



Warsaw, 2019

Permitting process for offshore wind energy

– Guideline 2019

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Definitions and abbreviations

AOMA – Act of 21 March 1991 *on maritime areas of the republic of Poland and maritime administration* (Journal of Laws of 2018, item 2214, as amended).

BP – Building permit.

C – Commissioning stage.

CL – Act of 7 July 1994 *–Construction Law* (Journal of Laws of 2018, item 1202, as amended).

CAP – Act of 14 June 1960 – the Code of Administrative Procedure (Journal Laws of 2018, item 2096, as amended).

D – Design stage.

E – Environmental stage.

ED or Environmental Decision – the decision on environmental conditions.

EEZ – Exclusive Economic Zone.

EI – Offshore External Infrastructure.

EIA – Environmental impact assessment.

EIA Act – the Act of 3 October 2008 *on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments* (Journal of Laws of 2018, item 2081, as amended).

EIA Regulation – the Regulation of the Council of Ministers of 9 November 2010 *on projects likely to have significant effects on the environment* (Journal of Laws of 2016 item 71, as amended).

EIA Report – Report on the environmental impact of a project.

EL – Act of 10 April 1997 – *Energy Law* (Journal of Laws of 2018, item 755, as amended).

EU – European Union.

FNEZ – Foundation for Sustainable Energy.

FSA – Formal Risk Analysis.

Guideline – Permitting process for offshore wind energy – Guideline 2019.

GML – Act of 9 June 2011 – *Geological and Mining Law* (Journal of Laws of 2017, item 2126, as amended).

L – Location stage.

OLL or Offshore Location License – permission to construct and use artificial islands, structures and equipment.

OWF – Offshore Wind Farm.

PGW – Project of Geological Works.

PIC – Project Information Card.

Project Regulation – Regulation of the Minister of Transport, Construction and Maritime Economy of 25 April 2012 *on the detailed scope and form of a building permit design* (Journal of Laws of 2018, item 1935, as amended).

SCLL or Seabed Cable Location Licence – permission/approval for laying and maintaining submarine cables.

Subsequent EIA – an environmental impact assessment conducted under the procedure for issuing decisions referred to in Art. 72 (1) (1), (10), (14) and (18) of the EIA Act.

PGW Regulation – Regulation of the Minister of the Environment of 20 December 2011 *on the detailed requirements for geological work projects, including works, the performance of which requires obtaining a concession* (Journal of Laws of 288, item 1696, as amended).

UXO – Unexploded Ordnance.

WL – Act of 20 July 2018 – *Water Law* (Journal of Laws of 2018, item 2268, as amended).

WTS – Waters of the territorial sea and internal waters.



Introduction

Offshore wind energy is one of the most promising energy generation technologies in Poland – emission-free, using domestic, renewable energy sources, stable and price-competitive. The economic benefits from the development of offshore wind farms, thanks to the use of the potential of the national supply chain, are an additional argument for the construction of the first Polish offshore wind farms to begin as soon as possible. The theoretical potential makes it possible to install as much as 15 GW by 2040. However, it coincides with the implementation practice.

During the process of obtaining the location permit for the first wind farm in Polish maritime areas in 2012, we believed that within the next 6 years, we would obtain a building permit for it. Unfortunately, political and regulatory realities negatively impacted these plans. Within 4 years, we managed to carry out an environmental research programme, perform an environmental impact assessment and obtain the first decision on environmental conditions in Poland. However, there is still a long way to go before a building permit may be obtained.

In recent years, we have been participating in projects that have allowed us to thoroughly identify the administrative procedures to be followed to prepare an investment project in Polish maritime areas – from concept to implementation. It is not an easy process. The number of legal acts that regulate it, the lack of consideration of the specificity of maritime investments, frequent changes in law acts, as well as the human resources conducting proceedings in the competent authorities, result in prolongation of administrative procedures and increase the investment risk. Therefore, we have decided to undertake yet another action aimed at supporting companies and administration in the development of offshore energy projects.

Our experience in the development of offshore gas pipeline, cable and wind farm projects has been transposed into this “**Permitting process for offshore wind energy – Guideline 2019**”. The Guideline presents all of the administrative procedures and actions that must be taken by the project developer and the competent administrative authorities within their framework.

The aim of the Guideline is to support all interested parties in the development of offshore wind energy in the proper planning of the project development process. Also, our intention of the Guideline is to create a basis for discussion on the legitimacy and directions of changes in the legislative system of offshore wind energy. Although we are deeply convinced that in Poland it is possible to implement an offshore wind farm project with an offshore external infrastructure, we believe that the process is still too long and too difficult to make Poland a truly competitive market. As long as we do not have a stable and attractive regulatory system, we will not encourage investors to use the entire, huge domestic potential of offshore wind energy.

Maciej Stryjecki

President
SMDI Advisory Group

1. Permitting process during investment development

For the purposes of the Guideline, the assumption of a division into an offshore part and an inland part (related to the land connection infrastructure) was adopted. The offshore part is defined, in terms of space and location, as being limited to the maritime areas – including a technical zone – constituting the zone of mutual direct interaction between the sea and land. The Guideline does not include the auction and actions required to obtain an energy supply concession.

An offshore wind farm (“OWF”) is defined as the turbines, internal cables and substations in the area granted by an Offshore Location Licence (“OLL”).

Offshore external infrastructure (“EI”) is defined as the infrastructure needed to transfer the product from an OWF to land in the area granted by the Seabed Cable Location Licence (“SCLL”).

The framework schedule of the investment process is schematically presented hereinbelow, showing the sequence of OWF and EI implementation activities.

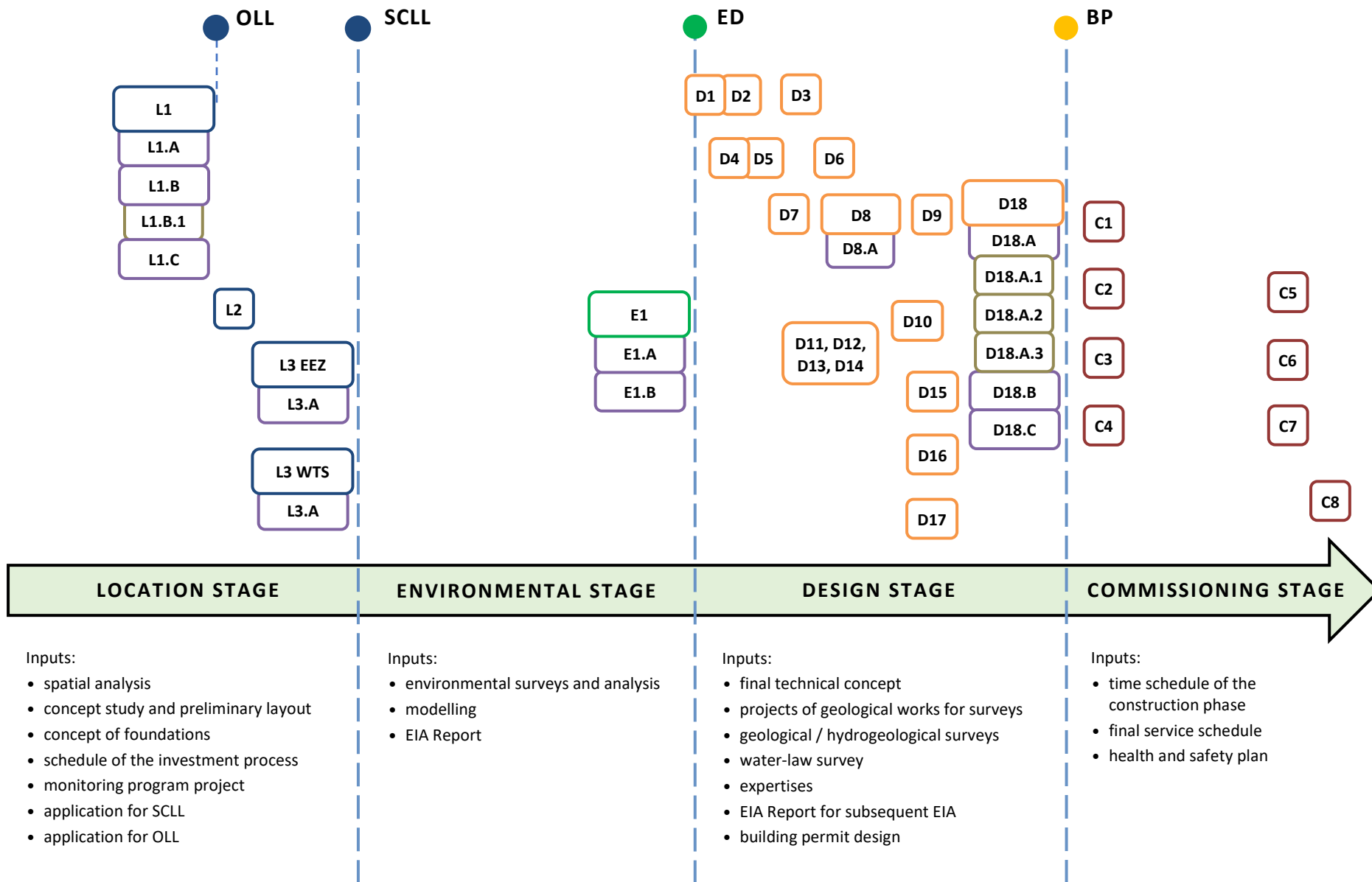
The management of the investment process for the purposes of this Guideline has been divided into four stages:

- Stage 1: *LOCATION STAGE* (“L”) – agreement of the location conditions of the project in Polish maritime areas of the Baltic Sea with the final output being an Offshore Location Licence/the Seabed Cable Location Licence;
- Stage 2: *ENVIRONMENTAL STAGE* (“E”) – environmental surveys, environmental impact assessment procedure, including public consultation with the final output being an Environmental Decision (“ED”);
- Stage 3: *DESIGN STAGE* (“D”) – preparation, mobilisation and administrative procedure for obtaining a Building Permit (“BP”), as the final output;
- Stage 4: *COMMISSIONING STAGE* (“C”) – administrative procedure for obtaining the Usufruct as the final output.

Legend for the actions described below:

“Action ID→L”		“Action name” for Location Stage
“Action ID→E”		“Action name” for Environmental Stage
“Action ID→D”		“Action name” for Design Stage
“Action ID→C”		“Action name” for Commissioning Stage
“Element”	Part of the project covered by the action (offshore wind farm/offshore external infrastructure).	
“Subject”	Purpose and general characteristic of the action.	
“Legal basis/source of the requirement”	Document (legal act or administrative decision) from which an obligation arises for action.	
“Relevant authority”	Authority competent to issue a decision or authority involved in an administrative procedure.	
Action taken by the leading authority in cooperation with other relevant administrative bodies.		
SubAction taken by the leading authority in cooperation with other relevant administrative bodies.		
“Applicant”	Party responsible for initiating the action (project developer/relevant authority).	
“Estimated time”	Time needed for the action (including the real time of the action).	
“Necessary input”	List of information, data and documentation needed for the action.	
“Validity”	Duration of the administrative decision.	
“Predecessor”	Administrative decision necessary to be obtained before the relevant action.	
“Successor”	Administrative decision necessary to be obtained after the relevant action.	

Figure 1 Permitting process during investment development



This part of the chapter presents information about the main actions needed to be successfully performed by the Project developer and the relevant authorities in the investment process. Each of the actions is presented in the form of a flashcard (box) containing the key information. Some of the actions are granted by national law regulations and some of them are restricted by administrative decisions. All together must be fulfilled to achieve the stage of ready-to-use.

1.1. Location stage

An OLL is issued by a competent authority, in particular based on the following legal acts:

- Act of 21 March 1991 *on sea territories of the Republic of Poland and maritime administration* (Journal of Laws of 2018, item 2214, as amended; “AOMA”) – a basic legal act in the OWF implementation process, specifying the procedure, the scope of the application, the bodies involved in the procedure of issuing opinions on the application, the scope of the decision, and the procedure under Art. 27c (1) of the AOMA,
- Act of 14 June 1960 – *the Code of Administrative Procedure* (Journal Laws of 2018, item 2096, as amended; hereinafter referred to as: “CAP”),
- Act of 16 November 2006 *on Stamp Duty* (Journal of Laws of 2016, item 1827, as amended),
- ultimately, arrangements for the Maritime Spatial Plan which according to the provisions of Art. 37a (1) of the AOMA will be adopted by way of regulation.

The procedure for obtaining an OLL decision is based on the regulations contained in AOMA. Detailed regulations are contained in Chapter 4 of the AOMA – *Artificial islands, structures and devices, as well as cables or pipelines*.

An OLL is an administrative decision – a permit to build and use artificial islands, structures and equipment in the Polish maritime area, confirming the possibility of using the area for purposes related to the implementation (including research) and operation of an offshore wind farm. An OLL is a permit that specifies the type of project, the duration of the decision, the boundaries of a water area (the location thereof determined by means of geocentric geodetic coordinates) that can be used for the implementation and operation of an OWF, and the characteristic technical parameters of the project – defining the fixed components that are an integral part of an offshore wind farm (including the turbines, substations, elements of the internal connection infrastructure).

An OLL may also contain additional requirements and conditions to be met, resulting from separate provisions, reported as relevant by the bodies issuing opinions on the application.

The application for issuing an OLL decision, as part of the administrative procedure, is subject to opinion by the ministers competent for: energy, the economy, culture and the protection of national heritage, fisheries, the environment, the interior, and the Minister of National Defence (pursuant to Art. 23 (2) of the AOMA). The issuing of opinions by individual ministers is based on the legal regulation of Art. 23 (2a) of the AOMA, within 90 days from the date of receipt of a request. The lack of an opinion within the deadline is considered as no objection. In the event that a negative opinion is expressed by any minister, the authority conducting the proceedings may issue a refusal. The opinions are expressed in the form of a resolution (pursuant to Art. 106 (1) of CAP). The authorities participating in the assessment of an application for the issuance of an OLL decision indicate, on the basis of separate provisions, the occurrence of threats listed in Art. 23 (3) of the AOMA or detailed conditions and

requirements to be met by the investor. The conditions stated in relation to a given party cannot be appealed against, however it is possible to submit a request for reconsideration (Art. 106 (5), Art. 141 (2) and Art. 144 in conjunction with Art. 127 (3) of the CAP).

The minister competent for maritime economy, after the initiation of the procedure related to the request of an investor for obtaining an OLL (pursuant to Art. 23 (1) of the AOMA), is obliged by the provision of Art. 27c (1) of the AOMA to promptly announce the possibility of submitting further applications (by other interested entities) for issuing permits regarding the area of water covered by the application of the investor. The announcement shall be included in a Public Information Bulletin on the website.

If at least one complete application within the meaning of the provisions of the AOMA is submitted within the deadline specified in the announcement, the proceedings are adjudicated by the minister competent for maritime economy (Art. 27d of the AOMA). The final date of the settlement proceedings cannot exceed 4 months from the date of the receipt of the last opinion referred to in Art. 23 (2) and (2a) – i.e. the opinion on the application for issuing an OLL decision (Art. 27d (3) of the AOMA).

Applications submitted in the settlement proceedings shall be evaluated, in particular according to the following criteria:

- compliance of the planned projects with the provisions of the spatial development plan referred to in Art. 37a of the AOMA, or, shall it not be possible to use a given area for the purposes proposed, taking into account the opinions referred to in Art. 23 (2) of the AOMA,
- duration of the permit proposed by the applicants, including the start and end dates of the construction and operation of the planned projects,
- method of securing financial resources intended for paying the fee referred to in Art. 27b (1) (1) of the AOMA,
- method of financing the planned ventures, including own funds, loans, and proposed co-financing for the implementation of investments from public funds (usually as a most significant criterion),
- possibility of the creating personnel, organisational and logistic facilities which will enable the implementation of the planned projects,
- contribution of the planned projects to the implementation of EU and national sectoral policies.

The entity selected in the settlement proceeding is the applicant that achieved the minimum qualification level and obtained the highest number of points among all participants (Article 27i of the AOMA).

In the event of no other applications being submitted for issuing an OLL to an area covered by the announcement, the Minister of Marine Economy shall initiate proceedings after the deadline specified in the notice, in accordance with the procedure presented hereinbelow.

The fee for issuing an OLL is regulated by Art. 27b of the AOMA – according to which the entity that has obtained the OLL decision, within 14 days from the delivery of a request for payment, pays a fee of PLN 1,500. Additionally, the entity pays a fee of 1% of the value of the planned investment, determined in accordance with Art. 27b (1b) of the AOMA, as follows:

- 10% of the full amount of the payment within 90 days from the date on which the OLL decision becomes final,

- 30% of the full amount of the payment within 30 days from the date on which a Building permit becomes final,
- 30% of the full amount within 30 days from the date on which the use of artificial islands, structures and equipment commences,
- 30% of the full amount after 3 years from the day of making the payments referred to hereinabove.

The above-mentioned fees are non-refundable and constitute state budget income.

The legislator set the framework for calculating the value of a planned project due to the need to pay an additional fee, on the basis of the market price of the equipment and services necessary for the total implementation of the project, as of the day of submitting the application for an OLL decision. The entity to which a permit has been granted is obliged to submit information on the actual value of the implemented project to a competent authority for issuing an OLL. The amount of the fee is determined, by way of a decision (→box L1.C) by the authority that issued an OLL, taking into account the difference between the actual value of the implemented project and the amount of fees previously paid (Art. 27b (1b) – (1d) of the AOMA).

L1 The Offshore Location Licence (OLL)	
Element	Offshore wind farm.
Subject	Permission to construct and use artificial islands, structures and equipment in the Polish maritime areas confirming the possibility of using the area for purposes related to the implementation (including research), operation and work related to the operation and service.
Legal basis/source of the requirement	Art. 23 (1a) of the AOMA.
Relevant authority	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation.
Applicant	Project developer.
Estimated time	≈7-8 months. ≈12 months (including procedure due to the Art. 27c (1) of the AOMA).
Necessary input	The application form, the preliminary technical concept (concept study), the area designated for the project, the characteristic technical parameters and concept of foundations, the methods of transferring the product to land, the general schedule of the investment process, the project of a monitoring program, including environmental monitoring and the management of the investment and operating process.
Validity	35 years.
Predecessor	-
Successor	Conditions for connecting to national grid and the connection agreement (→box L2).

L1.A The opinions preceding the issuance of the OLL	
Element	Offshore wind farm.
Subject	Obtaining the opinions from the competent authorities due to the conditions for laying and maintaining submarine cables in the maritime area.
Legal basis/source of the requirement	Art. 23 (2) of the AOMA.
Relevant authority	The minister competent for: energy, the economy, culture and the protection of national heritage, fisheries, the environment, the interior, and Minister of National Defence.
Applicant	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation.
Estimated time	90 days from the date of receipt of the documents.
Necessary input	The application form for OLL.
Validity	Not applicable.

L1.B The announcement for additional applications for the OLL	
Element	Offshore wind farm.
Subject	The minister competent for maritime economy, after the initiation of the procedure related to the request of an investor for obtaining an OLL, is to promptly announce the possibility of further applications (by other interested entities) being submitted for issuing permits regarding the area of water covered by the application of the Project developer. (competition procedure).
Legal basis/source of the requirement	Art. 27c (1) of the AOMA.
Relevant authority	-
Applicant	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation in the Public Information Bulletin.
Estimated time	60 days from the date of publication in the Public Information Bulletin.
Necessary input	The application form for OLL.
Validity	Not applicable.

L1.B.1 The outcome of the competition procedure for additional applications for the OLL	
Element	Offshore wind farm.
Subject	If at least one complete application – within the meaning of the provisions of the AOMA – is submitted within the deadline specified in the announcement, the proceedings are adjudicated by the minister competent for maritime economy (Art. 27d of the AOMA).
Legal basis/source of the requirement	Art. 27d of the AOMA.
Relevant authority	The minister competent for: energy, the economy, culture and the protection of national heritage, fisheries, the environment, the interior, and Minister of National Defence – if relevant (if at least one complete application form is submitted).
Applicant	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation in the Public Information Bulletin.
Estimated time	Not later than 4 months from the date of the receipt of the last opinion referred to in Art. 23 (2) and (2a) of the AOMA.
Necessary input	The application form for OLL, opinions issuing by the competent authorities for the application form.
Validity	Not applicable.

L1.C The decision determining the amount of the fees for the OLL	
Element	Offshore wind farm.
Subject	Obtaining the opinions from the competent authorities due to the conditions for laying and maintaining submarine cables in maritime area.
Legal basis/source of the requirement	Art. 27b (1d) of the AOMA.
Relevant authority	-
Applicant	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation.
Estimated time	≈2-3 months.
Necessary input	Information on the actual value of the implemented project to a competent authority for issuing an OLL.
Validity	-

L2 Conditions for connecting to the national grid and the connection agreement	
Element	Offshore external infrastructure.
Subject	The conditions for connecting to the national grid is the first step to obtain the connection agreement with the national transmission system operator as a key element in the OWF investment process. The conditions for connecting to the national grid are concluded with the Operator in the form of an agreement which defines the rules of connection of equipment/installations, guarantees a capacity volume, characterises the obligations incumbent on the Operator and the project developer.
Legal basis/source of the requirement	Art. 5 and Art. 7 of the EL.
Relevant authority	National transmission system operator – PSE S.A.
Applicant	Project developer.
Estimated time	≈6 months for the conditions for connecting to the national grid (including 150 days since the date of receipt of the complete package of the documents).
Necessary input	The application form, the OLL.
Validity	2 years for conditions for connecting to the national grid (the connection agreement should be concluded during that period).
Predecessor	Offshore Location Licence (→box L1)
Successor	Seabed Cable Location Licence (→box L3).

An OWF, in addition to the internal infrastructure connecting the individual power plants, needs external infrastructure for proper functioning, for electricity to be sent onshore. The AOMA provisions regulate the issue of permits related to the laying and maintenance of cables in the sea areas of internal waters and the territorial sea (“WTS”) and Exclusive Economic Zone (“EEZ”). Defining the location of the corridor for the offshore external infrastructure is possible after obtaining the conditions for connecting to national grid (→box L2).

An SCLL is an administrative decision – permission/agreement – for the laying and maintenance of submarine cables in the Polish maritime area, confirming the possibility of using the area for purposes related to the implementation (including research), operation and work related to the operation and infrastructure of the service. An SCLL is a permit that specifies the type of a project, the duration of a decision, the boundary of a basin (the location thereof using geocentric geodetic coordinates), which can be used to implement and operate the external infrastructure of an OWF and the characteristic technical parameters of the project.

An SCLL may also contain additional requirements and conditions to be met, resulting from separate provisions, reported as relevant by the bodies issuing opinions on applications.

Laying and maintaining cables in sea areas is possible after obtaining, respectively, a permit, in relation to the WTS, and an arrangement, in relation to the EEZ. Both the permits and the agreements are issued in the form of administrative decisions. These decisions determine the location and detailed conditions for the maintenance thereof.

SCLL decisions in the WTS and EEZ are issued by a competent authority, in particular based on the following legal acts:

- the AOMA – basic legal act specifying the procedure, the scope of application, the bodies involved in the procedure of issuing opinions on applications, as well as the scope of decisions,
- ultimately, arrangements for the Maritime Spatial Plan which according to the provisions of Art. 37a para.1 of the AOMA will be adopted by way of regulation.

The procedure for obtaining an SCLL decision is based on regulations contained in the AOMA. Detailed regulations are contained in Chapter 4 of AOMA – *Artificial islands, structures and devices, as well as cables or pipelines*.

The application for an SCLL decision in the WTS, under the administrative procedure, is subject to opinion by the ministers competent for: regional development in the scope of determining compliance with the arrangements for land development, energy, the economy, culture and the protection of national heritage, fisheries, the environment, water management, the interior, and the Minister of National Defence (pursuant to the provision of Art. 26 (2) of the AOMA).

On the basis of the content of the provision of Art. 26 (2) of the AOMA, a party to the proceedings in the case of an application for an SCLL decision in the WMT is also the head of a municipality, or a town or city mayor – in accordance with the local jurisdiction of that body.

With reference to an application for an SCLL decision in the EEZ, the parties involved in the administrative proceedings are the ministers competent for: energy, the economy, culture and the protection of national heritage, fisheries, the environment, water management, the interior, and Minister of National Defence (Art. 27 (1) of AOMA).

The granting of opinions by individual ministers, in both cases referred to hereinabove, is based on the legal regulation of Art. 23 (2a) of AOMA, within 90 days from the date of receipt of a request. The lack of an opinion within the deadline is considered as no objection. In the event that a negative opinion is expressed by any minister, the authority conducting the proceedings may issue a refusal. The opinions are expressed in the form of a resolution (pursuant to Art. 106 (1) of the CAP). The authorities participating in the assessment of an application for the issuance of an SCLL decision indicate, on the basis of separate provisions, the occurrence of the threats listed in Art. 23 (3) of the AOMA or detailed conditions and requirements to be met by the investor. The conditions stated in relation to a given party cannot be appealed against, however it is possible to submit a request for reconsideration (Art. 106 (5), Art. 141 (2) and Art. 144 in conjunction with Art. 127 (3) of the CAP).

L3 The Seabed Cable Location Licence (SCLL)	
Element	Offshore external infrastructure.
Subject	The permission/agreement for the laying and maintenance of submarine cables in a maritime area, confirming the possibility of using the area for purposes related to the implementation (including research), operation and work related to the operation and infrastructure of the service.
Legal basis/source of the requirement	Art. 26 (1a) and Art. 27 (1) of the AOMA.
Relevant authority	In the EEZ – the minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation. In the WTS – the territorially competent director of the maritime office.
Applicant	Project developer.
Estimated time	≈8 months.
Necessary input	The application form, the preliminary technical concept (concept study), the area designated for the project, the preliminary layout, the characteristic technical parameters and concept of the foundations, the methods of transferring the product to land, the schedule of the investment process, the project of a monitoring program, including environmental monitoring and the management of the investment and operating process.
Validity	35 years.
Predecessor	-
Successor	Environmental Decision (→box E1).

L3.A The opinions preceding issuance of an SCLL	
Element	Offshore external infrastructure.
Subject	Obtaining the opinions from the competent authorities due to the conditions for laying and maintenance of submarine cables in a maritime area.
Legal basis/source of the requirement	Art. 26 (2) and Art. 27 (1) of the AOMA.
Relevant authority	In the EEZ: by the minister competent for: energy, the economy, culture and the protection of national heritage, fisheries, the environment, water management, the interior, and the Minister of National Defence. In the WTS: by the minister competent for: regional development in the scope of determining compliance with the arrangements for land development, energy, the economy, culture and the protection of national heritage, fisheries, the environment, water management, the interior, and the Minister of National Defence, and the head of the municipality, or the town or city mayor.
Applicant	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation/the territorially competent director of the maritime office.
Estimated time	≈90 days from the date of receipt of the documents.
Necessary input	The application form for SCLL.
Validity	-

1.2. Environmental stage

An environmental decision (“ED”), as defined in Art. 71 of the Act of 3 October 2008 *on the provision of information on the environment and its protection, public participation in environmental protection and environmental impact assessments* (Journal of Laws of 2018, item 2081, as amended; hereinafter alternatively referred to as: “EIA Act”), defines the environmental conditions for the implementation of a project. Obtaining an ED is required for:

- proposed projects which may always have a significant impact on the environment (projects from the so-called “1st group”);
- proposed projects which may possibly have a significant impact on the environment (projects from the so-called “2nd group”).

The types of projects mentioned above and the cases where changes to the facilities are qualified as such are defined in the Regulation of the Council of Ministers of 9 November 2010 on projects likely to have significant effects on the environment (Journal of Laws of 2016, item 71, as amended; hereinafter alternatively referred to as: “EIA Regulation”). According to the EIA Regulation, OWFs and substations with a rated voltage of not less than 220 kV are qualified to the 1st group of projects, while substations with a rated voltage of not less than 110 kV, to the 2nd group.

An environmental impact assessment (“EIA”) is a proceeding which includes in particular the verification of a report on the environmental impact of a project (“EIA Report”), obtaining the opinions and arrangements required by law and ensuring the possibility of public participation in the procedure.

Conducting an EIA is required for the implementation of the:

- proposed projects from the “1st group”;
- proposed projects from the “2nd group”, where the requirement to carry out the EIA for a project has been determined pursuant to Art 63 (1) of the EIA Act.

An ED is issued by a competent authority, in particular based on the EIA Act and the EIA Regulation.

Where the EIA for a project is carried out, prior to the issue of an ED, the authority competent is obliged to apply (under the provision of Art. 77 (1) of the EIA Act) to:

- director of a maritime office (competent territorially) for an arrangement,
- authority competent in matters of water-law assessments, referred to in the provisions of the Act of 20 July 2017 – *Water Law* (Journal of Laws of 2018, item 2268, as amended; hereinafter alternatively referred to as: “WL”) for an arrangement,
- authority of the State Sanitary Inspection for an opinion.

One of the most important elements in the EIA procedure is the public participation required by the provisions of the EIA Act, before the issuance of an ED. In line with the provision of Art. 79 (1) of the EIA Act, a competent authority to issue an ED provides the opportunity for public participation in the proceedings that the authority conducts. The aim of enabling public participation is to get acquainted with the project documentation and to submit comments and applications. Public participation is specified in detail in Section III of the EIA Act called Public participation in environmental protection.

As part of the public participation in the environmental impact assessment procedure, the procedure documentation is made public – an application for issuing a decision with the required attachments and a decision of an authority competent to issue decisions and the positions of other authorities, if the positions are available within the deadline for submitting comments and requests (Art. 33 (2) of the EIA Act).

A competent authority to issue an ED, before a decision is issued, is obliged by the provision of Art. 37 of the EIA Act to consider comments and applications, and provide information in the justification of the decision (regardless of the requirements under the CAP), information on public participation in the proceedings and on taking them into account, as well as the extent of including thereof (comments and applications submitted in relation to public participation). Subsequently, the authority publicises the information about the decision issued and the possibilities of getting acquainted with the content thereof (Art. 38 of the EIA Act).

Special rights under the provisions of the EIA Act are granted to environmental organisations that may wish to participate in a specific procedure for the issuance of an ED requiring public participation. These organisations participate in the process with the rights of a party. A condition for the admission of an environmental organisation as a party to the proceedings is the conduct of statutory activities in the field of environmental protection or nature protection, for a minimum of 12 months before the commencement of proceedings (Art. 44 (1) of the EIA Act). In such a case, the provision of Art. 31 (1) of the CAP shall not apply¹.

An ecological organisation has the right to appeal against a decision issued in proceedings requiring public participation, if it is justified by the statutory goals of that organisation, even in the event that it did not participate in a specific procedure requiring public participation by the first instance authority; filing an appeal is tantamount to submitting the intention to participate in such proceedings. In appeal proceedings, the organisation participates with the rights of a party (Art. 44 (2) of the EIA Act). In addition, an environmental organisation has the right to submit a complaint to an administrative court against a decision issued in proceedings requiring public participation, if it is

¹ Article 31 (1) of the CAP: A social organisation may, in a case involving another person, demand: 1) to initiate proceedings, 2) that it be admitted to participate in the proceedings, if it is justified by the statutory goals of this organisation and when it is in favour of social interest.

justified by the statutory purposes of that organisation, even when the organisation did not participate in a specific procedure requiring public participation. The decision to refuse an environmental organisation admission to participate in the proceedings may be contested (Art. 44 (3)-(4) of the EIA Act).

According to the provision of Art. 108 of the EIA Act, an authority conducting proceedings, in the case of discovering the possibility of a significant cross-border environmental impact, as a result of the implementation of the planned undertaking:

- issues a decision on the conduct of proceedings on cross-border environmental impact (“cross-border EIA”) which determines the scope of the documentation necessary to conduct the proceedings, as well as the obligation to prepare this documentation by an applicant in the language of the country in the territory of which the project may affect the environment,
- immediately informs the General Director for Environmental Protection about the possibility of a cross-border environmental impact of a planned project, as well as providing them with the information card of the project,
- submits the project documentation to the General Director for Environmental Protection within the scope specified in the EIA Act.

One of the mandatory elements of the cross-border EIA is a process of identifying the required content and extent of the EIA report (so-called “scoping”) based on the Project Information card (“PIC”) and the opinions of the relevant authorities.

The issuing of an ED shall not take place before the end of the cross-border proceedings, whereas the comments and applications submitted by the affected party, including the results of consultations referred to in Art. 110 of the EIA Act, are considered and taken into account when issuing the ED.

Please note that the steps connected to a cross-border EIA have not been described in detail in the Guideline.

In an ED issued after the EIA has been carried out for a project, the competent authority shall, inter alia, present its position on the necessity to conduct an environmental impact assessment for the project under the proceedings on the issue of the Building permit (“subsequent EIA”) (→ box D18.A).

E1 The Environmental Decision	
Element	Offshore wind farm (OWF), offshore external infrastructure (EI) (if it is treated as a separate investment, an ED may be required if the planned infrastructure involves substations).
Subject	The purpose of the ED is to determine the environmental conditions of the project implementation. An OWF and EI can be covered by one ED, or by separate decisions. In the ED issued after an EIA is carried out, the competent authority shall specify, among others things, the environmental protection requirements necessary to be included, inter alia, in the building permit design, as well as give its position on the necessity to conduct a subsequent EIA prior to the issuance of a Building permit.
Legal basis/source of the requirement	Art. 71 (2) (1) and (2) of the EIA Act and para. 2 (1) (5) and (6) and para. 3 (1) (7) of the EIA Regulation.
Relevant authority	The Regional Director for Environmental Protection.
Applicant	Project developer.
Estimated time	195 days from the date of receipt of the documents.
Necessary input	The application form for the ED, the EIA report, based on an actual environmental survey and baseline studies, PIC – in the case of a possible cross-border impact of the project.
Validity	<ul style="list-style-type: none"> • 6 years from the date on which the decision became final; or

	<ul style="list-style-type: none"> 10 years from the date on which the decision became final on the condition that before the deadline mentioned above, the authority which issued the decision states that the planned project is executed in stages.
Predecessor	The OLL (→box L1), the SCLL (→box L3)
Successor	The Building permit (→box D18).

E1.A The opinion preceding the issuance of the Environmental Decision	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The purpose of the opinion is to consult on the sanitary conditions for the implementation of the project.
Legal basis/source of the requirement	Art. 77 (1) (2) of EIA Act.
Relevant authority	The relevant State Sanitary Inspector.
Applicant	The Regional Director for Environmental Protection.
Estimated time	30 days from the date of receipt of the documents.
Necessary input	The application form for the ED, the EIA Report.
Validity	Not applicable.

E1.B The agreements preceding the issuance of the Environmental Decision	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The subject of the agreements is to determine the conditions for implementation of the project due to: <ul style="list-style-type: none"> technical zone and maritime areas, with a director of the maritime office; water issues (alignment to the Water Framework Directive and the Marine Strategy Framework Directive), with the authority competent for water-law assessments.
Legal basis/source of the requirement	Art. 77 (1)(1) and (4) of the EIA Act.
Relevant authority	<ul style="list-style-type: none"> director of the maritime office; director of a regional water management board of Wody Polskie.
Applicant	The territorially competent Regional Director for Environmental Protection.
Estimated time	30 days from the date of receipt of the documents by each authority.
Necessary input	The application form for the ED, the EIA Report.
Validity	Not applicable.

1.3. Design stage

Issues related to obtaining a Building permit are regulated in the Polish legal order by the provisions of the Act of 7 July 1994 Construction Law (Journal of Laws of 2018, item 1202, as amended; “CL”) which regulates activities involving the design, construction, maintenance and decommissioning of construction works, and defines the principles of the operation of public administration bodies in these areas.

A Building permit (pursuant to the provisions of Art. 3 (12) of the CL) is an administrative decision authorising the commencement and conduct of construction or the performance of construction works other than the construction of a building.

A “BP” is issued by a competent authority, in particular based on the following legal acts:

- Act of 7 July 1994 *Construction Law* (Journal of Laws of 2018, item 1202, as amended);
- Regulation of the Minister of Infrastructure and Construction of 24 August 2016 on the following templates: *application for a building permit or decommissioning, notification of*

construction and reconstruction of a single-family residential building, declaration of the right to dispose of a property for construction purposes and a decision on a building permit or decommissioning (Journal of Laws, item 1493);

- Regulation of the Minister of Transport, Construction and Maritime Economy of 25 April 2012 *on the detailed scope and form of a building permit design* (Journal of Laws of 2018, item 1935, as amended; “Project Regulation”);
- Regulation of the Minister of Infrastructure of 26 June 2002 *on the construction, assembly and decommissioning log, information board and advertisement containing data on occupational health and safety protection* (Journal of Laws of 2018, item 963, as amended);
- Regulation of the Council of Ministers of 25 November 2010 *on buildings and construction works, in matters of which a province governor is the organ of first instance* (Journal of Laws of 2010, item 235, item 1539);
- Regulation of the Minister of Transport, Construction and Maritime Economy of 25 April 2012 *on determining the geotechnical conditions for the foundation of building structures* (Journal of Laws, item 463);
- Act of 3 October 2008 *on the provision of information on the environment and the protection thereof, public participation in environmental protection and environmental impact assessment* (Journal of Laws of 2018, item 2081, as amended);
- Act of 9 June 2011 *Geological and Mining Law* (Journal of Laws of 2017, item 2126, as amended; “GML”);
- Regulation of the Minister of the Environment of 20 December 2011 *on the detailed requirements for geological work projects, including works, the performance of which requires obtaining a concession* (Journal of Laws of 2011, item 288, item 1696, as amended);
- Regulation of the Minister of the Environment, of 30 October 2017 *on the collection and sharing of geological information* (Journal of Laws, item 2075);
- Regulation of the Minister of the Environment, of 18 November 2016 *on hydrogeological documentation and geological engineering documentation* (Journal of Laws, item 2033);
- Regulation of the Minister of the Environment, of 6 December 2016 *on other geological documentation* (Journal of Laws, item 2023);
- Regulation of the Minister of the Environment, of 9 June 2015 *on the transmission of information on the current documentation of geological works* (Journal of Laws, item 903);
- Act of 20 July 2017 *Water Law* (Journal of Laws of 2018, item 2268, as amended);
- Regulation of the Minister of the Environment of 21 July 2016 *on the method of classification of the status of uniform surface water bodies and environmental quality standards for priority substances* (Journal of Laws of 2016, item 1187);
- Regulation of the Minister of the Environment of 21 December 2015 *on the criteria and the method of assessing the condition of groundwater bodies* (Journal of Laws of 2015, item 85);
- Regulation of 11 December 2017 *on the adoption of a National Program for the Protection of Sea Waters* (Journal of Laws of 2017, item 2469, as amended);
- Act of 21 March 1991 *on sea territories of the Republic of Poland and maritime administration* (Journal of Laws of 2018, item 2214, as amended).

This chapter describes the procedure for obtaining a BP along with the characteristics of other administrative procedures resulting from legal acts other than CL.

On the basis of the provision of Art. 29 (3) of the CL, obtaining a BP is required for a project which requires an environmental impact assessment, or for a project which requires an impact assessment on a Natura 2000 site, in accordance with Art. 59 of the EIA Act.

Additional procedures and administrative decisions have been indicated and described which must be carried out to fulfil the requirements of the decisions concerning an OLL, an SCLL and an ED, and those that determine the completeness of the application for a BP, as well as give grounds for proper design.

Before issuing a BP, the competent authority checks, among others, the conformity of the building design with the requirements of environmental protection, in particular those specified in the ED (Art. 35 (1) (1) of the CL).

Under the procedure for issuing decisions referred to in Art. 72 (1) (1), (10), (14) and (18) of the EIA Act, including a BP, a subsequent EIA is carried out, if such a requirement has been specified in the ED. The subsequent EIA is required if the information on the planned project (especially the design solutions) available at the stage of determining the environmental conditions within the procedure of issuing the ED is too general and imprecise to fully identify possible impacts and propose a final list of precautionary and mitigation measures. Such a situation is highly probable in case of an OWF, where at the stage of the ED, different technological solutions are possible.

The subsequent EIA is also conducted:

- at the request of the entity which plans to undertake the project, submitted to the authority competent to issue the BP;
- where the authority competent to issue the BP finds that changes have been made to the request for the issue of the decision in relation to the requirements set out in the decision on the environmental conditions.

In order to perform a subsequent EIA, it is not necessary to perform environmental research again. However, some analyses may be necessary, including modelling, if the technical solutions used may differ from those described in the EIA Report. In the case of obtaining an ED on the basis of an advanced technical concept or a construction design, a new EIA may be required in the event of changes to the project that may affect the environmental conditions set out in the ED.

The proceedings regarding the subsequent EIA for an OWF or EI are carried out by the Regional Director for Environmental Protection in cooperation with the authority issuing the Building permit. An EIA Report is then carried out and public consultations are done, whereas the result of the procedure is issuing by the Regional Director for Environmental Protection the decision to approve the conditions for the implementation of the project.

D1 The decision for approving a project of geological works (PGW) for UXO	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The decision is necessary to perform the geological surveys – geophysical works to identify potential UXO accidents or objects of cultural heritage during the field works and to define locations for the final geotechnical tests in the maritime area of the OLL and SCLL. Geological and geotechnical campaign and surveys are needed for the building permit design.
Legal basis/source of the requirement	Art. 80 (1) of the GML and due to the PGW Regulation.
Relevant authority	The minister competent for the environment.
Applicant	Project developer.
Estimated time	≈3-4 months.

Necessary input	The EIA report and ED, the PGW (geophysical).
Validity	5 years.
Predecessor	The OLL (→box L1), the SCLL (box → L2), ED (→box E1).
Successor	The information about the proceeding of geological field works (→box D2).

D2 The information about the proceeding of geological field works for UXO	
Element	Offshore wind farm, offshore external infrastructure.
Subject	Implementation of the geophysical surveys in the maritime area of the OLL and SCLL.
Legal basis/source of the requirement	Art. 81 of the GML and the decision for approving a project of geological works.
Relevant authority	Not applicable. Need to inform the Maritime Office, geological authority (the minister competent for the environment) and the Polish Geological Institute – Polish Research Institute (in the case of sampling collection) about the schedule and area of the field works.
Applicant	Project developer.
Estimated time	Depends on scope of the field works (up to 7 months)
Necessary input	The OLL, the SCLL, the EIA report and ED, the PGW with the decision for approving a project of geological works
Validity	14 days before the kick-off of the geological field works in 5 years (due to the time schedule in the decision for approving a project of geological works.
Predecessor	The decision for approving a PGW (→ box D1).
Successor	The decision approving geological works for UXO (→box D3) – after the field works.

D3 The decision approving geological works for UXO	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The decision confirms the fulfillment of the provisions of the project of geological works and decision for approving a project of geological works.
Legal basis/source of the requirement	Art. 93 (2) of the GML, the Regulation of the Minister of the Environment, of 18 November 2016 on hydrogeological documentation and geological engineering documentation, the Regulation of the Minister of the Environment, of 6 December 2016 on other geological documentation (Journal of Laws, item 2023).
Relevant authority	In general – the relevant authority which issued the decision for approving a project of geological works. For an OWF with EI – the minister competent for the environment will be a competent authority, however in a technical zone, depending on the design details and the solutions adopted, it is not possible to exclude the proceedings of the marshal of the province and a territorially competent starost at this stage.
Applicant	Project developer.
Estimated time	≈3-4 months.
Necessary input	OLL, SCLL, EIA report and ED, the geological surveys and relevant modelling, PGW with the decision for approving a project of geological works, geological documentation.
Validity	Lack of legal regulations – the period should be pointed out by the authority in a decision.
Predecessor	The information about proceeding of geological field works (→box D2)
Successor	The decision for approving a project of geological works for geotechnical campaign (→box D4)

D4 The decision for approving a PGW for a geotechnical campaign	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The decision is necessary to perform the geological surveys. Geological and a geotechnical campaign and surveys are needed for the building permit design.
Legal basis/source of the requirement	Art. 80 (1) of the GML and due to the PGW Regulation.
Relevant authority	For an OWF with EI in the Polish maritime area – the minister competent for the environment will be a competent authority, however in a technical zone, depending on the design details and the solutions adopted, it is not possible to exclude the proceedings of the marshal of the province and a territorially competent starost at this stage.
Applicant	Project developer.
Estimated time	≈3-4 months.
Necessary input	EIA report and ED, final technical concept, geophysical results, PGW.
Validity	5 years.
Predecessor	The decision approving geological works for UXO (→box D3).
Successor	The information about proceeding of geological field works (→box D5).

D5 The information about the proceeding of geological field works for the geotechnical campaign	
Element	Offshore wind farm, offshore external infrastructure.
Subject	Geological surveys and geological field works are needed for the building permit design.
Legal basis/source of the requirement	Art. 81 of the GML and the decision for approving a project of geological works.
Relevant authority	Not applicable. Need to inform Maritime Office, the relevant geological authority and the Polish Geological Institute – Polish Research Institute (in the case of sampling collection) about the schedule of the field works.
Applicant	Project developer.
Estimated time	Depends on scope of the field works (up to 7 months).
Necessary input	OLL, SCLL, EIA report and ED, final technical concept and PGW with the decision for approving a project of geological works.
Validity	14 days before the kick-off of the geological field works in 5 years (due to the time schedule in the decision for approving a project of geological works).
Predecessor	The decision for approving a project of geological works (→box D4).
Successor	The decision approving geological works (→box D6) – after the field works.

D6 The decision approving geological works for a geotechnical campaign	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The decision confirms the fulfillment of the provisions of the project of geological works and the decision for approving a project of geological works.
Legal basis/source of the requirement	Art. 93 (2) of the GML, the Regulation of the Minister of the Environment, of 18 November 2016 on hydrogeological documentation and geological engineering documentation, the Regulation of the Minister of the Environment, of 6 December 2016 on other geological documentation (Journal of Laws, item 2023).
Relevant authority	In general – the relevant authority which issued the decision for approving a project of geological works. For an OWF with EI in the Polish maritime area – the minister competent for the environment will be a competent authority, however in a technical zone, depending on the design details and the solutions adopted, it is not possible to exclude the proceedings of the marshal of the province and a territorially competent starost at this stage.
Applicant	Project developer.

Estimated time	≈3-4 months
Necessary input	OLL, SCLL, EIA report and ED, the final technical concept, the geological surveys and relevant modeling, geological documentation.
Validity	Lack of legal regulations – the period should be pointed out by the authority in a decision.
Predecessor	The information about the proceeding of geological field works for the geotechnical campaign (→box D5)
Successor	The building permit (→box D18).

D7 The water-law permission – the water-law assessment ² – EC, OWF	
Purpose/general characteristic	The analysis of the impact of a planned investment or operation on the possibility of achieving the environmental objectives referred to in Art. 56 of Water Law (regarding environmental objectives for uniform surface water bodies), Art. 57 of Water Law (regarding the environmental objective for artificial and heavily modified surface water bodies), Art. 59 of Water Law (regarding the environmental objective for groundwater bodies) and Art. 61 of Water Law (regarding the environmental purpose for protected areas) must be performed. The declaration of compliance is a confirmation of water-law assessment.
Legal basis/source of the requirement	Art. 388 (5), Art. 390 and Art. 429 (1) of the WL. Art. 33 (2) of the CL.
Relevant authority	The director of a regional water management board of Wody Polskie in cooperation with the maritime office (an agreement in the case of use the technical zone).
Applicant	Project developer.
Estimated time/stage	≈3-4 months.
Necessary input	EIA report and ED, final technical concept and technical solutions due to water use, hydrogeological survey and hydrogeological documentation (if needed).
Validity	6 years (combined with the publishing of the River Basin Management Plan).
Predecessor	–
Successor	The Building permit (→box 18)

D8 The water-law permission – the water-law permit	
Element	Offshore external infrastructure.
Subject	The purpose of the permit is to establish the purpose of the designed water equipment and other works, the purpose and scope of water use, conditions for the exercise of rights and obligations necessary to protect environmental resources, the interests of the population and economy, within the range of impact of the intended use of water or planned water facilities
Legal basis/source of the requirement	Art. 388 (5), Art. 390 and Art. 407 (1) of the WL. Art. 33 (2) of the CL.
Relevant authority	The director of a regional water management board of Wody Polskie in cooperation with the maritime office (an agreement in the case of use the technical zone).
Applicant	Project developer.
Estimated time	≈3-4 months.
Necessary input	The water-law survey, EIA report, final technical concept and building permit design including technical solutions due to water use, water-law assessment (if required), hydrogeological survey and hydrogeological documentation (if needed).
Validity	20 years, except: <ul style="list-style-type: none"> • water-law permit for introducing sewage into waters or into the ground – no longer than 10 years; • water-law permit for the introduction of industrial wastewater and sewage – no longer than 4 years;

² In the case of a prior environmental decision obtainment.

	<ul style="list-style-type: none"> water-law permit for extraction from surface waters, including waters of the territorial sea and internal water, stone, gravel, sand and other materials, as well as removing plants from waters or the shore – no longer than 5 years.
Predecessor	–
Successor	The Building permit (→box D18)

D8.A The opinion of local authority (before obtaining the water-law permit)	
Element	Offshore external infrastructure.
Subject	The purpose of the opinion is to make a statement about the detailed characteristic of the undertaking and its purpose in the light of the local spatial plan.
Legal basis/source of the requirement	Art. 42 (4) of the AOMA. Art. 12 (7) of the CL.
Relevant authority	The Local authority.
Applicant	The director of a regional water management board of Wody Polskie.
Estimated time	14 days from the date of receipt of the documents.
Necessary input	The water-law survey, EIA report, final technical concept and building permit design including technical solutions due to water use, water-law assessment (if required), geological/hydrogeological survey and geological/hydrogeological documentation (if needed).
Validity	Not applicable.

D9 The water-law permission – the water-law application	
Element	Offshore external infrastructure.
Subject	Required for activities combined with the undertaking which do not require a water permit during the construction phase due to water use and water management.
Legal basis/source of the requirement	Art. 388 (5), Art. 390 and Art. 423 (1) of the WL. Art. 33 (2) of the CL.
Relevant authority	The water supervision division of Wody Polskie.
Applicant	Project developer.
Estimated time	Not applicable.
Form of application	A formal letter with the project description and impact assessment on water.
Necessary input	EIA report, final technical concept and building permit design including technical solutions due to water use.
Validity	3 years.
Predecessor	–
Successor	The Building permit (→box D18).

D10 The decision for authorising the use of a technical zone	
Element	Offshore external infrastructure.
Subject	The decision allowing the use of a technical zone for purposes other than to ensure the safety and environmental protection of the sea shore
Legal basis/source of the requirement	Art. 36-37 of the AOMA.
Relevant authority	The Director of the Maritime Office.
Applicant	Project developer.
Estimated time	≈3-4 months.
Necessary input	The final technical concept and building permit design including technical solutions, OLL, SCLL.
Validity	Not applicable in national law – should be described in the decision.
Predecessor	–
Successor	The Building permit (→box D18).

D11 The oil expertise accompanied by a maintenance and service schedule – arrangement and approval³	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The plan for counteracting threats and oil pollution for the construction, operation and decommissioning phase of the offshore wind farm, accompanied by a maintenance and service schedule.
Legal basis/source of the requirement	The OLL and the SCLL.
Relevant authority	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation.
Applicant	Project developer.
Estimated time	The approval needs to be done before the EIA report – the preliminary acceptance. The final approval – oil expertise should be updated to include the results in the subsequent EIA report and presented to the minister within no less than 3 months but no longer than 6 months ⁴ before the OWF is put into operation with the schedule.
Necessary input	Technical concept and layout with the characteristic technical parameters and solutions.
Validity	Not applicable
Predecessor	The OLL (→ box L1)/the SCLL (→ box L2).
Successor	The Building permit (→ box D18).

D12 The geological expertise accompanied by a Formal Risk Analysis (FSA) – arrangement³	
Element	Offshore wind farm.
Subject	The geological expertise is a document in the scope of the impact of an OFW on safety related to the research, recognition and exploitation of the mineral resources of the seabed.
Legal basis/source of the requirement	The OLL.
Relevant authority	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation.
Applicant	Project developer.
Estimated time	The expertise should be submitted before the EIA report – the preliminary acceptance. The final acceptance – the expertise should be updated with a Formal Risk Analysis (FSA).
Necessary input	Building permit design with the characteristic technical parameters and solutions, the final layout.
Validity	Not applicable
Predecessor	The OLL (→ box L1).
Successor	The Building permit (→ box D18).

D13 The navigation expertise accompanied by a Formal Risk Analysis (FSA) – arrangement³	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The navigation expertise is a document in the field of assessing the impact of a project on the safety of ships in the Polish maritime areas and the efficiency of the navigation thereof, taking into account the existing shipping routes and traffic separation systems.
Legal basis/source of the requirement	The OLL and the SCLL.
Relevant authority	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation.
Applicant	Project developer.
Estimated time	The expertise should be submitted before EIA report – the preliminary acceptance.

³ Content used in most location decisions but not as a legal restriction.

⁴ Content used in most location decisions; time frame might be different, but the general rule is maintained.

	The final acceptance – the expertise should be updated with a Formal Risk Analysis (FSA).
Necessary input	Building permit design with the characteristic technical parameters and solutions, the final layout.
Validity	Not applicable
Predecessor	The OLL (→ box L1)/the SCLL (→box L2).
Successor	The Building permit (→box D18).

D14 The radiolocation expertise – arrangement³	
Element	Offshore wind farm.
Subject	Radiolocation expertise is a document which should include the following issues: <ul style="list-style-type: none"> expert opinion on the possibility of the mutual adverse impact of an OWF on the operation of radiolocation systems, radio communication and other Navy and Border Guard devices, technical expertise in assessing the impact of the OWF on the Emergency Maritime Communications System of the A1 and A2 Polish sea territory zones, as well as the Operational Communication System of the Maritime Search and Rescue Service, analysis of the impact of an OWF on the National Maritime Safety System.
Legal basis/source of the requirement	The OLL.
Relevant authority	Agreement with the Navy (according to expert opinion on the possibility of a mutual adverse impact of an OWF on the operation of radiolocation systems, radio communication and other Navy devices). Approval – the minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation.
Applicant	Project developer.
Estimated time	The preliminary acceptance has been obtained at the stage of the EIA report with the obligation to update the document and present it to the minister within no less than 3 months but no longer than 6 months before the OWF is put into operation, and this should include every new element of the radiolocation system which was not covered in the preliminary documentation.
Necessary input	Building permit design with the characteristic technical parameters and solutions, the final layout.
Validity	Not applicable
Predecessor	The OLL (→box L1).
Successor	The Building permit (→box D18).

D15 Specialist opinion on building permit designs that include new, domestically unproven technical solutions that are not basics in regulations and Polish Standards	
Element	Offshore wind farm.
Subject	The opinion is needed as an appendix to the application form for the BP in the case of building permit designs that include new, domestically unproven technical solutions that are not basics in regulations and Polish Standards.
Legal basis/source of the requirement	Art. 33 (3) of the CL.
Relevant authority	Not applicable – the opinion issued by a person or an organisational unit designated by the competent minister.
Applicant	Project developer.
Estimated time/stage	≈2-4 months
Necessary input	EIA report and ED, final technical concept and building permit design.
Validity	Not applicable.
Predecessor	–
Successor	The Building permit (→box D18).

D16 Verification of the architectural and building project	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The designer is required to ensure that the architectural and building project is checked for compliance with the properties of the given building, such as its purpose, method of use, location, size, manner and scope of impact on the surroundings, complexity of technical solutions, as well as the type and specificity of the given building.
Legal basis/source of the requirement	Art. 20 of the CL.
Relevant authority	Not applicable.
Responsibility	Project developer.
Estimated time	-
Necessary input	EIA report and ED, final technical concept and building permit design.
Validity	Not applicable.
Predecessor	-
Successor	The Building permit (→ box D18).

D17 The arrangement of the building permit design for a fibreoptic cable in maritime areas ⁵	
Element	Offshore wind farm.
Subject	The building permit design for a fibreoptic cable in maritime areas for designated turbines should be prepared to fulfil the requirements from the OLL and it must be agreed with the Navy.
Legal basis/source of the requirement	The OLL. Art. 33 of the CL and the Regulation of the Minister of Transport, Construction and Maritime Economy of 25 April 2012 on the detailed scope and form of a building permit design.
Relevant authority	Navy.
Applicant	Project developer.
Estimated time	≈6-7 months.
Necessary input	The final technical concept and building permit design including technical solutions, the time schedule.
Validity	3 years.
Predecessor	The OLL.
Successor	The Building permit (→ box D18).

D18 The building permit	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The building permit is the decision which allows the process of the construction phase. The main appendix to the application form for the BP is building permit design.
Legal basis/source of the requirement	Art. 33 of the CL and the Regulation of the Minister of Transport, Construction and Maritime Economy of 25 April 2012 on the detailed scope and form of a building permit design.
Relevant authority	The authority issuing the BP –the governor in cooperation with the Regional Director for Environmental Protection, the Director of the Maritime Office, State Sanitary Inspection, local authority.
Applicant	Project developer.
Estimated time	≈6-7 months
Necessary input	The EIA Report, final technical concept and building permit design, geological/geotechnical surveys and the decision for approving a project of geological works and the decision approving geological works.
Validity	3 years.
Predecessor	Location Stage, Environmental Stage, Design Stage: boxes D1-D17.
Successor	The usufruct (→ box C8).

⁵ Content used in most location decisions.

D18.A The decision to approve the conditions for the implementation of the project – subsequent EIA	
Element	Offshore wind farm.
Subject	The purpose of the subsequent EIA is to fully identify the possible impacts of the project based on the building permit design and lay down the conditions for its implementation, including a final list of precautionary and mitigation measures.
Legal basis/source of the requirement	Art. 72 (1) (1), (10), (14), (18) and Art. 88-95 of the EIA Act.
Relevant authority	The Regional Director for Environmental Protection.
Applicant	The authority issuing the BP – the governor.
Estimated time	45 days from the date of receipt of the documents (the estimated time does not include the public consultations).
Necessary input	Subsequent EIA report, final technical concept and building permit design.
Validity	Not applicable but the application must be submitted within the validity time for the ED.

D18.A.1 The opinion of the State Sanitary Inspection (concerning the conditions for the implementation of a project)	
Element	Offshore wind farm.
Subject	The purpose of the opinion is to consult on the sanitary conditions for the implementation of the undertaking.
Legal basis/source of the requirement	Art. 77 and Art. 90 of the EIA Act.
Relevant authority	The State Sanitary Inspection.
Applicant	The Regional Director for Environmental Protection.
Estimated time	14 days from the date of receipt of the documents.
Necessary input	Subsequent EIA report, final technical concept and building permit design.
Validity	Not applicable.

D18.A.2 The opinion with the maritime office (concerning the conditions for the implementation of a project)	
Element	Offshore wind farm.
Subject	The purpose of the agreement is to agree on conditions for implementation of the undertaking due to the technical zone and maritime areas.
Legal basis/source of the requirement	Art. 77 and Art. 90 of the EIA Act.
Relevant authority	The Director of the Maritime Office.
Applicant	The Regional Director for Environmental Protection.
Estimated time	14 days from the date of receipt of the documents.
Necessary input	Subsequent EIA report, final technical concept and building permit design.
Validity	Not applicable.

D18.A.3 The opinion with Wody Polskie (concerning the conditions for the implementation of a project)	
Element	Offshore wind farm.
Subject	The purpose of the agreement is to agree on conditions for implementation of the undertaking due to water issues (alignment to the Water Framework Directive and the Marine Strategy Framework Directive).
Legal basis/source of the requirement	Art. 77 and Art. 90 of the EIA Act.
Relevant authority	The Director of a Regional Water Management Board of Wody Polskie.
Applicant	The Regional Director for Environmental Protection.
Estimated time	30 days from the date of receipt of the documents.
Necessary input	Subsequent EIA report, final technical concept and building permit design.
Validity	Not applicable.

D18.B The agreement with the maritime office of the building permit design	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The purpose of the opinion is to make a statement about the detailed characteristics of the undertaking and the purpose in the scope of ensuring the safety and environmental protection of the seashore and maritime areas.
Legal basis/source of the requirement	Art. 42 (2) (10)-(11) of the AOMA. Art. 12 (7) of the CL.
Relevant authority	The Director of the Maritime Office.
Applicant	The authority issuing the BP – the governor.
Estimated time	14 days from the date of receipt of the documents.
Necessary input	The final technical concept and building permit design including technical solutions, OLL, SCLL
Validity	Not applicable.

D18.C The opinion of local authority (before obtaining the BP)	
Element	Offshore external infrastructure.
Subject	The purpose of the opinion is to make a statement about the detailed characteristics of the undertaking and the purpose in the light of the local spatial plan.
Legal basis/source of the requirement	Art. 12 (7) of the CL.
Relevant authority	The local authority.
Applicant	The authority issuing the BP – the governor.
Estimated time	14 days from the date of receipt of the documents.
Necessary input	The water-law survey, EIA report, final technical concept and building permit design including technical solutions due to water use, water-law assessment (if required), geological/hydrogeological survey and geological/hydrogeological documentation (if needed).
Validity	Not applicable.

1.4. Commissioning stage

The Usufruct is a kind of administrative decision which allows the stage to be achieved ready-to-use and this issue is regulated by the CL.

The Usufruct is issued by a competent authority based on Art. 54-59 of CL. In the decision on the permit to use, the building supervisor may specify the conditions of use of the building and the time in the case of additional obligations (if relevant).

After receiving the application form from Project developer, the authority shall proceed to the mandatory inspection referred to in Articles 59a – 59g of the CL. The purpose of the inspection is to determine whether the construction is carried out in accordance with the arrangements and conditions specified in the Building permit. Among other things, the compliance of the object with the plot or area development project with the architectural and construction project is checked.

If any irregularities are found during the inspection, the investor is penalised. This is done by way of a decision against which a complaint may be lodged (Article 59g (1) CL). The performance of the above inspection directly precedes the issuance of a decision on the usufruct.

C1 The health and safety plan	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The health and safety plan is needed if: <ul style="list-style-type: none"> during the construction phase, at least one of the types of construction works mentioned in Art. 33 (2) CL, or the anticipated construction works are to last longer than 30 working days and at the same time there will be at least 20 employees employed, or the labour consumption of the planned works will exceed 500 man-days.
Legal basis/source of the requirement	Art. 33 and Art. 20, 21a of the CL.
Relevant authority	Not applicable.
Applicant	Project developer.
Estimated time	≈2-4 months
Necessary input	EIA report and ED, final technical concept and building permit design.
Validity	Not applicable.
Predecessor	The Building permit (→box D18).
Successor	The Usufruct (→box C8).

C2 The agreement of the time schedule of the construction phase³	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The agreement with the director of the maritime office concerning the schedule and sequence of works on the maritime areas in accordance with the safety of ship traffic.
Legal basis/source of the requirement	The OLL.
Relevant authority	The Director of the Maritime Office.
Applicant	Project developer.
Estimated time	Not applicable.
Necessary input	The BP (with the final technical concept and building permit design including technical solutions), the time schedule
Validity	Not applicable.
Predecessor	The Building permit (→box D18).
Successor	The Usufruct (→box C8).

C3 The permission for temporary occupation of a marine area	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The agreement is needed for proceeding to the construction phase.
Legal basis/source of the requirement	Art. 27r of the AOMA.
Relevant authority	The Director of the Maritime Office.
Applicant	Project developer.
Estimated time	Not applicable.
Necessary input	The BP (with the final technical concept and building permit design including technical solutions), the time schedule
Validity	Not applicable.
Predecessor	The Building permit (→box D18).
Successor	The Usufruct (→box C8).

C4 The agreement with Navigation Inspectorate of the Maritime Office³	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The organisation of works during the construction phase should be agreed with the Inspector of Navigation Inspectorate of the Maritime Office.
Legal basis/source of the requirement	The OLL, the SCLL.

Relevant authority	The Director of the Maritime Office.
Applicant	Project developer.
Estimated time	Not applicable.
Necessary input	The BP (with the final technical concept and building permit design including technical solutions), the time schedule
Validity	Not applicable.
Predecessor	The Building permit (→box D18).
Successor	The Usufruct (→box C8).

C5 The oil expertise accompanied by a maintenance and service schedule – notification³	
Element	Offshore wind farm, offshore external infrastructure.
Subject	The plan for counteracting threats and oil pollution for the construction, operation and decommissioning phases of the offshore wind farm, accompanied by a maintenance and service schedule.
Legal basis/source of the requirement	The OLL, the SCLL.
Relevant authority	The minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation.
Applicant	Project developer.
Estimated time	The notification of the final service schedule – oil expertise should be updated with schedules and presented to the minister within no less than 3 months but no longer than 6 months before the OWF is put into operation.
Necessary input	Building permit design and the BP with the characteristic technical parameters and solutions.
Validity	Not applicable
Predecessor	The Building permit (→box D18).
Successor	The Usufruct (→box C8).

C6 The radiolocation expertise – notification³	
Element	Offshore wind farm.
Subject	The Radiolocation expertise is a document which should include the following issues: <ul style="list-style-type: none"> • expert opinion on the possibility of a mutual adverse impact of the OWF on the operation of radiolocation systems, radio communication and other of Navy and Border Guard devices, • technical expertise in assessing the impact of the OWF on the Emergency Maritime Communications System of the A1 and A2 Polish sea territory zones, as well as the Operational Communication System of the Maritime Search and Rescue Service, • analysis of the impact of the OWF on the National Maritime Safety System.
Legal basis/source of the requirement	The OLL.
Relevant authority	Agreement with the Navy (according to expert opinion on the possibility of a mutual adverse impact of the OWF on the operation of radiolocation systems, radio communication and other Navy devices). Approval – the minister competent for maritime issues – the Minister of Maritime Economy and Inland Navigation.
Applicant	Project developer.
Estimated time	The notification should be submitted no less than 3 months but no longer than 6 months before the OWF is put into operation, and this should include every new element of the radiolocation system which was not covered in the preliminary documentation.
Necessary input	Building permit design with the characteristic technical parameters and solutions, the final layout.
Validity	Not applicable.
Predecessor	The Building permit (→box D18).
Successor	The Usufruct (→box C8).

C7 Opinion of the State Sanitary Inspectorate and State Fire Service	
Element	Offshore wind farm, offshore external infrastructure.
Subject	To submit an application form for usufruct, after the construction phase, the sanitary inspection and fire service are obliged to issue their opinion on the conformity of the execution of the object with the building permit design. The opinion is obtained based on Project developer's notification.
Legal basis/source of the requirement	Art. 56 of the CL.
Relevant authority	The State Sanitary Inspectorate and the State Fire Service
Applicant	Project developer.
Estimated time	14 days from the date of receipt of the notification.
Necessary input	The notification, the Building permit and the building permit design.
Validity	Not applicable.
Predecessor	The Building permit (→box D18)
Successor	The Usufruct (→box C8).

C8 The usufruct/the notification for construction accomplished⁶	
Element	Offshore wind farm ⁷ , offshore external infrastructure ⁸ .
Subject	The usufruct is required if a building permit has been issued and in the case of construction objects from categories: V, IX-XVI, XX, XXVIII-XXX – and some construction objects belonging to categories: XVII, XVIII, XXII, XXIV and XXVII. For the rest – the notification for construction accomplished.
Legal basis/source of the requirement	The Building permit and Art. 55 and Art. 57 of the CL.
Relevant authority	The authority relevant issuing the building permit (→the governor).
Applicant	Project developer.
Estimated time	≈3-4 months including time dedicated for the building supervision authority (21 days from the day of submitting the application form for a usufruct) to carry out obligatory inspection of the construction.
Necessary input	The Building permit; the application form with the appendix: the original construction log; the statement by the site manager: that the execution of the work is in conformity with the building permit design or the building permit conditions and law-regulations and about bringing the work site to a proper condition and order, as well as – if used – the road, street, neighbouring property, building or premises; the protocols for tests and checks; the geodetic documentation, the confirmation, in accordance with separate regulations, of the acceptance of the connections made; Project developer's statement of no objection from the State Sanitary Inspectorate and State Fire Service.
Validity	Not applicable.
Predecessor	The Building permit (→box D18), Commissioning stage: box C1-U7.
Successor	The Operation stage.

⁶ The need of obtaining the usufruct or submitting the notification for construction accomplished depends on the construction object category and statements of the BP.

⁷ OWF is included to category XXIX (note that it might not be the only category for the project).

⁸ EI is included to category XXVI – networks do not need the usufruct but only the notification for construction accomplished.



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