will be ranked. Table 4 of the Appendix sets out the metrics and assessment criteria based on two broad fronts:

- 1) Investments in the wind farm at Hollandse Kust (west) Site VI, additional to measures prescribed in the Hollandse Kust (west) Wind Farm Site Decision VI, for the benefit of naturally occurring biodiversity in the Dutch part of the North Sea (species, populations and habitats).
- 2) Innovation and development of solutions to benefit naturally occurring biodiversity in the Dutch part of the North Sea (species, populations, and habitats) from the wind farm at Hollandse Kust (west) Site VI and future Dutch offshore wind farms.

To enable sufficient differentiation to be made, the 'contribution to the ecology of the North Sea' criterion is weighted on the basis of a continuous scale, in percentage terms. Incremental scales are used for the other criteria to ensure maximum transparency for applicants.

It is possible two or more applications will be given the same score in the assessment. In that case, the ranking criteria will be weighted as set out in Article 8 (2 to 5 inclusive). Based on Article 8(2), the weighting makes 'the contribution to ecology' criterion the deciding factor. If two or more applications for the Wind Farm Site are still ranked joint highest, the third paragraph will be applied, and in that case the 'wind farm's contribution to the energy supply' criterion is decisive. Accordingly, if necessary the 'certainty of completion' criterion will be applied pursuant to the fourth paragraph. Finally, if necessary, the fifth paragraph, concerning the rating in points for the financial offer, will be applied.

6. Legal aspects

A permit for the operation of an offshore wind farm will be awarded under this Ministerial Order. Potential candidates are given the opportunity to bid for the permit in a competitive and non-discriminatory way. The design of the procedure for awarding the permit also means there is no state aid either. The costs avoided [by the winning applicant] for the environmental impact report and Appropriate Assessment investigations, incurred by the Ministry of Economic Affairs and Climate Policy during the preparation of the Wind Farm Site Decision, would amount to prohibited state aid. To prevent this, these costs are charged to the winning permit holder.

7. Consultation

The draft of the Ministerial Order was made available for informal consultation, via the website www.rvo.nl, from 23 December 2021 to 11 January 2022. Prior to that consultation, in January 2021 and October 2021, potential applicants were given the opportunity to comment on the planned Ministerial Order, verbally or in writing, in three workshops and bilateral discussions. These views have been taken into account where possible. Additional clarifications requested during the consultation process are available on the RVO website.

No fundamental objections were raised in response to the informal consultation on the draft. However, several revisions have been made to the Ministerial Order in response to comments made. These are corrections of errors and omissions and technical corrections concerning legislative drafting or corrections of a textual or grammatical nature.

The regulatory burden paragraph has also been added. It was not included in the draft put out for consultation because it was not complete at the time. The Dutch Advisory Board on Regulatory Burden (Adviescollege Toetsing Regeldruk) has since published a recommendation.

8. Regulatory burden

Under this Ministerial Order, information must be provided on how the project proposal performs on the basis of the ranking criteria elaborated on in the Ministerial Order. However, that information is already largely available to applicants because it is relevant to internal decision-making on the project. It is expected that the present Ministerial Order will give rise to the submission of applications which vary greatly in terms of focus, preparation time, complexity, and scale. Nor would there be anything unusual in permanent employees having made preparations ahead, or far ahead, of the publication of this Ministerial Order or using additional expertise where appropriate. Determining the administrative costs for the purposes of this Ministerial Order is therefore largely an exercise based on a few general basic principles (as explained below).

The decision to use this permit-granting procedure was based on, among other things, the results of a market consultation involving confidential business information. Economic operators with a stated interest in a site in the Hollandse Kust (west) Wind Farm Zone took part in that consultation. It revealed that the economic operators involved showed no preference for a procedure such as an auction procedure, which would involve lower administrative costs.

The biggest difference between this Ministerial Order and the ones before it is that parts C, D, E, and F in Section 23(2) of the Offshore Wind Energy Act, in the form prior to 10 November 2021, are no longer mandatory as part of the application. However, under Section 25b(2) and (3), the amount of the financial bid and the contribution the wind farm makes to the ecology of the North Sea are now taken into account for the first time. Under this Ministerial Order, only one permit is available. Applicants therefore need submit only one application. Section 14a(4) of the Act provides that two or more applications may be submitted by an applicant, but, as has been stated, only one permit will be granted.

Applications

As part of their applications, applicants must submit data on the basis of which the technical and financial feasibility of their proposal is assessed. The production estimates also form part of this. This obligation to provide information is elaborated on in Articles 3 and 4 of this Ministerial Order, including for the purposes of the assessment based on the ranking criteria. The calculation of administrative costs is based on the deployment of about 10 FTEs for a period of three-and-a-half months (time between the publication of this Ministerial Order and the completion of the permit application) and a fixed hourly rate of €60. This results in administrative costs of about €370,000 to submit an application. It is anticipated that eight applications will be submitted. The total costs for this phase are therefore expected to total about €3,000,000.

Monitoring/accountability

An annual report on the progress of the project relative to the schedule must be provided during the construction of the offshore wind farm. This should be a brief description of the progress of the project in relation to a number of benchmark dates. This way, an assessment can be made of when the wind farm can be commissioned and whether that will take place within four years of the date on which the permit became irrevocable. It is envisaged that four hours a year will need to be spent on meeting the annual obligations. This will result in about €240 for each permit granted. Only one permit will be granted, taking the annual costs to about €240 and, for a period of five years, to a total of €1200.

Bank guarantee

Requesting a bank guarantee will increase the regulatory burden on parties. This is because a request will have to be submitted and a monthly amount will have to be paid during its term. It is assumed there will be no more than five years between the submission of an application and use being made of the bank guarantee for partial or full payment of the amount owed. Compared with the other option offered by the Act – a deposit – a bank guarantee will pose a greater regulatory burden, relatively speaking.. However, having regard to the financial element, the effectiveness of investment incentives under this Ministerial Order and to ensure alignment with the methodology of previous procedures, the bank guarantee option was selected.

Based on an average security deposit of €70,000,000 and costs of 1% a year, the cost of a bank guarantee will amount to an average of about €700,000 a year. This amounts to about €3,500,000 in total.

Objection procedures

Each applicant has the option to submit an objection, followed by an appeal, against the award of a permit or the decision on the objection respectively. The determination of the administrative costs of this part of the permit award process is based on a total of three objection and appeal procedures. The term regulatory

costs should be taken to include the costs incurred for submitting an objection. Appeal procedures are not included because they are covered by administrative law. The administrative costs of objection procedures amount to about €10,000. The total one-off costs for objection procedures are therefore expected to amount to €30,000. The total one-off costs will therefore amount to €3,030,000 and the total cumulative annual costs to about €3,501,200.

By contrast, to the extent it is possible to give an indication within the margins of uncertainty, with a conservatively estimated average electricity price of €40/MWh (see captured price for offshore wind (Electricity, Offshore Wind Energy) from the Climate and Energy Report 2021 price path), turnover for a 760 MW wind farm with 4000 full-load hours of generation is expected to be about €3.6 billion over 30 years. In this comparison, the one-off regulatory burden costs amount to 0.8% of an expected hypothetical turnover and the structural costs to 0.1% in percentage terms.

Finally, this Ministerial Order will have no impact on citizens and small and medium-sized businesses (SMEs) as far as the regulatory burden is concerned because they are not expected to submit applications. For that reason, no SME assessment has been carried out.

9. Entry into force

This Ministerial Order will enter into force on 1 April 2022. This is in accordance with the policy on common commencement dates for Ministerial Orders. The period between publication of the Ministerial Order and the date of entry into force is less than two months. This is justified because the offshore wind sector was informed on 23 December 2021 of the dates on which applications could be submitted, and because delaying its entry into force is not in the interests of the sector or conducive to the attainment of the objections as regards the production of sustainable energy.

The Minister for Climate and Energy Policy