

# Unofficial translation – for information use only

Comments on the Bill

General comments

Contents

1. Introduction

2. Background to the Bill

2.1 Environmental studies, including EIA reports and consultations

2.1.1. EIA report for the coast-to-coast project

2.1.2. EIA report for the railway landworks

2.1.3. EIA report for the road landworks

2.2. Processing of the coast-to-coast project by the German authorities

3. Design and alignment of the coast-to-coast project

3.1. Overall description of the coast-to-coast project

3.2. The alignment on Lolland

3.3. Alignment on Fehmarn

3.4. Land reclamation off Lolland

3.5. Land reclamation off Fehmarn

3.6. The temporary project area

4. Design and alignment of the Danish railway landworks

4.1. General description of the railway landworks

4.1.1. Major upgrades

5. Design of the Danish road landworks

6. Environmental conditions

6.1. Implementation report

6.2. Supplementary environmental assessments

6.3. Relationship of the Construction Act to nature and environmental legislation

6.3.1. Nature protection under the Construction Act and regulation of the right of appeal

6.3.2. Right to regulate certain pollutants and nuisances from the construction project

6.3.3. Special information on seabed spoil, etc.

6.3.4. Supervision, enforcement, etc.

7. Traffic-related consequences

8. Traffic during the construction phase

9. Expropriation

10. Organisation and ownership

- 11. Project finances
  - 11.1. The financing model
  - 11.2. Costs
    - 11.2.1. Construction costs for the coast-to-coast project
    - 11.2.2. Construction costs for the Danish landworks
    - 11.2.3. Costs of operation, maintenance and reinvestments for the coast-to-coast project
    - 11.2.4. Costs of operation, maintenance and reinvestments for the Danish landworks
    - 11.2.5. Rejected solutions
  - 11.3. Revenue
    - 11.3.1. Road traffic and prices
    - 11.3.2. Rail infrastructure payment
    - 11.3.3. EU funding
  - 11.4. Profitability calculations
  - 11.5. Socio-economic assessment of the project
- 12. Financial and administrative consequences for the State
  - 12.1. Financial consequences for the State
  - 12.2. Administrative consequences for the State
  - 12.3. Financial consequences for the municipalities
  - 12.4. Administrative consequences for the municipalities
- 13. Financial and administrative consequences for the business community, etc.
- 14. Administrative consequences for citizens
- 15. Environmental consequences
  - 15.1. Environmental consequences of the coast-to-coast project
  - 15.2. Environmental consequences of the railway landworks
  - 15.3. Environmental consequences of the road landworks
  - 15.4. Environmental consequences of the construction project in the operating phase
    - 15.4.1. Reduced emissions of CO<sub>2</sub> as a consequence of the construction project
    - 15.4.2. Noise and vibrations from the construction project
    - 15.4.3. Impact on natural conditions
    - 15.4.4. Impact on cultural heritage
    - 15.4.5. Impact of the coast-to-coast project on watercourse and drainage conditions
    - 15.4.6. Impact of the construction project on recreational conditions
    - 15.4.7. Impact of the railway landworks on the soil, groundwater and surface water
  - 15.5. Environmental consequences of the construction project in the construction phase
    - 15.5.1. Noise, vibrations and dust from the construction project
    - 15.5.2. Waste from the coast-to-coast project
    - 15.5.3. Impact of the construction project on natural conditions
    - 15.5.4. Impact of the construction project on cultural heritage
    - 15.5.5. Groundwater lowering as a consequence of the construction project
    - 15.5.6. Watercourse and drainage conditions as a consequence of the coast-to-coast project
    - 15.5.7. Extraction of seabed spoil from the tunnel trench, etc. as a consequence of the coast-to-coast project

- 15.5.8. Impact of the construction project on recreational conditions
- 15.5.9. Impact of the railway landworks on the soil, groundwater and drinking water

## 16. Relationship with other legislation

- 16.1. The Danish Construction Act in connection with the coast-to-coast project
- 16.2. The Danish Ports Act in connection with the coast-to-coast project
- 16.3. Health and safety legislation in connection with the coast-to-coast project
- 16.4. The Danish CCTV Monitoring Act in connection with the fixed link across the Fehmarnbelt
  - 16.4.1. Description of the CCTV monitoring
  - 16.4.2. CCTV monitoring in the construction phase
  - 16.4.3. Description of the automatic registration of number plates

## 17. Relationship with EU law

- 17.1. EIA Directive
- 17.2. SEA Directive
- 17.3. Habitats Directive and Birds Directive (Natura 2000)
- 17.4. Water Framework Directive and Marine Strategy Framework Directive
- 17.5. Waste Framework Directive
- 17.6. Environmental Crime Directive
- 17.7. Espoo and Helsinki Conventions
- 17.8. Procurement Directive
- 17.9 VAT Directive
- 17.10. EETS Directive
- 17.11. Relationship with EU state aid rules
- 17.12. Relationship with the Aarhus Convention

## 18. Public authorities and organisations, etc. consulted

## 19. Summary table

## 1. Introduction

The Bill is a Construction Act drafted on the basis of the bilateral treaty between the Kingdom of Denmark and the Federal Republic of Germany on a fixed link across the Fehmarnbelt of 3 September 2008, which was ratified in Denmark by Act no. 285 of 15 April 2009 on project planning for a fixed link across the Fehmarnbelt with associated landworks in Denmark.

The Bill entails the Danish Parliament authorising Femern A/S and A/S Femern Landanlæg to construct and operate, in pursuance of this Act, an immersed tunnel beneath the Fehmarnbelt with associated landworks in Denmark, called the 'construction project' in the Bill.

The main components of the construction project comprise:

- Establishment of a fixed link across the Fehmarnbelt in the form of an immersed tunnel with directly connected rail and road sections and other connected project elements in the form of land reclamation, a tunnel element factory, etc., hereinafter called the 'Fehmarnbelt tunnel' or the 'coast-to-coast project', cf. section 3 on the design and alignment of the coast-to-coast project.
- Upgrading of the railway installations from Vordingborg to Masnedø and from Orehoved to south of Holeby to a dual-track railway, electrification and upgrading of the railway, establishment of a passenger station at Holeby on Lolland and establishment of a new railway bridge over Masnedesund and a single-track railway bascule bridge over Guldborgsund, hereinafter called the 'railway landworks', cf. section 4 on the design and alignment of the railway landworks.

- Implementation of environmental measures on the motorway (Sydmotorvejen) and establishment of a new bridge over Sydmotorvejen at Lundegårdsvej, hereinafter called the 'road landworks', cf. section 5 on the design of the road landworks.

The coast-to-coast project is being implemented as a four-lane motorway with emergency lanes in both directions and a dual-track, electrified rail link located in an immersed tunnel (17.6 km); cut-and-cover tunnels that link the immersed tunnel to the portal buildings (0.2 km and 0.4 km); a portal building at each tunnel mouth; road and railway ramps in connection with the tunnel; roads and railways on both Danish (5 km) and German (3.5 km) territory that link the tunnel to the existing motorway and railway in both countries; and facilities for operation and maintenance, including a toll plaza located on the Danish side of the tunnel. In addition, there will be new reclaimed land off the coasts of both Lolland and Fehmarn.

The upgrading of the Danish railway landworks will comprise enlargement of the sections of railway from Vordingborg to Masnedø and from Orehoved to south of Holeby to dual track. The sections from Ringsted to Masnedø and from Orehoved to south of Holeby will be electrified and enlarged so that passenger trains can travel at up to 200 km/h on the section between Copenhagen and Puttgarden in Germany. However, it will not be possible to travel at 200 km/h on sections through Næstved, Vordingborg and Nykøbing F. The new signalling system, operating with ERTMS2, will be established in the sections. Banedanmark's Signal Programme will establish the new signalling system in the existing installations. A new permanent dual-track bridge will also be built over Masnedø east of the existing bridge, plus a single-track bascule bridge over Guldborgsund south of the existing Kong Frederik IX's bridge. As it will not be possible to open the bridges over Masnedø in the future, a channel will be dredged through Masnedø Østflak, ensuring that large ships can continue to call at Stege Havn and Vordingborg Sydhavn ports.

Section 6 of the Bill contains an option for construction and operation of the construction project to be transferred to Banedanmark, the Danish Road Directorate or institutions under the Danish Ministry of the Environment to a specific extent following a decision by the Minister for Transport.

The State currently owns the existing railway and road landworks, which are administered in practice by Banedanmark and the Danish Road Directorate. The landworks covered by the Act in Denmark, cf. section 2, will be constructed as enlargement or upgrade of the existing installations. During the construction phase for the Danish landworks, cf. section 2, the State will continue to be the owner of the existing railway and road landworks, while the enlargement and upgrade in the form of the Danish landworks covered by the Act, cf. section 2, will be owned by A/S Femern Landanlæg during the construction phase. For the same reason, ownership of the new installations financed by A/S Femern Landanlæg will be assigned to A/S Femern Landanlæg until the end of the construction phase.

After the end of the construction phase, ownership of the railway landworks will be divided, giving A/S Femern Landanlæg and the State, represented by Banedanmark, shared ownership of the railway landworks (exchange of properties) based on the parties' contributions, including contribution of existing railway installations or payment of actual construction costs. However, in all cases, these will be determined by the Minister for Transport.

Sections 7-17 of the Bill contain special provisions on environmental conditions, including environmental assessments. The Bill contains provisions that entail derogation from parts of general legislation, including in particular environmental legislation. The reason for this is partly that certain parts of general legislation are not well suited to regulating a project of this nature and size, and partly that the project is approved by law under the process in article 1, paragraph 4, of the the EIA Directive, under which the project must be adopted in detail without it been necessary to take other measures to give the developer the right to implement the project. In addition, the Bill contains provisions that set aside rules on the right to appeal and complain in general legislation to guarantee the necessary progress and robustness of the project.

Section 14 of the Bill provides that the Minister for Transport may, after specific assessment, establish rules on the pollution and nuisance that may occur as a consequence of the activities associated with the implementation of the construction project. In such cases, the rules in the Danish Environmental Protection Act do not apply to the construction project. The Minister for Transport will instead regulate the conditions in pursuance of the Construction Act. Where construction activities must be carried out in consideration of the finances and progress of the projects, and these activities also mean that the tolerance threshold under

law concerning relations between neighbours is exceeded to a material extent, regardless of preventive measures, such as noise insulation, compensation may be paid, cf. the proposed section 15.

The Bill also contains provisions on pipes, cables and roads in sections 18-25. Under section 18, the guest principle in section 106, subsection 1, of the Danish Public Roads Act and in section 70, subsection 1, of the Danish Private Shared Roads Act applies to pipe and cable works in or beside road areas and in other areas in connection with the construction project. In pursuance of sections 19-20, the Minister for Transport is also authorised to make various decisions concerning the pipes and cables in question. In the absence of any other agreement, compensation is determined in pursuance of the Danish Act on the procedure in connection with expropriation of real property. The same part of the Bill contains rules on how the Minister for Transport may construct new roads and make changes to existing roads of importance to the construction project. Under section 24 of the Bill, the Minister for Transport may transfer areas, buildings and installations to another public authority at no charge when they are not necessary for the construction project. Section 25 of the Bill specifies that the road link belonging to the coast-to-coast project specified in section 1 is a public road administered under the Danish Public Roads Act and that Femern A/S will be the road authority for it. Femern A/S may authorise the Danish Road Directorate or another agency established under the Ministry of Transport to exercise the powers of the company.

Sections 27-36 of the Bill contain rules on access to and control over certain areas. Rules are also proposed on expropriation and temporary rights to perform studies in outdoor areas. In relation to the initial works on the coast-to-coast project specified in section 1, the Bill contains some final, specific expropriation decisions. The interventions authorised by the final, specific expropriation decisions are all entirely necessary and are time-critical interventions for the project that would otherwise have to be managed after the Construction Act has been passed, with a significant risk of delay to the construction process. The other expropriations to be implemented as part of the construction project will follow the standard procedure.

Femern A/S will own the Fehmarnbelt tunnel and will charge payment for use of the road and railway in the Fehmarnbelt tunnel. Users will therefore pay to use the tunnel. In the treaty, Denmark has reserved the right to finance the coast-to-coast project specified in section 1 and the Danish landworks specified in section 2 with the proceeds from the Fehmarnbelt tunnel. The Act consequently contains provisions of importance to the operation of the fixed link across the Fehmarnbelt, emergency preparedness, determination of prices and CCTV monitoring.

The Bill must be seen in connection with the simultaneous Bill amending the Act on Sund og Bælt Holding A/S, the Act on the planning of a fixed link across the Fehmarnbelt with associated landworks in Denmark and the Danish Corporation Tax Act (Bill no. L 142).

## 2. Background to the Bill

With the signing of the governmental agreement between Sweden and Denmark on the establishment of a fixed link across the Øresund on 23 March 1991, Denmark declared itself ready to work to implement a fixed link across the Fehmarnbelt, provided that financial and environmental preconditions could be met.

In May 1992, the Danish and German Ministers for Transport announced that the two countries intended to commence studies on a fixed link across the Fehmarnbelt. A large number of studies of environmental conditions, project costs, financing, socio-economic aspects, dynamic effects, assessment of different technical solutions, navigational conditions, traffic forecasts, etc. were subsequently carried out. The studies resulted in Denmark and Germany reaching agreement, on 29 June 2007, on a memorandum of understanding that an intergovernmental agreement concerning the construction and operation of a fixed link across the Fehmarnbelt would be signed and ratified as soon as possible.

The agreement was enshrined in the bilateral treaty between the Kingdom of Denmark and the Federal Republic of Germany on a fixed link across the Fehmarnbelt of 3 September 2008, hereinafter called the 'Treaty'.

The Treaty was ratified in Denmark by means of Act no. 285 of 15 April 2009 on the planning of a fixed link

across the Fehmarnbelt with associated landworks in Denmark, hereinafter called the 'Planning Act'. In Germany, the Treaty was ratified by means of an Act, cf. Federal Law Gazette 2009 Part II No. 25, issued in Bonn on 23 July 2009 (Bundesgesetzblatt Jahrgang 2009 Teil II Nr. 25, ausgegeben zu Bonn am 23. Juli 2009).

Under the Planning Act, Femern A/S was ordered to carry out an equivalent study of an immersed tunnel and a cable-stayed bridge, for which reason part of the studies implemented focused on both options.

In November 2010, Femern A/S recommended the Minister for Transport that an immersed tunnel should be the preferred technical solution for a fixed link across the Fehmarnbelt in the subsequent planning work. The recommendation to choose the immersed tunnel as the preferred technical solution was based on an overall assessment of the advantages and disadvantages of the solutions for the following six parameters: 1) environment, 2) navigational safety, 3) safety and emergency preparedness, 4) technical risks, 5) time schedule and 6) finances. On 20 January 2011, a public meeting was held on Lolland, at which no new arguments for or against the two proposed solutions were presented. Against this background, in February 2011 a political decision was made that an immersed tunnel would be the preferred technical solution. The final decision will be made with the passing of the present Bill and in connection with the German authorities' approval of the coast-to-coast project on German territory.

On the basis of a recommendation by Femern A/S to the Minister for Transport, the political parties backing the project decided, on 1 June 2011, that the production site for tunnel elements would be located near Rødbyhavn in Denmark. Of the possible locations, Rødbyhavn was assessed as being the most appropriate as all the technical requirements for a future production site were met, all necessary environmental data had been collected and the location near the alignment contributed to minimising risks and maximising opportunities for control.

In the transport agreement of 21 March 2013 on 'A new Storstrøm bridge, Holstebro motorway, etc.' between the Government (the Danish Social Democrats, the Social Liberal Party and the Socialist People's Party), the Liberal Party, the Danish People's Party, Liberal Alliance and the Conservative Party, a decision was made for the Ringsted-Rødby section to be upgraded to 200 km/h, and for a new dual-track bridge to be built over Masnedsund.

A decision was also made in this transport agreement to construct a new combined road and dual-track railway bridge (including a cycle path and a footpath) over Storstrømmen, which will help improve future capacity in this central rail corridor to the rest of Europe. The Danish Road Directorate is in charge of this project, which is not subject to this Act.

With legal document 149 of 11 June 2011, funds were allocated for advance acquisitions and detailed planning of the railway landworks. Detailed planning usually takes place after a construction Act for a project has been passed. Consequently, with this legal document, the detailed planning has been brought forward so that the railway landworks can be taken into use when the fixed link across the Fehmarnbelt is opened.

With a legal document of 13 March 2013, additional funds were allocated for advanced construction activities to be carried out before the construction Act for the railway installations has been passed. The legal document initiated the construction of the bridges over the railway on Lolland and Falster, extension of platform 1 at Vordingborg Station, demolition of the buildings acquired in advance that were poorly maintained and façade insulation of the homes that will suffer noise pollution above the threshold stipulated by the Ministry of the Environment. Funds were also allocated for additional advance acquisitions. Construction of the bridges on Lolland and Falster, which are necessary on account of electrification, is governed by Act no. 609 of 12 June 2013 on electrification of the railway (the Electrification Act).

## 2.1 Environmental studies, including EIA reports and consultations

Article 13, paragraph 2, of the Treaty stipulates that the requirements under EU and national law must be used as the basis for the preparation, construction and operation of the fixed link across the Fehmarnbelt so that any harmful impact on the environment and nature is prevented and any inevitable impairment, in

particular in relation to the European Natura 2000 network, is dealt with appropriately. This constituted the basis of the Planning Act.

In connection with the Planning Act, the Minister for Transport was authorised, following negotiation with the Minister for the Environment, to prepare EIA reports for the construction project, including consultation and any other necessary environmental assessments of the construction project, cf. section 4 of the Planning Act.

In accordance with the preparatory works for section 4 of the Planning Act, the Ministry of the Environment, relevant authorities, companies and municipalities were involved and the EIA reports, etc. were prepared in compliance with the EIA Directive as assumed when the Planning Act was passed. It was assumed throughout the process that the project would be prepared, constructed and operated so that any harmful impact on the environment and nature would be prevented as far as possible, and that any inevitable significant impairment would be dealt with.

Against this background, EIA reports, etc. were prepared for the coast-to-coast project, the Danish railway landworks and the Danish road landworks. The task of preparing these EIA reports was assigned to Femern A/S, Banedanmark and the Danish Road Directorate, respectively.

#### 2.1.1. EIA report for the coast-to-coast project

The EIA process was divided into three phases: 1) ideas phase, 2) supplementary ideas phase and 3) surveys to be used for the preparation of the EIA report.

In the ideas phase/EIA scoping process, a draft environmental study programme for the coast-to-coast project was prepared in 2010, a so-called scoping report. The purpose of the scoping report was partly to establish the framework for the studies of natural and environmental conditions to be carried out in connection with the planning of the coast-to-coast project, and partly to invite ideas and proposals for what should be in the EIA report. The scoping report was subject to public consultation in Denmark from 21 June 2010 to 6 September 2010. A consultation report was prepared in which the Danish consultation responses are commented on. An equivalent process took place in Germany under the rules in force in Germany.

Under international agreements on protection of the marine environment in Danish waters, among other things, including the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Helsinki Convention (HELCOM) on the Protection of the Marine Environment of the Baltic Sea Area, Denmark is under an obligation to give all countries that are potentially affected by the project the opportunity to assess its possible impact. Consequently, during the same period, the draft environmental study programme was subject to consultation with relevant German authorities and organisations entitled to comment. The countries around the Baltic Sea and Norway were also consulted in accordance with the Espoo Convention. Accordingly, the authorities in Germany carried out a similar process under the rules in force in Germany.

The supplementary ideas phase was based on a requirement to integrate the production site and raw material extraction in the overall EIA report for the coast-to-coast project. The supplementary ideas phase took place from 3 October to 31 October 2011. A consultation report was prepared in May 2012, in which the consultation responses are commented on.

An EIA report was prepared on the basis of the environmental studies implemented. In the period 28 June to 20 September 2013, the Ministry of Transport held a consultation on the EIA report for the coast-to-coast project. A public consultation meeting was also held. The Ministry of Transport received 42 consultation responses which are discussed in the consultation report of October 2014. The Danish consultation of the Baltic States was implemented with the consultation on the Danish EIA report and took place in summer 2013 on the basis of a separate Espoo report that describes the transboundary impact of the coast-to-coast project. Accordingly, the German authorities carried out a similar process in Germany on the basis of the plan approval application under the rules in force in Germany.

In the subsequent process, Femern A/S prepared an EIA supplement with associated documentation,

setting out project changes and other adjustments to the EIA report of June 2013. The EIA supplement was subject to consultation from 28 November 2014 to 5 January 2015. 14 consultation responses were received. These are discussed in a consultation report.

### 2.1.2 EIA report for the railway landworks

The EIA process for the railway landworks was divided into two phases: an ideas phase and a study phase to be used for the preparation of the EIA report.

The Fehmarnbelt Danish railway landworks were subject to ideas phase consultation from 15 September to 1 November 2009. The ideas phase consultation was implemented by the Danish Transport Authority, and consultation responses are described in a consultation report published in April 2010. The consultation report for the ideas phase consultation is available on Femern A/S' website.

On the basis of the additional studies and consultation responses from the ideas phase consultation, Banedanmark published a consultation version of the Environmental Report consisting of three volumes in which the impact on the environment of the Fehmarnbelt Danish railway landworks project was described in detail.

The volumes were published on 11 February 2011 and contain general information and a description of the Ringsted-Holeby section. The material formed the basis of the public consultation which was held from 11 February to 1 May 2011. Six public meetings were held about the project during the consultation period.

The consultation responses received at public meetings and by letter or email to Banedanmark represent a number of different statements about the project. The consultation responses are reported on, assessed and commented on by Banedanmark in a consultation report that was published in December 2011 and is available on Banedanmark's website.

In the Fehmarnbelt Danish railway landworks project, Banedanmark registered a total of 199 consultation responses from municipalities, citizens, associations, enterprises and other authorities during the consultation period.

Banedanmark carried out further work on the project, among other things on the basis of proposals and ideas from the consultation period. Where it was possible, within the legislative, financial and technical frameworks of the project, to improve the installations in terms of technology or the environment, or to improve the conditions during the construction work, this was incorporated in the project.

The project was adjusted in a number of respects and the final environmental report for the Fehmarnbelt Danish railway landworks was published in October 2012 in three volumes. The environmental report can be viewed on Banedanmark's website.

The EIA studies showed that the environmental consequences of the implementation of the railway landworks are related in particular to noise, vibrations and natural conditions. Consequently, it is also within these areas that remedial measures need to be taken in connection with the implementation of the railway landworks.

After preparation of the EIA report, Banedanmark prepared an EIA supplement with associated documentation, setting out project changes and other adjustments to the EIA report of October 2012. The EIA supplement was subject to consultation from 28 November 2014 to 5 January 2015. 5 consultation responses were received. These are discussed in a consultation report.

### 2.1.3. EIA report for the road landworks

The EIA report consists of a summary report, an environmental assessment and an area use analysis. Background material on road, bridge and drainage conditions was also prepared. The Danish Road Directorate implemented the EIA study in partnership with Guldborgsund Municipality, Lolland Municipality

and the Danish Nature Agency.

The EIA report was presented to the public in spring 2012.

The EIA report and consultation report with a summary of consultation responses from authorities, associations and citizens, plus minutes of the public meeting can be read on the Danish Road Directorate's website.

The EIA study was continually coordinated with Femern A/S and Banedanmark with a view to discussing interfaces and the management of parallel problems. In this connection, the Danish Road Directorate and Banedanmark discussed the road-related consequences of building a new station south of Holeby. On the basis of this work, one of the findings was that a bus connection between Rødby and the new station would cross the motorway (Sydmotorvejen) at Lundegårdsvej. Consequently, it will be necessary to replace the bridge that takes Lundegårdsvej across Sydmotorvejen as it has insufficient load-bearing capacity.

The EIA study showed that opening a fixed link across the Fehmarnbelt, with the consequent changes in traffic with a greater distribution over the 24-hour period and more heavy goods vehicles, will have an impact on animal life along the motorway. The necessary environmental measures to prevent this are described in section 15.3.

## 2.2. Processing of the coast-to-coast project by the German authorities

The application for German plan approval was submitted to the German authorities in Kiel on 18 October 2013. The actual plan approval process follows. As part of this process, the application material was published and submitted for consultation in Schleswig-Holstein on 5 May 2014. The consultation was completed in early July 2014. Femern A/S and the consultation authority in Schleswig-Holstein implemented a thorough review of the consultation responses received. The independent plan approval authority in Kiel (LBV Kiel) is the only authority that decides when approval may be granted.

In accordance with the Treaty, the project is subject to independent assessment under the existing German legislation, which comprises the German plan approval authority's opinion on the construction of an immersed tunnel on German territory. The plan approval process is by its very nature challenging and subject to uncertainty, given the scale and transboundary nature of the project.

## 3. Design and alignment of the coast-to-coast project

### 3.1. Overall description of the coast-to-coast project

The studies carried out in the planning phase show that an immersed tunnel is the best solution for the coast-to-coast project, cf. section 1.

The main elements of the coast to-coast project are:

- A four-lane motorway link with emergency lanes in both directions and a dual-track, electrified rail link located in a 17.6 km immersed tunnel.
- Cut-and-cover tunnels located on Danish and German territory that link the immersed tunnel to the portal buildings (0.2 km and 0.4 km).
- A portal building at each tunnel mouth.
- Ramps for the road and railway in connection with the tunnel.
- Roads and railway on Danish (5 km) and German (3.5 km) territory that link the tunnel to the existing motorway and railway in both countries.
- New reclaimed land off the coasts of Lolland and Fehmarn with associated road installations.
- A toll plaza on Danish territory.
- Facilities for operation and maintenance, including those for police and customs.

The tunnel design assumptions in terms of safety, etc. have been as follows: passenger trains (200 km/h), freight trains (140 km/h) and cars (max. 130 km/h).

On Danish territory, one of the consequences of the coast-to-coast project will be changes to the surrounding road network, including the construction of new local roads and cycle paths, etc., the installation of a transformer station with up to 32 lightning masts, the establishment of new nature areas and wildlife crossings and the establishment of rainwater retention basins.

The construction of the motorway and railway will also require some of the local roads on Fehmarn to be diverted or modified.

### 3.2. The alignment on Lolland

In connection with determination of the alignment and location of the production plant for the coast-to-coast project, the most appropriate project corridor was first identified and selected, and then the most appropriate and precise alignment was identified within the project corridor selected. Subsequently, the location of the alignment was assessed in connection with the location of the production plant.

On the basis of an environmental sensitivity analysis and plant-related and safety considerations, the corridor east of Rødbyhavn Havn was considered to be more appropriate than the corridor west of Rødbyhavn Havn.

The future motorway connects to Sydmotorvejen approximately 5 km north-east of the tunnel mouth and approximately 300 m south of Lundegårdsvej. The part of the existing motorway between the connection point and Rødbyhavn, which will thus be relieved of traffic, is connected to the future motorway via a junction located directly south of the connection point of the future motorway. The junction is designed in such a way that a direct link is established with through lanes from the E47 motorway to and from Rødbyhavn.

The motorway runs parallel with Ottelundevej under a future flyover that takes traffic from the future motorway to the existing road link towards Rødbyhavn, thus ensuring continued access to the ferry routes from Rødbyhavn Havn, among other things. The motorway passes west of the farm at Ottelundevej 1, after which it continues in a curve towards the east and subsequently in a gentle arc towards the west. After approximately 3 km, traffic passes the toll plaza. Immediately after the toll plaza, the motorway and railway pass under the flyover of the diverted Færgevej. The motorway continues in a gentle arc towards the east parallel to Gl. Badevej.

Throughout this section, the motorway is constructed close to existing ground level. Between the toll plaza and the tunnel mouth, the motorway passes over an artificial elevation to give drivers a view of the Fehmarnbelt before they drive down to the tunnel mouth. During the descent, the motorway passes in a gentle arc towards the east in towards the railway.

At the tunnel mouth, there is a daylight screen, which, over a section of approximately 100 m, makes it possible for drivers to get used to the changed light conditions inside the tunnel by means of a gradual reduction of daylight.

Færgevej passes over the motorway and the railway, after which it joins Strandholmsvej. Finlandsvej is extended and joins Strandholmsvej directly south of the existing railway. Strandholmsvej is interrupted by the motorway and the toll plaza and joins Humlegårdsvej instead to create a connected local road system.

The railway joins the future dual-track railway (Ringsted-Fehmarn railway) approximately 5 km north of the tunnel portal and approximately 600 m south-west of where Ladhavevej crosses the existing railway. The alignment then curves towards the east and passes west of Humlegårdsvej and east of Strandholmsvej. The railway also passes east of the future toll plaza and continues past the future transformer station, which is located between the railway, Strandholmsvej and Færgevej. Immediately after the transformer station, the railway passes under the Færgevej flyover over the motorway and railway. After the bridge, the railway continues parallel to Strandholmsvej and passes west of Strandholm farm.

In the first part of the section from the connection to the Ringsted-Fehmarn railway, the railway is on an embankment. For the first almost 500 m, it is approximately 4 m above ground level, after which it descends steadily towards the ramp that takes the railway down to the tunnel mouth. The ramp itself that takes the railway down to the tunnel starts around 300 m south of Strandholm. The ramp is constructed with a descending gradient towards the tunnel mouth.

The alignment of the tunnel in territorial waters is straight with a slightly westward curve that begins approximately 4 km before the tunnel portal on the German side immediately off the coast of Fehmarn.

### 3.3. Alignment on Fehmarn

On the German side, the motorway continues west of the village of Marienleuchte and east of Puttgarden parallel to the link to the ferry port. The motorway passes under the Marienleuchter Weg flyover after approximately 1.5 km. Immediately after this are paved areas in which there are facilities for future redirection of traffic and space for the establishment of rescue areas in the event of an accident in the tunnel, plus areas for police and customs. The motorway subsequently passes over the existing railway before descending and joining the enlarged motorway that is upgraded by the German authorities.

On the German side, the ramp, which is around 1,000 m long, has an incline from the tunnel up to ground level. The railway continues in a straight line and passes under the Marienleuchter Weg flyover approximately 700 m south of the tunnel mouth. It subsequently runs briefly parallel to the diverted Marienleuchter Weg, after which it passes east of the future German authority buildings and continues in a straight line for approximately 1,500 m, ending in a gentle arc towards the east in the last part of the section before joining the existing railway with a slight incline.

The total distance from the tunnel mouth to the connection to the existing railway between Lübeck and Puttgarden is approximately 2.8 km.

### 3.4. Land reclamation off Lolland

As part of the coast-to-coast project, new reclaimed land will be created off Lolland and Fehmarn. The areas are designed as peninsulas demarcated by stonework/coastal edging and are created by filling with seabed sediment from the excavation of the tunnel trench, the work harbour and its access channel. Reference is made to schedule 2 to the Act for an illustration of the location and design of the reclaimed land off Lolland.

The new reclaimed land off Lolland is located on each side of the ferry port at Rødbyhavn and extends approximately 3.5 km towards the west and approximately 3.7 km towards the east. The peninsulas project approximately 500 m out into the Fehmarnbelt, and the average width of the entire area is approximately 430 m.

The total area comprises approximately 330 ha. The area of the reclaimed land is calculated as requisitioned seabed sites. The area includes water areas within the reclaimed land.

A number of different landscape elements will be included in the new reclaimed land, including beaches, lagoons, new beach areas, meadows and a coastal cliff.

The area to the west is planned to be a slightly undulating landscape similar to the existing overgrown coastal dunes west of Rødbyhavn. The height in the area varies, with individual peaks close to the western beach and the lagoon beach with a height of up to 7 m. High areas are avoided in the areas off the port, off Lalandia and up to the existing dike.

The area to the east is also an undulating landscape, but softer than the area to the west. The coastal cliff furthest east rises gradually from the existing dike and out towards the Fehmarnbelt.

Lolland will have two new sandy beaches as part of the new reclaimed land west of Rødbyhavn. One in the

western part of the reclaimed land and one in a semicircular lagoon out towards the sea. An inner lagoon will be created around the existing sandy beach at Rødbyhavn that can be used for recreational purposes and for paddling.

The Western beach will be established early in the construction phase. The inner lagoon with the paddling beach and lagoon beach is expected to be opened to the public when the construction phase has been completed.

The new reclaimed land off Lolland will be used partly for the new nature areas that will be established. West of Rødbyhavn Havn, there will be a nature area with a salt meadow/grassland and ponds. East of Rødbyhavn Havn, there will be a nature area with wetland, grazing areas and grassland. The area to the east will be finished off with a cliff of moraine clay approximately 7 m high, where erosion is permitted to release sand onto the stretch east of the reclaimed land.

In addition, the new Strandholm Sø lake, 8.2 ha in area, with an additional 8.2 ha open meadow, will be established to replace the old Strandholm Sø.

### 3.5. Land reclamation off Fehmarn

On Fehmarn, the new reclaimed land will extend approximately 400 m along the existing coast from the ferry port to the east and up to approximately 500 m off the existing coast. The reclaimed land will provide space for a new beach close to Marienleuchte. To protect the new reclaimed land from the impact of the sea, stonework/coastal edging will be implemented on the northern side. The new reclaimed land can be created with grazing areas.

### 3.6. The temporary project area

The temporary project area comprises all areas used for temporary facilities, installations, etc. used for the coast-to-coast project. The production plant will be sited partly on land and partly beyond the existing coastline. The main components of the production area are the tunnel element factory, work harbour, storage depots and camp.

The storage depots will be used for temporary location of some of the excavated seabed sediment and smaller piles of top soil removed from the dike. Excavated seabed sediment will act as a temporary coastal defence dike to protect the area behind. The storage depots will have a noise reduction effect and will be used for temporary storage of the excavated seabed spoil before it is ultimately used in the coast-to-coast project, for example to fill the work harbour.

The production area is dimensioned to contain a production plant for both standard and special elements for the immersed tunnel. Production of the standard elements is planned on a number of identical production lines, while special elements can be produced on a separate production line.

In connection with the establishment of the production plant, the following temporary buildings and installations will be built, among others, which will be removed after the end of the construction phase:

- Office buildings.
- Car parks.
- Personnel facilities.
- Buildings for prefabrication of reinforcement.
- Buildings in which the concrete elements are cast.
- Concrete mixing plant.
- Cement silos.
- Warehouses.
- Storage of aggregate for concrete production.
- Electricity supply from existing transformer station in Rødbyhavn.

In front of the casting buildings, shallow and deep launching docks will be built from which there will be access to the Fehmarnbelt via sluice gates and access channels. Piers will be built in front of the launching docks to protect the work harbour and the docks against waves. An approx. 1,000 m long quay will be built at the work harbour for the ships delivering building materials, and the vessels used for the marine operations.

The special elements might not be produced at the Rødbyhavn production plant. If not, the up to 10 special elements will probably be taken by sea to the production area at Rødbyhavn, where the finishing touches can be carried out before they are towed out to the tunnel trench.

It is possible, if the special elements are produced as combined steel/concrete elements, that the steel skeleton alone could be sailed to the production area at Rødbyhavn, where it could be filled with concrete before being towed out to the tunnel trench. The special elements have dimensions that make it possible for them to be produced in an existing dry or floating dock.

Two temporary work harbours are planned, one at Rødbyhavn and one at Puttgarden. The work harbour at Rødbyhavn is part of the production area with the tunnel element factory. The bulk of the building materials will be delivered by sea. The plan is to remove the work harbours when the construction work has been completed. The work harbour on Lolland will be filled, and the area will then form part of the planned new reclaimed land. The work harbour on Fehmarn will be established in an area where there is no need for dredging and subsequent backfilling.

During the construction phase, there will be a need to construct and upgrade a total of approximately 5 km of paved road with an associated dual path to the tunnel element factory, temporary accommodation facilities and the construction site for the portal and ramps.

Other temporary roads and paths will also be established as part of the implementation of the project. The most important of these are described below:

Færgevej will be rerouted and will be rebuilt (on the new route) after the Construction Act has been passed. The new route passes in an arc between Gl. Badevej and Strandholmsvej, south of Færgevej. The temporary rerouting will be removed when the new Færgevej with a flyover over the future railway and motorway has been completed. The Gl. Badevej/Finlandsvej/Færgevej junction will also be rebuilt slightly when the new route is established. A 'leg' will be extended to frame the new route.

An access road has been established to the campsite from Færgevej, which has been moved east of Strandholm in relation to the existing access road to the farm. The access road to Strandholm from Østersøvej has been moved to the west. The roads will be removed after the construction phase has been finished.

A temporary path will be established along the resited main channel. The path provides a direct route from the camp to the entrance to the production area.

A dual path will be established from Færgevej east/access to the production area and east of the production area to the dike to maintain the regional path connection. The path will be removed when the coastal dike has been re-established, and the regional path connection can therefore be resumed along the dike. An access road to the work harbour will also be established.

#### 4. Design and alignment of the Danish railway landworks

##### 4.1 General description of the railway landworks

The entire section between Ringsted and Masnedø and between Orehoved and south of Holeby will be electrified and upgraded to allow passenger trains to travel at up to 200 km/h. This entails the straightening of a number of curves on the existing railway, the most extensive of which is a rerouting of the railway in a 4.4 km section north of Glumsø. The new ERTMS2 signal system will be installed in phases along the

entire section, coordinated with upgrading and widening of the railway landworks. This will mean that the railway will need a new traction power system, and approximately 7 m high masts will be erected on both sides of the railway roughly every 60 m. Distribution stations will be installed at certain locations to supply electricity to the system.

The widening comprises the establishment of an extra track with associated installations in the railway sections between Vordingborg and Masnedø and between Orehoved and south of Holeby. There will then be a dual track in the section between Ringsted and south of Holeby when a new Storstrøm bridge is built.

A new permanent dual-track bridge will be built over Masnedsund east of the existing bridge, plus a single-track bascule bridge over Guldborgsund south of and parallel to the existing Kong Frederik IX's bridge. As it will not be possible to open the bridges over Masnedsund in the future, a channel (5 m deep and approximately 1,300 m long) will be dredged through Masnedø Østflak, ensuring that large ships can continue to call at Stege Havn and Vordingborg Sydhavn ports.

New passing tracks will be built between Ringsted and Glumsø, at Orehoved and at Holeby. A passing track and two platforms will be built at Ladhavevej, south of Holeby. A platform bridge with stairs and a lift will be built, and shelters and cycle parking will be installed. An access road and a car park for buses and cars will be built.

The crossing at Eskilstrup on Falster will be closed and the road on either side closed permanently to traffic crossing the line. A new road bridge will be built over the railway south of the existing crossing, and a new road will be built from Eskilstrup Vestergade/Kløvermarksgade to Søndergade/Eskilstrup Nygade.

In the section between Ringsted and south of Holeby, a large number of road and railway bridges will be demolished and rebuilt/converted. As part of the process of bringing forward a number of construction activities, the conversion of 18 road bridges on Falster and Lolland has been started under Act no. 609 of 12 June 2013 on electrification of the railway (the Electrification Act).

#### 4.1.1. Major upgrades

The speed upgrade of the line will start at the exit from Ringsted Station, and will follow the existing line in principle. Because of the speed upgrade to 200 km/h, a number of curves will have to be straightened by moving the tracks to the side. Curves will be straightened at the following locations, with the track being moved more than 0.2 m and thus requiring rebuilding in terms of railway engineering:

- Tyvelsevej: Lateral movement to the east of up to 1 m over an approximately 100 m section.
- North of Glumsø: Lateral movement to the west of up to 220 m over a section of 4.5 km.
- South of Glumsø: Lateral movement to the east up to 25 m over a section of approximately 1 km.
- At Herlufmagle: At the northern end of Herlufmagle, the track will be moved up to 2 m west over a section of approximately 600 m.
- North of Næstved: Straightening of three curves by moving them laterally 2-5 m to the east and west, depending on curve direction.
- South of Lov: Lateral movement to the west up to 1 m over a section of approximately 300 m.
- Ring: Lateral movement up to 25 m to the east over a section of approximately 1.1 km.
- Eskilstrup: Straightening of S curve to the west and east, up to approximately 20 m, through and south of Eskilstrup over a total section of approximately 1.8 km.

##### 4.1.1.1. An additional track

A new track will be built from south of Vordingborg Station to Masnedø. The track will be built on the eastern side of the existing track and cross Masnedsund on a new dual-track bridge built east of the existing bascule bridge. The new track will stop at station 120.6, where there is an interface with the construction of the new Storstrøm Bridge. The track on the existing bascule bridge will be taken up and the bascule mechanism neutralised.

A new track will be built from Orehoved, station 200.55, corresponding to the southern interface with the project for the construction of a new Storstrøm Bridge, to south of Holeby, at project station 253.3, where the coast-to-coast project starts. A new track west of the existing one will be laid from Orehoved to just south of Nørre Alslev. A new track on the rest of the section to Holeby will be laid east and south-east of the existing one.

#### 4.1.1.2. New passing track for freight trains

A new passing track for minimum 1,000 m long freight trains will be laid between Ringsted and Glumsø, from Bolhave Skov in the north to Møllebækken at Glumsø in the south. The passing track is located in the straightened curve north of Glumsø. This solution assumes that, in connection with a decision on a grade interchange either east or west of Ringsted Station, a decision is made to add a passing track. Otherwise, two passing tracks will be built at Møllebækken. Another passing track will be built at Orehoved for minimum 1,000 m long freight trains. That will mean that the railway bridge over Gåbense Strandvej will have to be widened. Two new passing tracks will be built at Ladhavevej, south of Holeby, one on each side of the main tracks, for minimum 1,000 m long freight trains.

#### 4.1.1.3. Stations

The tracks at stations will be electrified. The platforms at Glumsø Station will be moved because of curve straightening to allow through trains to pass the station at 200 km/h. The platforms will be widened approximately 200 m to the south, and the footbridge with lifts and shelters, etc. will be moved to the south, while the station building with its facilities will not be moved.

At Lundby Station, there will be minor track conversion involving minor changes to the platforms.

At Vordingborg Station, the platform bridge over tracks 1 and 2 is too low for a traction power system to be installed and it will therefore be demolished. A new platform bridge will be built with lifts south of the station building with access from the station front to all platforms and to Kuskevej on the other side of the station. The track at the southern end of the station will be straightened to build a dual-track section over Masnedsund to Masnedø. The old harbour track in Vordingborg will be completely removed. Only track that prevents widening to dual track will be removed.

At Nørre Alslev Station, the western platform will be moved to the south, and both platforms will be extended and raised. A new footbridge with stairs and lifts is to be built between the two platforms over the tracks.

At Eskilstrup Station, the platforms will be extended and raised. The stairs to the platform tunnel on the western platform will be closed but the ramp from Kirkevej will be retained so that it remains easy to cross the line with bicycles, prams, etc. and for the disabled. A footbridge with stairs and lifts will be built just north of the platform tunnel. New cycle parking will be added close to the footbridge on the eastern side.

A passenger station with two passing tracks for minimum 1000 m long freight trains and two platforms will be built at Ladhavevej, south of Holeby. A platform bridge with stairs and a lift will be built, and shelters and cycle parking will be installed. An access road and a car park for buses and cars will be built.

Track access to a service area will be built south of Ladhavevej for maintenance, etc. of the fixed link across the Fehmarnbelt.

#### 4.1.1.4. Impact on bridges and roads

The installation of a traction power system in the entire rail section will mean that a large number of road bridges across the railway that are not high enough must be replaced. The conversion of road bridges is subject to Act no. 609 of 12 June 2013 on electrification of the railway, and not the present Act. A number

of railway bridges will also be widened to make space for an additional track or as a consequence of track straightening.

The bridges will be converted so that it will be possible for the same traffic to pass over or under the bridge with the same functionality afterwards.

Co-financing agreements on a number of bridges have been made with Næstved Municipality, Vordingborg Municipality, Guldborgssund Municipality and Lolland Municipality.

#### 4.1.1.5. Bridges over Masnedsund and Guldborgssund

A new permanent dual-track bridge will be built over Masnedsund east of the existing bridge. The existing bridge will be locked and the track removed. The bridge will have the same clearance beneath it and the same pier and deck width as the existing bridge.

When Masnedsund bridge is locked and a new dual-track railway bridge is built instead, the majority of the current shipping passing through Masnedsund will no longer be able to pass the bridge. This means that it is necessary to create a new channel in Masnedø Østflak between Kalve Strøm and Færgestrøm to continue to make it possible for shipping traffic to call at Stege Havn and Vordingborg Sydhavn. The channel will have a width of 45 m, a depth of 5 m and a length of approximately 1,300 m. In Færgestrømmen, the channel will be designed to take account of the manoeuvrability of large ships. Navigation marks will be installed onshore. The channel will be transferred to Vordingborg Municipality when it is taken into use.

A new railway bascule bridge will be built over Guldborgssund south of and parallel to Kong Frederik IX's Bridge. The bridge will have the same clearance beneath it and the same pier and deck width as the existing bridge. The bascule bridges for the road, existing track and new track will open and close synchronously. On account of the future increase in rail traffic, it will only be possible to stop trains for 10 minutes every two hours to allow the bridge to be opened for navigation.

## 5. Design of the Danish road landworks

To be able to establish a bus route between Rødby and the new station south of Holeby, it will be necessary to replace the bridge that takes Lundegårdsvej over the Sydmotorvejen motorway as it has insufficient load-bearing capacity. The new overpass will be an open 3-span bridge with space for an emergency lane and full-width hard shoulders beneath the bridge. At the same time, the cross-section of the bridge will be upgraded so that in the future there will be a 7 m carriageway with a 2 m pavement on each side. The bridge is expected to be built while the motorway is in operation, and Lundegårdsvej will be closed throughout the construction period.

Opening a fixed link across the Fehmarnbelt, with the consequent changes in traffic with a greater distribution over the 24-hour period and more heavy goods vehicles, will have an impact on animal life along the motorway. To limit and prevent this impact, a number of environmental measures will be taken on the Sydmotorvejen motorway between Sakskøbing and Rødby.

These measures include establishing hop-over planting for bats, a passage beneath the motorway at Sakskøbing Å and a new pond, cleaning up existing ponds and erecting amphibian fences. See the detailed description of the environmental measures in section 15.3 on environmental consequences.

The Danish Road Directorate assesses that the environmental measures can be implemented at no inconvenience to traffic on the Sydmotorvejen motorway.

## 6. Environmental conditions

### 6.1. Implementation report

The construction project must be implemented in pursuance of the provisions in the Bill and within the framework of the environmental assessments performed, cf. section 7. As the description in the Bill has to be general, including because of the scope of the construction project, an implementation report has been prepared in addition to the comments on the Bill, the project description in the EIA reports and the subsequent EIA supplements. The implementation report contains a summary description of the project adopted by the Danish Parliament, including overall consideration of the most important alternative solutions presented in the EIA reports, cf. sections 1 and 2.

The implementation report also reports on whether nature protection and preventive measures will be performed in terms of the relevant natural interests affected by the construction project, including with regard to protected species and habitat types, plus Natura 2000 sites, cf. section 11 of the Act. The purpose is to ensure efficient, targeted implementation of these preventive measures given that parts of the general environmental legislation do not apply to the construction project.

The implementation report contains in-depth instructions on how the construction project that the Danish Parliament endorses will be implemented in practice. Femern A/S and A/S Femern Landanlæg are thus obliged to implement the construction project in pursuance of the Act and the implementation report.

However, there may and will, of course, be changes to the implementation report's content after the Act has been passed. For example, other preventive measures than those described could be identified as a result of additional field studies of the relevant areas and implementation of the project. Such changes may replace those described in the EIA report and the implementation report. If a change is involved that may be to the detriment of the environment (section 8), or that may have a significant impact on a Natura 2000 site (section 9), the change or expansion requires the Danish Transport Authority's prior permission under sections 8 and 9 of the Bill, cf. section 6.2 of the general comments below.

## 6.2. Supplementary environmental assessments

When the Danish Parliament passes the construction project in detail, Femern A/S and A/S Femern Landanlæg will be authorised, at the same time, to implement the construction project in pursuance of sections 1 and 2 of the Bill and schedules 1-4 to the Act, the project description in sections 3-5 of the Bill and the implementation report that applies to the performance of the work. The construction project may subsequently be implemented on the basis of the Construction Act as the Act derogates from a number of the provisions in the general nature and environmental legislation which contain direct bans on changes in the state of or the establishment of permanent physical installations, or make requirements for prior permission or approval, etc. before such installations may be established, cf. section 12 of the Bill.

The environmental impact of the construction project is described and assessed in the environmental studies of the project, i.e. in the EIA reports with their supplements, and the assessment of the impact of the construction project on Natura 2000 sites, as described in sections 2 and 15 of the general comments below.

The construction project must be implemented within the frameworks of these assessments of the project's impact on the environment, cf. the provisions in section 7. The developer (Femern A/S and A/S Femern Landanlæg) is thus under an obligation to ensure that the environmental impact of the construction project, including its impact on Natura 2000 sites, is kept within the limits of the assessments carried out in the above environmental studies of the project, and that the construction project is implemented in accordance with the instructions that proceed from the implementation report. The Minister for Transport supervises this.

The fixed link across the Fehmarnbelt with associated landworks in Denmark is a construction project of great size and complexity. Notwithstanding the extensive, thorough planning of the construction carried out prior to the Danish Parliament's reading of the Bill, it is inevitable that, after the commencement of the Construction Act, there may be a need to perform certain adjustments or adaptations to the project adopted.

During the construction phase, it may be necessary to change or extend the construction project, for example as a consequence of technical complications, new knowledge or other conditions that were not anticipated during the planning of the construction, including in the implementation report, and may, in terms of environmental impact, lie outside the framework of the environmental assessments in the EIA reports and supplements on the basis of which the Construction Act was passed.

In this connection, it is also necessary to bear in mind that the transboundary nature of the construction project may necessitate project changes, etc. The German plan approval process may lead to the German authorities considering, during their continued processing of the project, that there is a need to make adjustments that have a knock-on effect on the Danish part of the construction project.

The invitation for tenders for the fixed link project is based on a design and build model, meaning that the bidding contractors must propose the optimum solution, in terms of technology and costs, in compliance with the requirements made by the developer. This ensures that the contractor's expertise is incorporated in the construction project. It cannot be ruled out that this incorporation will result in preferred technical solutions or working processes that lie outside the framework of the environmental assessments carried out, including also in relation to the schedule of the construction project.

Sections 7-9 of the Bill (environmental assessments) set a clear, legal framework for the environmental regulatory processing of changes or extensions to the construction project. The rules apply only during the construction phase until the entire construction project has been completed. Subsequently, the construction and any need to make changes or extensions to the construction will be subject to the general rules in nature and environmental legislation.

It is not expected that it will be necessary to make very extensive changes or extensions to the construction project as it is described in sections 3-5 of the Bill and the implementation report that applies to the performance of the project. However, conversely, it may be necessary to make some changes, for example extension of the construction period, which may affect the environmental assessments and therefore need to be managed by implementing a project change procedure in pursuance of sections 8 and 9 of the Bill. In the event of project changes, etc., the Minister for Transport will assess whether, contrary to expectation, the situation is outside the authority given in sections 1 and 2 of the Construction Act and therefore requires amendment of the Construction Act.

The rules proposed in sections 7-9 solely concern the regulation of any project changes, etc. under environmental law and bear no significance for the delegation relationship between the Minister for Transport and Femern A/S and A/S Femern Landanlæg, Banedanmark and the Danish Road Directorate in respect of developer tasks.

Section 8, subsections 1 and 2, and section 9, subsections 1 and 2, of the Bill lay down the general framework for the environmental processing of any project changes, etc. The general consequence of these rules is that project changes, etc. that may harm the environment and/or, in themselves, or in connection with other plans and projects, may have a significant impact on a Natura 2000 site, may not be started without the permission of the Danish Transport Authority, if necessary following supplementary environmental assessments, cf. below.

It is intended for these provisions to be supplemented by specific rules on case processing that will be determined by the Minister for Transport after negotiation with the Minister for the Environment in accordance with the authorisations in section 8, subsection 3, and section 9, subsection 3, of the Bill. In pursuance of section 8, subsection 3, and section 9, subsection 3, rules may be determined for Femern A/S' and A/S Femern Landanlæg's notification of the Danish Transport Authority (EIA authority) of changes or extensions to the construction project, implementation of screening and any supplementary environmental and/or habitat impact assessment, including for consultation of the general public and authorities, determination of conditions for permission and publication of decisions and of environmental assessments.

The rules will be required to ensure that any project changes, etc. are implemented in compliance with the requirements in the EIA Directive and the Natura 2000 Directives (habitat and bird protection) and will, in respect of processing of changes and extensions to the construction project, replace the general rules on

this in Danish law that implement the Directives mentioned, cf. section 8, subsection 4, and section 9, subsection 4, of the Bill.

Sections 8 and 9 of the Bill thus establish a permission scheme (a requirement for prior permission) for the project changes, etc. in question. Article 2, paragraph 1, of the EIA Directive states that, among other things, changes or extensions to projects that have already been approved must be subject to a requirement for development consent when they may be harmful to the environment. In respect of the Natura 2000 rules, the substantive protection rule in article 6, paragraph 3, of the Habitats Directive states that the competent authorities must refuse permission for project changes, etc. that may damage a Natura 2000 site (the designation basis) unless the conditions in article 6, paragraph 4, of the Directive for derogating from protection of a Natura 2000 site are met.

Conditions may be set for permission under section 1, subsection 1, and section 9, subsection 1, of the Bill, and detailed rules on this will be laid down in pursuance of section 8, subsection 3, and section 9, subsection 3. This will concern conditions to the effect that the developer must implement specific measures with a view to avoiding, reducing or neutralising the harmful impact on the environment that may be outlined in the supplementary environmental impact assessment, when such an assessment has been produced. It must also be possible to set conditions that take into account the considerations under the rules in nature and environmental legislation that are derogated from in section 12 of the Bill, as a project change, etc. in pursuance of section 12 may be implemented without permission, approval or exemption under this legislation that would otherwise be required. Consequently, it will also be possible to set conditions on, for example, preventive measures in relation to nature in cases in which permission is granted for the change, etc. without a supplementary EIA or habitat impact assessment having been carried out because the screening concluded that there was no obligation to carry out an EIA or no significant impact on a Natura 2000 site.

It is proposed that the Danish Transport Authority be granted competence to process and decide on questions relating to permission for project changes, etc. that may harm the environment, including decisions on whether to implement supplementary environmental assessments, etc. The provisions in this respect implement the new provision in article 9 a of the EIA Directive, which was introduced in Directive 2014/52/EU. Article 9 a, paragraph 1, states that "Member States shall ensure that the competent authority or authorities (EIA authorities) perform the duties arising from this Directive in an objective manner and do not find themselves in a situation giving rise to a conflict of interest". Article 9 a, paragraph 2, states that "Where the competent authority is also the developer, Member States shall at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from this Directive".

It is proposed that the Danish Transport Authority also be granted the competence to process project changes, etc. of which it has been notified in relation to the Natura 2000 rules, cf. section 9, subsections 1 and 2, of the Bill and the authorisation contained in section 9, subsection 3, to set rules on a coordinated and/or joint procedure for the supplementary EIA and habitat impact assessment when a change, etc. triggers requirements for assessments under both the EIA and Natura 2000 rules. These rules will implement parts of article 2, paragraph 3, of the EIA Directive, as amended by Directive 2014/52/EU. Article 2, paragraph 3, of the EIA Directive states, among other things, that, in the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from the EIA Directive and the Habitats Directive, Member States shall, where appropriate, ensure that coordinated and/or joint procedures fulfilling the requirements of both sets of EU rules are provided for.

There may be cases in which any changes or extensions to the construction project trigger requirements for supplementary impact assessment under both section 8 (EIA) and section 9 (Natura 2000). For administrative reasons as well, it must be considered appropriate for the competence to perform the environmental assessments under both the EIA and habitat rules to be assigned to the same authority. In this respect, reference is made to section 46 of the Bill and the comments on this section.

Project changes, etc. that will definitely not harm the environment may be implemented without notification under sections 8 and 9. Femern A/S or A/S Femern Landanlæg must notify the Danish Transport Authority of other project changes. The Danish Transport Authority assesses whether the environmental impact of the project change, etc. of which it has been notified falls within the framework of the previous

assessments of the construction project's impact on the environment, cf. section 7, and is in accordance with the implementation report. If it is, the Danish Transport Authority gives notification that the project change may be implemented without further case processing under the rules in sections 8 and 9. If this is not the case, the Danish Transport Authority must assess, by means of a provisional screening, whether supplementary EIA is required and/or a habitat impact assessment should be carried out. If it is necessary to prepare supplementary assessments, these procedures are implemented under the provisions in section 8, subsection 2, or section 9, subsection 2, and the rules laid down in pursuance of section 8, subsection 3, and section 9, subsection 3.

If a project change, etc. that is permitted under the rules in sections 8 and 9 also requires consent under other rules which require corresponding impact assessments, any supplementary EIA and/or habitat impact assessment of the change, etc. produced under sections 8 and 9 will also be able to form the basis for the regulatory processing under the other rules.

Provisions are also proposed to the effect that the decisions by the Danish Transport Authority cannot be appealed against to another administrative authority, cf. section 8, subsection 5, and section 9, subsection 6, of the Bill, as appeal cases may involve considerable risks and uncertainties for the construction project in the form of delay and increase in costs. The decisions may be brought before the courts, cf. section 47 of the Bill.

To obtain clarity about which environmental assessment procedures are to be followed in the case of project changes, etc., it is finally proposed that the Construction Act explicitly state that project changes, etc. do not trigger requirements for assessments under the Danish Act on environmental assessment of plans and programmes (Danish Environmental Assessment Act), cf. section 10 of the Bill.

### 6.3. Relationship of the Construction Act to nature and environmental legislation

#### 6.3.1. Nature protection under the Construction Act and regulation of the right of appeal

As section 17.1 below states, the construction project must be adopted in detail, which means, among other things, that the Construction Act must constitute the requisite legal basis for the developer to perform the physical works and interventions that are required to implement the project. The authorisation for Femern A/S and A/S Femern Landanlæg to implement the construction project specified in sections 1 and 2 therefore means that the companies may perform the physical interventions in nature and in the landscape that are necessary to implement the project, including making changes to the state of areas, establishing permanent structures and installations and implementing preventive measures in relation to flora and fauna. These interventions are performed in accordance with the provisions of the Construction Act, and the implementation report and within the framework of the environmental studies carried out.

The interventions that Femern A/S and A/S Femern Landanlæg are authorised to perform on the basis of the Construction Act may normally, under the general rules in nature and environmental legislation, require prior permission, approval and exemption, or the nature and environmental legislation may contain provisions that would prevent the implementation of the construction project. However, the intention, as is the normal practice in connection with construction acts, is to provide for the interventions to be performed without prior permission, approval or exemption, and without consideration for such bans and restrictions.

To create clarity about the fact that the Construction Act therefore constitutes the requisite legal basis for the physical area interventions, construction of permanent installations, etc. and for implementation of preventive measures under section 11, it is proposed in section 12 that a number of specific provisions and permission requirements in the Danish Planning Act, the Danish Nature Protection Act, including the Danish Executive Order on protection of species, the Danish Forests Act, the Danish Museums Act, the Danish Raw Materials Act, the Danish Agriculture Act and the Danish Coastal Protection Act be derogated from with the Construction Act.

The consequence of derogation from other legislation is not that the considerations in relation to planning, cultural history and nature and the environment on which the provisions in question are based are not taken into account in the construction project. The considerations in question are taken into account

instead by Femern A/S and A/S Femern Landanlæg in the construction project under the rules in the Construction Act. The construction project must be implemented under the provisions of the Construction Act, and in accordance with the comments on the Bill and the implementation report. The implementation report for the construction project and other documents describe how the works involved will be performed so that the considerations taken into account by the above rules are also taken into account in connection with the implementation of the construction project.

The construction project must also be implemented within the frameworks of these assessments of the project's impact on the environment, cf. section 6 of the general comments and the comments on section 7 of the Bill. The impact as a consequence of the effects on nature, the environment and the landscape of the physical works and interventions that the Construction Act entails is described in detail and assessed in the environmental studies on the project, including in the EIA report and the assessment of the project's impact on Natura 2000 sites.

It is noted in particular in relation to nature protection that the EIA report and the implementation report will also describe a number of specific preventive measures that are implemented to the necessary extent to protect nature areas and birds and other animal species, including their resting and breeding areas.

Against this background, it is proposed in section 11 that Femern A/S and A/S Femern Landanlæg take preventive measures in relation to breeding and resting areas for species covered by schedule 3 to the Danish Nature Protection Act as a consequence of the construction project. They should also take preventive measures to prevent birds or species covered by schedule 3 to the Danish Nature Protection Act being disturbed with a harmful impact on the species or population and in relation to birds' eggs and nests. The companies should finally take preventive measures in relation to nature protection in other respects. In this respect, reference is made to section 15.5.3 of the general comments below.

On the basis of the environmental assessments carried out, the assumed preventive measures and the establishment of replacement biotopes, etc. assumed in the implementation report, it is assessed that the construction project may be implemented within the frameworks of article 6, paragraph 3, of the Habitats Directive, sections 29 a and 30 of the Danish Nature Protection Act, including the Danish Executive Order on protection of species, and section 6 a, subsections 1 and 2, and section 7 of the Danish Hunting and Game Administration Act, which implements the species protection in article 5 of the EU Birds Directive and article 12 of the Habitats Directive. Reference is made to the proposal for section 11 and the comments on this section.

As stated earlier, Femern A/S and A/S Femern Landanlæg are responsible, in connection with the performance of the construction project, for ensuring that the performance is in accordance with the Construction Act and the frameworks for the project specified by the environmental assessments and the guidelines that proceed from the implementation report. The Minister for Transport supervises this. The Minister for Transport may, in accordance with the proposed provision in section 3, subsection 3, give Femern A/S and A/S Femern Landanlæg general and specific instructions on matters of material importance to the performance of their activities.

Other nature and environmental legislation continues to apply to the construction project to the extent to which these Acts and provisions are not explicitly derogated from in the Construction Act or in pursuance of another Act. This concerns the provisions on the performance of construction works in the Danish Construction Act, the Danish Hunting and Game Administration Act, the Danish Nature Protection Act, the Danish Watercourses Act, the Danish Forests Act, the Danish Water Supply Act, the Danish Environmental Protection Act and the Danish Raw Materials Act, plus rules issued in pursuance of these Acts.

As specified, the provisions in the Danish Watercourses Act apply to the works performed in the construction project. However, it is expected that it will be possible for the works that would normally require permission under the Danish Watercourses Act to be implemented instead via expropriation under the Construction Act, and that, consequently, no decisions will be required under the Danish Watercourses Act, cf. Section 64, subsection 2, of the Danish Watercourses Act. As a result, Femern A/S and A/S Femern Landanlæg expect that it will be possible to reach agreement with both the local watercourse authorities and the Expropriation Commission for Government Expropriation on the Islands on the specific measures to be taken in relation to drainage conditions.

The fact that general legislation continues to apply to the construction project in the broad sense means that a number of specific decisions will be made on permissions and approvals, etc. in relation to Femern A/S, A/S Femern Landanlæg, Banedanmark and the Danish Road Directorate and their contractors. The competent authorities retain their competence to supervise the provisions that are not explicitly derogated from in section 12, and it is not possible to rule out the possibility that orders, bans, etc. will be announced concerning compliance with the decisions or the directly applicable legislation that continue to apply to the construction project despite the Construction Act. These decisions may have potentially wide-ranging consequences for the implementation and progress of the construction project. Under the legislation, it will also be possible to appeal against the decisions in question to the Environmental Board of Appeal, among others, and such an appeal will, in some cases, have or be able to be granted suspensory effect for the construction project. Appeal cases may, therefore, entail considerable risks and uncertainties for the construction project in the form of delay and increase in costs.

Consequently, it is proposed in section 13 that a decision made by a municipal council or a Government agency concerning the construction project that is made under the Danish Construction Act, the Danish Hunting and Game Administration Act, the Danish Nature Protection Act, the Danish Watercourses Act (excluding part 13), the Danish Forests Act, the Danish Water Supply Act, the Danish Environmental Protection Act and the Danish Raw Materials Act and rules issued in pursuance of these Acts may not be appealed against to any other administrative authority. At the same time, it is possible for Femern A/S and A/S Femern Landanlæg to submit decisions by municipal councils to the Minister for Transport if Femern A/S or A/S Femern Landanlæg disagrees with the decision, cf. the proposal for section 13, subsection 2. As the person with supreme responsibility for the construction project, the Minister for Transport will have specific knowledge about the framework for the project which can, where possible, be incorporated in decisions on specific appeal cases. For the same reason, it is also proposed that the Minister for Transport may decide to take over the powers of a municipal council under the Acts specified in subsection 1 in cases concerning the construction project, cf. section 13, subsection 3.

The provision solely concerns decisions that are to be made concerning works, etc. for the use of the construction project itself. When the structures have been constructed and the project has been completed, the provision does not apply, regardless of whether there may also be a need for decisions under the provisions in question after completion. In addition, the proposal does not change the fact that decisions must be made under the rules in the Acts in question, as previously. Consequently, there is no change to the requirements that an application must contain and the requirements that must be met before the works in question can be performed, plus the conditions that are set in permissions. Where the provisions in the Acts in question contain discretionary powers, and where these permit the interests of the developer and the interests of society to be taken into account in a given project, the general assessment is that the interests of the construction project may be assigned significant weight. The Minister for Transport may also attach corresponding importance to this criterion when processing appeal cases or cases in which the Minister has taken over competence.

A provision is also proposed to the effect that it is not possible to appeal against a decision by the Minister for Transport to another administrative authority. Any person with a lawful interest is entitled to bring a case before the courts.

Reference is also made to the proposal for section 13 and the comments on this section.

### 6.3.2. Right to regulate certain pollutants and nuisances from the construction project

The implementation of the construction project specified in sections 1 and 2 will give rise to a large number of activities that will be subject to the Danish Environmental Protection Act. Among other things these concern production of tunnel elements at the tunnel element factory, the concrete production plant at the portal structures and ramps, dust pollution from storage of materials such as seabed sediment, noise pollution from landfill, waste production by the construction project, etc. In addition, the construction of the landworks covered by section 2 may give rise to significant vibrations, noise and dust in connection with storage and cleaning of crushed rock. These activities are generally subject to the competence of the municipalities under the Danish Environmental Protection Act and rules issued in pursuance of this Act. The general approach remains that the Danish Environmental Protection Act will apply to the construction

project.

The implementation of the construction project will be organised in such a way that the project does not cause unnecessary environmental nuisance to the surroundings. In connection with the performance of the construction activities, however, it will scarcely be avoidable that the surroundings will be subject at times to noise, for example, that may be perceived as a nuisance. Correspondingly, it is not possible to rule out the possibility that, for example, the coast-to-coast project's large stores of seabed sediment will cause dust nuisance in the event of unusually dry, windy weather. Experience from other large construction projects shows that the rules may entail a risk of major delays in the completion of the construction project, with serious economic consequences. In such case, there may be a need to handle problems in a different way from that provided for by the general rules of environmental law.

It should be ensured that the construction of a fixed link across the Fehmarnbelt takes place in a manner such that noise and other nuisances are limited as far as possible, and such that those living close to the construction work have the opportunity for suitable compensatory measures, for example in the form of noise insulation or the opportunity to move away from the nuisances and their potentially negative impact on health. However, it is not possible to implement a construction project of this size without causing nuisance to those living close to the construction work. Consequently, it may be important to be able to create secure legal frameworks for those living close to the construction work so that they know and are able to act in accordance with their legal position in relation to noise level and other nuisances, pollution, compensation, rehousing opportunities, etc.

Section 14 of the Bill means that the Minister for Transport may, after specific assessment, establish rules on the pollution and nuisance that may occur as a consequence of the works associated with the implementation of the construction project. In such cases, the rules in the Danish Environmental Protection Act and rules issued in pursuance of the Act, plus decisions made under these rules, do not apply to the construction project. In the cases in which the authority is exercised, the Minister for Transport will instead regulate conditions in pursuance of the Construction Act. In the cases in which the authority is exercised, and construction activities must be carried out in consideration of the finances and progress of the projects, and these activities also mean that the tolerance thresholds under law concerning relations between neighbours are exceeded to a material extent, regardless of preventive measures, compensation will be paid, cf. the proposed section 15.

The provision may be relevant in two respects especially. Firstly, section 42 of the Danish Environmental Protection Act provides for a general right for municipal authorities to order, following a specific assessment, that pollution, including noise or dust, must be reduced. Secondly, the tunnel element factory and the concrete production plant at portal structures and ramps that are established as part of the coast-to-coast project must have environmental approval under part 5 of the Danish Environmental Protection Act, the Danish Executive Order on environmental approvals and the Danish Executive Order on standard conditions in the approval of listed activities. Operation of the work harbour will be associated with the tunnel element factory in terms of technology and pollution, and will therefore, under the circumstances, also have to be subject to the environmental approval of the factory. The necessary conditions must be included in the environmental approvals to ensure that the activity does not result in unnecessary impact on the environment. For activities covered by Danish Executive Order no. 669 of 18 June 2014 on approval of listed activities, schedule 2, list item B 202 (cement casting plants, concrete casting plants, including concrete element factories and concrete product factories, and concrete mixing plants with production of greater than or equal to 20,000 tonnes per annum), the approval authority must base its approval on standard conditions. However, the approval authority must carry out a specific assessment of the relevance of the standard conditions in each case. It is expected that there will be a need to derogate from some standard conditions.

When the Minister for Transport issues rules under the proposed section 14, subsection 1, it will be possible to change the regulation of pollution and nuisance from the construction project that may be determined in these ways, cf. section 14, subsection 2.

It is intended that the Minister for Transport will use thresholds to regulate the maximum permitted pollution and nuisance from the construction project under section 14. However, this will be done in such a way that the rules are specifically directed at the construction project. The thresholds will generally be expressed

based on the methods specified in general rules.

The thresholds for the construction project will, where possible, be based on known maximum guideline thresholds from sources such as the Danish Environmental Protection Agency. However, the provision allows for the possibility of derogations, for example to the effect that extended working hours may be employed in relation to noise. Where any local regulation or an order, for example, may result in a significant delay or increase in costs for the construction project, the proposed provision makes it possible for the Minister for Transport to decide or issue rules to the effect that the construction work may be granted higher priority than the local interests that would normally be taken into consideration under the Danish Environmental Protection Act or rules issued in pursuance of it. This may mean that the principles in the Danish Environmental Protection Act and associated Executive Orders and the related case law are derogated from or assigned less importance in favour of these considerations when the Minister for Transport exercises the authority in section 14 of the Bill. The Minister for Transport will consult the Danish Health and Medicines Authority, the Minister for the Environment and the general public before rules are issued under the proposed provision.

The pollution and nuisance permitted from the construction project must lie within the limits assessed in the existing environmental assessment of the construction project, cf. section 7, unless a project change is permitted under the rules in sections 8 and 9.

The provision in section 14, subsection 2, means that, where the Minister for Transport issues rules, the construction sites are subsequently regulated by these rules. The Danish Environmental Protection Act and rules issued and decisions made, i.e. orders, bans and exemptions, in pursuance of that Act no longer apply to pollution and nuisance from the parts of the construction project covered by rules issued by the Minister for Transport. As specified above, this may mean that conditions in an environmental approval under part 5 of the Danish Environmental Protection Act do not apply if that which is subject to the condition is regulated by rules issued under the proposed section 14, subsection 1.

The rules issued must be complied with by Femern A/S' and A/S Femern Landanlæg's contractors. Rules will be established to the effect that the contractors must, at their own expense, carry out self-inspection in the form of measurements, calculations, etc., or have the self-inspection carried out by authorised experts and report such measurements, etc. to the municipalities as supervisory authorities, possibly under the rules in the Danish Environmental Protection Act or rules issued in pursuance of the Danish Environmental Protection Act.

Rules will also be established on supervision, enforcement and penalties, and the intention is for supervision and enforcement in the form of orders and bans to continue to be handled by the municipalities, possibly under the rules in or selected rules from part 9 of the Danish Environmental Protection Act.

Reference is also made to the comments on section 14 below.

Under the rules of law concerning relations between neighbours, neighbours of real property must be compensated if they are exposed to nuisance and inconvenience in excess of that which must be tolerated as part of the general development of society. The Bill provides for the introduction of a statutory compensation scheme for residents and holiday home owners who are exposed to nuisance that is greater than what is normally permitted under the Danish Environmental Protection Act and the rules issued in pursuance of it.

The compensation scheme will be an offer to the neighbours. Conversely, the Minister for Transport may determine in the rules that compensation under the rules of the Bill may only be received if the resident voluntarily agrees to terminate any existing agreements. The rules established under section 14 do not otherwise affect the application of the general rules of the law of torts to conditions that are not covered by the rules established.

In practice, a compensation scheme will have to be administered in such a way that Femern A/S and A/S Femern Landanlæg will have to inform the relevant neighbours about the environmental rules established in pursuance of the proposed section 14 and about the related compensation scheme under section 15.

The compensation scheme will also be published to the relevant extent on websites, etc. Information will be given individually to those who are considered to be entitled to compensation. Femern A/S or A/S Femern Landanlæg will send the specific offers of compensation to residents under specific rules. In addition, rules will be established on the provision of information, including in relation to payment. The intention is for compensation to be paid on the basis of the offer if it is explicitly or tacitly accepted by a resident. There is no binding agreement as the rules established by the Minister for Transport under the proposed section 15 remain the basis for the compensation to which the resident is entitled.

Compensation will be paid equally to each resident in a household. The compensation will generally have to be paid into the resident's NemKonto (bank account used for payments from the state). The compensation will normally be paid in the month to which the compensation refers. However, a large advance payment may be made. For example, the first payment will normally comprise 3 months' compensation in advance. Rules will be established to the effect that residents must inform Femern A/S or A/S Femern Landanlæg if the home is vacated.

If a resident notifies Femern A/S or A/S Femern Landanlæg that the resident is unable to accept the offer of compensation or if there is disagreement about a compensation agreement, Femern A/S or A/S Femern Landanlæg must submit the case to the Expropriation Commission for Government Expropriation on the Islands for its consideration. The Expropriation Commission then makes a decision in the case under the rules in the Danish Expropriation Process Act with the relaxations specified in this Act.

Even if a case is submitted to the Expropriation Commission, the intention remains for Femern A/S or A/S Femern Landanlæg to pay compensation in accordance with the offer or agreement until the Commission has made its decision. The Expropriation Commission must process the case under this Act and the rules on compensation that the Minister for Transport may issue under the proposed section 15, subsections 1 and 2.

The Expropriation Commission is not bound by the offer to the neighbours or any agreement that has been made and makes its assessment on the basis of the actual circumstances and the rules issued by the Minister for Transport.

The Bill means that the Minister for Transport may establish rules on residents' rights to be rehoused at the expense of Femern A/S or A/S Femern Landanlæg. Rehousing will generally be possible for residents who are particularly exposed or residents with special personal circumstances, including documented health conditions or special family circumstances.

The procedure for rehousing is generally expected to be that the resident contacts Femern A/S or A/S Femern Landanlæg with a proposal for a suitable replacement home that the resident himself or herself has found. The home must be comparable to the previous home in terms of size, location and price. The costs of a replacement home must not exceed the compensation to which the resident would have been entitled in his or her own home. The Minister for Transport may decide that the municipal council in the municipality of residence must allocate a replacement home if the resident is unable to find a suitable replacement home himself or herself.

If Femern A/S or A/S Femern Landanlæg is able to accept the resident's proposal for a replacement home, a rehousing agreement is made. If it is not possible to reach agreement between the resident and Femern A/S or A/S Femern Landanlæg, and the resident wants to maintain his or her own proposal, Femern A/S or A/S Femern Landanlæg must submit the case, including the resident's last proposal, to the Expropriation Commission, which will subsequently make a decision.

The proposed rehousing scheme will generally replace the potentially mandatory rules on rehousing or condemnation of homes or rooms, etc. that are hazardous to health and at risk of fire under the Danish Urban Renewal Act, cf. part 9 and sections 105 and 107. The proposed section 15, subsection 6, thus means that part 9 of the Danish Urban Renewal Act does not apply to noise from the construction project. This means, among other things, that the municipal councils have no duty to supervise the properties on account of pollution and nuisance from construction, cf. section 75 of the Danish Urban Renewal Act, and the municipal council cannot prohibit habitation (condemnation), cf. section 76 of the Danish Urban Renewal Act. The provision has no significance for the other rules of the Danish Urban Renewal Act, and

the Act continues to apply, for example in connection with fire risk.

Section 15, subsection 2, of the Bill also means that the Minister for Transport may establish rules on owners' right to demand that their home be acquired by Femern A/S or A/S Femern Landanlæg in connection with the pollution and nuisance from the construction project permitted under section 14. The Minister for Transport may, among other things, establish rules to the effect that the owner of a residential property, including an owner-occupied or cooperative flat, exposed to a given amount of pollution or nuisance, may request Femern A/S or A/S Femern Landanlæg to purchase the home at market price.

The procedure will be established in detail in the rules issued by the Minister for Transport under the proposed section 15, subsection 2, but is expected to be such that Femern A/S or A/S Femern Landanlæg, at the request of the owner, obtains a written assessment of the property's market value from an independent, state-authorised estate agent and valuer. Femern A/S or A/S Femern Landanlæg subsequently makes an offer to acquire the property to the owner, enclosing the assessment. If the owner is unable to accept the valuation, he or she may demand that the case be submitted to the Expropriation Commission. If the owner ultimately does not want to have his/her property acquired on the basis of the valuation, the owner is under no obligation to have it acquired.

Specific rules will be established to the effect that acquisition may not be demanded from a resident if an agreement or a decision has been made on compensation or rehousing, and if acquisition could preclude the resident from subsequently receiving compensation or applying to be rehoused. Acquisition also assumes that Femern A/S or A/S Femern Landanlæg can lawfully buy the home in question, which excludes certain homes (housing association homes, public housing), depending on the rules and articles of association applicable to each home. No right will be introduced for Femern A/S or A/S Femern Landanlæg to be authorised, in connection with expropriation, to set aside provisions in articles of association for housing associations to achieve acquisition. Where necessary, residents must make use of the opportunity for rehousing or compensation. When Femern A/S or A/S Femern Landanlæg acquires a property, it owns it and may resell it at a later time. Any loss or profit from a subsequent sale is of no concern to the resident.

Reference is also made to section 15, subsections 1-4, of the Bill and the comments on this section.

### 6.3.3. Special information on seabed spoil, etc.

As part of the construction project, the seabed will be dredged in several areas. This means that seabed spoil (sediment) will be excavated and dredged, stored and used in the construction project.

For the coast-to-coast project, this concerns seabed spoil that is excavated in connection with the immersed tunnel, i.e. at the tunnel portal and the cut-and-cover tunnel at Rødbyhavn, in the tunnel trench and in and around the work harbour at Rødbyhavn. Approximately 19,000,000 m<sup>3</sup> of seabed spoil will be moved in connection with this part of the construction project. It is estimated that approximately 8,000,000 m<sup>3</sup> of sediment will be excavated on German territory and 11,000,000 m<sup>3</sup> of sediment on Danish territory. It is expected that approximately 2,000,000 m<sup>3</sup> of sediment will be used in the construction project on German territory and approximately 17,000,000 m<sup>3</sup> of sediment will be used in the construction project on Danish territory.

This excavated material will primarily be used to create new reclaimed land south of Lolland and off Fehmarn. As part of the coast-to-coast project, new reclaimed land will be created off Lolland and Fehmarn. The areas are designed as peninsulas demarcated by stonework or coastal edging and are created by filling with seabed sediment from the excavation of the tunnel trench, the work harbour and its access channel. The new reclaimed land off Lolland is located on each side of the ferry port at Rødbyhavn and extends approximately 3.5 km towards the west and approximately 3.7 km towards the east. The peninsulas project approximately 500 m out into the Fehmarnbelt, and the average width of the entire area is approximately 430 m.

In addition, seabed sediment will be stored in the temporary project area, where it is planned to act as a temporary coastal defence dike to protect the area behind. The storage depots will also have a noise

reduction effect and will be used for temporary storage of the seabed spoil before it is ultimately used in the coast-to-coast project, for example to fill the work harbour. Finally, parts of the seabed will be used to establish ramps and for backfilling around structures.

In connection with the Danish landworks, cf. section 2 – especially the railway landworks – material will be excavated from the new channel in Masnedø Østflak (240,000 m<sup>3</sup>) and from the extension of the railway embankment in Guldborgsund (23,500 m<sup>3</sup>). Additional small quantities of excavated material will be produced in connection with foundations for bridge piers for the two new bridges over Masnedø and Guldborgsund (approximately 5,000 m<sup>3</sup> per bridge). The sediment from the channel and the bridges will be dumped and the sediment from the embankment extension will be dumped or laid on a local land area.

The use of the seabed spoil, for land reclamation and filling the work harbour, etc. will be essential to the ability to implement the construction project.

Excavated seabed spoil may be subject to the definition of waste, cf. article 3, paragraph 1, no. 1, of Directive 2008/98/EU of the European Parliament and of the Council on waste (Waste Framework Directive), and section 2, subsection 1, of the Danish Executive Order on waste (Danish Waste Executive Order). The municipal council decides whether a substance or object is waste in pursuance of section 4, subsection 1, of the Danish Waste Executive Order.

Of the seabed spoil excavated at the tunnel portal and at the cut-and-cover tunnel at Rødbyhavn, in the tunnel trench and in and around the work harbour at Rødbyhavn, the Danish Environmental Protection Agency assesses that only approximately 5% (primarily peat and mud with poor geotechnical properties) will be waste. However, by far the majority of the spoil excavated (approximately 95%), which is primarily expected to consist of sand and clay with good technical properties, meaning that it can be used in, for example, installations on land, is assessed to be not waste but a by-product, cf. article 5 of the Waste Framework Directive and section 2, subsection 2, of the Danish Waste Executive Order.

The approximately 5% of spoil that is assessed to be waste will be used for land reclamation in the areas off Lolland and Fehmarn. This use means that the spoil is therefore exempted from the area of application of the Waste Framework Directive, cf. article 2, paragraph 3, of the Directive. This specifies that the Directive does not cover sediment that is moved within surface waters for purposes including land reclamation if it is demonstrated that the sediment is non-hazardous. However, the provision in article 2, paragraph 3, of the Waste Framework Directive has not been implemented in Danish law.

Consequently, it is proposed in section 16 that the waste rules in part 6 of the Danish Environmental Protection Act and rules issued in pursuance of that part do not apply to seabed spoil that is moved within surface waters for the purpose of land reclamation when the spoil is not hazardous. The fact that the spoil does not constitute waste under these circumstances also has the result that, for example, such use of the spoil does not require environmental approval under part 5 of the Danish Environmental Protection Act.

This provision applies only to non-hazardous seabed spoil. Hazardous waste is defined in article 3 (2) of the Waste Framework Directive and section 3 (22) of the Danish Waste Executive Order. Under section 16, subsection 2, the Minister for Transport may establish rules on what constitutes non-hazardous seabed spoil.

Where the seabed spoil is not subject to the proposed section 16, the spoil will have to be processed under the general rules. Among other things, this will mean that parts of the spoil are subject to the waste rules, and that, depending on the circumstances, environmental approval may be necessary to store or deposit the spoil. In addition, under the Danish Marine Environment Act and Danish Executive Order no. 32 of 7 January 2011 on dumping excavated seabed spoil (the Danish Dumping Executive Order), dumping may require permission.

Under the rules in sections 19 and 27 of the Danish Environmental Protection Act, land reclamation and the use of seabed spoil may also require the permission of the municipal council if it contains polluting substances. Under section 19 of the Danish Environmental Protection Act, substances, products and materials that may pollute groundwater, soil and subsoil may not be buried in the soil, discharged or stored on the soil or drained into the subsoil without permission. Under section 27, subsection 1, of the Danish

Environmental Protection Act, substances that may pollute the water may not be added to watercourses, lakes or the sea, and such substances may not be stored in such a way that there is a risk of water being polluted. Section 27, subsection 2, of this Act also specifies that substances that are deposited in the sea may not without permission be acted upon in such a way that they may pollute the water.

The available environmental studies show that the seabed spoil produced during the performance of the works in the construction project will not be polluted. Consequently, it is assessed that there will not normally be a need for permission under sections 19 and 27 of the Danish Environmental Protection Act for land reclamation and use on land, respectively. If, however, some parts of the seabed spoil turn out to be polluted, sections 19 and 27 of the Danish Environmental Protection Act apply, as well as the Danish Soil Pollution Act, depending on the circumstances. The proposed section 13 (preclusion of the right to appeal) applies to decisions made under section 19, subsection 1, and section 27, subsections 2 and 3, of the Danish Environmental Protection Act.

Finally, utilisation of seabed spoil may require permission under part 4 of the Danish Raw Materials Act. However, the seabed spoil produced in connection with the establishment of the immersed tunnel and work harbour, cf. section 1, subsection 2, no. 1, does not require permission under part 4 of the Danish Raw Materials Act under the proposed section 12, subsection 3. However, this provision applies only to utilisation of seabed spoil produced during the works specified on the immersed tunnel or work harbour.

Any other raw materials extraction outside the project area will require normal permission under legislation including the Danish Raw Materials Act. Extraction of sand and gravel for the project will generally take place in the developer areas reserved under Danish Executive Order no. 136 of 16 February 2012 for the purpose of raw materials extraction (Kriegers Flak and Rønne Banke) and where Femern A/S is expected to extract raw materials following permission from the Minister for the Environment (Danish Nature Agency).

Consequently, there is no intention to extract raw materials in the areas designated as a joint area in pursuance of the Danish Raw Materials Act. Extraction should only take place in a joint area if there is a need for special qualities of raw materials that do not exist in the developer areas. If extraction does take place, it must be as limited in extent as possible. Femern A/S will contact the relevant authorities if it becomes necessary to extract raw materials from joint areas.

#### 6.3.4. Supervision, enforcement, etc.

The Minister for Transport carries out supervision to ensure that the construction project is implemented as authorised by the Construction Act, and in accordance with the guidelines in the implementation report. In general, the developers are responsible for ensuring that the project is implemented in pursuance of the Construction Act. Among other things, this also concerns the preventive measures specified in section 11, including ensuring that the assumed replacement habitats develop and are cared for until the replacement objective has been met.

The proposed section 12 exempts works in the construction project from a number of rules in general nature and environmental legislation. However, this only applies for as long as the works in question take place as part of the implementation of the project, i.e. as authorised by sections 1 and 2 of the Construction Act, and in accordance with the project description in the preliminary works and the implementation report. If the developers carry out works that are not part of this description of the construction project, the general nature and environmental legislation, including rules on supervision, enforcement and penalties, applies unless a project change is permitted, where necessary, under the proposed sections 8 and 9, cf. section 17.

The normal supervisory authorities will be able to issue the developers with orders, etc. under the general rules (although cf. section 13) if the developers carry out works that are not in accordance with the implementation report and also constitute non-compliance with general legislation that continues to apply to the project. An example of such a situation is where work is carried out in contravention of the assumption behind section 11 that the construction project will not, with the assumed preventive measures described in the implementation report, entail non-compliance with the rules in section 29 a of the Danish

Nature Protection Act, the Danish Executive Order on protection of species or section 6 a, subsections 1 and 2, or section 7 of the Danish Hunting and Game Administration Act.

Finally, in the proposed section 48, rules are established on penalties if Femern A/S or A/S Femern Landanlæg fails to comply with section 8 or 9 by not giving notification of project changes, i.e. environmentally relevant departures from the construction project as described in the Construction Act, the preliminary works to the Act and the implementation report.

## 7. Traffic-related consequences

The Fehmarnbelt lies on the north-south axis linking Scandinavia with continental Europe. The Fehmarnbelt Fixed Link consequently plays a key role in the effective development of European road and rail links. At the same time, the link is part of the TEN-T trans-European network establishing the important main corridors through Europe.

It is expected that both passenger traffic and freight volumes will continue to rise in the coming decades. Among other things, this is because economic growth, increased international trade and increased mobility in society are expected to increase the traffic on the Danish and international rail and road networks. Rail traffic between Scandinavia and the continent is therefore also expected to increase.

The Fehmarnbelt project will result in much more flexible transport options and produce significant time savings for both passengers and freight, not least on the railway. One of the main objectives of the project is to enhance the railway, including freight transport by rail. An updated traffic forecast for a fixed link across the Fehmarnbelt was prepared in November 2014. The traffic forecast shows that, in 2025, a total of 36 passenger trains and 65 freight trains per 24 hours are expected to travel in both directions across the fixed link across the Fehmarnbelt. In 2035, a total of 40 passenger trains and 74 freight trains per 24 hours are expected to use the Fehmarnbelt Fixed Link.

With a rollout plan for developing and upgrading the railway, which is coordinated with the electrification and signal programme, it will be possible to open the section between Ringsted and south of Holeby with a speed upgrade and dual track in autumn 2019, including the new signalling system on the entire section between Ringsted and Holeby over the existing Storstrøm bridge. The section between Ringsted and Næstved will be electrified in 2019. At the end of 2021, the rest of the section will be electrified and the new Storstrøm bridge will be taken into use with the new signalling system and electrification in the same year.

Installation of dual track between Vordingborg and the landfall point at the Fehmarnbelt primarily makes it possible to increase the number of trains between Denmark and Germany. At the same time, the railway landworks mean that the conditions for freight train traffic on the section between Ringsted and Holeby will be considerably improved. A new passing track for 1,000 m long freight trains will make it much easier to allow passenger trains to pass freight trains and thus restore compliance with the timetable (normal operation) after major irregularities in train operations.

Irregularities in train operations in this context means situations in which trains are delayed as consequence of faults in the railway installation, for example signal, overhead line and track faults, faults in the train or external factors such as collisions with people, weather conditions or anything else.

Consequently, the railway landworks will largely have an impact on freight train traffic in interaction with passenger traffic.

The electrification of the section between Ringsted and Holeby will also have the effect that the individual railway companies will be able to use their trains more flexibly on other electrified sections in Denmark and northern Europe to a greater extent.

The development of the railway landworks between Ringsted and south of Holeby consequently means a marked improvement for both passenger trains and freight trains. There will be more train departures between Denmark and Germany and between Copenhagen and Nykøbing F. The travel time will be shorter both between Germany and Denmark and between the metropolitan area and the towns and cities in southern Zealand and on Lolland and Falster.

Overall, these projects will offer new opportunities to the entire region between Hamburg and Copenhagen, as well as for regional traffic as the construction project will have the potential to release capacity on Funen and in Jutland to enhance the capacity between western and eastern Denmark. The project will consequently contribute to enhancement of the entire infrastructure between western and eastern Denmark, benefiting balanced economic and employment growth. Moreover, the link is both a faster and a more direct transport route between Scandinavia and continental Europe than the current transport routes for passenger and freight traffic.

The modernisation of the railway will also offer the opportunity for improvements in commuter rail traffic between Lolland-Falster, southern Zealand and the Metropolitan area. Consequently, the construction project will also mean shorter travel times for rail passengers on these sections. For example, the shortest travel time between Nykøbing F and Copenhagen will be just under an hour.

The Fehmarnbelt Fixed Link will shorten the travel time for cars and trucks between Copenhagen and Hamburg by just under an hour. For rail traffic, the fixed link and other planned new structures will make it possible to reduce the average driving time between Copenhagen and Hamburg by around two hours. This reduction will be from 4 hours 40 minutes today to 2 hours 40 minutes after the fixed link has been opened and the German landworks have been upgraded.

Road users will save time as the waiting time at the ferry will be eliminated and it will be quicker to cross the Fehmarnbelt than on the current ferry. In addition to the economic gains associated with the shorter transport time, the construction project will also contribute to a reduction in CO<sub>2</sub> emissions. The annual CO<sub>2</sub> emissions are expected to be reduced considerably when the Fehmarnbelt Fixed Link is taken into use as the freight trains and trucks that currently drive via Funen and Jutland will have their journey from Copenhagen to Hamburg cut by approximately 160 km. In addition, the fact that vehicles will no longer have to be transported across the Fehmarnbelt by ferry will also produce a reduction in CO<sub>2</sub> emissions.

## 8. Traffic during the construction phase

During the construction phase, there will be additional traffic as a consequence of trucks with materials, goods deliveries, collection of refuse, etc., as well as cars and buses carrying employees and visitors driving to and from the production area, the site in the portal area and the camp.

The extra road traffic associated with the coast-to-coast project is divided into traffic to and from three different areas within the overall production area and other sites: traffic to and from the tunnel element factory, traffic to and from the camp and traffic to and from the site at the tunnel portal. The additional traffic will primarily consist of trucks and cars. As a precautionary measure, it is anticipated that the traffic will generally be evenly distributed over the entire 24-hour period of all days of the week throughout the year. However, there will be peak hours for car traffic three times per 24-hour period.

Ensuring that traffic can flow without unnecessary delays for road users is a high priority in the planning of the construction work, and the aim is for the work on the approach to be organised with the fewest possible obstacles to traffic. The traffic to the construction works is generally expected to flow directly between the Sydmotorvejen motorway and the construction areas, but there will be additional traffic to and from Rødbyhavn Havn in the period in which the work harbour for the coast-to-coast project is being constructed.

In order to limit the additional traffic as far as possible, the aim will also be to have as many of the construction materials as possible delivered by sea. Consequently, two temporary work harbours will be constructed, in Rødbyhavn and Puttgarden. The two harbours will thus make a large contribution to relieving the roads and reducing the volume of heavy traffic. In addition, among other things, cycle paths and footpaths will be built in the area to allow future employees to cycle between the future residential area and the sites.

There will be additional traffic at sea in connection with the dredging of the tunnel trench, filling of the new reclaimed land, establishment of the tunnel parts and delivery of materials to the construction project. The

maritime authorities have made a number of requirements for measures to protect navigation in connection with the construction project. These include issuing an order on the establishment and operation of a VTS (Vessel Traffic Service) system.

In rail sections in connection with the project, there will be a need to close the line during certain periods of time. In addition to single-track operation during certain periods and night-time and weekend closures, it will be necessary to close the railway completely in the following sections during the following periods of time:

- Total closure of the section between Orehoved and Nykøbing Falster for approximately 6 months in 2017.
- Between Nykøbing Falster and Rødby for approximately 8.5 months in 2017.
- Total closure between Næstved and Vordingborg for 13 weeks in 2018, when a large number of track and bridge renewal projects will be carried out in the construction project.
- Total closure of the section between Ringsted and Næstved for approximately 6 months in 2019.
- Total closure of the section between Orehoved and Rødby for approximately 4.5 months in 2019.

However, see section 11.2.2 below on the construction costs for the Danish landworks concerning the overall timetable.

## 9. Expropriation

Section 73 of the Danish Constitution specifies that title is inviolable and that no one may be placed under an obligation to surrender his/her property except where the common good requires it. Surrender may only take place in pursuance of an Act and against full compensation.

With the proposed provisions and in accordance with section 73 of the Danish Constitution, statutory authority is created to acquire by expropriation other necessary areas and rights for the establishment of a fixed link across the Fehmarnbelt with associated landworks in Denmark. Expropriation may only take place if it is necessary to acquire the areas, etc. in question either temporarily or permanently to be able to implement the construction project.

The expropriations under the Bill will take place generally in accordance with the rules in the Danish Act on the procedure in connection with expropriation of real property. The Expropriation Commission for Government Expropriation on the Islands will carry out an in-depth examination of whether each expropriation is necessary. The requirement for an expropriation to be necessary implies that the general principle of proportionality must be met. Consequently, compulsory surrender of property is not possible if the objective of the expropriation can be achieved in a manner that is less of an intervention for the property owner.

In pursuance of the Bill, expropriation will take place in order to establish the fixed link across the Fehmarnbelt with associated landworks in Denmark, i.e. a purpose of public nature which therefore lies within the common good.

The extent of the intended expropriations is illustrated by the consideration of the construction project's area use requirements in the EIA material for the structures stated in sections 1 and 2.

The coast-to-coast project will be implemented on the basis of a tight timetable, and any delay to the project will have major economic consequences. Moreover, the coast-to-coast project's special transboundary nature and significant size make it necessary to achieve the greatest possible flexibility in terms of the ability to act and organise the construction work efficiently in relation to the transboundary problems that may arise during the construction of the fixed link across the Fehmarnbelt. The public authorities seek to achieve this flexibility by means of specific provisions in the Construction Act.

To achieve the necessary scope during the construction phase, sections 29-33 of the Bill contain final, specific expropriation decisions to ensure that ownership problems, and in particular the time required to

resolve them, are prevented, to the necessary extent, from impeding the progress of the coast-to-coast project and thus having major economic consequences.

Corresponding specific expropriation decisions are not considered to be necessary in relation to the project's landworks. Expropriations that are necessary for the construction and operation of these structures will therefore have to be implemented with authority in section 27 of the Bill.

Expropriations that are necessary for the coast-to-coast project and are not covered by sections 29-33 of the Bill will also have to be implemented pursuant to section 27 of the Bill.

The interventions authorised by the final, specific expropriation decisions in sections 29-33 of the Bill are all entirely necessary and are time-critical interventions for the coast-to-coast project that would otherwise have to be managed after the Construction Act has been passed by making an agreement or implementing a traditional expropriation process, with a risk of delay to the construction process. The necessity of the interventions is illustrated by the in-depth consideration of the coast-to-coast project's area use requirements in the EIA material for the coast-to-coast project.

To ensure the progress of the coast-to-coast project, the Minister for Transport may, in pursuance of section 34 the Bill and without further notice, remove any objects, plants, etc. in the areas affected by the final, specific expropriation decisions in sections 29-33 of the Bill. Except for the proposal for the expropriation decisions as a consequence of the coast-to-coast project's special conditions to be included in the Construction Act, cf. sections 29-33, the expropriations do not differ from the other expropriations implemented in connection with the construction of the fixed link across the Fehmarnbelt.

In addition, a common feature of the expropriation interventions covered by sections 29-33 of the Bill is that the areas used in connection with the coast-to-coast project are predominantly undeveloped agricultural areas, although 31 wind turbines have been erected that must be taken down in connection with the project. There is also the dike on both sides of Rødbyhavn Havn, which will be used in connection with the construction works. No buildings, including residential properties, will be affected by the expropriations specified.

Femern A/S will seek to make agreements with the owners of the properties affected on the interventions in question, including on compensation, re-establishment, etc. Even if it is possible to make an agreement, the interventions will take place when the Danish Parliament has passed the Construction Act, among other things to ensure that compensation for the surrender of areas is not included in the calculation of the owner's taxable income, cf. section 11, subsection 1 of the Danish Act on the taxation of profit from the sale of property.

The expropriations under the Bill will take place in accordance with the rules in the Danish Act on the procedure in connection with expropriation of real property. Where the Danish Parliament does not make a decision on expropriation, cf. sections 29-33 of the Bill, competence for expropriation is assigned to the Expropriation Commission, which both examines the project in question and makes the final decision on expropriation.

A case concerning the lawfulness of an expropriation decision made by the Expropriation Commission must be brought before the courts within 6 months after the Expropriation Commission's decision on expropriation has been made, cf. section 15, subsection 4, of the Danish Act on the procedure in connection with expropriation of real property. The courts may also examine the lawfulness of the specific expropriation decisions in the Bill, cf. sections 29-33.

A decision determining the amount of compensation is made in all cases by the Expropriation Commission. The compensation must be complete, which means that compensation must be paid that puts the owner in the same financial position as if the expropriation had not taken place.

It will primarily be possible to pay compensation for loss as a consequence of surrendering areas and the imposition of easements. However, it will also be possible to pay compensation for other inconvenience as a consequence of the expropriation, both temporary and permanent. Not only the owner of the property to be expropriated may have a claim for compensation. Rights holders and neighbours, for example, may

also have a claim.

When the Bill was sent for consultation, Femern A/S notified the owners affected of the contents of the Bill in individual letters. The letters comprised an enclosed description of the specific interventions in the property and a map illustrating the extent of the interventions. All owners have also been offered the opportunity to have the project marked out on the ground.

Where the Danish Parliament makes a decision on expropriation, cf. sections 29-33 of the Bill, it is assumed that the Expropriation Commission will, immediately after the commencement of the Act, hold a meeting to review the expropriated areas, etc. The meeting will be held with a view to determining the compensation, and this may take place at the meeting or later. If an agreement was already made before the Act was passed, it will not normally be necessary to hold further meetings.

If the Danish Parliament makes a decision on expropriation, cf. sections 29-33 of the Bill, and the owner, in the absence of agreement with the owner concerning the amount of compensation, requests an advance payment of expropriation compensation, Femern A/S will, after the commencement of the Act, pay an amount on account equivalent to what Femern A/S considers itself to be under an obligation to pay under the circumstances. The payment will be made subject to repayment if the Expropriation Commission determines that the compensation will be lower than the amount paid. Consequently, the Expropriation Commission is not bound by the parties' claims, or by the amount paid out on account by Femern A/S when it subsequently determines the amount of compensation. If an agreement has been made on the amount of compensation, the payment will correspond to the amount agreed.

It should be noted that payment of compensation on account to the owner requires a declaration from any mortgagees that the amount may be paid to the owner. If mortgagees oppose this, the compensation is paid to the mortgagees in order of priority. Alternatively, it may be agreed that the compensation is to be paid to the owner's bank on condition that the bank deal with the mortgagees and possibly pay taxes and duties at the time of surrender.

It is proposed that the Act make it possible for the Minister of Transport to expropriate a property in special cases before the time of the ordinary expropriations. This possibility is proposed in respect of any owners of properties that are to be expropriated where there may be particularly compelling reasons for the expropriation to be brought forward, for example as a consequence of illness, etc.

## 10. Organisation and ownership

Femern A/S and A/S Femern Landanlæg are authorised to be responsible for the construction, operation and financing of the construction project and to take other measures that are necessary in respect of the construction and operation of the construction project.

Femern A/S is wholly owned by A/S Femern Landanlæg. A/S Femern Landanlæg is wholly owned by the state-owned company Sund og Bælt Holding A/S. The Minister for Transport may issue general and specific instructions for the performance of the companies' activities, cf. section 3, subsection 3, of the Bill, and the Minister for Transport sets the price level for use of the Fehmarnbelt tunnel.

Femern A/S and A/S Femern Landanlæg have been responsible for the work on planning the construction project since the Planning Act was passed. Femern A/S has primarily been responsible for organising the coast-to-coast project, while A/S Femern Landanlæg has primarily been responsible for organising the development of the Danish landworks. In practice, Banedanmark has been responsible for planning the rail part of the Danish landworks, and the Danish Road Directorate has, in practice, been responsible for the planning of the road part of the Danish landworks. Consequently, the Bill continues the provisions of the Planning Act on organisation in broad outline and thus expresses the expectation in the Planning Act that the companies that have been responsible for the planning work will be responsible for the construction, operation and financing of the construction project.

Femern A/S will be responsible for the construction, operation and financing of the coast-to-coast link, and Femern A/S will be the owner of the coast-to-coast link. A/S Femern Landanlæg will be responsible for the

construction, operation and financing of the Danish landworks. However, after the end of the construction phase the ownership of the overall installations in the section from Ringsted to Rødby at Holeby will be divided, which includes both existing rail and road installations owned by the State and the Danish landworks specified in section 2.

Section 6 of the Bill allows tasks to be transferred to Banedanmark or the Danish Road Directorate. Since the Planning Act was passed, Banedanmark has been responsible for planning the rail part of the Danish landworks, and the Danish Road Directorate has been responsible for the planning of the road part of the Danish landworks. It is expected that Banedanmark will have the task of being responsible for construction of the railway landworks and that the Danish Road Directorate will have the task of being responsible for construction of the road landworks.

The state currently owns the existing rail and road installations. The landworks covered by the Act in Denmark, cf. section 2, will be constructed as enlargement or upgrade of the existing installations, which will be owned by A/S Femern Landanlæg up to the end of the construction phase.

The title to the Danish landworks will be determined in accordance with section 39 of the Bill. A/S Femern Landanlæg will, therefore, until the end of the construction phase, be the owner of the landworks covered by section 2 of the Act, while the state will continue to be the owner of the existing rail and road installations. If the performance of the construction tasks covered by section 2 of the Act is transferred to Banedanmark and the Danish Road Directorate, they will be developers for the task with the appropriate rights and obligations.

After the end of the construction phase, the Minister for Transport will divide the title to the overall landworks, i.e. existing rail and road installations and the installations covered by section 2 of the Act, between A/S Femern Landanlæg and the state. Each party will subsequently have the title, including responsibility for operation and maintenance, to its respective part of the section.

The ownership of the railway landworks will be divided after the end of the construction phase using a model for the exchange of property under which the state and A/S Femern Landanlæg separately gain ownership of a part of the overall section from Ringsted to Rødby at Holeby in proportion to their respective contributions. It is expected that the state will contribute the existing railway installations, among other things, while A/S Femern Landanlæg will contribute expenses actually paid in connection with the construction of the new overall section. Banedanmark will be responsible for construction of the railway landworks specified in section 2 of the Bill as developer. For the construction of the railway landworks, Banedanmark will obtain financing under an agreement with A/S Femern Landanlæg.

After the end of the construction phase, the Danish Road Directorate will be the owner of the road landworks, which will include both the existing road landworks and the enlargement and upgrade of the road landworks in section 2 of the Act. The detailed division of the title in relation to the coast-to-coast project will be undertaken by the Minister for Transport. The Danish Road Directorate will be responsible for construction of the road landworks specified in section 2 of the Bill as developer. For the construction of the road landworks, the Danish Road Directorate will obtain financing under an agreement with A/S Femern Landanlæg. The Danish Road Directorate does not receive income for operation of the road landworks from A/S Femern Landanlæg.

The organisational form chosen is not intended to limit the state's responsibility for the construction work in question. Consequently, the Act specifies that the state guarantees the companies' obligations concerning loans and other financial instruments that are used to finance and refinance the preparation, construction, operation and implementation of other necessary measures in connection with the establishment of the construction project. The guarantee from the state means that Femern A/S and A/S Femern Landanlæg will be able to raise loans on terms equivalent to those granted to the state.

Femern A/S will collect payment for use of the road and rail link across the Fehmarnbelt. The prices are determined by the Minister for Transport. However, Femern A/S may change existing general discount schemes and introduce new discount schemes to the extent that this does not affect the level of payment materially. Prices are fixed in compliance with articles 9 and 10 of the Treaty.

## 11. Project finances

### 11.1. The financing model

The construction project is user-financed. The construction phase will be financed by loans guaranteed by the Danish State, and via EU project funding.

Under the State guarantee model, Femern A/S and A/S Femern Landanlæg are authorised to construct, finance and operate the construction project. The companies can raise loans directly in the financial markets and/or indirectly, where the loans are raised by the Danish Ministry of Finance/Danmarks Nationalbank and re-lent to the companies. The Danish State guarantees Femern A/S' and A/S Femern Landanlæg's financial obligations, which ensures loan terms equivalent to the terms for Danish State borrowing. Consequently, the financing costs of the project are as low as possible.

Annual guarantee commission is payable to Danmarks Nationalbank on loans covered by the State guarantee, and/or a similar commission in connection with re-lending. In pursuance of the Danish Act on commission on certain loans raised under State guarantee, it is required that the guarantee commission amounts to 0.15% of the loan sum.

The loans will be repaid via user charges in the same way as for the fixed links across the Great Belt and Øresund. Consequently, the users of the Fehmarnbelt tunnel will pay for the construction project.

### 11.2. Costs

#### 11.2.1. Construction costs for the coast-to-coast project

In February 2011, the political parties backing the project (the Danish Social Democrats, the Social Liberal Party, the Liberal Party, the Danish People's Party, the Socialist People's Party, Liberal Alliance and the Conservative Party) decided, on the basis of a recommendation from Femern A/S, that an immersed tunnel was the preferred technical solution for the project.

In June 2011, the political parties backing the project decided, on the basis of a recommendation from Femern A/S, that the production site for the tunnel elements was to be located at Rødbyhavn in Denmark.

Femern A/S has invited tenders for the four large tunnel contracts, which are estimated to account for approximately 75-80% of the final construction budget for the fixed link across the Fehmarnbelt. On 22 December 2014, the prequalified contractors submitted their bids. Consequently, the tender process for the Fehmarnbelt Project means that it is possible to prepare a construction budget based on specific tender prices from the prequalified contractors. This reduces any subsequent budget risk.

On the basis of the priced bids received for the four tunnel contracts, Femern A/S prepared a construction budget of DKK 55.1 billion (in 2015 prices) for the fixed link across the Fehmarnbelt, including reserves of DKK 3.7 billion, equivalent to 7%. The budget also comprises the additional installation and railway contracts, plus the planning costs, etc.

As the priced tenders are generally much more expensive than Femern A/S' estimate for the construction costs for the works in question, the company is negotiating with the contractors to reduce the construction costs.

In addition to the construction contracts that have not yet been priced, there remains uncertainty linked to the timetable for the German plan approval, the requirements that the German authorities may make for the implementation of the construction project and how much EU subsidy the project will be granted. Application will be made to the EU for a subsidy for the project's construction phase for the period up to 2020 by the application deadline on 26 February 2015.

Development of the German railway installations in connection with the fixed link across the Fehmarnbelt is

not expected to be completed until 2024. Against this background, the timetable for developing the Danish railway installations will be reassessed.

The above uncertainties in the project financing are expected generally to be settled during autumn 2015. Consequently, there will be a fresh assessment of the total finances in the project, including an updated risk assessment, which will be submitted to the political parties backing the project before the four large tunnel contracts can be signed. In this connection, the political parties backing the project will also have to decide how the project should proceed if German plan approval has not yet been granted.

#### 11.2.2. Construction costs for the Danish landworks

The consolidated construction estimate of August 2011 included a construction estimate for the Danish landworks of DKK 8.5 billion (2008 prices), equivalent to DKK 9.6 billion in 2015 prices.

In connection with the financial analysis of November 2014, Banedanmark updated its construction estimate to DKK 9.5 billion (2015 prices). The reduction is partly due to the conditions having been studied in more detail since 2011 using geotechnical surveys and ballast borings. Systematic work has also been performed to find more effective solutions and ways of optimising.

The construction estimate of DKK 9.5 billion for the Danish landworks includes a correction supplement of 10%, equivalent to DKK 0.7 billion, plus 20% reserves, equivalent to DKK 1.5 billion, according to the principles of New Construction Budgeting. This brings the total reserves up to 30% of the construction costs.

The German Federal Minister of Transport stated in January 2015 that the development of the German railway landworks is not expected to be completed until 2024. At the same time, the electrification of the German railway landworks is not expected to be completed when the fixed link across the Fehmarnbelt is expected to be opened. No specific timetable for the development of the German railway landworks has yet been prepared. Consequently, no discussions have been held with the German authorities on its consequences. The timetable for the development of the Danish railway landworks will be reassessed against this background. This may mean a change in the timetable for the development, including later completion than previously assumed.

#### 11.2.3. Costs of operation, maintenance and reinvestments for the coast-to-coast project

The costs of operation, maintenance and reinvestments for the coast-to-coast project were estimated at DKK 540 million (2014 prices) per annum in the financial analysis of November 2014. The amount was calculated as an annual average based on expected reinvestments during the first 40 years of service of the tunnel.

#### 11.2.4. Costs of operation, maintenance and reinvestments for the Danish landworks

A separate estimate for the costs of operation, maintenance and reinvestments was not prepared as part of the 2008/2011 financial analysis and the construction estimate for the Danish landworks used in the analysis. The reason is that, at the time, it was assumed that ownership of the landworks would be transferred to the State upon completion and that the costs of operation, maintenance and reinvestments for the landworks would thus not have to be financed through traffic revenue from the fixed link across the Fehmarnbelt.

Section 39 of the Bill now assumes that ownership of the railway landworks will be divided after the end of the construction phase using a model for the exchange of property under which the State, represented by Banedanmark, and A/S Femern Landanlæg will each gain ownership of a part of the overall section from Ringsted to south of Holeby corresponding to their respective contributions. It is expected that the State, represented by Banedanmark, will contribute the existing railway installations, among other things, while A/S Femern Landanlæg will contribute expenses actually paid in connection with the construction of the

new overall section. After the end of the construction phase, the state will be the owner of the road landworks.

In continuation of the divided ownership of the landworks, it is assumed in the financial analysis of November 2014 that A/S Femern Landanlæg will pay the expenses for maintenance and reinvestments corresponding to ownership of approximately 80% of the Ringsted-Holeby rail section. However, it will only be possible to determine the final division of ownership and costs of maintenance and reinvestments at a later time, for which reason the estimated percentage distribution given here is not final. Costs will primarily be financed by dividend payments from Femern A/S.

In 2014, Banedanmark conducted an analysis of the costs of maintenance and reinvestments for the entire Ringsted-Holeby section. Based on this analysis, average annual costs were calculated as DKK 292 million (2014 prices) for the entire section. This is equivalent to DKK 234 million per annum for the part of the section owned by A/S Femern Landanlæg, which will primarily be financed by proceeds from the fixed link across the Fehmarnbelt. Consequently, costs of DKK 234 million per annum are included in the financial calculations for this. As indicated above, the size of the associated costs is estimated here as well.

### 11.2.5. Rejected solutions

Four technical alternatives were investigated: an immersed tunnel, a bored tunnel, a cable-stayed bridge and a suspension bridge. The suspension bridge was, however, rejected as a technical solution early on when it was assessed that a cable-stayed bridge would be a better and more economical technical solution compared with a suspension bridge. The alternatives were investigated thoroughly and their environmental impacts were analysed in detail.

Extensive preparation work was carried out for all three alternative technical solutions, including preparation of estimates of construction costs and annual costs of operation, maintenance and reinvestments.

DKK billion (2015 prices)	Bored tunnel	Cable-stayed bridge
Construction estimate*	65.5	52.5
Annual operation	0.8	0.5

\* Including 30% reserves.

In November 2010, Femern A/S advised the Minister for Transport that an immersed tunnel was the company's preferred solution for a fixed link across the Fehmarnbelt between Denmark and Germany. On 1 February 2011, the Danish Minister for Transport and the political parties backing the construction project decided to follow the recommendation from Femern A/S to proceed with the immersed tunnel as the preferred technical solution.

The immersed tunnel was chosen as the preferred technical solution following a comparison with the other alternative technical solutions based on the following six parameters: 1) environment, 2) navigational safety, 3) safety and emergency preparedness, 4) technical risks, 5) time schedule and 6) finances. The choice was made on the basis of an overall assessment of the advantages and disadvantages.

### 11.3. Revenue

Revenue from the fixed link across the Fehmarnbelt will be generated by the users of the road and rail sections of the link.

#### 11.3.1. Road traffic and prices

The total road traffic revenue depends on both the traffic volumes using the link and the price users of the link are charged. To ensure an updated basis for the revenue for the fixed link across the Fehmarnbelt, Femern A/S prepared an updated analysis of expected traffic trends for the fixed link. The 'Traffic forecast for a fixed link across the Fehmarnbelt' analysis of November 2014 is based on results and conclusions from a number of reports in which the central element is an updated, model-based calculation of traffic trends for a fixed link across the Fehmarnbelt described in the 'Fehmarnbelt Forecast 2014' analysis report.

'Fehmarnbelt Forecast 2014' presents a main scenario for traffic trends for a fixed link across the Fehmarnbelt and a sensitivity scenario based on German estimates of economic developments and transport cost developments. In the financial analysis, specific traffic volumes from the main scenario are included as the calculation basis of traffic revenue.

The Danish Planning Act assumes that the price of using the fixed link across the Fehmarnbelt is expected to be on a level with the ferry prices for Rødby-Puttgarden in 2007 adjusted by the general increase in prices up to the time of opening. In 2007, the ferry price was DKK 420 including VAT for a car. This is equivalent to approximately DKK 484 including VAT in 2014 prices, which was used as the basis in the financial analysis of November 2014. The average VAT rate is assumed to be 19% as, for purposes of calculation, it is assumed that Danish VAT (25%) will be charged in Danish territory and waters and in the Danish Exclusive Economic Zone, German VAT (19%) will be charged in German territory and waters and that VAT will not be charged in the German Exclusive Economic Zone.

The assumed price for trucks in the financial analysis of November 2014 of DKK 2,059 including VAT is based on the current Scandlines list price for the Rødby-Puttgarden crossing, including a variable oil supplement plus 19% VAT less a discount of 13%, which is the maximum permitted within the framework of the Eurovignette Directive.

In pursuance of the Bill, the Minister for Transport will set prices for use of the road and rail link. The final price will be set just before the opening of the fixed link.

On the basis of these assumptions, the revenue from road traffic on the fixed link across the Fehmarnbelt can be calculated to be approximately DKK 2.5 billion excluding VAT (2014 prices) in 2025, which is the first year of operation with full traffic on the fixed link. In subsequent years, the amount will grow as traffic grows.

#### 11.3.2. Rail infrastructure payment

Revenue from the railway for using the fixed link across the Fehmarnbelt is calculated as the value of the rail operators' direct saving from using the fixed link across the Fehmarnbelt instead of the approximately 160 km longer route via the fixed link across the Great Belt. These savings consist of saved infrastructure charges and lower operating costs as a result of fewer kilometres travelled. The value of time savings for passengers and freight is not included. The traffic forecast estimate of traffic volume divided by the number of passenger trains and freight trains has been used.

In the financial analysis of November 2014, the revenue basis from the railway on the fixed link across the Fehmarnbelt is assumed to be DKK 394 million excluding VAT (2014 prices) per annum and is assumed to be adjusted by the general increase in prices. In the operating phase, the proceeds from the rail infrastructure payment will depend on the rail charges and the number of trains using the tunnel. The actual annual payment from the railway may, therefore, differ from the DKK 394 million assumed in the financial analysis.

#### 11.3.3. EU funding

A significant component of the financing of the fixed link across the Fehmarnbelt is funding for the construction project received from the European Commission under the TEN-T programme, the aim of which is to strengthen the single market, for instance by promoting more efficient transboundary transport corridors.

In the financial analysis of November 2014, it is assumed that the coast-to-coast project will be granted EU funding of 18% of the construction costs, while the Danish landworks are assumed to receive funding of 10%. With the addition of funding already granted for the planning phase, this will be equivalent to the overall project being expected to receive a total of approx. DKK 10.3 billion in EU funding.

#### 11.4. Profitability calculations

On the basis of the existing construction budget of DKK 55.1 billion (2015 prices) for the fixed link across the Fehmarnbelt and a construction budget of DKK 9.5 billion (2015 prices) for the Danish landworks, profitability calculations have been carried out based on total repayment of the loans raised to finance the costs of the construction project. The repayment period for the entire project (for the fixed link across the Fehmarnbelt and the Danish landworks) is calculated to be 39 years at a real interest rate of 3.0% per annum. The calculation of the repayment period will be updated in autumn 2015 along with the renewed assessment of the total finances of the project, cf. the above.

#### 11.5. Socioeconomic assessment of the project

The Ministry of Transport has had an updated socioeconomic analysis of the fixed link across the Fehmarnbelt with associated landworks in both Denmark and Germany prepared. The analysis was published on 8 January 2015 and shows that the investment in the Fehmarnbelt Fixed Link will produce a net profit for all countries of DKK 26 billion (2014 prices), equivalent to a socioeconomic return of 5.0% per annum. For Danish society, the investment in the Fehmarnbelt Fixed Link will produce a net profit of DKK 28 billion (2014 prices), equivalent to a socioeconomic return of 5.4% per annum. A number of sensitivity analyses have been carried out showing the impact of the various assumptions and calculations on the result. In all the sensitivity analyses, the Fehmarnbelt Fixed Link is socioeconomically profitable. The net profit is particularly due to the dramatic reductions in travel time for road and rail traffic that the Fehmarnbelt Fixed Link entails. The flexibility that cars, buses, trucks and train passengers will enjoy when the fixed link opens also represents a gain. Another benefit for society is that the project will reduce the impact from transport on the environment and climate. This is partly because freight train traffic will be able to avoid the 160 km detour via the Great Belt as result of the project.

### 12. Financial and administrative consequences for the State

#### 12.1. Financial consequences for the State

In addition to the part that is financed by EU subsidies, the construction costs for the construction project will be financed by raising loans in the international capital markets with guarantees issued by the Danish State or via State re-lending. The interest and instalments on the loans will be paid through user charges on the coast-to-coast project and Banedanmark's payment to the companies for use of the railway. The Danish State will guarantee the loans raised and the other financial obligations of the companies during the construction phase.

As stated above, ownership of the railway landworks will be divided after the end of the construction phase using a model for the exchange of property under which the State and A/S Femern Landanlæg separately gain ownership of a part of the overall section from Ringsted to south of Holeby corresponding to their respective contributions.

It is expected that the State will contribute the existing railway installations, among other things, while A/S Femern Landanlæg will contribute assets equivalent to construction costs actually paid in connection with the construction of the new overall section. Each party will subsequently have the title, including responsibility for operation and maintenance, to its respective part of the section.

The toll charge for the fixed link across the Fehmarnbelt is subject to VAT. This means that the State receives VAT revenue from passenger cars using the part of the fixed link that is located in Danish territory. On the current ferry crossing between Rødby and Puttgarden, passenger cars are VAT-exempt.

A/S Femern Landanlæg is responsible for financing the annual costs of operation, maintenance and renewal of the part of the railway between Ringsted and south of Holeby that the company owns. It is estimated that the average annual cost will be DKK 234 million (2014 prices). The State will therefore save the costs of operation, maintenance and renewal of the existing installations in this section.

## 12.2. Administrative consequences for the State

The Danish Coastal Protection Act is set aside for the construction project by the Bill. This reduces the administrative burden on the Danish Coastal Authority as it does not have to grant permission for land reclamation, among other things. The Minister for Transport will ensure that the considerations on which the permission requirements in the Danish Coastal Protection Act are based are taken into account during the implementation of the project.

The Bill specifies that the exemption in article 1, paragraph 4, of the EIA Directive be applied to the coast-to-coast project. This provision means that the EIA Directive is applied directly to the construction project and that the Act carries out the case processing that the Danish Coastal Authority or the Danish Nature Agency would otherwise have carried out under the Danish implementation of the EIA Directive. The State therefore avoids the administrative work associated with this.

## 12.3. Financial consequences for the municipalities

The proposed section 24 means that the municipalities have the opportunity to receive areas, buildings, installations, etc. that have a certain value at no charge. This represents a potential financial benefit for the municipalities.

The proposed section 23 means that the municipalities may be ordered to recognise a private shared road as a public road. This means that the municipalities assume the maintenance obligation for the roads and that the municipalities must consequently pay the costs associated with this. However, it should be noted that the Minister for Transport will be authorised, if the authority is exercised to order a municipality to recognise a road as a public road, to also be fully or partially responsible for the maintenance of the road, cf. section 22.

## 12.4. Administrative consequences for the municipalities

It is expected that the local municipalities affected by the construction project will be given a number of administrative tasks in connection with the implementation of the construction project. These will involve regulatory processing, etc.

However, the Construction Act contains special rules on matters such as environmental conditions that mean, to a certain extent, that administrative tasks that would be handled by the municipalities under general rules are handled instead under the rules in the Construction Act.

The proposed section 22 means that there is no need for the municipalities to make decisions on the construction and modification of roads that are necessary for the implementation and operation of the construction project.

## 13. Financial and administrative consequences for the business community, etc.

The Bill is assessed to have positive consequences for the business economy as it ensures the construction of a major infrastructure link between Denmark and Germany which will benefit the business community. It is expected that the investment in the project will have positive direct and indirect effects for the business community, including, in particular, increased economic activity and business establishment in the local area and in the region.

In addition, the coast-to-coast project is expected to produce a number of economic benefits, including reduced travel time and far more flexible transport opportunities. The coast-to-coast project will reduce the travel time between Scandinavia and continental Europe. The travel time is currently around 45 minutes by ferry between Rødbyhavn and Puttgarden. The coast-to-coast project will result in travel time by train across the Fehmarnbelt of 7 minutes, while drivers will cross the Fehmarnbelt in 10 minutes. The travel time between Copenhagen and Hamburg will be reduced for drivers from 4.5 hours today to approximately 3 hours, while the travel time by train can be reduced by approximately 2 hours to just 2 hours 40 minutes from the 4 hours 40 minutes it takes today.

The construction of the coast-to-coast project will create many thousands of new jobs. According to an analysis from Copenhagen Economics, the project's main contractors and subcontractors are expected to create employment of approximately 55,000 FTEs in total in the period 2008-2021. The jobs on the tunnel construction sites are primarily associated with earthworks and concrete. There will also be a number of specialist tasks in connection with the excavation of the tunnel trench in the seabed and transport and immersion of tunnel elements. The project is also expected to create jobs among local and regional suppliers and local industry. These jobs will be in skilled trades, the hotel and catering industry, security and cleaning companies, local transport facilities, etc.

The Bill has no administrative consequences for the business community.

#### 14. Administrative consequences for citizens

The Bill has no administrative consequences for citizens.

#### 15. Environmental consequences

A detailed description of the environmental consequences of the construction project is available in the attached EIA material, which consists of the EIA reports prepared and associated documentation, consultation reports and supplements to the EIA reports.

##### 15.1. Environmental consequences of the coast-to-coast project

The impact in the construction phase is linked in particular to the use of areas for construction and civil engineering activities under the project, disruption during the construction works, temporary changes to existing conditions and sediment spill from dredging and land reclamation works.

Where possible, the construction works will be organised so that noise is limited while the tunnel factory and the associated structures are established. In order to minimise nuisance from noise and congestion, the aim is for as much material as possible to be delivered to the construction project by sea. Consequently, two temporary work harbours will be constructed for this purpose in Rødbyhavn and Puttgarden. The two harbours will thus make a contribution to relieving the roads and reducing the volume of heavy traffic.

The excavation work will result in some sediment spill. Above all, it is essential that there is no spill in areas or at times of the year when the environment is particularly sensitive. Thorough planning and execution methods are therefore decisive. As there are large quantities of sediment in the water in the Fehmarnbelt for natural reasons at certain times, the marine environment will generally be able to withstand the additional, short-term contribution from the excavation works.

An immersed tunnel is an environmentally-friendly solution in the Fehmarnbelt as no visible permanent structures are installed in the Fehmarnbelt itself. The seabed will be re-established after a few years, as will the flora and fauna on the seabed, and the flow of water to and from the Baltic Sea will not be reduced.

The permanent impact on the current natural environment both on land and in the marine area is primarily in the areas that are incorporated in the project. The impact is considered to be of limited extent and

primarily of local importance.

## 15.2. Environmental consequences of the railway landworks

The environmental consequences of the railway landworks are caused by the performance of the construction and civil engineering works themselves and the area use that is associated with upgrading, development and electrification.

The environmental studies show that, with the remedial measures that are part of the project, the railway landworks can be implemented without any significant impact on nature areas and habitats for flora and fauna. The railway landworks will be established in such a way that it is possible to maintain continuous ecological functionality for breeding and resting areas so that there is no significant impact on nature areas and habitats for flora and fauna. The construction project will also not harm the species and habitat types included in the basis for designating the Natura 2000 sites through which or close to which the railway landworks will pass.

## 15.3. Environmental consequences of the road landworks

Opening a fixed link across the Fehmarnbelt, with the consequent changes in traffic on the Sydmotorvejen motorway with a greater distribution over the 24-hour period and more heavy goods vehicles, may have an impact on animal life along the motorway. To limit and prevent this impact, a package of preventive measures has been put together, focusing on species protected by Annex IV of the EU Habitats Directive along the Sydmotorvejen motorway between Saksøbing and Rødby.

The course of the Saksøbing Å river is an important ecological corridor and highway linking nature areas north and south of the motorway. To allow amphibians and small mammals to pass, side-hung berms will be established in the underpass (km 132).

The entire area south of Saksøbing and along the Saksøbing Å river, with Holmeskov Dyrehave and Krenkerup Gods, is of national importance for a number of bat species, including barbastelle bats. Along the southern side of the motorway around the Saksøbing Å river, the existing vegetation will be extended with indigenous bushes and small trees in a section of approximately 400 m (km 132.0-132.4) to ensure that the flying height of the bats is high enough to reduce the risk of collision. The current forest vegetation on the northern side will be retained.

The area between Maribo and Binnitse contains populations of soprano pipistrelle, barbastelle bat and an unspecified mouse-eared bat species, all of which depend on following highways in the landscape. If relatively high bushes and trees are planted close to the motorway at Fælleshavevej (km 145.2) and Binnitsevej (km 147.8), it is estimated that the bats will cross the road at a relatively elevated height and thus find it easier to avoid the traffic.

West of the Saksøbing Å river (km 133.1), there is an amphibian pond with the Annex IV species northern crested newt, moor frog and agile frog. The incidence of moor frogs is most important as it is a small, completely isolated population that will be vulnerable to even small impacts. It is estimated that the population will be best protected by establishing a new pond further away from the motorway (km 133.1), but still close to the meadow grazed by horses.

In the area around Hillested and Håred (km 145.1-145.6), there are a number of ponds west of the motorway with populations of the Annex IV species agile frog and northern crested newt. The majority of the area's breeding population of agile frogs live in ponds approximately 250 m west of the motorway. It is estimated that the population will be best protected by cleaning out and clearing tree growth in 3 ponds further to the west so that the agile frogs choose these ponds as breeding sites and the species' breeding and resting places are moved further away from the motorway.

Around Bøgelundgård (km 146.3-146.7), the ponds contain large populations of the Annex IV species northern crested newt and agile frog. In this location, it is not immediately possible to create improvements

for the populations further west. Therefore, a 400 m amphibian fence will be erected along the western side of the motorway in order to avoid increased mortality on account of the increased volume of traffic.

#### 15.4. Environmental consequences of the construction project in the operating phase

##### 15.4.1. Reduced emissions of CO<sub>2</sub> as a consequence of the construction project

Overall, the fixed link across the Fehmarnbelt will achieve a fall in emissions from traffic. The potential annual saving is around 200,000 tonnes of CO<sub>2</sub> in a scenario where a fixed link across the Fehmarnbelt replaces the Rødby-Puttgarden ferry service. The reduction in CO<sub>2</sub> emissions derives from three main factors: the rerouting of freight transport from road to rail; the shorter distance from Copenhagen to Hamburg; and the reduced CO<sub>2</sub> emissions of using a fixed link as opposed to transporting vehicles across the Fehmarnbelt by ferry.

In general, the structure will be designed so that it contributes as much as possible to reducing the energy consumption of the means of transport. For example, this concerns the surfacing on the motorway. It is estimated that around 25% of the CO<sub>2</sub> emissions on the road network are due to rolling resistance and that, if asphalt of the highest quality is used, rolling resistance is reduced and consequently CO<sub>2</sub> emissions are reduced. However, low rolling resistance results in less road grip. Consequently, it is necessary to find a balanced solution.

On the railway, there will be a reduction in CO<sub>2</sub> emissions from freight traffic as a consequence of the shorter transport route, and the rerouting of freight from road to rail will result in a reduction. The reduction amounts to approximately 11,000 tonnes of CO<sub>2</sub> per annum. However, the increased number of passengers will result in an increase in CO<sub>2</sub> emissions from passenger transport by rail of approximately 8,000 tonnes of CO<sub>2</sub> per annum. Overall, the railway will contribute a reduction in CO<sub>2</sub> emissions of approximately 3,000 tonnes of CO<sub>2</sub> per annum.

##### 15.4.2. Noise and vibrations from the construction project

###### 15.4.2.1. Noise and vibrations from the coast-to-coast project

Overall, the number of homes subject to noise will be reduced as a consequence of the coast-to-coast project. This is due to the fact that the alignment of the new railway and motorway will be located east of Rødbyhavn, so that the road traffic that currently drives through the town to the ferry port will be displaced towards the east. Accordingly, the rail traffic will pass east of Rødbyhavn. The traffic through the town is therefore estimated to be reduced considerably, whether the ferry service continues or not.

During the operating phase, the sources of noise in the area are expected to be 1) existing noise from wind turbines, industry and traffic on roads and the railway, 2) noise from traffic on the new motorway and railway and 3) noise and vibrations from ferries if the ferry service continues.

Noise was calculated in a three-dimensional model along the motorway and railway and around the ferry quay which takes into account terrain, buildings and other relevant objects for sound propagation. The noise studies show the number of homes and other noise-sensitive buildings that are subject to noise above the guideline thresholds for each of the three types of noise source. The cumulative noise impact was not calculated as there are different thresholds for the three types of noise source, and noise is regulated according to different noise indicators. Consequently, there is no method for combining the different noise contributions to create an overall nuisance impact. The noise level was calculated both with and without a continued ferry service.

The table shows the number of homes with a noise impact above the specified thresholds in connection with operation of the immersed tunnel in 2025:

Noise impact in 2025	Rail traffic noise	Road traffic noise	Ferry traffic noise (night)
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Guideline threshold	Lden = 64 dB and Lmax = 85 dB	Lden = 58 dB	LA½h = 40 dB
Immersed tunnel without ferry operation	8	5	0
Immersed tunnel with ferry operation	8	43	285

Noise from road and rail traffic is assessed using the noise indicator Lden. With this noise unit, noise is calculated for the daytime hours of 07:00-19:00, for the evening period of 19:00-22:00 and for the night, 22:00-07:00. These three noise impacts are weighted to produce a 24-hour value Lden, in which 5 dB is added to the noise impact in the evening and 10 dB is added at night. This corresponds better to the way in which noise is experienced as people are more sensitive to noise in the evening and most sensitive at night when it can affect sleep.

There is also a guideline threshold for the maximum noise from railway traffic, Lmax. This is the maximum noise level for the loudest train used regularly in the rail section.

The noise indicator LA½h is the average A-weighted sound pressure level over the loudest half hour during the nighttime hours of 22:00 - 07:00. LA½h is used to assess external noise from businesses at night.

In the table calculation 'immersed tunnel with ferry operation', it is assumed that half of the road traffic uses the ferries, and half uses the fixed link across the Fehmarnbelt.

Vibrations will only be caused by rail operation, while road traffic and ferries do not contribute vibrations that will affect homes. The calculations show that vibrations will not be significant.

Ferry traffic at night (the loudest ½ hour) gives rise to noise levels of 50-55 dB(A) in the southern part of Rødbyhavn town, while a large part of the town is subject to 40-45 dB(A). The noise is calculated as an average for ½ hour in the night period, but the noise actually occurs throughout the 24-hour period because there are ferry departures every ½ hour throughout the 24-hour period.

When the Fehmarnbelt Fixed Link opens, the rail traffic will increase considerably in relation to today, but the increase does not mean that more homes will be subject to noise because the railway is being moved to the east and thus away from most homes in Rødbyhavn. In connection with the establishment of the coast-to-coast project's rail section, an electrical operations easement will be imposed along the railway. This means, for example, that there must normally not be any buildings within 10 metres from the centre of the track, equivalent to 7 metres from the traction power masts.

The future motorway will produce less noise pollution than the current one as it will be further away from residential areas.

#### 15.4.2.2. Noise, vibrations and electromagnetic impact from the railway landworks

The calculations of noise from the railway include factors such as traffic volume, train types, train speed, local terrain conditions, meteorological conditions and noise screening. The calculations of road noise are based on the volume and composition of road traffic. The same calculation method was used for the coast-to-coast project and the railway landworks.

The table shows the number of homes with a noise impact above the specified thresholds in connection with operation of the railway between Ringsted and south of Holeby in 2025:

Noise impact in 2025	Rail traffic noise	Road traffic noise
Guideline threshold	Lden = 64 dB and Lmax = 85 dB	Lden = 58 dB

Railway landworks	Approx. 1500	Approx. 10
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On the basis of the calculations, as part of the implementation of the railway landworks, noise reduction measures will be applied in relation to the Danish Environmental Protection Agency's guideline threshold of 64 dB (as a 24-hour average) and a maximum value of 85 dB.

The noise reduction measures will involve erection of noise screens in sections with a high density of homes, supplemented by façade insulation of homes along screened sections where the noise impact still exceeds the threshold, and façade insulation of homes along the other parts of the section.

The installation of façade insulation on homes subject to noise has been started in accordance with the legal document of 13 March 2013. The noise reduction measures are expected to be implemented in the period 2014-2016. The offer of noise reduction measures for individual homes is based on a number of criteria based on the practice applied in Banedanmark's noise project. The cost of façade insulation is paid by the project as part of the total construction cost of the railway landworks. The scheme will comprise approximately 1,500 homes.

In the studies carried out, it was estimated that approximately 19,000 m of noise screen must be erected, of which approximately 1,000 m will have a height of 2-3 m above the tracks.

The diversion of roads in connection with the conversion of bridge structures will generally result in a reduction in noise for the homes affected. In connection with the new structure in Eskilstrup, some homes will be exposed to noise above the threshold,  $L_{den} = 58$  dB, along the new road. Overall, the number of homes exposed to road traffic noise above the threshold will be reduced.

Operation of the developed, upgraded railway will have a noise impact on recreational nature areas along the section.

There is no standardised method for calculating vibrations from railways. Consequently, vibrations are calculated on the basis of an experience-based vibration model. The model is based on experience and measurements from existing rail installations, and the calculations include train type, speed and building types (detached houses or flats).

The detection threshold for perceptible vibration is 71-72 dB, which means that it is normally possible to notice vibrations even if the threshold is complied with.

There are only limited options for reducing the impact of vibrations from the railway. Vibrations from trains can be reduced to some extent by means of ongoing maintenance of wheels and rails. When new buildings are built near a railway, the structure can be adapted so that any vibrations are reduced. However, in existing properties it is not considered to be realistic to make structural changes.

Calculations of the future vibration level show that 122 homes will be exposed to a vibration level above the threshold of 75 dB. 54 of these homes have been acquired in advance.

In the event of major vibration impacts, buildings can suffer cracks and damage, but experience shows that this only happens with impacts markedly above the threshold for noticeable vibrations, and at levels considerably above those of vibrations from railways, on the basis of experience. Vibrations that will cause damage to buildings are not estimated to occur in connection with operation of the railway.

The current in the traction power system's overhead contact wire, carrier cable and return conductor and partly in rails/earth creates a magnetic field around the railway. Similar magnetic fields also occur around electrical household appliances and electrical installations in buildings.

In connection with the construction project, Banedanmark assessed the expected average size of the magnetic field around the future electrified railway. The assessment was based on the future expected train operations in the section and the expected maximum current draw for passenger trains and freight trains.

The calculations show that the average impact from passenger trains and freight trains at a distance of 7 m from the traction power masts will be approximately 0.4  $\mu$ T. This value is not an actual threshold. However, it is included in the precautionary principle that is an indicator of when further studies should be carried out.

In connection with the electrification of the railway, an electrical operations easement will be imposed on properties along the railway. This means, for example, that there must normally not be any buildings within 10 metres of the centre of the track, equivalent to 7 metres from the traction power masts. In addition, homes within this distance from the railway are expected to be expropriated as the threshold for noticeable vibrations is exceeded.

The possible risk from the magnetic fields that occur as a consequence of electrification is therefore dealt with adequately.

### 15.4.3. Impact on natural conditions

#### 15.4.3.1. Impact of the coast-to-coast project on natural conditions

The permanent structure will result in natural features being lost or isolated. While the impact on nature associated with the loss of natural features will occur during the construction phase, the impact associated with isolation of natural features will continue in the operating phase on account of the design and location of the permanent structure. Consequently, the loss of natural features as a one-off event is only described during the construction phase, while isolation of natural features as a result of the permanent presence of the physical structures is described during the operating phase although it is established in the construction phase.

The impact on nature from the permanent structure is related partly to the alignment in the form of the new railway and motorway on Lolland, and partly to the alignment in territorial waters where the tunnel is excavated and land reclamation off Lolland on each side of Rødbyhavn.

The permanent structure will incorporate a total of approximately 105 ha on Lolland, including areas that are protected by section 3 of the Danish Nature Protection Act. The protection generally entails a ban on changes being made in these protected habitat types. The permanent structure will also have an impact on a number of protected species primarily because the structure functions as a barrier or in such a way that it divides existing nature areas.

The natural features that disappear will be replaced by new natural features, and the new recreational areas will be larger than those that disappear. The coast-to-coast project will establish nature areas that are three times as large as the nature areas seized for the finished structure. Around one third of the new natural features will be established on existing land, including the new Strandholm Sø lake, while around two thirds will be established on the new reclaimed land.

When the planned new natural features are finished, two continuous nature areas will have been created, one from Bredfjed via the dike and out to the western part of the new reclaimed land, and one from the eastern part of the new reclaimed land via existing protected natural features to Saksfjed and Hyllekrog. The new reclaimed land west of Rødbyhavn consists of salt meadow, grassland and ponds. East of Rødbyhavn, there will be wetland, grazing areas and grassland. The area to the east will be finished off with a cliff of moraine clay approximately 7 m high, where erosion is permitted to a controlled extent to release sand and other materials from the cliff onto the stretch east of the reclaimed land.

The project will mean that 10 ponds are lost and a number of other ponds are isolated. 37-42 new ponds will be created, of which 10 will be built before the actual start of construction. Strandholm Sø lake will be replaced in its current size. A nature area of the same size is also planned around the replacement lake.

The establishment of road structures and the alignment will have an impact on nature in the form of the loss of protected open landscape around and on the current dike and the loss of Strandholm Sø lake, and

the alignment will cross the protected Næsbæk watercourse. A number of protected ponds will also be lost or isolated.

It is planned to establish six wildlife crossings to ensure that wildlife can continue to cross the alignment. Otherwise it would be isolated from its natural environment.

From the junction with the existing motorway in the north in the direction towards the tunnel portal in the south, the alignment will contain the following natural features:

At the new approach road to the Sydmotorvejen motorway, the road crosses a protected watercourse, Næsbæk. The watercourse functions as a migration corridor for small mammals and amphibians. Consequently, two wildlife crossings with berms for small mammals and amphibians will be established to ensure that the watercourse passes beneath the motorway and Ottelundevej.

Approximately 100 m east of the new motorway, two protected ponds will be isolated between the new motorway and the new railway. One of the ponds is a breeding site for smooth newts, and the other is a resting place for birds.

Where the motorway passes the toll plaza, four protected ponds will be isolated between the new motorway and the existing motorway. Smooth newts breed in two of the ponds.

South of Færgevej, the new motorway passes east of two protected ponds. Both ponds will be isolated between the motorway and the existing railway. The ponds are breeding sites for smooth newts.

South of Stengård Sø lake and west of Gl. Badevej, the new motorway passes four protected ponds that will be isolated between the motorway and the existing railway. One of the ponds is a breeding site for green toads, common toads and green frogs. Roughly 200 m west of Gl. Badevej and just east of the port, there is another protected pond that will be isolated between the new motorway and the existing railway. The pond is a breeding site for moor frogs.

In addition, another wildlife crossing will be established with berms for small mammals and amphibians where the new motorway crosses the existing railway. The new motorway passes east of Stengård Sø lake, which is protected and part of the current draft water plan for the area, and which will be isolated between the new motorway and the existing railway. The lake is a breeding site for smooth newts, common toads and green frogs and a possible foraging area for Daubenton's bats.

A total of 13 protected ponds, including Stengård Sø lake, will be isolated as a consequence of the alignment and the technical structure. The ponds are habitats for green toads, moor frogs, smooth newts and green frogs. New ponds will be established in relevant areas to boost the isolated populations.

South of the toll plaza and Færgevej, the new motorway passes east of the existing railway. The site of the railway, which is not affected by the coast-to-coast project, is a resting site for green toads and a habitat for a number of rare insects, including willowherb hawkmoths. Soprano pipistrelles, noctule bats, serotine bats and Daubenton's bats have been observed at the site of the railway. The lighting in the operating phase will be adjusted to minimise its impact on animal life. No permanent lighting will be installed along the motorway in open country, and where lighting is necessary, for example at the toll plaza, yellow lighting that does not attract insects will be used.

In addition, in the relevant sections, permanent amphibian fences will be erected along the motorway and a wide combined path and wildlife crossing will be established south of the tunnel portal to ensure a dispersal corridor for amphibians and mammals.

Along the alignment, signs, etc. will be installed in open country to the extent necessary to provide information on the permanent structure, including access conditions and the toll plaza, etc.

Where the existing and the new railways merge, the railway crosses the protected tributary of the Næsbæk watercourse. A wildlife crossing with berms for small mammals and amphibians will be established to ensure that the watercourse passes beneath the existing railway and the new railway.

North of the toll plaza, a wildlife crossing with berms for small mammals and amphibians will be established to counteract further fragmentation of the landscape and to make it possible for amphibians and small mammals to disperse on both sides of the motorway and the railway.

The coast-to-coast project involves the permanent incorporation of areas of the sea. The immersed tunnel will be protected by a layer of stone that will be raised above the existing seabed level close to the coast over a section of 450 m. At greater depths, it is estimated that the seabed will be naturally reformed to the same natural level as today over a number of years. The temporary loss of seabed will entail no significant impact on flora and fauna communities in the Fehmarnbelt.

Part of the permanent structure consists of the two new areas of reclaimed land on each side of Rødbyhavn formed using the excavated seabed spoil to create a new nature area. Part of the new natural features that are expected to be established will be located on the new reclaimed land.

West of Rødbyhavn, there will be a nature area with a salt meadow, grassland and ponds. East of Rødbyhavn, there will be a nature area with wetland, grazing areas and grassland. The area to the east will be finished off with a cliff of moraine clay approximately 7 m high, where erosion is permitted to wash sand out onto the stretch east of the reclaimed land.

The establishment of the new reclaimed land involves permanent loss of seabed that will, in particular, affect the red seaweed community in the Danish part of the Fehmarnbelt. Red seaweed is widespread in the western Baltic Sea, and this local loss is not estimated to be critical for the incidence and function of the red seaweed community in the western Baltic Sea.

The new reclaimed land will have an impact on an area of seabed in which harbour porpoises and seals have been recorded only to a limited extent, and where there are no landing sites for seals.

There will also be a limited loss of salt meadow of approximately 1 ha as a consequence of the establishment of access roads to the new beach areas. However, the lost salt meadow will be replaced in a ratio of 1:2.

The new Strandholm Sø lake will be established in Saksfjed Inddæmning in an area where the landscape elements are protected. South and north of the area, there are large continuous nature areas in the form of wet meadow and salt meadow that are protected under section 3 of the Danish Nature Protection Act. The entire area is designated as a Natura 2000 site. This will involve significant modification of the existing landscape conditions. However, considering the areas' current use for agriculture, the change will be positive in respect of the natural environment.

The establishment of the lake, including the construction works involved, will have no significant consequences for the Annex II and IV species in the adjacent areas. No incidences of Annex II or IV species have been ascertained in the area where the lake will be established. The lake will enhance the botanical qualities of the area and the value of the area as a bird colony. Moreover, the lake will contribute to the creation of new habitats for rare plant species and mammals, amphibians and reptiles.

The new Strandholm Sø lake will be established in Natura 2000 site no. 173. On the basis of the screening carried out, it is possible to rule out the possibility of the establishment of the lake having significant negative impacts in the form of harm to Annex II species or Annex I habitat types on the designation basis in the area. On the basis of the screening carried out, it is possible to rule out the possibility of the establishment of Strandholm Sø lake having significant negative impacts on the conservation objectives of the area. On the contrary, the lake is expected to contribute to the achievement of the objectives in the current Natura 2000 plans for the area. Among other things, the lake is expected to benefit the bird species in the designation basis and pond bats, narrow-mouthed whorl snails and northern crested newts.

#### 15.4.3.2. Impact on natural conditions as a consequence of the railway landworks

Banedanmark conducted studies of nature areas and assessed the possible impact on nature areas and

protected animal and plant species in connection with the operation of the railway landworks.

The loss of natural features is described during the construction phase, while isolation of natural features as a result of the permanent presence of the physical structures is described during the operating phase.

Protection of nature is one of the major considerations taken into account when planning and designing the railway landworks. However, it is not possible to rule out that the project will have a number of impacts on the environment. Consequently, a number of remedial measures will be implemented to help avoid, reduce or compensate for environmental impacts from the upgraded, developed railway.

The permanent railway landworks incorporate some areas that are protected under section 3 of the Danish Nature Protection Act. The protection generally entails a ban on changes being made in protected habitat types. The permanent structure will also have an impact on a number of protected species as a result of an increased barrier effect in relation to existing nature areas. The increased barrier effect is primarily due to the increased traffic on the railway and the construction of an additional track in part of the section.

44 wildlife crossings of different types will be established in connection with the development of the railway landworks. The railway landworks will also mean that 2 ponds are lost and a number of other ponds are isolated. Against this background, a total of 46 new ponds will be constructed. This work will begin as soon as possible after the Construction Act has been passed in order that they can be established before the actual start of construction. The development will also affect a meadow area subject to section 3 of the Danish Nature Protection Act, and a replacement area of approximately 0.85 ha will be constructed.

The construction works also require the felling of up to approximately 13 ha of protected forest. Consequently, a total of approximately 26 ha of replacement forest will be established.

Following its upgrade and development, the railway will cross two Natura 2000 sites. These are habitat area 194, where the underpasses for Valmosegrøften and Vasegrøften will be converted, and Natura 2000 site no. 173, where there will be an extension of Kong Frederik IX's bridge over Guldborgsund and an extension of the railway through the Nagelsti Engmose area on Lolland.

On the basis of the impact assessments carried out, it is estimated that the construction works that will be implemented in connection with the development of the railway will not entail any significant impact on species and habitat types in the designation basis for the Natura 2000 sites. The possibilities for achieving the preservation objectives will therefore not be impaired.

#### 15.4.4. Impact on cultural heritage

##### 15.4.4.1. Impact on cultural heritage as a consequence of the coast-to-coast project

The coast-to-coast project will be implemented both on land and at sea in areas in which there are various forms of cultural heritage in the form of protected ancient monuments, protected dikes, church environments, cultural areas and protected areas. Where the coast-to-coast project affects this cultural heritage, appropriate measures will be taken.

According to marine archaeology studies, there are two important shipwrecks where the fixed link across the Fehmarnbelt will be constructed. One wreck is in German waters and the other is in Danish waters. Diver surveys of both wrecks were completed in summer 2012.

It is estimated that the coast-to-coast project will not affect the known wrecks and wreck areas in the operating phase of the fixed link across the Fehmarnbelt. However, it may be necessary to check that the area and the in-situ protection of wrecks implemented is not affected negatively.

The valuable cultural environments in the study area were mapped by Museum Lolland-Falster. A total of 29 cultural environments were mapped, of which 6 are priority cultural environments as they are assessed to be particularly valuable at local or regional level. The 6 priority cultural environments are Rødby as a market town and station town, the bird flight line (Fugleflugtslinjen), the storm surge dike, Rødbyhavn, the

sugar industry cultural environment and Rødby Fjord and Lidsø.

Protected stone and earth dikes, cultural heritage areas and the churches' protection areas (remote effect) are also assessed as having high importance, including a protected burial mound (Hyldehøj), Rødbyhavn Church and protected earthwork at Lalandia.

Closure of the ferry service must also be assessed to have consequences for the Rødbyhavn and bird flight line cultural environments. The town's role in relation to the creation of a link between Denmark and Germany will be dramatically different. The port environment in Rødbyhavn is linked to a certain level of shipping traffic and therefore depends partly on the ferry service being maintained.

No protected ancient monuments, protected buildings or protected stone and earth dikes will be affected by the coast-to-coast project. This also applies to churches and church environments and to archaeological sites.

The railway section means that half of a hedge must be removed. However, as the hedge is recent and is not part of any cultural heritage context, the impact is insignificant.

The dike as a cultural environment is only incorporated in the tunnel portal to a limited extent. The tunnel portal intersects the dike east of Rødbyhavn and will incorporate 200-300 m here and change the visual experience of the dike dramatically. The tunnel portal will not be visible from the dike west of Rødbyhavn, but the ramps on which the motorway and railway run before they enter the tunnel will be visible.

The new reclaimed land will mean that approximately 8 km of the 63 km Lolland dike will no longer be beside the sea. However, the dike will maintain its function in relation to protecting against storm surges. The reclaimed land affects the cultural heritage value of the dike in that it will no longer be beside the sea. On the other hand, the new reclaimed land can be seen as yet another man-made element in the distinct cultural landscape. After a number of years, the reclaimed land will be an integrated part of the cultural environment.

Overall, it can be said that the loss of cultural heritage assets is limited.

#### 15.4.4.2. Impact on cultural heritage as a consequence of the railway landworks

The railway landworks pass through areas with various cultural heritage sites in the form of protected ancient monuments, protected dikes, church environments, cultural areas and protected areas. The environmental consequences for cultural heritage in the operating phase are linked to the impact on a protected area and visual impacts on church environments and cultural environments.

The railway landworks pass through the protected area of Østerskov east of Glumsø under Næsbyholm Gods and Bavelse Gods. The protection is designed in part to ensure that the areas of a manor as a whole, including Østerskov, are preserved largely in their current state so that the character of the properties as agricultural and forestry property under the management of a manor is maintained. During operation, it is necessary to preserve the landscape and scientific assets. In addition, public access via roads and paths in the forests must be guaranteed.

The curve straightening and the installation of masts and cables for the electrified section will be within the protected landscape and will be of importance to the experience of the protected area. However, overall, the project is estimated to be of moderate importance to the experience of the protected area, even if trees are removed from the forest along the railway, as the existing trees will partly conceal masts and cables.

Electrification and development of the railway will have a visual effect on church environment zones at a number of churches. When passing most churches, the railway landworks will not impair the interaction between the church and the landscape or the village environment significantly. At 3 churches, the railway will be developed across the church environment zone, which will have an impact on the visual experience of the church in the open landscape.

There are a total of 19 protected earth dikes in the immediate vicinity of the railway landworks. As a result of the electrification and development of the railway, 4 earth dikes that are all straight forest dikes will be permanently shortened by up to 15 m at the end adjacent to the railway. The impact on the dikes is generally estimated to be relatively limited as the majority of them will still be intact, including their course and their narrative value in the landscape.

Along the railway, there are a number of cultural environments that reflect significant features of social development. As a result of the development of the railway, 15 of the designated cultural environments will be affected directly by minor area incorporation along the railway.

The cultural environment around the former Orehoved Station will be affected in particular by traction power masts and cables that will disrupt the existing environment. Expropriation of the opportunity to live in the station building will also affect the cultural environment. The impact is estimated to be significant in connection with the demolition of the station building. The cultural environment will be documented before the buildings are demolished.

The cultural environment in Nørre Alslev is adjacent to the railway on both sides and is characterised by the railway to a great extent. Electrification and development of the railway will have an impact on the cultural heritage elements as a result of area incorporation, installation of partially transparent noise screens, advance acquisition and expropriation of the opportunity to live in 17 buildings and thus demolition of a number of buildings. The impact is estimated to be significant and it requires documentation of the cultural environment prior to demolition. The impact is limited to the extent that the station building, the yellow warehouse and the row of houses east of the station are preserved.

The cultural environment in Eskilstrup is also adjacent to the railway on both sides and is characterised by the railway to a great extent. Electrification and development of the railway will have an impact on the cultural heritage elements as a result of area incorporation, installation of noise screens, advance acquisition and expropriation of the opportunity to live in 3 buildings and demolition of these buildings. It is estimated that the cultural environment will be affected minimally as the buildings affected are not very significant in the cultural environment.

The construction of a road bridge over the railway south of the existing level crossing will affect the cultural environment in Eskilstrup to a high degree. A road embankment will be constructed that will be relatively marked in the town, and homes will be expropriated. The impact is estimated to be significant.

In the cultural environment around the former Tingsted Station, the principal cultural heritage elements are the old station building and the village hall. Both are close to the railway, and the opportunity for habitation will be expropriated as a consequence of vibrations. The installation of traction power masts and cables will also change the environment and disrupt the cultural heritage environment. The impact is estimated to be significant in connection with the demolition of the station building and village hall. The cultural environment will be documented before the impact of the demolition of the buildings.

The development of Kong Frederik IX's bridge over Guldborgsund will make the bridge more dominant, and the traction power system, in particular, will affect the cultural heritage value associated with the sound.

No listed or preservation-worthy buildings are directly affected by the upgrading and development of the railway. As a consequence of the level of vibration from the railway, 13 buildings with medium to high preservation value will be expropriated. They can subsequently be sold for residential or other purposes, but there are estimated to be limited opportunities for sale or letting. It must therefore be expected that most of these buildings will be demolished.

To create the opportunity to find alternative use for the buildings, it is expected that offers will be made for expropriated buildings to be assigned to their municipalities before demolition is initiated.

#### 15.4.5. Impact of the coast-to-coast project on watercourse and drainage conditions

A large part of the areas used for permanent structures are dammed, drained fjord bed. Drainage is via a network of ditches and pumps at the coastal dike into Fehmarnbelt. The watercourses in the area are ditches and some are entirely or partially channelled in pipes. Some of the existing watercourses will be rerouted on account of the permanent structure and to ensure drainage from the permanent structure.

Several watercourses channelled in pipes and open watercourses will be resited or rerouted on account of the alignment on Lolland, including both the motorway and the railway. New wet underpasses will be established in this connection. This applies to watercourses including the protected Næsbæk, which will pass under the alignment and the new approach road to the motorway, Ottelundevej, in a wildlife crossing.

There are two large lakes in the area, Strandholm Sø and Stengård Sø, both of which were created artificially. Strandholm Sø is located on the alignment immediately after landfall on Lolland. Consequently, the lake must be removed. However, it will be fully compensated for elsewhere. It is estimated that the new lake can be established with a good physical state and that it will be able to achieve a good ecological state. On this basis, the impact of moving the lake is estimated to be insignificant.

A number of rainwater retention basins will be established in respect of the permanent structure and the future drainage in the area. Precipitation that falls on areas with paved surfaces (motorway, ramps and toll plaza) runs via gullies to rainwater retention basins with a closing mechanism and oil separators. This makes it possible to avoid significant impact on the watercourses that are to receive surface water.

Overall, the consequences for watercourses and the riparian owners, etc. affected during the operating phase are estimated to be insignificant after the preventive measures.

#### 15.4.6. Impact of the construction project on recreational conditions

##### 15.4.6.1. Impact of the coast-to-coast project on recreational conditions

While a large part of the coast will be incorporated for the implementation of the coast-to-coast project in the construction phase, the recreational conditions in the coastal section near Rødbyhavn will be significantly improved in the operating phase.

New reclaimed land with significant natural assets will be established, and it will be possible to use specially created beach areas for swimming and sporting activities. This will be one result of the land reclamation in continuation of the excavation of the tunnel trench.

Moreover, the path on the top of the dike west and east of Rødbyhavn will be fully reinstated when the construction phase has been completed and it will thus form part of a future path system in the local area. In connection with the reinstatement of the dike and the path on the top of the dike east of Rødbyhavn, a new path on a dike south of the portal building will ensure that the path system remains continuous. The new path at the tunnel portal will extend the existing path by approximately 1 km.

Fisheries will be affected in the operating phase as a consequence of the permanent area incorporation, new hard substrate laid to protect the immersed tunnel and possible local changes in the hydrographic conditions around the new reclaimed land. It is estimated that the construction and operation of an immersed tunnel will predominantly have an impact on Danish and German fisheries in the local zone along the tunnel alignment (this is fixed as 500 m either side of the alignment) and at the coasts where the new reclaimed land is established. Various types of fisheries were studied, including trawl and net fishing, and fishing with pound nets. It is estimated that the project will only have a significant, local impact on fishing with pound nets. The impact will be in areas where the new reclaimed land is established and pound net fishing locations are lost.

##### 15.4.6.2. Impact of the railway landworks on recreational conditions

The railway is adjacent to outdoor leisure areas of different types such as forests, sports grounds and

parks, cycle routes and footpaths, watercourses, sections of coastline and allotments that have recreational value. The impact on the recreational interests along the railway in the operating phase will be primarily from noise from train traffic, cf. above. The visual effect of traction power cables and masts will make the railway more visible in the landscape. The extent of the visual effect will depend partly on the vegetation along the railway. Consequently, the impact will be lowest in forest areas, where vegetation conceals part of the railway.

In the operating phase, the recreational paths will be accessible as they are today. As a result, there will be no direct effects from the railway landworks, but there may be indirect effects as a consequence of visual disruption that may have a minor impact on the recreational value in general.

One path will be rerouted in an approximately 200 m section at Flintinge. The path is part of national cycle route no. 8, Rudbøl-Møn. The path tunnel beneath the railway will be closed and a new path will be established along the northwest side of the railway between Møllevej and the path so that the route is maintained. Two sections that are not part of a path network and Hammersvej south of Lov will be closed. These are the municipally owned path in Bangsebro, which links Bangsebrovej and Smalbyvej, and the path underpass at the private Tunnelen road at Sløsse.

Marine recreational interests will be affected to a higher degree as the fixed bridge over Masnedsund with a clearance of 5 m will introduce restrictions in terms of navigation clearance. Large ships and pleasure boats will not be able to pass beneath the fixed bridge. They will have to sail via the new channel established from Kalve Strøm to Færgestrøm.

#### 15.4.7. Impact of the railway landworks on the soil, groundwater and surface water

Roundup Bio, with the active ingredient glyphosate, will be used in the operating phase. This may cause pollution of the soil, groundwater and surface water. This is a general feature of railway operations. Banedanmark has been granted a general exemption to spray pesticides in connection with maintenance of existing railway sections. Banedanmark's strategy is to keep spraying to an absolute minimum. Pesticides are sprayed only in the track bed, and the dose is lower than in the surrounding agricultural areas.

Based on foreign studies, Banedanmark estimates that the relatively low dose of glyphosate will not give rise to noticeable impact on the groundwater. However, it is not possible to rule out that pesticides may percolate down to the groundwater in places with special hydrogeological and geochemical conditions. This may be particularly critical in vulnerable areas with a thin cover layer above groundwater reservoirs. In areas with a thin cover layer in the section between Ringsted and Orehoved, there are no major supplies of water that can be threatened.

It will be possible to achieve additional protection of the groundwater by not spraying the particularly vulnerable sections. This applies in particular to areas with a cover layer of less than 10 m. The operational consequences of this may be that weeds will have to be removed physically and ballast replaced more frequently. In connection with general maintenance, the necessity of designating special spray-free zones in parts of the railway section will be clarified.

Railway operation may also produce pollution from locomotives and carriages in the form of oil products, tar substances and heavy metals, among other things. These substances will not be present in volumes that give rise to noticeable impact on the groundwater in connection with normal train traffic. Permanent installations that store or use oil will be protected against spillage. Consequently, there will be no significant change in the risk of pollution of the primary groundwater as a consequence of the development and electrification of the railway.

Before the upgraded railway is taken into use, the emergency response plans that describe the preventive measures to be initiated in the event of accidents involving spillage of large volumes of environmentally harmful substances along the railway will be updated. The emergency response plans must designate particularly vulnerable areas in terms of groundwater and nature so that the preventive measures can be adapted accordingly.

## 15.5. Environmental consequences of the construction project in the construction phase

### 15.5.1. Noise, vibrations and dust from the construction project

#### 15.5.1.1. Noise, vibrations and dust from the coast-to-coast project

In the construction phase, the coast-to-coast project may give rise to impact on the environment in the form of noise, vibrations and dust.

The location of the coast-to-coast project, including in particular the tunnel element factory, means that overall there will be noise pollution in a limited geographical area at Rødbyhavn with low population density and in relatively limited periods of the total construction period of approximately 6½ years. Consequently, the location of the construction works, in particular the tunnel element factory, is designed to prevent the noise impact of the construction works on surrounding homes and businesses constituting a significant problem during the construction period.

A number of activities in the construction phase will produce noise and have an impact on the environment for a shorter or longer time. These are the establishment and operation of the tunnel element factory and the land reclamation west of Rødbyhavn.

The noise consequences during the construction period are estimated on the basis of the following noise levels: 70 dB on working days (07:00-18:00) and 40 dB at other times.

A number of noise reduction measures with the aim of preventing noise pollution have been incorporated in the planning of the construction activities. These are the plans:

- As much of the construction work as possible will be carried out within normal working hours.
- Machines/methods that do not produce unnecessary noise will be used.
- The production plants are planned so that they are located as far as possible from existing densely built-up areas.
- A dike will be established around the production plants at as early a stage as possible. This will function as a noise barrier.
- Road traffic will be limited by transporting goods by sea.

The installation of permanent noise measurement stations at selected reference points close to the construction works is under consideration. The measurements will continuously document the relationship between the noise management plans and the actual conditions.

The contractors will be ordered to prepare relevant information material in the event of particularly noisy activities. The information material must be approved by Femern A/S and sent to potentially affected residents and businesses before the activity is carried out.

In the contracts with the winning contractors, Femern A/S will make technical requirements for equipment and noise conditions and require that the contractors prepare specific noise management plans. These noise management plans must constitute thorough planning and a specification of requirements for the construction activities and must be approved by Femern A/S. The noise management plans will be sent to Lolland Municipality so that the municipality has the relevant information about the construction activities and the associated noise before the individual construction activities commence.

In the construction phase, there will be a 24-hour service for inquiries from citizens and businesses if they have any questions or views on noise conditions or other conditions as a consequence of the construction activities.

Where the construction works are implemented near homes, residents will be given separate notice of noisy work. Homeowners who are subjected to noise that exceeds the tolerance threshold under law concerning relations between neighbours will be offered relevant preventive measures in accordance with the rules of law concerning relations between neighbours in all cases.

It is estimated that there will be no vibrations in the construction phase that will cause damage to buildings as homes in the immediate vicinity of the construction area have already been acquired or are expected to be acquired. However, for safety's sake, buildings close to the work sites will be photographed before the start of construction so that any damage can be documented.

The construction work associated with the western land reclamation involves placing stones to form the framework for the land reclamation itself. According to the EIA report, etc., the land reclamation will not cause noise in excess of 70 dB during normal working hours. At other times, including at night, the noise may be up to 55 dB on the façades of homes, including in particular in relation to Lalandia. The latter situation will last for 2-3 months per home affected.

The construction works associated with the establishment of the tunnel element factory will entail considerable noise impact. Piling and sheet piling works and earthworks with construction machines will produce the highest noise impact. According to the EIA report, etc., the work to build the tunnel element factory may entail homes in the south-western corner of Hyltøfte Østersøbad being subjected to noise at levels up to 45 dB. Other homes will not be subjected to noise, measured on the façade, in excess of 40 dB outside normal working hours. During the daytime, within normal working hours, more equipment may be used than at other times, but it is estimated that the noise will not exceed 70 dB on the façades of homes.

The work harbour and tunnel element factory are expected to be in operation for a few years. There will be noisy activities, for example 24-hour arrivals of ships, transport of gravel and stones in the factory area and crushing of waste and rejected concrete. According to the EIA supplement, the noise from the tunnel element factory will not exceed 70 dB during the daytime within normal working hours and on Saturdays (07:00-14:00) and 40 dB at other times on the façades of homes.

After the production of tunnel elements has been completed, the tunnel element factory will be removed. Over a period of 9-12 months, concrete foundations will be removed and sheet piles taken up. The work will be carried out during the daytime within normal working hours, and the noise impact will not exceed 70 dB on the façades of homes, according to the EIA supplement.

A concrete mixing plant will be established for the construction of the tunnel portal and ramps. The noise from this plant is comparable to the noise from the tunnel element factory and requires environmental approval like that plant. According to the EIA supplement, the noise from the tunnel element factory will not exceed 70 dB during the daytime within normal working hours and on Saturdays (07:00-14:00) and 40 dB at other times on the façades of homes.

Sheet piling at the transformer station associated with the railway landworks and at the toll plaza is expected to be installed with a vibrator within normal working hours or in the evening. Installation with a vibrator is considerably less noisy than installation by pile driving. However, it is not possible to totally rule out the need for pile driving for this work. If, contrary to expectation, it is necessary to use pile driving in the evening, fewer than 15 freestanding homes will be subjected to noise over 55 dB. No homes will be subjected to noise in excess of 70 dB on the façade.

Pile driving of traction power masts, earthworks, track works, activities in storage depots, etc. will preferably take place within normal working hours and in the evening. It is generally not expected that noisy activities will be carried out in connection with the construction of the railway at night. However, if it is necessary, contrary to expectation, to carry out construction activities, which comprise earthworks, track building, demolition or storage activities, but not pile driving of traction power masts, fewer than 25 freestanding homes will be subjected to noise over 40 dB. It should be noted that the situations in which properties will be affected by noise over 40 dB for each activity will only occur in short periods of a few weeks' duration when the construction activities are carried out in the subsections closest to the properties. However, the noise will be maximum 70 dB on the façades of the homes affected.

In connection with the establishment of the approach at Ottelundevej, one property located close to the shunt connection of the approach will be subject to a noise impact of up to 80 dB (A) on working days during daytime (07:00-18:00). The construction period will be maximum 6 months.

Excavation of the tunnel trench, establishment of the land reclamation and the construction works in general will result in considerable quantities of materials such as soil and seabed spoil being stored in the working area. This will be reused in the coast-to-coast project, including for land reclamation.

The construction work will be organised so that it does not produce unnecessary dust nuisance. However, it is not possible to rule out that dust may be blown from the depots of soil and seabed spoil to the local environment in dry periods when the wind blows. In such periods, traffic on construction roads may also generate dust. Watering is one method that will be used to attempt to counteract dust generation if it should become a nuisance.

The handling of materials in connection with the production of tunnel elements and concrete production for the portal structure and ramps may also generate dust, and dust may emanate from the materials stored. However, this will be limited by measures including covered storage of the materials.

#### 15.5.1.2. Noise and vibrations from the railway landworks

The construction works in the section from Ringsted to south of Holeby will produce noise that may be a nuisance to neighbours of the railway. The total construction period for the railway landworks is expected to be a total of approximately 5 years, from 2014 to 2019. After this period, there will be additional activities related to electrification of the railway, including foundation work for the traction power masts along the entire section.

A significant part of the construction work will take place continuously in the railway sections and comprise activities that move along the track, including preparatory works, earthworks, track work, ballast cleaning and installation of traction power cables and noise screens. In many cases, each neighbour will therefore find that the construction work and the noise are close by at times and that, at other times, the work is further away, thus generating less noise. However, it must be expected that the construction works that comprise track laying and major earthworks can take place simultaneously in the entire section. There will be temporary stores of spoil and other materials that entail long-term activity in the same location.

The noise consequences during the construction period are estimated on the basis of the following noise levels: 70 dB on working days (07:00-18:00) and 40 dB at other times.

The impact assessment is based on a description of the types of construction work that are expected to occur in the individual locations along the section and the times at which they are expected to occur. At the same time, screening was carried out for the noise impact of transporting materials and soil on public roads.

A detailed analysis of the construction work was carried out to describe the noise-related consequences for the neighbours of the railway in the construction phase. The analysis is based on identifying the noisy equipment that will be used, for example vehicles, construction machines, pile driving of sheet piles and other piles and the special machines used for track works.

A large part of the construction works requires the complete closure of the track to traffic. A general objective is to avoid disrupting rail traffic as much as possible. However, this will mean that some construction works will have to be carried out on a 24/7 basis.

There are also a number of places where the construction works comprise other structures, in addition to the railway itself, that involve construction activities at the same location over an extended period of time. This concerns these locations in particular:

- Track laying north of Glumsø and extensive conversion of Glumsø Station. These works will be

implemented in 2018-2019

- Conversion of the bridge over the railway, Rampen in Næstved, which will be implemented from end-2016 to end-2017.
- Conversion of the bridge over the railway, Østre Ringvej in Næstved, which will be implemented from the 2nd quarter of 2018 to the 2nd quarter of 2019.
- Laying of track south of and through the village of Ring. The work will be carried out from the 2nd quarter of 2017 to the 3rd quarter of 2018.
- Conversion of the bridge over the railway, Næstvedvej in Vordingborg, which will be implemented from the 2nd quarter of 2016 to the 4th quarter of 2017.
- Vordingborg Station will be converted. The work will be carried out from the 1st quarter of 2017 to the 2nd quarter of 2018.
- A new Masnedsund bridge for the railway. The work will be carried out from the 1st quarter of 2016 to the 2nd quarter of 2018.
- Conversion of Nr. Alslev Station from the 2nd quarter to the 3rd quarter of 2019.
- Eskilstrup Station will be converted over 2 periods, from the 1st quarter to the 3rd quarter of 2016 and from the 2nd quarter of 2017 to the 4th quarter of 2017.
- Nykøbing Falster Station will be converted from the 2nd quarter to the 3rd quarter of 2017 and from the 2nd quarter to the 3rd quarter of 2019.
- Conversion of Kong Frederik IX's bridge in Nykøbing Falster from the 1st quarter of 2017 to the 1st quarter of 2019.
- Construction of a station at Holeby from the 2nd quarter of 2016 to the 2nd quarter of 2018.
- Conversion of a number of small bridges in open country. This will take place along the entire section in the period 2014-2018.

Minor, short-term activities can also be expected along the entire section from Ringsted to south of Holeby before and after the actual construction works.

The study of all locations and sections illustrates that homes very close to the railway and the construction works may be subjected to noise above 70 dB(A). For the individual locations, the number of homes affected ranges from none to 200 in the large towns. Ballast cleaning, which is very noisy, may produce short-term noise above 70 dB(A) at up to 300 – 400 homes at a time along long sections or along sections through a large town, for example Næstved.

When the noisy construction activities take place at times other than daytime and the noise impact is compared with the working limit of 40 dB(A), the number of homes subject to significant noise may be considerably higher. The total number of homes that may be subject to noise above 40 dB(A) for short periods of time, for example during pile driving for the foundations for the traction power masts or ballast cleaning, may be up to approximately 25,000 along the entire section. However, the activities mentioned will typically be short-term in nature for each home as pile driving, track works and ballast cleaning are activities that move along the railway track.

Overall, a large number of homes may therefore be subject to noise from the construction activities. A large number of factors determine whether they are subject to significant noise nuisance.

In general, the contractors will be required to ensure appropriate organisation of the work, using low-noise equipment and low-noise working methods where possible. To limit the noise pollution impact, the aim is for construction works to be implemented during the daytime in areas where they are close to homes.

Instead of pile driving sheet piles with a hydraulic hammer, it is possible to use pre-boring and/or vibration, for example. Alternatively, the work processes can be screened to reduce noise, even if it is complicated and expensive. In particular when pile driving masts/piles, it will be possible to screen the pile driver or to use mobile screens to reduce the noise impact from this process. Experience shows, however, that it is not possible to expect to reduce noise by more than 5-7 dB.

In practice, it is difficult to keep noise below the criteria values for major construction works because there are so few opportunities to use less noisy working processes and because the work has to be carried out close to residential areas.

To prepare the neighbours for the construction work, the construction authority will provide regular information on the nature of the construction work and the working hours, plus special information before the start of construction works that may entail significant noise pollution.

Where the construction works are implemented near homes, residents will be given separate notice of noisy work.

The construction work will also give rise to increased traffic on a number of typically small roads that normally have limited traffic. The increased heavy traffic in the construction period, which also includes periods in the evening and at night, will generate an increased traffic noise level along the roads affected. However, the noise will only increase noticeably by more than 3 dB along nine sections of road. Along two of these sections of road, the noise will still be less than 58 dB, which is the guideline threshold for road traffic noise.

When the traffic is distributed on large roads, it will be spread and have little or, in practice, no significance for overall road traffic noise.

On the basis of the above, it is estimated that the noise pollution from traffic in the construction phase is of limited extent as the noise will increase noticeably on only a few sections of road for a limited period of time.

It is estimated that the construction work will not give rise to vibrations strong enough to damage buildings.

Before the implementation of the works involving high levels of vibration in the railway landworks, the buildings that are very close to the construction areas will be photographed. Moreover, in special cases it will be possible to set up continuous monitoring of the most exposed buildings while the construction work is in progress. This ensures that it is possible to check and prevent damage during the construction work and stop work temporarily to the extent necessary.

#### 15.5.2. Waste from the coast-to-coast project

It is estimated that waste production from the coast-to-coast project will not have any significant negative impact on the environment as the waste will be managed according to the existing rules and the waste volumes will not exceed volumes that can be processed either locally (commercial waste classed as domestic refuse and possibly small volumes of mixed commercial waste) or nationally (concrete and metal waste and asphalt and composite materials).

Transportation of waste constitutes a small part of the environmental impact of waste management in relation to the environmental gain from the reuse of waste, while the number of journeys is estimated to be insignificant in relation to the overall road and shipping transport in the region.

#### 15.5.3. Impact of the construction project on natural conditions

##### 15.5.3.1. Impact of the coast-to-coast project on natural conditions

The impact on nature in the construction phase is related to the alignment on Lolland and the construction of the new railway and motorway, the alignment in territorial waters, where the tunnel is to be entrenched, the project area with the tunnel element factory and camp in particular, and the land reclamation off Lolland on each side of Rødbyhavn.

Overall, it is estimated that there will be significant impacts on natural assets in the construction phase, including especially as a consequence of the incorporation of nature areas for the production facilities. However, with the planned preventive measures, including in particular the establishment of new natural features, it is estimated that this impact can be compensated for in such a way that similar natural assets

will develop in the local area in the long term, thus maintaining the ecological functionality.

In the construction phase, approximately 239 ha will be incorporated for temporary purposes in an area containing an ecological connection and several nature areas, among other things. As mentioned above, approximately 101 ha will be incorporated for the permanent structure. Areas will be incorporated that are located in Natura 2000 sites, protected areas or special local nature areas designated in the urban area development plan.

At the junction between the existing motorway and the new motorway, the construction work will cross a protected watercourse, Næsbæk, when the junction is established. The watercourse functions as a migration corridor for amphibians and small mammals.

East of Strandholmsvej, a protected pond approximately 600 m south of the junction with the existing motorway will be removed. The pond is a breeding site and habitat for northern crested newts. Two protected ponds will be removed in the area south of where the existing railway and the new motorway intersect and approximately 300 m west of the T junction between Strandholmsvej and Humlegårdsvej. One pond is a breeding site and habitat for smooth newts. A total of 3 protected ponds will be removed as a consequence of the alignment and the technical structure.

Temporary amphibian fences will be erected around the entire construction area south of the toll plaza to ensure that migrating amphibians are not run over by the construction traffic.

Strandholm Sø lake and the surrounding salt meadow areas will be removed. The lake was created artificially and is a resting site for several bird species, particularly in the winter. Red-backed shrike breed at the lake. Strandholm Sø will be reinstated in the ratio 1:1 for the lake area. A nature area of the same size will be established around the lake, making the total area with new natural features for the lake 1:2. The salt meadow areas will be reinstated in the ratio 1:1 in current land areas, and an additional 1:2 on the future reclaimed land south of the current coast of Lolland.

The part of the Lolland dike affected by the tunnel portal will be permanently excavated. The protected habitat coastal grassland exists on the dike. The dike is a resting site for green toads and a habitat for a number of rare plant and insect species, including purple cow wheat and Granville fritillaries. A new dike will be established around the tunnel portal. The surface soil from the original dike will be mainly spread on the part of the dike to be reinstated at the tunnel element factory to increase the opportunities for the development there of nature with similar assets to that affected. In addition, new natural features will be established for the salt meadow area incorporated at the dike in the ratio 1:1 in existing land areas and in the ratio 1:2 on the future reclaimed land south of the coast of Lolland. The total new natural features will therefore be in the ratio 1:3.

Part of the dike on Lolland will be removed as a consequence of the construction of the tunnel element factory in addition to the part removed for the tunnel portal. A total of 2.5 km of dike will be removed. The paths that are temporarily affected by the tunnel factory and the rest of the construction works will be replaced in the construction phase by paths outside the areas affected. The tunnel element factory will be removed after the construction phase. The dike will be reinstated on almost the entire 200-300 m section where the tunnel makes landfall. Surface soil will be placed back on the dike. The recreation of the dike and the surrounding areas is a significant part of the long-term effects of the prevention project on the coastal landscape, including its importance for fauna and flora.

The other areas that are protected by section 3 of the Danish Nature Protection Act and are temporarily incorporated in the construction phase are:

- approximately 21.6 ha salt meadow
- approximately 0.5 ha marsh
- approximately 7.3 ha meadow
- approximately 0.3 ha fen
- 10 ponds
- 3.3 km watercourse/ditch

Several red-listed butterflies will lose part of their habitat on the dike in the construction phase, and there will be a barrier between the railway terrain and Saksfjed Inddæmning, particularly in the construction phase. Crossings and habitats on the dike will be widely reinstated in the operating phase.

Throughout the construction phase, large areas of new natural features will be established, partly to ensure habitats for the protected species. In addition, as part of the coast-to-coast project, temporary amphibian fences will be erected around the project area, plus access roads that prevent damage to amphibian populations and other small animals during the construction works.

The sediment spill caused by the dredging and backfilling in the Fehmarnbelt will constitute a short-term significant impact on the water's content of suspended sediment in the local area. However, the derived temporary impact on marine flora and fauna is not estimated to constitute any significant impact on the marine environment.

Reduced visibility in the water as a consequence of sediment will, during the first few years of the construction phase, result in short-lived lower growth of coastal macroalgae communities and of eelgrass in Rødsand Lagune without reducing the distribution of macroalgae communities or eelgrass. The reduced visibility in the water is estimated also to affect foraging for a number of resting birds. As there is a large volume of food in the area and the reduced visibility will be relatively short-lived, it is not estimated that there will be significant increased mortality among bird species.

During the construction phase, there will also be a local addition to the natural sediment deposition and this may affect flora and fauna on the seabed. However, the local sediment deposition will be so small that it is not estimated to have any significant impact on either flora or fauna communities.

It is not estimated that the construction of the immersed tunnel will have any significant impact on the fish species in the Fehmarnbelt, including spawning, growing up, foraging and migration.

In relation to marine mammals, only harbour porpoises may be affected by the coast-to-coast project as studies of the patterns of movement of seals have shown that seals primarily forage far from the project area.

A certain impact on harbour porpoises may be expected at times during the construction phase on account of increased noise under water from the dredging and pile driving. It is estimated that seals and harbour porpoises will move away from the areas with the most noise, i.e. areas close to the dredging and pile driving. Pile driving will be implemented with the preventive measure that a soft start will be used or a separate noise source will act as a deterrent before the work is started. As the noise impact will be temporary and local, it is not estimated that noise in the construction phase will have a significant impact on marine mammals.

In the construction phase, there will be sediment spill in connection with the land reclamation off the coasts. The impacts of this in relation to harbour porpoises and seals are estimated to be insignificant as the animals can hunt in turbid water and the areas affected for a short time by sediment spill constitute an insignificant part of the area in which the animals forage.

#### 15.5.3.1.1. New natural features in connection with the coast-to-coast project

##### 15.5.3.1.1.1. New natural features (Annex IV species)

A total of 10 ponds will be lost. 7 of these are known breeding sites for amphibians. The other 3 sites are potentially suitable as breeding sites. However, no amphibians were found in the studies carried out. In addition, 13 ponds will be isolated between the existing motorway and railway and the new motorway and railway. 3 of the isolated sites are known breeding sites for amphibians. A number of preventive measures will be incorporated to prevent impacts on amphibians as a consequence of the project in both the construction and operating phases.

A total of 37-42 ponds will be established to replace lost and isolated breeding sites for amphibians. The

design of the ponds is optimised to meet the requirements of green toads, moor frogs, agile frogs and northern crested newts. In reality, the ponds will also be suitable for other amphibian species, for example natterjacks and green tree frogs. Both large and small ponds will be established. If a pond is too large, it will attract birds and there will be a greater risk of the amphibians' eggs and spawn being eaten or destroyed. All ponds will be larger than 100 m<sup>2</sup>.

The plan is for ponds for moor frogs to be located close to the coast and to support long-term distribution south of the tunnel portal. Two ponds will be located in an area subject to both Natura 2000 and a protection order. A provisional assessment shows that the establishment of the ponds will have no significant impact on the Natura 2000 site, and the ponds are considered to be compatible with the aims of the protection order.

For ponds established for green toads, it is especially important for the vegetation to be kept very short around the pond. To reduce the rate at which ponds become overgrown, any growth of bulrushes, common reeds and other powerful plants will be removed by hand in the first two years after establishment.

Permanent amphibian fences will be installed along the tunnel ramp to prevent amphibians from being killed by traffic. Ponds will be removed outside the amphibians' breeding period (1 October-1 February). Prior to the removal of the ponds, 10 ponds will be established, where possible, according to the following principle: establishment at least one breeding season prior to the removal of a given pond. Consequently, it will be possible, one season before a pond with breeding Annex IV species is removed, to move eggs from the pond to be removed to the newly established ponds.

To enhance the area's ecological functionality for Annex IV amphibians, an additional 13 replacement ponds will be established in the first half of the construction phase.

In the last half of the construction phase, a further 14-19 ponds will be established to compensate for the delay in the establishment of new natural features in relation to the removal of breeding sites. This will take place as the new reclaimed land is completed and the tunnel element factory is decommissioned.

#### 15.5.3.1.1.2. Wildlife crossings and Annex IV species

3 wildlife crossings with berms will be established along the Næsbæk watercourse, ensuring that it passes beneath the motorway, railway and Ottelundevej. These crossings will be 0.5 m high and 5 m wide.

There will be additional wildlife crossings for the railway (0.5 x 0.5 m) and the motorway (0.5 x 1.5 m). Finally, a combined wildlife and path crossing will be built in front of the tunnel portal (75 m wide).

The crossings will be designed in accordance with the guide on wildlife and pedestrian crossings (Danish Road Directorate, 2011).

#### 15.5.3.1.1.3. New natural features (habitat types in pursuance of section 3 of the Danish Nature Protection Act)

A total of approximately 116.9 ha salt meadow/meadow/fen and approximately 1.5 ha marsh will be established. Part of the designated salt meadow is of the subtype coastal grassland, and this is the habitat type that the project aims to reinstate.

New natural features will be established partly on existing land on Lolland in current agricultural areas in drained fjords, primarily with sandy top soil, and partly on reclaimed land off the coast.

The general idea is for the new habitat types to recreate a content of natural features equivalent to that in the areas that have been removed. The ratio between freshwater and saltwater habitat types in the reclaimed land depends on the salt content of the sediment used for the new reclaimed land and the future impact of salt from the sea.

New natural features established in existing land areas will be located in areas that have suitable physical, chemical and biological conditions. In practice, this means sandy areas in drained former fjords and lagoons.

New natural features that develop in the new reclaimed land will be based on clayey sediment. To support the development of natural features that have the same characteristics as the natural features that are removed, up to 0.5 m sand will be added in some areas.

A care plan will be prepared for each area, depending on the state of the area in question. The general approach will be to let the vegetation in the area develop naturally, possibly supplemented with the distribution of locally mown hay. Indigenous, non-invasive species will be planted in some areas to protect against erosion. It will also be possible to prepare the soil mechanically, for example by grubbing. The precise measures will depend on the texture of the sediment used to create the reclaimed land. The new reclaimed land and the new natural features on it will probably be established in stages. Consequently, based on experience from the areas established first, it will be possible to adjust the care plan for areas with new natural features up to the end of the construction phase. Where necessary, the care plan for areas in which new natural features are established or there are specific requirements for natural features will include grazing or mowing.

In addition to the required habitat type in pursuance of section 3 of the Danish Nature Protection Act, it is estimated that the new nature areas (fen, salt meadow, meadow, marsh and lake) on both existing land and the new reclaimed land will develop into suitable habitats for amphibians, birds, butterflies, ground beetles, hares and a large number of other species.

It is estimated that the areas will preserve their ecological functionality and that it will be enhanced in the long term. The situation is similar for red-listed species and the overall biodiversity in the area. The new natural features will be located near natural features in pursuance of section 3 of the Danish Nature Protection Act so that, as far as possible, they will link existing nature areas and thus maintain or improve ecological functionality.

The new natural features will be located so that a belt of nature areas is created along the south coast of Lolland and the ecological continuity in the area is improved to the benefit of biodiversity. Towards the west, nature areas in Kramnitse will be enhanced, and in the long term a link will be created in towards Rødbyhavn on the new reclaimed land. Towards the east, the natural features in Saksfjed Inddæmning will be enhanced, and natural features will be established around the holiday home area of Hyltøfte Østersøbad which will gradually link Saksfjed Inddæmning to the nature areas created on the new reclaimed land.

Overall, new natural features will be established in the ratio 1:3. In the first part of the construction phase, open new natural features will be established in the ratio 1:1. This comprises 28.4 ha of new natural features.

In the last part of the construction phase, additional new natural features will be established on the new reclaimed land as this is completed in the ratio 1:2, equivalent to 56.8 ha of new natural features. It is probable that even larger areas on the new reclaimed land will develop into natural features but these areas have not been included as new natural features.

The water area of Strandholm Sø lake will be replaced in the ratio 1:1 in the first half of the construction phase. A nature area of the same size will be established around the lake, making the total area with new natural features for the lake 1:2 (16.4 ha in total, of which 8.2 ha lake and 8.2 ha meadow/marsh). The replacement for Strandholm Sø lake will be located in Saksfjed Inddæmning. The criteria for locating the replacement for Strandholm Sø lake were for the areas to have conditions equivalent to those of the current lake, i.e. close to the coast in reclaimed fjords with a comparable soil type and close to existing protected nature areas. Finally, it is a priority to build the replacement lake so that there is a limited catchment area. This ensures that the lake can achieve good water quality. The location in Saksfjed is in a Natura 2000 site, for which reason the establishment of the replacement for Strandholm Sø lake requires a provisional Natura 2000 impact assessment. The lake will be established in fields used for crop rotation. Habitat types in the designation basis will therefore be kept clear of impacts.

Watercourses will be replaced in the ratio 1:1 before or during the removal of existing watercourses (measures over 3 km of watercourses). In connection with the establishment of a wildlife crossing, an additional approximately 0.3 km of watercourse (Næsøbæk) will be reinstated.

#### 15.5.3.1.1.4. Other new natural features

On the 2 km of excavated dike, the surface soil from the dike will be scraped off and kept separately during the construction phase. After the construction phase, the soil will be spread out on the newly constructed dike and possibly the reclaimed land to increase the probability of natural features developing with similar assets to those of the natural features affected.

Undergrowth will be cleared once on the railway terrain in Rødbyhavn to protect the population of the red-listed Granville fritillary butterfly. Part of its habitat on the dike will be incorporated in the construction phase. The measure will also benefit willowherb hawkmoths.

#### 15.5.3.1.1.5. Summary of new natural features

	Phase 1 – before removal of existing features	Phase 2 – 1st half of construction phase	Phase 3 – 2nd half of construction phase	Total
Ponds, total	10	13	14-19	37-42
Salt meadow	-	58.5 ha	58.4 ha	116.9 ha
Meadow				
Fen				
Marsh	-	1.5 ha	-	1.5 ha
Strandholm Sø	-	16.4 ha	-	16.4 ha
Watercourses	Approx. 3 km	Approx. 0.3	-	Approx. 3.3 km

#### 15.5.3.2. Impact of the railway landworks on natural conditions

The impact on natural conditions in the construction phase is a consequence of the permanent incorporation of areas in connection with the development of the railway landworks and the temporary incorporation of work sites in the construction period. The impact of the temporary incorporation of areas for the construction works will be limited in general as much as possible by means of appropriate location of the work sites. There will only be limited opportunities to avoid the incorporation of areas for the development of the existing railway where such areas pass through areas with natural interests.

The most important nature areas along the section where the construction project has an impact and where remedial measures have been implemented are listed below:

- The area at Østerskov south of Glumsø, which is subject to a protection order, the landscape protection of Næsbyholm Gods and Bavelse Gods from 1957.
- Valmosegrøften and Vasegrøften and their surroundings, north of Næstved, which are part of a Natura 2000 site.
- Alslev Skov, which is an ancient deciduous forest with great natural value and in which a site is registered with the rare *epipactis leptochila* orchid.
- The Bruntofte Skov, Bangsebro/Systofte Skov and Teglskov/Østerskov forest areas on Falster.
- Guldborgsund, which is a Natura 2000 site.
- Nagelsti Engmose, immediately west of Guldborgsund, which is a Natura 2000 site and a regional nature protection area with meadow, marsh and lake protected under section 3 of the Danish Nature Protection Act.

- Flintinge Å river on Lolland.
- Musse Mose, which is a valuable nature area.
- The Maribo lakes, which are maximum only 200 m north of the railway over a 2 km section. The area is designated as a Natura 2000 site.

In addition, there are a number of small locations that are typically subject to section 3 of the Danish Nature Protection Act.

In connection with the upgrade and development of the railway, the construction work will affect Natura 2000 sites in three locations. These are where it crosses Valmosegrøften, Vasegrøften and Guldborgsund, including the area of Nagelsti Engmose on Lolland.

Embankment work will be performed at the culverts for Valmosegrøften and Vasegrøften, with new bridges with wildlife crossings. Valmosegrøften and Vasegrøften and the surroundings are part of habitat area 194.

At Valmosegrøften, the watercourse will be temporarily diverted while the bridge is being built. Flow in the watercourse will be maintained throughout the construction phase and the cross-section profile of the new culvert will be significantly bigger than that of the existing one. A small area within the Natura 2000 site will be temporarily incorporated into the work site for the wildlife crossings. A total of approximately 300 m<sup>2</sup> of habitat area will be temporarily incorporated below the railway embankment.

At Vasegrøften, it is currently not possible for animals to pass beneath the railway. However, the status of the site and its potential as a link between animal populations upstream and downstream, both in the Natura 2000 site and in other biologically valuable landscapes, makes the site well-suited for a wildlife crossing. A wildlife crossing will be established to compensate for the barrier effect of the increased train traffic. The design of the crossing will be coordinated with the diversion of Vasegrøften, which was implemented as part of the Danish Road Directorate's construction of a northern bypass at Næstved.

The construction of a new bridge south of Kong Frederik IX's bridge and extension of the existing embankment towards the south in Guldborgsund will result in the permanent incorporation of an area of seabed. Guldborgsund is included in Natura 2000 site no. 173, which covers Smålandsfarvandet north of Lolland, Guldborgsund, Bøtø Nor and Hyllekrog-Rødsand. The new bridge with associated embankments over the Guldborgsund Natura 2000 site will incorporate an area of just over 5,000 m<sup>2</sup>, equivalent to 0.0008% of the total area of the habitat types 'Sand banks with shallows constantly covered by seawater' and 'Large shallow inlets and bays' in the Natura 2000 site. The habitat types are covered by the designation basis for the Natura 2000 site.

Along the embankment on land in the area at Nagelsti Engmose, which is located in the same Natura 2000 site, the soft bed will be replaced.

In summary, it is estimated that, with the preventive measures described, the project can be implemented without any significant impact on populations or living conditions for these populations. Nor will the upgrade and development of the railway cause any harm to the habitat types and species for which the Natura 2000 sites were designated, and the opportunities for achieving the preservation objectives will not be impaired.

Establishment of a channel through Masnedø Østflak entails the dredging of approximately 245,000 m<sup>3</sup> of sediment. In connection with the dredging, there will be sediment spill, the larger particle fractions of which will be deposited along the channel, where there is dense eelgrass growth. In a narrow belt along the channel, there will be temporary negative consequences for the eelgrass. However, as the growth conditions must be described as particularly good, rapid regrowth is expected, i.e. in the course of a few years. Nor will there be any significant impact on species and habitat types in the designation basis for the Natura 2000 sites in the local area of the project site. The dredged sediment will be deposited in an approved dump site.

Trees and bushes in a total of approximately 13 ha of protected forest will be felled along the railway for the construction work and for the electrification of the railway. There will be replanting in locations that are important for bats and where the railway may constitute a barrier for bats. There will also be replanting at

existing and new snowbreak belts. If trees that may be breeding or roosting sites for bats are to be felled, bat boxes and artificial hibernation sites will be established as a short-term interim solution.

Driving, parking of machines, deposition of materials, etc. may cause temporary or permanent damage to natural biotopes. Consequently, these activities will be avoided in areas which are subject to section 3 of the Danish Nature Protection Act if the construction works allow. Where they cannot be avoided, a number of measures will be taken to limit the impact on these areas. These include avoidance of particularly interesting locations within the area, reduction of the width of access roads, use of temporary road sheets or removal of top soil with subsequent reinstatement. These measures will be implemented in areas protected under section 3 of the Danish Nature Protection Act.

#### 15.5.3.2.1. New natural features and wildlife crossings in connection with the railway landworks

The upgrade and development of the railway landworks contain a number of remedial measures in the form of establishment of new natural features (construction of ponds and meadows, and replanting of forest) and nature restoration of existing nature areas. In addition, wildlife crossings will be established in existing migration corridors or where habitats for animals are fragmented, typically in locations where the railway crosses watercourses, to limit the barrier effect of the railway.

The extent of the remedial measures is based on the mapping carried out in connection with the EIA studies. The mapping showed that, in the section between Ringsted and Rødby, there are protected animal species that are subject to Annex IV of the EU Habitats Directive. Four amphibian species and a large number of bat species were found. It is also known that there are sand lizards, willowherb hawkmoths and thick shelled river mussels.

Remedial measures such as the establishment of new navigation lines, replacement ponds, nature restoration and other replacement biotopes will only take effect over a number of years. To allow them to take effect as soon as possible in relation to the environmental impacts of the railway, the remedial measures will be established as early as possible in the project.

Where the railway is upgraded and converted and passes migration corridors, wildlife crossings will be established that animals can use to cross the railway. There will be different types of wildlife crossing for amphibians, small and medium-sized mammals and large mammals. Small mammals that are not Annex IV species, such as foxes, badgers, hedgehogs, martens and rodents can also use amphibian crossings.

Wildlife crossings counteract the railway's increased barrier effect on the animals' migration and distribution in the landscape. Wildlife crossings are most effective when positioned as an extension of existing natural navigation lines such as hedges, the edges of woods and watercourses. Wherever possible, they should therefore be built where there are already such natural navigation lines. Wildlife crossings for large mammals will be supplemented by small guide shrubs, hedges or deer fences. The wildlife crossings will be designed in accordance with the guide on wildlife and pedestrian crossings (Danish Road Directorate, 2011) and the dimensions will have to be adapted to the position of the railway in the terrain.

To reduce the risk of roe deer and other mammals being killed by traffic, guide fences will be erected around a number of wildlife crossings along the railway following detailed assessment. Amphibian fences will be used in connection with amphibian crossings to guide the amphibians to the crossing.

The increased barrier effect from the railway will be compensated for by the establishment of 17 wildlife crossings. 8 of these will be dimensioned for large mammals (roe deer/red deer) and the rest for medium-sized and small mammals. A number of dedicated amphibian crossings will also be established. Guide fences will be erected at the crossings for roe deer/red deer and amphibian fences will be erected at a total of 13 crossings.

Replacement ponds will be established where existing ponds are removed or as compensation for general impairment of habitats and migration opportunities. Replacement ponds will be built with a water area of 200-300 m<sup>2</sup>, depending on local terrain conditions and the function of the ponds. They will be established in partnership with the local municipality. Replacement ponds can compensate for the impact of the railway

on amphibians and bats because, within a few years, they are able to develop into suitable habitats for amphibians and hunting areas for bats. Instead of establishing new ponds, it is possible to carry out nature restoration on existing ponds to improve the condition of habitats for specific species.

New natural features are generally created in the ratio 1:2, as agreed with the municipality in question. A total of 47 ponds will be constructed in connection with the upgrade and development of the railway. Nature restoration on existing ponds can replace the establishment of new ponds in certain cases.

For the benefit of sand lizards, south-facing railway banks made of soil mixed with sand will be established in certain sections. The banks will be kept open and planted only with a few scattered bushes.

For the benefit of bats, as few trees as possible will be felled in connection with the construction works. Special efforts will be made to reduce the risk of removing roosting areas in trees and of disrupting navigation lines. The working areas will be located away from trees where possible. New trees will be planted in particular sections to replace the trees that are felled. Where trees suitable for bats are felled, this will take place in September and October to reduce the impact on hibernating bats and to avoid any impact on immature bats.

Where trees in which bats can roost are felled, bat boxes will be installed. An overall plan will be prepared for bats, combining planting of navigation lines, preservation of old trees and installation of bat boxes.

Nagelsti Engmose is a Natura 2000 site and a regional protection area with meadow, marsh and lake protected under section 3 of the Danish Nature Protection Act. The area is currently divided by the two railways to Rødby and Nakskov. Amphibian crossings and replacement ponds will be established in connection with the upgrade and development of the railway, and/or nature restoration will be implemented in the area.

Where the duty to protect forest is revoked and protected forest is felled, it is necessary to plant replacement forest, generally in the ratio 1:2. The upgrade, development and electrification of the railway mean that a total of 13 ha of protected forest will be felled, which will require the planting of replacement forest.

At Holeby, Kirkenorsløbet runs along the north side of the railway over 2 km and crosses the railway twice. In connection with the upgrade and conversion of the railway, the river will be diverted, thus improving the gradient in the section and creating the conditions for the river to achieve its environmental objective in this section and improve the migration opportunities of animals. The project will construct a small river valley north of the railway in which the river will wind slightly to achieve a natural effect.

#### 15.5.3.2.1.1. Summary of new natural features in connection with the railway landworks

	As early in the construction phase as possible	During the construction phase
Ponds, total	47	
Meadow	0.85 ha	
Wildlife crossings		17
Amphibian crossings		10
Replanting of protected forest		26 ha
Diversion of watercourses		Approx. 2 km

#### 15.5.4. Impact of the construction project on cultural heritage

##### 15.5.4.1. Impact of the coast-to-coast project on cultural heritage

The construction of the new motorway section in direct connection to the fixed link will entail the removal of a building that is worthy of preservation. Although removal of the house is a marked impact, the consequence is not assessed as significant as the house is not part of a cohesive cultural environment.

In an area below Syltholm wind farm east of Rødbyhavn, geological surveys have also found sediment that may indicate that there was a marsh there in earlier times. The marsh is 2-5 m below the surface of the soil in an area that extends out into the water. It is not currently known how old the marsh is or whether there was human settlement around the marsh. If there was, it is possible that the marsh may contain burial finds. Further archaeological preliminary investigations and archaeological investigations are to be carried out in the area.

Apart from a single protected earth dike that will be cut through by the eastern access road to the land reclamation on the western side of Rødbyhavn, no protected stone or earth dikes or protected buildings will be affected by the coast-to-coast project in the construction phase. Nor will churches and church environments be affected. For the Lolland dike as a cultural environment, the construction phase will have significant consequences for the 2.5 km of the dike that will be removed temporarily. The construction of the new reclaimed land may affect a total of 8 km of the Lolland dike in the form of driving, disruption and partial closure for up to approximately 6½ years.

No protected ancient monuments or cultural heritage areas will be affected by the work in the construction phase. Part of the tunnel element factory is located in an area designated by Museum Lolland-Falster as an area of archaeological interest, where the opportunity to make finds is estimated to be high. Before the construction work begins, archaeologists will therefore carry out archaeological investigations in the area in which the coast-to-coast project, including the tunnel element factory, will be built.

During the construction phase, the wreck in Danish territory and the surrounding wreck area may be affected directly by the outriggers, anchors and anchor wires of construction vessels in connection with both dredging works and the immersion of tunnel elements. The Danish Agency for Culture will therefore designate an area that must be kept free of certain construction activities. By agreement with the Danish Agency for Culture, the wreck was also protected in situ in summer 2012. The wreck has been covered with 0.5 m sand and 20-30 cm shingle. Reference is also made to section 15.4.4.1.

An old iron-stocked anchor was also found approximately 180 m from the centre line of the planned tunnel. The iron-stocked anchor found will be subject to the Danish Museums Act if, at the time of the construction work, it is estimated to be more than 100 years old.

#### 15.5.4.2. Impact of the railway landworks on cultural heritage

The installation of a traction power system will only have a limited impact on cultural heritage interests. This is because, in the greater part of the section, the masts will be located within the existing railway terrain. Consequently, there will be no risk of contact with objects of cultural heritage value, ancient monuments, etc. as the construction work is limited.

In sections in which temporary work sites, work roads, overtaking stations, delay basins or distribution stations with buried cables are built, there will be a risk of direct impact on finds, ancient monuments, dikes, etc.

The railway landworks pass through protection lines for a number of ancient monuments. At Glumsø, there are two protected ancient monuments, dolmen chambers, in the protected Østerskov forest. The ancient monument protection line for one borders on the railway, while the distance to the other is approximately 50 m. South of Herlufmagle, there is a protected, overgrown ancient monument in the form of a long barrow approximately 50 m from the railway. South of Gangesbro, the railway passes close to two protected ancient monuments. In a small group of deciduous trees, there is a tree-covered round barrow, and below Sorøvej, there is a stone cist (bridge). West of Pederstrup and Mogenstrup, there is a protected burial mound, Stejlehøj, approximately 80 m from the railway. A single protected ancient monument, a dolmen at Bruntofte, is just approximately 24 m from the existing railway. In connection with the

construction works, it will be ensured that the ancient monuments and the dolmen will not be touched or otherwise damaged.

A number of dikes will be affected by the project in the construction phase, where cables for distribution stations are buried, bridges are widened or new tracks are installed in connection with the construction of overtaking stations and curve straightening outside the existing railway terrain. A general effort will be made to decrease the work site so that dike penetration is limited and the impact is thus reduced.

Several of the dikes adjacent to the railway already bear the mark of having been penetrated by the railway. In other cases, where curves are straightened or cables are buried in open country, it will be necessary to penetrate continuous dikes. The dikes will be reinstated with the same shape and materials as before the dikes were affected by the development and upgrade of the railway.

In addition, any vegetation will be reinstated with the same indigenous trees and bushes as in the other vegetation on the dikes so that the dikes will be visually uniform after a number of years.

According to archive checks carried out by Museum Vestsjælland and Museum Sydøstdanmark in Vordingborg, it is expected that it will be possible to find further valuable cultural heritage objects at selected locations. Archaeological investigations will therefore be carried out before the construction work is started.

If graves, burial sites, settlements, ruins or other ancient monuments or finds are found during the construction works, the work will be stopped immediately under the Danish Museums Act. The finds will then be reported to the Danish Ministry of Culture and the Danish Ministry of Transport. The Danish Ministry of Transport will subsequently involve the Danish Agency for Culture in an assessment of whether the work can continue or it should be suspended until a more detailed study has been made.

In the construction phase, there will be work sites and working areas such as soil depots that may have a temporary impact on the designated areas. During the construction work, the project will only have a minor visual impact on the cultural environments and their designation basis, the protected areas and church environments.

The development of the railway will not affect any churches but there will be construction works within the church protection zone. Along the railway, a work road will be built within a number of designated church environment zones and a supply pipe will be buried in two church environment zones. The impact is estimated to be insignificant as the areas will be reinstated after the construction work has been completed.

Along the railway are a number of preservation-worthy buildings, some of which are fairly close to the railway and the intersecting roads on which bridges are to be converted or renovated. In general, the project will incorporate preventive measures in the form of choices of solutions that take into consideration the preservation of buildings. For example, these may involve reducing working areas in critical sections to avoid or minimise direct impact.

For 8 buildings with medium preservation value and 1 building with high preservation value, the construction works will entail demolition, primarily in connection with the construction of new ramps.

There are more than 20 bridges that are more than 50 years old along the railway section. The Danish Agency for Culture has estimated their preservation value and does not want to protect any of them.

Several of the cultural environments will be affected by a 7 m wide work road along the railway in connection with the construction works. Where possible, other working areas will be planned so that they are located outside the cultural environments. However, this is not possible in three areas: in some small areas south of Gåbensevej in Gåbense, in a work site in the station area in Nørre Alslev, in working areas at Eskilstrup Station and west of the railway to the new road. The impact is estimated to be limited as the areas will be reinstated after the construction work has been completed.

### 15.5.5. Groundwater lowering as a consequence of the construction project

#### 15.5.5.1. Groundwater lowering as a consequence of the coast-to-coast project

In two instances, it will be necessary to lower the groundwater in connection with the implementation of the coast-to-coast project. In addition to the groundwater lowering mentioned below, there will be a number of other tasks for which it will be necessary to lower the groundwater temporarily, for example when installing land ties.

The cut-and-cover tunnel on Lolland will be built in a reclaimed area just south of the existing coastline. For this work, it will be necessary to lower the groundwater temporarily for up to two years. The area in which the groundwater will be lowered is approximately 500 x 250 m. The centre of the pumping in connection with the temporary groundwater lowering will be south of the existing dike. It will be necessary to lower the groundwater, and it is estimated that more than 100,000 m<sup>3</sup> will be drained away per annum. The water will be passed through a sand trap and then aerated before discharge to the recipient body, expected to be the Fehmarnbelt.

Skid beams on which the tunnel elements will rest when pushed from the production buildings to the upper launching docks are expected to be needed when building the production area. On account of the weight of the tunnel elements and the need for minimum deformation during production, the beams may need to have their foundations directly on intact moraine clay, which requires the groundwater to be lowered. With direct foundations, it may be necessary to lower the groundwater temporarily in an area of approximately 1,000 m x 350 m. Such groundwater lowering is expected to last for up to one year.

#### 15.5.5.2. Groundwater lowering as a consequence of the railway landworks

In general, there is only expected to be a limited need for temporary groundwater lowering in connection with excavation for foundations for new structures or structures that are extended or converted. Consequently, there is not estimated to be any significant impact on the primary reservoir from the possible groundwater lowering and no impact on the primary reservoir that will affect the opportunities for water extraction.

Where it will be necessary to lower the groundwater temporarily to keep construction pits dry in the construction phase, the groundwater will be lowered with as little impact as possible on water extraction interests in the areas affected. The groundwater will be lowered temporarily under agreements with the municipalities and those who extract the water.

Groundwater will be lowered locally in connection with the clean-up of two instances of oil pollution. If the water pumped up is polluted, it will be managed under existing rules.

Lowering the groundwater in marsh areas may have an impact on flora and fauna locally. In areas in which lowering the water level may produce unacceptable impacts on nature, soft spoil will be excavated to minimise the need to lower the groundwater. One possible method is to excavate soft spoil while gradually installing gravel. With this method, it is not estimated that there will be a need to lower the groundwater in connection with the replacement of soft bed in vulnerable marsh areas. On this basis, the construction work may be carried out without significant consequences.

### 15.5.6. Watercourse and drainage conditions as a consequence of the coast-to-coast project

In the alignment on Lolland, several open watercourses and watercourses channelled in pipes, plus Strandholm Sø lake, will be affected as in the description of the consequences in the operating phase. The changes mentioned, including draining Strandholm Sø lake, will be implemented in the construction phase.

The area where the tunnel element factory will be located constitutes part of Strandholm Landvindingslag. Changes in drainage of the area (including as a result of the diversion of just over 3 km of watercourses) will occur here. The changes will not result in any change in drainage level.

A number of preventive measures are planned to reduce or compensate for the consequences the coast-to-coast project will have for the surface water in terms of the project area, including in particular the immersed tunnel, work harbour and tunnel element factory.

For all open watercourses and lakes near the construction work, there is a risk of hydraulic impact and the addition of polluted water in the event of spills and accidents throughout the construction phase. The planned preventive measures with collection of surface water in rainwater retention basins before discharge reduce this risk. The sanitary waste water from the production area, including from the camp, will be treated at the municipal sewage treatment plant.

#### 15.5.7. Extraction of seabed spoil from the tunnel trench, etc. as a consequence of the coast-to-coast project

Approximately 19,000,000 m<sup>3</sup> of seabed spoil will be moved in connection with the construction project. It is estimated that approximately 8,000,000 m<sup>3</sup> of sediment will be excavated on German territory and 11,000,000 m<sup>3</sup> of sediment on Danish territory. It is expected that approximately 2,000,000 m<sup>3</sup> of sediment will be used in the construction project on German territory and approximately 17,000,000 m<sup>3</sup> of sediment will be used in the construction project on Danish territory.

The impact of the excavation of seabed spoil is related in particular to temporary loss of flora and fauna on the seabed and to sediment spill with consequent short-term reduction in visibility and light penetration in the water.

The cut-and-cover tunnel on Lolland will be built in a reclaimed area just south of the existing coastline. Temporary watertight dikes around the area where the cut-and-cover tunnel and its ramp will be built will be established first. Once the reclaimed area is dry, excavation to the level of the bottom of the cut-and-cover tunnel will start. This excavation work therefore does not affect the marine environment.

In connection with the construction project, approximately 15,000,000 m<sup>3</sup> of sediment will be moved from the excavation of a trench for the immersed tunnel between Rødbyhavn and Puttgarden. The sediment will be used in the construction project, including, for example, for new reclaimed land on the Danish and German sides, for backfilling around tunnel portals and for the construction of temporary work harbours on the Danish and German sides and for motorway and railway embankments.

The channel servicing the work harbour at the production area and harbour docks will be dredged so that the tunnel elements can be sailed from the production area to the tunnel trench where they will be installed. In addition, it must be possible to sail materials for concrete production to the production area. The depth of the harbour is determined by the size of the tunnel elements and is planned to be an average of 12 m. A total of approximately 4,000,000 m<sup>3</sup> of seabed spoil is expected to be excavated from dredging the work harbour, etc. at Rødby.

The excavation will take place with due consideration for factors such as the geological, depth-related and navigational conditions, plus the environment, and every attempt will be made to limit sediment spill from excavations as far as possible.

The production of concrete elements will require large quantities of sand and gravel. In connection with the preparation of the EIA report, Kriegers Flak and Rønne Banke were designated as possible areas for sand extraction for the project. These areas offer the opportunity to obtain up to 6,000,000 m<sup>3</sup> of sand from Kriegers Flak for use as stable filler around the elements of the immersed tunnel and up to 1,000,000 m<sup>3</sup> of sand from Rønne Banke for concrete casting.

Sand extraction at Kriegers Flak will involve a temporary loss of seabed fauna habitats and disruption of the seabed in the extraction area itself. Currents close to the seabed and sediment transport will, however, level the seabed within 5-10 years. Immediately after the extraction has been completed, the seabed fauna habitat will be reinstated continuously and it will be recolonised by seabed fauna. Seabed fauna with a short life cycle will be reinstated in 1-2 years, and full reinstatement of the seabed fauna community is

estimated to take place within 5 years.

On the basis of the rapid reinstatement and the size of the area affected, it is estimated that there will be no permanent or significant negative impact on the seabed fauna at Kriegers Flak. The other direct and indirect impacts on the environment of sand extraction both within and outside the actual extraction area are minor and the conclusion, on the basis of the assessments of potential impacts on the environment, including impacts on the seabed, coastal morphology, water quality, seabed flora, seabed fauna, birds, marine mammals and fish, plus potential impacts on fisheries, navigation, recreational interests, culture and material assets, is that there will not be any significant or permanent negative impacts on the environment in these areas either. In addition, it is estimated, on the basis of the Natura 2000 screening of marine habitat area H207 Klinteskov Kalkgrund, that there will be no significant impacts on the Natura 2000 site as a consequence of the project.

Sand extraction at Rønne Banke will also involve a temporary loss of seabed fauna habitats and disruption of the seabed in the extraction area itself. Currents close to the seabed and sediment transport will, however, level the seabed over 3-5 years.

Immediately after the extraction has been completed, the seabed fauna habitat will be reinstated continuously and it will be recolonised by seabed fauna. Seabed fauna with a short life cycle will be reinstated in 1-2 years, and full reinstatement of the seabed fauna community is estimated to take place within 5 years. On the basis of the rapid reinstatement and the small size of the area affected, it is estimated that there will be no permanent or significant negative impact on the seabed fauna at Rønne Banke.

The other direct and indirect impacts on the environment of sand extraction both within and outside the actual extraction area are minor and the conclusion, on the basis of the assessments of potential impacts on the environment, including impacts on the seabed, coastal morphology, water quality, seabed flora, seabed fauna, birds, marine mammals and fish, plus potential impacts on fisheries, navigation, recreational interests, culture and material assets, is that there will not be any significant or permanent negative impacts on the environment in these areas either.

In addition, on the basis of the Natura 2000 assessment of the Adler Grund, Rønne Banke, Bakkebrædt, Bakkegrund, Pommersche Bucht, Westliche Rønne Bank and Oder Bank areas, it is estimated that there will be no significant impacts on Natura 2000 sites as a consequence of the project.

The seabed flora is estimated to be the component that will be most affected by the sediment spill from excavation. Consequently, the factors in relation to the sediment spill that are of greatest significance to the impacts on the seabed flora were analysed in connection with the EIA report. On this basis, it can be concluded that distance of the sediment spill from the coast during the marine excavation works is decisive to the transport of spilled sediment into Rødsand Lagune and to the impacts on the coastal seabed flora. Moreover, the time of the year at which the excavation takes place is significant to the impact on seabed flora in Rødsand Lagune and in the other coastal habitats. The highest impact from excavation works is generally seen in the spring and summer months.

The sensitivity assessments carried out show that there are good opportunities to develop the coast-to-coast project's basic excavation scenario, while ensuring that the impacts of the sediment spill in all parts of the coast-to-coast project's area of influence continue to be adequately illustrated in the EIA report and that, overall, no further significant environmental impacts occur.

The excavation machinery for the immersed tunnel consists of various mechanical excavators, cutters and suction machines that will generate noise that will be audible both above and below the water. Birds, fish and marine mammals can be affected by noise and disruption and show avoidant behaviour. The impacts depend on the sensitivity of the species present and will decrease in the course of the construction phase.

#### 15.5.8. Impact of the construction project on recreational conditions

##### 15.5.8.1. Impact on recreational conditions as a consequence of the coast-to-coast project

In the construction phase, the incorporation of the section of coast and the establishment of the new reclaimed land will entail impacts on outdoor activities and other leisure activities close to the coast. The most significant impacts and restrictions will occur in the construction phase, while in the operating phase there will be several new recreational opportunities for the area's residents and visitors.

For a large part of the construction phase, approximately 8 km of the coast immediately east and west of Rødbyhavn will be closed for access. The beach immediately west of Rødbyhavn and at Lalandia will be unusable on account of the construction work and the establishment of the new reclaimed land. However, there will still be access to existing beaches outside the project area.

To mitigate the impacts of the lost beach areas, the construction works will be organised so that the westernmost part of the reclaimed land will be established early in the construction phase with a view to creating a new beach immediately west of it in the first 2 years of the construction phase. The new beach will function as an alternative to the closed beaches until the remainder of the land reclamation with the lagoon beach and paddling beach in the inner lagoon has been created.

The project's temporary and permanent area incorporation on Lolland will lead to a number of the current paths in the area around Rødbyhavn being interrupted either temporarily or permanently.

The dike west of Rødbyhavn and from Rødbyhavn to Gl. Badevej will be accessible to pedestrians and cyclists during the construction phase via current paths and roads. However, the view for pedestrians and cyclists from the dike towards the sea on the foreland towards the sea will be combined with a view of construction works on the new reclaimed land.

In the construction phase, there will be no access to the dike in the section east of Rødbyhavn from Gl. Badevej to west of the holiday home area of Hyltofte Østersøbad. To remedy the impacts of the project on outdoor activities, including impacts on cycle routes and access to recreational areas, a number of preventive and compensatory measures will be implemented in both the construction phase and the operating phase. These will include ensuring that regional cycle route 38 (Østersøstien) will be maintained by creating a path around the tunnel element factory and via public roads throughout the construction phase.

There are a number of marinas on both Lolland and Fehmarn, for example Nysted, Rødbyhavn, Kramnitse, Burgtiefe, Burgstaaken, Lemkenhafen, Orth, Großenbroder Fähre and Femernsund. There are no precise figures for the extent of the use of pleasure boats in the Fehmarnbelt, but it is estimated that approximately 850,000 registered sailors of pleasure boats sail in the Baltic alone, including the Fehmarnbelt, every year. With more than 170,000 registered overnight stays in the Danish marinas in Rødbyhavn, Lundehøje, Errindlev Havn, Stubberup and Kramnitse in 2007, and with just over 50,000 registered overnight stays in the 6 marinas on Fehmarn, the Fehmarnbelt is a popular area for sailors of pleasure boats. In the project's construction phase, noise and disruption in the working areas at sea and other construction-related shipping and noise may affect sailors of pleasure boats and others who carry out recreational activities in the Fehmarnbelt. To reduce the possible impact of the project on these activities, a number of preventive measures will be implemented to contribute to creating greater safety for sailors of pleasure boats in the area during the construction phase than at present. As a consequence of this, it is estimated that there will be only insignificant impacts on pleasure boat sailing and other outdoor activities at sea during the construction phase and no impacts in the operating phase.

The Fehmarnbelt is currently used for both commercial fisheries and angling. The coast-to-coast project has the potential to affect fish populations and access to fishing areas in the construction phase as a consequence of area incorporation and impacts from sediment spill, noise, etc.

#### 15.5.8.2. Impact of the railway landworks on recreational conditions

The railway landworks are adjacent to outdoor leisure areas of different types such as forests, sports grounds and parks, paths, watercourses and sections of coastline that have recreational value.

All outdoor leisure areas and other recreational areas along the railway will be accessible in the construction phase. The outdoor leisure areas and other recreational interests that are close to the railway may be affected by dust generation from the construction works. The impact is estimated to be low to moderate as these are temporary activities for a relatively limited period of time. Any dust generated by earthworks, including transportation, will be reduced by watering and other measures.

The direct impact on the recreational areas is estimated to be relatively limited as the construction works will not entail changes in the recreational use of the areas, including the opportunity to access and spend time in the areas.

The impact on recreational cycle routes and paths is estimated overall to be relatively limited as the majority of them will be accessible in the construction period or diversions will be available. However, several sections will be closed for shorter or longer periods of time, and in some cases the diversion may be up to 10 km. The opportunities for limiting diversions will be assessed as the project progresses.

The construction works will be organised so that access to and use of the recreational cycle routes and paths is maintained to the greatest possible extent. One cycle route, which crosses the railway in Flintinge, will be permanently rerouted, and a new link will be established on the north-west side of the railway between Møllevej and the path to maintain the route in the construction phase.

The protected recreational area west of the railway, Orekysten Strand, will not be directly affected by the fixed bridge over Masnedsund. The recreational path, Sjællandsleden, that runs beneath the bridge, will be closed in the construction phase. Where the northernmost curve will be straightened at Næstved, there are two protected, overgrown round barrows in a small forest close to the existing railway. The railway terrain will be excavated opposite the ancient monuments, which may have an impact on the archaeological layers.

At the ancient monument west of Pederstrup and Mogenstrup, there will be a temporary work site on the eastern side of the railway landworks, and the railway itself also lies within the protection line. East of Åsø at Glumsø, south of Glumsø at Østerskov and south of Herlufmagle, the construction works will touch or border on the protection lines around three ancient monuments.

#### 15.5.9. Impact of the railway landworks on the soil, groundwater and drinking water

In general, the primary groundwater reservoirs in the section of railway from Ringsted to Rødby are well protected. In some areas, the groundwater reservoir is more vulnerable and the total clay stratum above the primary groundwater reservoir is under 10 m. The construction works will take place in vulnerable areas south of Glumsø, north of Næstved and at Mogenstrup Ås.

A number of small public waterworks and one other water extraction plant are registered in the immediate vicinity of the section of railway from Ringsted to Orehoved.

Overall, the primary groundwater reservoir is well protected at the waterworks nearby, with the exception of Vandværket Holmager 52, which is south of Glumsø. It will be necessary here to take additional precautions in relation to tank installations and potential spill events when establishing work sites.

There will be construction works within the 300 m protection zone for six bored wells but it is estimated that no bored wells will be closed as a consequence of the implementation of the railway landworks and no permanent groundwater lowering is expected.

Construction works will take place at Ring Vandværk's one bored well, which is currently approximately 10 m from the existing track. After the construction works, the well will be further from the track, which will be moved away from it, and it is assessed that it will not be necessary to demolish the well.

The construction work will involve the track being moved laterally and placed in an excavation of up to 10 m of the top layers of soil in the section opposite Åsø Vandværk's bored well. The area around Åsø Vandværk's bored well is well protected against pollution percolating down by 30 m clay cover at the well

itself and thicker clay strata in the area around the well. Even if up to 10 m is excavated when the railway is built, there will still be clay cover of minimum 20 m above the primary groundwater reservoir that will consequently remain well protected against any pollution percolating down.

## 16. Relationship with other legislation

### 16.1. The Danish Construction Act in connection with the coast-to-coast project

The coast-to-coast project contains a large number of elements that are covered by the concept of building in the Danish Construction Act but for which it is a matter of interpretation whether the duration of the coast-to-coast project's temporary elements means that they are subject to the requirements for permits in the Danish Construction Act. If they are, the buildings in question will be subject to the Danish Construction Act and building regulations. However, the temporary nature or physical design, for example, of the buildings in question mostly means that it makes no sense to manage them under the Danish Construction Act or for the authorities to process them under the requirements in the building regulations for insulation, for example. This is a distinctive, long-term construction project that involves buildings for which the standards in the Danish Construction Act and building regulations are not suitable as the basis for its processing by the authorities. Consequently, it is essential to specify how the Danish Construction Act and building regulations will apply to the coast-to-coast project.

In general, it should be noted that the Danish Construction Act and the rules issued in pursuance of it do not apply to structures, systems, etc. that are built in territorial waters. This means in part that the tunnel with its in-situ tunnel, tunnel portal, daylight screen and ramps to the tunnel descent that are located in territorial waters at the time of construction will not be subject to the Danish Construction Act and the rules issued in pursuance of it.

The coast-to-coast project involves the construction of a number of permanent installations, systems, structures and buildings that are subject to the Danish Construction Act and building regulations. As part of the tunnel structure, the in-situ tunnel, tunnel portal, daylight screen and ramp to the tunnel descent must be installed. As they are located in territorial waters, these structures will not be subject to the Danish Construction Act and building regulations. The same proceeds from the exemption in chapter 1.2, section 1, of the building regulations, under which the regulations do not apply to tunnels and other structures for transport purposes that are implemented or approved by authorities other than the building authority or a company that has statutory liability for the construction work. The structures mentioned will therefore also, under this provision, be exempt from the requirement for a building permit in pursuance of the Danish Construction Act and building regulations.

However, a toll plaza and buildings that are to be used by SKAT, the Danish tax authority, and the police for inspection purposes will also be built. In addition, there will be buildings for the traffic control centre, which also contains facilities for the operating and maintenance staff and traffic control centre facilities that can be used if they are needed in the event of breakdown or similar. These buildings also contain a canteen and other service facilities for the use of staff. These buildings will be built in pursuance of the Danish Construction Act and building regulations.

However, where compatible with the considerations behind a given provision, it may be possible to grant exemption from the Danish Construction Act and building regulations in pursuance of section 22 of the Danish Construction Act.

Buildings and structures that are installed in the project area and used for a period of approximately 6.5 years will be built for the particular purpose of implementing a major tunnel construction project, including a specially designed tunnel element factory that will be demolished after the coast-to-coast project has been implemented. The construction phase for the coast-to-coast project is relatively long and it may give rise to doubt about whether a building that is built for a long-term construction project is regarded as temporary in the sense of the building regulations.

However, chapter 1.2, section 1, of the building regulations specify that the regulations do not apply to tunnel construction, among other things. It proceeds accordingly from the provision that temporary

structures and systems that are necessary for the tunnel construction in this case are not subject to the building regulations. This means, in this connection, that the temporary structures, systems and buildings that are built in the project area and are necessary for the implementation of the tunnel construction, including the tunnel element factory and the work harbour with the associated production facilities, are not subject to the building regulations. The exemption in chapter 1.2, section 1, of the building regulations must therefore be interpreted, in relation to the coast-to-coast project, to mean that it covers any structure, system or building that is temporarily built exclusively for the construction of the coast-to-coast project.

This includes, for example, huts for security guards at the entrance, huts for the contractor's administrative staff, canteen buildings, staff huts, concrete stations, workshops, storage facilities, control centres, building facilities for first aid and fire services and facilities for accommodation and recreational activities.

It should be noted that the health and safety legislation, including the executive orders issued by the Danish Working Environment Authority, which contains requirements for the organisation of construction sites, site huts, fixed work sites, etc., applies to the temporary buildings used in the coast-to-coast project. The rules specify requirements for factors including construction and organisation to take account of acceptable health and safety limits for the performance of work. The rules also ensure that the necessary rest areas and sanitary conditions must be established, among other things. Accordingly, the coast-to-coast project must comply with fire legislation and the Heavy Current Executive Order. It is assumed therefore that these rules apply to the coast-to-coast project, including also the opportunity to apply for exemption, where necessary.

## 16.2. The Danish Ports Act in connection with the coast-to-coast project

The Danish Ports Act applies to ports that are "used for the commercial transportation of goods, vehicles and passengers and for landing fish", cf. section 1, subsection 1, of the Danish Ports Act. Such ports are called 'commercial ports' in practice. The work harbour that will be built as part of the coast-to-coast project is not a commercial port in the sense of the Danish Ports Act as it will only be used by Femern A/S for the construction of the fixed link across the Fehmarnbelt. Consequently, no "commercial transportation" is involved as the port activities will not be carried out for profit but to implement the construction project. The work harbour is therefore not subject to the Danish Ports Act in general, only to sections 3, 4 and 15 of the Danish Ports Act, which apply to all ports, including those that are not otherwise subject to the Act, cf. section 1, subsection 2.

Executive Order no. 9139 of 15 April 2002 on standard regulations for the maintenance of order in Danish marinas and small fishing ports and Executive Order no. 1146 of 25 November 2004 on standard regulations for the maintenance of order in Danish commercial ports were issued under section 15 of the Danish Ports Act. These regulations do not apply to the work harbour, for which reason the Minister for Transport will establish individual regulations for the work harbour following a recommendation from Femern A/S, cf. section 15, subsection 2, of the Danish Ports Act. Like the standard regulations for commercial ports, the individual regulations are expected to contain provisions concerning the allocation of berths, removal of laid-up ships, etc. so that the work harbour can be administered appropriately by Femern A/S.

As only sections 3, 4 and 15 of the Danish Ports Act apply to the work harbour, the work harbour is not subject to section 14 a of the Danish Ports Act concerning enhancement of security of port facilities and ports, or the executive orders issued under this section (Executive Order no. 896 of 9 July 2010 on enhancement of security of ports and Executive Order no. 414 of 8 May 2012 on enhancement of security of port facilities).

In 2002, chapter XI-2 on maritime security was implemented in the SOLAS Convention by the UN maritime organisation, IMO, which also introduced the ISPS Code to enhance the security of ships and port facilities. The EU decided in Regulation 725/2004/EC to make SOLAS chapter XI-2 and the ISPS Code directly applicable to ships and port facilities in Member States and, in 2005, the EU extended the enhancement of maritime security to include ports in Directive 2005/65/EC.

The purpose of the rules on maritime security is to enhance the security of the international maritime

transport chain. Consequently, ships in international shipping over a specific size must be certified in accordance with the rules and these ships must subsequently call at port facilities that are also approved under the rules on maritime security. Ports that want to receive secure ships must therefore establish secure facilities that can be approved and constantly comply with the requirements in the rules on maritime security.

Although the work harbour will be subject to Regulation 725/2004/EC as this has direct legal effect in Member States, it is proposed in section 26 to clarify this and establish that, like other secure ports and port facilities, the work harbour must be treated and approved under the rules issued in pursuance of section 14 a, subsection 1, of the Danish Ports Act, and the rules in section 14 a, subsections 2 and 3, apply.

### 16.3. Health and safety legislation in connection with the coast-to-coast project

The general assumption is that the construction project will be implemented in accordance with health and safety legislation. However, there are certain challenges associated with the installation of the immersed tunnel, in particular, which, after a certain degree of progress, will constitute a work site below the seabed a considerable distance away from the coast. This creates challenges in relation to the requirements in health and safety legislation for the organisation of workplaces, among other things.

Consequently, it can be anticipated that there will be practical challenges associated with complying with the existing provisions that individuals must not be exposed to emissions from, for example, noise, dust and hazardous substances from working processes that are carried out nearby. It is assumed that the necessary measures will be taken to ensure that the work can be performed without any risk to human health or safety. These measures will be determined in close collaboration with the Danish Working Environment Authority.

### 16.4. The Danish CCTV Monitoring Act in connection with the fixed link across the Fehmarnbelt

Sections 43 and 44 of the Act grant Femern A/S the right to carry out CCTV monitoring to a certain extent and to automatically record number plates.

#### 16.4.1. Description of the CCTV monitoring

The installation of CCTV monitoring on the fixed link across the Fehmarnbelt has two purposes. One purpose is to monitor the traffic on the motorway part of the fixed link across the Fehmarnbelt in order to have an overview of the current traffic situation, to identify and assess abnormal traffic flow, to take the necessary measures, including summoning assistance from the emergency management authorities, and to inform and warn road users.

The other purpose is to monitor the toll plaza in general to obtain documentation of use of the fixed link and payment for it and documentation for use in cases concerning non-payment or unlawful payment and in the event of robbery, acts of violence, etc. in those parts of the structure that are manned.

CCTV monitoring will take place on the fixed link across the Fehmarnbelt, including the toll plaza, and will involve both moving and still pictures being taken.

Moreover, under section 44 of the Act, it will be possible during the construction phase to install CCTV monitoring of the areas used for the construction of the coast-to-coast project, and of some road junctions and sections in the area. The temporary CCTV monitoring of the areas used for the coast-to-coast project with associated land areas has the aim of preventing industrial accidents, theft, vandalism, etc. in the areas used for the construction of the coast-to-coast project, while the temporary CCTV monitoring of road junctions and sections in the area has the aim of supporting the flow of the additional road traffic that will occur during the construction phase.

It should be noted that the processing (including storage, disclosure and deletion) of personal data from the CCTV monitoring that takes place under the rules in chapter 9 of the Act will be in accordance with other existing legislation, including in particular the Danish Personal Data Act (Act no. 429 of 31 May 2000 on the processing of personal data). The general rules in the Danish Personal Data Act, including the processing rules and the rules on the rights of the person registered, will therefore apply to the relevant extent. The purpose of introducing specific rules on CCTV monitoring in the Act is consequently partly to exempt the CCTV monitoring from the general ban on CCTV monitoring by private individuals in the Danish CCTV Monitoring Act and partly to create the necessary secure basis for the CCTV monitoring described and the further processing of personal data to take place within the limits of the Danish Personal Data Act. Every single company that undertakes CCTV monitoring will be under an obligation to ensure compliance with relevant legislation in connection with this.

The fact that the processing and disclosure of personal data must take place within the limits of the Danish Personal Data Act means, among other things, that Femern A/S will, in specific cases, be able to disclose data attributable to individuals in the form of recordings from CCTV monitoring or data derived from it to the police within the limits of the processing rules in the Danish Personal Data Act, cf. part 4 of the Act.

#### 16.4.1.1. CCTV monitoring in connection with traffic flow, etc.

It is expected that an operating centre will be established from which the signals will be distributed to the responsible police and rescue authorities in Denmark and Germany.

In Denmark, it will also be possible to establish a joint video monitoring centre shared by the companies that are fully, partially, directly or indirectly owned by Sund og Bælt Holding A/S. In addition, the local police will be able to use monitors in police stations to monitor the traffic in the fixed link across the Fehmarnbelt.

In general, images transmitted by CCTV monitoring will only be registered (recorded) for 72 hours. Consequently, the recordings will be deleted when they are 72 hours old. This ensures that there is direct access to the recordings that are necessary to provide the overview needed in the event of special events such as stranded vehicles, fire alarms and the use of emergency telephones. At the same time, the recordings will allow specific assessment of whether it is necessary to save or disclose recordings for the performance of the tasks of the operating centre and the responsible authorities to prevent accidents and ensure appropriate traffic flow, etc. A decision to save recordings for longer than 72 hours, or to disclose recordings, will always be based on a specific assessment. In general, however, it must be possible to assume that, if the competent authorities request access to recordings for the performance of their tasks, it will be possible for such disclosure to take place.

All recordings will be kept in the operating centre.

A separate provision grants the Minister for Transport the right to decide whether German police and rescue authorities have access to CCTV monitoring and recording.

#### 16.4.1.2. CCTV monitoring at the toll plaza

The intention is to have CCTV monitoring at the toll plaza as vehicles pass the toll plaza. The recordings will be kept for 180 days as documentation of both use of the fixed link and payment for it, and for longer if the images are to be used as documentation in a dispute or legal proceedings, etc. Experience shows that such disputes or legal proceedings may concern very different types of case and event, including driving through a closed barrier, road traffic accidents, robbery, non-payment or objections about unauthorised payments.

It should be noted that individual recordings from the CCTV monitoring may be kept for as long as necessary to ensure that the correct charge for use of the fixed link is collected. If, for example, it is not possible to collect a specific charge for technical or practical reasons, the registered data may therefore be kept, provided this is done in order to collect the charge. In such cases, the data will only have to be deleted when the claim has definitely lapsed on account of limitation in accordance with the relevant rules

in force from time to time.

A separate provision grants the Minister for Transport the right to decide whether German police and rescue authorities have access to CCTV monitoring and recording.

#### 16.4.2. CCTV monitoring in the construction phase

##### 16.4.2.1. CCTV monitoring of the areas used for the construction of the coast-to-coast project

Given the size and duration of the construction project, it is assessed that it should be possible to take measures that ensure continuous CCTV monitoring of the project area. Such monitoring will help prevent both industrial accidents and crime in the area. The recordings will be kept for only 30 days unless they are required for the management of a specific dispute. This ensures both that the recordings can be used for the weighty purposes for which they are made and that there is only limited data collection. Such a storage period in connection with CCTV monitoring also corresponds to that which applies to similar CCTV monitoring under the Danish Personal Data Act. Signs or another clear method must be used to provide information that the areas used for the construction of the coast-to-coast project are subject to CCTV monitoring. When the construction phase has been completed, the CCTV monitoring will have to cease.

##### 16.4.2.2. CCTV monitoring of road sections

As stated above, during the construction phase, there will be additional road traffic as a consequence of trucks with materials, goods deliveries, collection of refuse, etc., and cars and buses carrying employees and visitors driving to and from the production area, the site in the portal area and the camp.

In order to help the additional road traffic flow in the construction phase without unnecessary delays for the road users, it has been found necessary ensure the right to carry out CCTV monitoring of traffic flow in the areas that will be particularly affected by the construction work. The areas affected specifically comprise some road junctions and sections in the area at the end of the ramp from the Sydmotorvejen motorway (exit 50), the approach to Sydmotorvejen from Færgevej and exit 49 from Sydmotorvejen.

This monitoring will not be registered (recorded) as the sole purpose will be to monitor traffic flow continuously. Unlike the CCTV monitoring described above, however, there will be no duty to provide information on signs that traffic flow is being monitored by CCTV. This is partly because it must be considered to be disproportionately difficult to provide effective signage for the road users affected and partly because both the nature and the extent of the CCTV monitoring that will take place must be considered to be relatively limited. When the construction phase has been completed, the CCTV monitoring will have to cease.

#### 16.4.3. Description of the automatic registration of number plates

It will be possible to collect payments on the basis of the automatic registration of the number plates of vehicles using the fixed link across the Fehmarnbelt and data from the Danish Vehicle Register. This will be used as a supplement to the primary collection system, which is expected to be based on microwave technology and to constitute a significant element of the final payment collection infrastructure.

The precise technical design and practical implementation of the solution will be established when the construction phase is sufficiently advanced. The Bill therefore solely aims to secure the necessary authority for the implementation of automatic registration of number plates to support collection of payment.

The data that is collected in connection with the automatic registration of number plates will, like the data collected from the planned CCTV monitoring, have to be processed in compliance with existing legislation, including the Danish Personal Data Act. The data will be kept for only 180 days unless it is required for the management of a specific dispute in connection with a payment or for the achievement of other creditable purposes, cf. the list above.

Registrations of isolated number plate data, which will also be the case in relation to data collected via CCTV monitoring at the toll plaza, may be kept for as long as necessary to ensure that a correct charge is collected for use of the fixed link. If, for example, it is not possible to collect a specific charge for technical or practical reasons, the registered data may be kept, provided this is done in order to collect the charge. In such cases, the number plate data will only have to be deleted when the claim has definitely lapsed on account of limitation in accordance with the relevant rules in force from time to time.

## 17. Relationship with EU law

### 17.1. EIA Directive

The construction project is generally subject to the rules on assessment of the effects on the environment and on involvement of the public that proceed from Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (the EIA Directive). The Directive was amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.

Under article 1, paragraph 4, of the EIA Directive (2011/92/EU), the Directive does not "apply to projects the details of which are adopted by a specific act of national legislation, since the objectives of this Directive, including that of supplying information, are achieved through the legislative process". On the basis of the Planning Act, the construction project underwent environmental impact assessment and was prepared for adoption by the Danish Parliament by means of a Construction Act in accordance with the practice of the Court of Justice of the European Union concerning application of article 1, paragraph 4, of the EIA Directive.

Under section 4 of the Planning Act, EIA reports and supplements were prepared for both the fixed link across the Fehmarnbelt and the associated landworks in Denmark. As assumed in the special comments on section 4 of the Bill for the Planning Act, the environmental impact assessments were carried out and the EIA reports prepared in accordance with the requirements made by the EIA Directive for a general environmental impact assessment under the Directive. Section 15 of the Bill contains a summary of the impacts on the environment assessed in the EIA material.

Consultations were also held with the public authorities and the public on the EIA reports and supplements for the construction project. These consultations complied with the Directive's general requirements for such consultations, including those on the involvement of the public and public authorities in Member States affected in accordance with the Directive's rules on procedures for projects with transboundary environmental impacts, cf. article 7. This took place in connection with the procedure followed under the Espoo Convention, cf. section 18.7 of the general comments.

The construction project, which was thus prepared for the Danish Parliament to adopt in detail by means of an Act, is outlined in sections 1 and 2 of the Bill with schedules 1-4 to the Act, the project description in sections 3-5 of the Bill and the implementation report that applies to the execution of the work. The environmental impact of the construction project is described and assessed in the environmental studies of the project, including the EIA reports with their supplements, and the assessment of the impact of the project on Natura 2000 sites.

When the Danish Parliament passes the Construction Act, Femern A/S and A/S Femern Landanlæg will be authorised to implement the construction project in accordance with this description of the project. The Construction Act constitutes the planning framework for the construction project and takes the place of the EIA permission that the project should otherwise have had under the general EIA rules. It will subsequently be possible to implement the construction project without permissions, approvals or exemptions and without consideration for any directly applicable bans on changes in state or the establishment of physical structures in the nature and environmental legislation covered by section 12. In addition, during the construction phase, it will be possible to build roads and make changes to existing roads in accordance with section 22 of the Bill without any decision being required under road legislation.

As stated above, the EIA Directive was amended by Directive 2014/52/EU, which deleted article 1, paragraph 4. Instead, a new provision was inserted in article 2, paragraph 5, of the EIA Directive, stating that "Without prejudice to Article 7, in cases where a project is adopted by a specific act of national legislation, Member States may exempt that project from the provisions relating to public consultation laid down in this Directive, provided the objectives of this Directive are met". The new provision therefore means that the general rules of the EIA Directive also apply to projects that are adopted by a specific act of national legislation, but that, in these cases, there is authority to derogate from the provisions on public consultation, except for the rules on involvement of the public and public authorities in other Member States in projects with transboundary environmental impacts (article 7).

Directive 2014/52/EU entered into force on 15 May 2014 and must be implemented by Member States no later than on 16 May 2017. Article 3 of the Directive contains transitional rules that are designed to ensure that the amended requirements for the EIA report, etc. are not used for projects for which the EIA procedure was initiated before the deadline for implementation of the Directive in national law. Consequently, article 3, paragraph 2 a), states that the rules previously in force in Directive 2011/92/EU concerning the content of the EIA report and the procedure for adopting projects with an obligation to carry out EIA continue to apply to projects for which the EIA report was submitted before 16 May 2017.

Consequently, it follows from the transitional rules in Directive 2014/52/EU that the construction project may be adopted by the Danish Parliament with application of the rules previously in force in Directive 2011/92/EU, including article 1, paragraph 4, on projects the details of which are adopted by a specific act of national legislation, and consequently that the amendments in Directive 2014/52/EU do not apply to this adoption.

Sections 7-9 and 46 of the Bill contain provisions that implement, or authorise the Minister for Transport to implement, parts of the EIA Directive in the area of the Construction Act.

This involves rules concerning screening and supplementary EIA for changes and extensions to the construction project after the commencement of the Construction Act, including to the effect that changes, etc. that may harm the environment may not be started without the permission of the EIA authority (section 8). In this connection, sections 8 and 46 of the Bill also contain rules on separation between the EIA authority and the developer, including independent competence for the Danish Transport Authority, which implements the new provision in article 9 a of the EIA Directive introduced by Directive 2014/52/EU.

Section 8, subsection 3, of the Bill contains authorisation for the Minister for Transport, after negotiation with the Minister for the Environment, to establish rules on the EIA processing of project changes, etc., including on how the developer should report such changes, etc. to the Danish Transport Authority, implementation of screening, the content of any supplementary EIA report and consultation of the public and other public authorities.

In addition, section 9, subsection 3, of the Bill contains authorisation for the Minister for Transport, after negotiation with the Minister for the Environment, to establish rules, including on a coordinated and/or joint procedure for the assessments, where any project changes, etc. must be assessed under both the EIA rules and the habitat rules.

In pursuance of these authorisations in section 8, subsection 3, and section 9, subsection 3, of the Bill, it is also possible to establish rules that, where relevant for the implementation of the construction project, implement the new rules in Directive 2014/52/EU in the area of the Construction Act.

The rules in sections 7-9 and 46 of the Bill and the rules established in pursuance of section 8, subsection 3, and section 9, subsection 3, will, in relation to the processing of changes and extensions to the construction project, replace the general EIA rules in Danish legislation, including the EIA rules in the Danish Planning Act, the Danish Coastal Protection Act and the Danish Raw Materials Act, as well as the executive orders on EIA issued in pursuance of the Danish Planning Act, the Danish Raw Materials Act and the Danish Coastal Protection Act. Reference is made to section 8, subsection 4, and section 9, subsection 4, of the Bill and the comments on these sections.

It is intended that an executive order with rules established in pursuance of section 8, subsection 3, and section 9, subsection 3, of the Bill will enter into force immediately after the commencement of the Construction Act.

## 17.2. SEA Directive

Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (the SEA Directive) imposes an obligation on public authorities in Member States that are responsible for the preparation of plans and programmes that are subject to the Directive to implement an environmental assessment before the plan or programme is finally approved or adopted. The SEA Directive is implemented in Danish law by the Environmental Assessment Act, cf. Consolidation Act no. 939 of 3 July 2013 on environmental assessment of plans and programmes.

The SEA Directive establishes provisions for environmental assessment at a higher, more strategic level than the EIA Directive, which concerns specific projects.

The Bill concerns a specific construction project for a fixed link across the Fehmarnbelt with associated landworks in Denmark, and this project was prepared for adoption in detail by the Danish Parliament in accordance with the provision in the EIA Directive on adoption of projects by a specific act of national legislation. The construction project therefore falls outside the SEA Directive's object of strategic environmental assessment of plans and programmes, which creates the framework for subsequent decision-making procedures.

In the European Commission's only report to date on the application and effectiveness of the SEA Directive, it is also assumed that neither acts, bills nor policies are covered by the SEA Directive's terms 'plans' and 'programmes' and thus by the area of application of the Directive, cf. Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the application and effectiveness of the Directive on Strategic Environmental Assessment (COM/2009/0469).

In Denmark, the public authorities have in practice applied a corresponding understanding of the area of application of the Danish Environmental Assessment Act, with the result that, in continuation of the EIA studies, no strategic environmental assessment under this Act has been carried out for specific construction projects that are to be adopted by the Danish Parliament by means of a construction act.

Consequently, no environmental assessment procedure under the SEA rules has been implemented for the Bill or the construction project for a fixed link across the Fehmarnbelt with associated landworks in Denmark.

Moreover, it should be noted that very extensive preliminary studies of a fixed link across the Fehmarnbelt were also carried out in the earlier project preparation phase up to 2008, including a joint Danish-German environmental consultation process with a public phase in 2006. However, this did not have the formal nature of a strategic environmental assessment under the SEA Directive. Reference is made to the description of the studies implemented of the general comments, section 2.1, in the Bill for the Planning Act for a fixed link across the Fehmarnbelt with associated landworks in Denmark.

It should finally be noted that the Treaty between Denmark and Germany, which was made in 2008, was subject to a preliminary study in the European Commission (EU Pilot 785 and 786/10/ENVI), as the Commission wanted to assess whether there should have been an environmental assessment procedure under the SEA Directive before the Treaty was made. The replies by the Federal Republic of Germany and the Danish State to the questions asked were accepted by the Commission in October/November 2010, and the case was closed by the Commission in April 2011.

In respect of the construction phase and to ensure clarity about the relationship with the Danish Environmental Assessment Act, section 10 of the Bill proposes an explicit provision that changes or extensions to the construction project do not require assessment under the rules in the Danish

Environmental Assessment Act. This is in accordance with the above understanding of the existing rules, under which the SEA Directive and the procedures in the Danish Environmental Assessment Act do not apply to specific construction projects like the present one. The provision aims to make it clear that any decisions on changes or extensions to the construction project after the Act has been adopted do not trigger requirements for screening or environmental assessment under the Danish Environmental Assessment Act, regardless of whether such changes, etc. might trigger requirements for a supplementary EIA procedure and/or habitat assessment under sections 8 and 9 of the Bill.

### 17.3. Habitats Directive and Birds Directive (Natura 2000)

In pursuance of the Habitats and Birds Directives, a number of special protection areas (Natura 2000 sites) have been designated in Denmark. Article 6, paragraph 3, of the Habitats Directive states that, in connection with construction projects, among other things, an assessment of the project's effects on the Natura 2000 site ('impact assessment') must be implemented if a provisional assessment finds that the project contains the likelihood that it may have a significant impact on the site. If the impact assessment shows that the project may damage the Natura 2000 site (designation basis), the project cannot be implemented unless the conditions in article 6, paragraph 4, of the Directive for derogation from protection of the Natura 2000 site are met.

In this case, the adoption of the Construction Act constitutes approval of the project in relation to article 6, paragraph 3, of the Habitats Directive, and the necessary studies of the project's effects on the Natura 2000 site must therefore be implemented before the adoption of the Construction Act, possibly in connection with the EIA procedure. Consequently, the necessary habitat assessments of the project's effects on the above Natura 2000 sites were carried out in connection with the EIA studies of the construction project.

Under the derogation provision in article 6, paragraph 4, a project that may damage a Natura 2000 site may nevertheless be implemented under a number of qualified conditions and a procedure that includes information being supplied to the European Commission or, if the project may harm so-called priority species and habitat types (particularly rare or special), an opinion being obtained from the Commission unless the project is implemented in respect of human health and public safety or has significant beneficial effects on the environment.

The derogation procedure in article 6, paragraph 4, was not applied in connection with the preparation of the construction project for adoption by the Danish Parliament as the habitat assessments mentioned show that the project will not damage the Natura 2000 sites. The assessments were made within the frameworks of article 6, paragraph 3, of the Habitats Directive in accordance with previous practice.

In a judgment of 14 May 2014 in case C-521/12, T. C. Briels et al., after presentation of the EIA reports for the construction project covered by this Bill, the Court of Justice of the European Union decided for the first time on the demarcation between article 6, paragraph 3, and paragraph 4 in relation to the use of so-called preventive measures. In the judgment, the Court stated, among other things, that the protection measures that are established in a project in order to compensate for the negative effects of the project in question on a Natura 2000 site cannot be taken into consideration in connection with the assessment of the effects of the project that is prescribed in article 6, paragraph 3. The Court thus found that measures that are designed not to avoid or reduce the project's negative effects on the habitat type but subsequently to compensate for its harmful effect (for example by installing replacement natural features) are compensation measures by their nature, as discussed in article 6, paragraph 4. This situation must be processed under the Directive's derogation procedure and therefore requires that the conditions in article 6, paragraph 4, are met.

It is assessed that the construction project can be implemented without the use of the procedure in article 6, paragraph 4, of the Habitats Directive. Consequently, it is assessed that the project will not cause damage to Natura 2000 sites in accordance with article 6, paragraph 3, of the Habitats Directive, even without the involvement of compensation measures in respect of natural features. This means that the construction project can be adopted by the Danish Parliament without the conditions for derogating from the protection under article 6, paragraph 4, of the Directive having to be met.

Section 9, subsections 1-3, of the Bill on habitat assessments of any project changes, etc. after the commencement of the Construction Act contain provisions that implement, or authorise the Minister for Transport to implement, parts of article 6 of the Habitats Directive in the area of the Construction Act

Articles 12-16 of the Habitats Directive contain provisions on protection of certain animal and plant species that are listed in Annex IV to the Directive (Annex IV species).

Under article 12 of the Habitats Directive, "Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting ... deliberate disturbance of these species ... (and) deterioration or destruction of breeding sites or resting places". A corresponding obligation applies under article 13 concerning plant species listed in Annex IV (b). Under article 16 of the Directive, Member States may derogate from the provisions in articles 12 and 13, "Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range". Derogation may only take place in certain qualified cases, which are outlined in article 16.

A corresponding system of protection with derogation provisions applies under articles 5 and 9 of the Birds Directive concerning "all species of naturally occurring birds in the wild state in the European territory of the Member States to which the Treaty (establishing the European Community) applies".

Article 12 of the Habitats Directive and article 5 of the Birds Directive are implemented in Danish law by a number of provisions, including the general prohibition in section 29 a of the Danish Nature Protection Act and sections 6 a and 7 of the Danish Hunting and Game Administration Act, which are not derogated from by this Bill.

The implementation report for the construction project described a number of preventive measures, including measures designed to prevent impacts on or damage to Natura 2000 sites. When the Danish Parliament passes the Construction Act, Femern A/S and A/S Femern Landanlæg will be authorised to implement these measures without further permission, approval or exemption, etc. under other legislation, as specified in sections 11 and 12 of the Bill.

As stated in section 6.3.1 above, it is estimated, on the basis of the environmental assessments carried out, the assumed preventive measures and the establishment of replacement biotopes, etc. assumed in the implementation report, that the construction project can be implemented within the frameworks of these general rules in the legislation, which implement the species protection in the EU rules specified.

Section 9, subsection 5, of the Bill contains authorisation for the Minister for Transport, after negotiation with the Minister for the Environment, to establish rules on the protection of species listed in Annex IV of the Habitats Directive, including on derogation from protection, by means of decisions on permission for changes or extensions to the construction project after the commencement of the Construction Act. It is intended to establish rules that essentially correspond to the system of protection in section 11 of the Habitats Executive Order and the associated derogation provision in section 12 of the Executive Order. Reference is made to section 9, subsection 5, of the Bill and associated comments.

Rules established under section 9, subsection 5, will consequently help ensure that project changes, etc. in the construction phase are implemented in compliance with the obligations to protect species under the Directives in question.

#### 17.4. Water Framework Directive and Marine Strategy Framework Directive

It follows from the Water Framework Directive (Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy – Official Journal 2000 no. L327, page 1) that all surface water must, in general, achieve a good status by 2015. As part of the preparation of the EIA report, it was assessed that the coast-to-coast project can be implemented on the Danish side within the frameworks of the Water Framework Directive. In respect of Strandholm Sø lake, the exemption provision in article 4, paragraph 7, of the Water Framework Directive was applied.

Strandholm Sø lake may be removed on this basis, as the conditions for applying the exemption, including in particular that the removal is in the overriding public interest, and that the measures as a consequence of the coast-to-coast project constitute an improvement in relation to the proposed programme of initiatives under the state water plan that is described in further detail in the Water Plan for the Baltic Sea, are met. A new lake will be established nearby with supplementary natural features.

It follows from the Marine Strategy Framework Directive (Directive 2008/56/EC of the European Parliament and of the Council establishing a framework for Community action in the field of marine environmental policy – Official Journal 2008 no. L164, page 19) that a good environmental status must be established or maintained in all European marine regions by the year 2020 at the latest. As part of the preparation of the EIA report, it was assessed that the coast-to-coast project will primarily have an impact on local conditions and that, for this reason, among others, it will not impede the achievement of a good environmental status in the marine region in question.

#### 17.5. Waste Framework Directive

The Bill implements the exemption in article 2, paragraph 3, of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Official Journal 2008 no. L312, page 3) in Danish law for the construction project. Reference is made to section 6.3.3 above.

#### 17.6. Environmental Crime Directive

The Bill implements parts of Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (the Environmental Crime Directive).

Under article 3, paragraph 1 (h), of the Environmental Crime Directive, Member States must ensure that "any conduct which causes the significant deterioration of a habitat within a protected site ... constitutes a criminal offence, when unlawful and committed intentionally or with at least serious negligence". A "habitat within a protected site" means all habitats for species for which a site is classified as a special protection area under article 4, paragraph 1 or 2, of the Birds Directive (Directive 79/409/EEC) or all habitat types or habitats for species for which a site is designated as a special area of conservation under article 4, paragraph 4, of the Habitats Directive (Directive 92/43/EEC).

Under article 3, paragraph 1 (f), of the Environmental Crime Directive, Member States must ensure that "the killing, destruction, possession or taking of specimens of protected wild fauna or flora species (constitutes a criminal offence, when unlawful and committed intentionally or with at least serious negligence), except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species". The animal and plant species in question are those that are listed in Annex IV of the Habitats Directive and Annex I to the Birds Directive and discussed in article 4, paragraph 2, of the Birds Directive.

The provisions are implemented by section 48, subsection 1, of the Bill and by the general prohibitions in section 29 a of the Danish Nature Protection Act, the Danish Executive Order on protection of species and the Danish Hunting and Game Administration Act continuing to apply to works as part of the implementation of the construction project. Reference is made to the comments on section 9, subsection 5, section 11 and section 48, subsection 1.

#### 17.7. Espoo and Helsinki Conventions

Denmark has acceded to a number of international agreements on protection of, among other things, the marine environment in Danish waters, including the Helsinki Convention (HELCOM) on the Protection of the Marine Environment of the Baltic Sea Area and the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention).

Under the Espoo Convention, governments must notify and consult states if a project could have an environmental impact on their territory. Denmark and Germany are therefore under an obligation to give all countries that may be affected by the coast-to-coast project the opportunity to assess its possible impacts. Denmark and Germany have notified and consulted the countries around the Baltic Sea (Sweden, Poland, Finland, Estonia, Latvia, Lithuania and Russia) and Norway.

The main objective of the Helsinki Convention is to help protect the marine environment in the Baltic Sea against pollution. Under the provisions of the Helsinki Convention, a country must notify the Helsinki Commission and any states if a project could have a significant negative environmental impact on their territory in the Baltic Sea. Denmark notified the Helsinki Commission and subsequently the Baltic states.

The Minister for Transport received and processed the consultation responses. In accordance with the procedures under the two conventions, the Minister for Transport took the consultation responses received into consideration. Reference is made to the consultation report prepared.

With the Act, the final decision in relation to article 6 of the Espoo Convention is made. In accordance with article 6, paragraph 2, of the Espoo Convention, the countries affected will receive the Act and the comments on it, plus the consultation report, which describes the attitude to and incorporation of the consultation responses in the coast-to-coast project.

#### 17.8. Procurement Directive

The project is subject to EU procurement rules, including Directive 2004/18/EC (the Procurement Directive) and Directive 2004/17/EC (the Utilities Directive), implemented by Executive Order no. 712 of 15 June 2011 and Executive Order no. 936 of 16 September 2004, respectively, which apply to goods, services and construction and civil engineering projects.

EU procurement rules apply to state and local authorities and to public enterprises. The Directives also apply to bodies that are controlled by the state, so-called public law bodies, which are established with the particular aim of meeting the needs of the general public, although not needs of an industrial or commercial nature.

EU procurement rules entail a duty for contracting entities to follow specific procedures when making certain public contracts. Only agreements with mutual obligations, in which a contracting entity agrees to pay to an economic operator an agreed sum of money or another form of economic consideration for a service, are covered by the Procurement Directives.

The concept of mutuality dictates that the relations between the parties will typically be based on private law. Consequently, the Directives only apply to services that are performed on the basis of orders being placed. Services that are performed on another basis, for example Acts or administrative provisions, are not generally covered, unless it is necessary to supplement the statutory basis with a contract describing the operator's precise obligations.

However, the contracts that Banedanmark, the Danish Road Directorate and the institutions under the Danish Ministry of the Environment will be able to make as a consequence of this Act with, for example, consulting engineers, contractors and external consultants will have to be put up for tender under the existing EU rules.

#### 17.9. VAT Directive

From the north, the construction project will extend over Danish territory and territorial waters and the Danish Exclusive Economic Zone and on to the German Exclusive Economic Zone and German territorial waters and territory. Under the VAT Directive, Danish and German territory and territorial waters belong to the countries' VAT areas. Under existing national VAT legislation, VAT is payable on Danish territory and territorial waters but only on German territory, not German territorial waters. Supplies attributable, for VAT

purposes, to Danish territory or territorial waters are therefore subject to Danish VAT, while supplies attributable to German territory are subject to German VAT. Supplies attributable to German territorial waters are not subject to VAT.

Supplies under the works contracts, apart from temporary installations under the contract for portals, ramps and landworks, will be attributed for VAT purposes to the place of supply. Where relevant, a contract service is divided into several supplies if it can be attributed for VAT purposes to both territory and territorial waters, etc. Temporary installations under the contract for portals, ramps and landworks are attributed to Femern A/S' production area, i.e. Danish territory.

The contractors will invoice for supplies continually on account and on delivery under the contracts' payment plans, and Danish or German VAT will be settled continually and on delivery, where the supplies are subject to VAT.

As Femern A/S' use of the finished link (supply of the right of use against payment) will be subject to VAT, the company is fully entitled, under the general rules of VAT legislation, to deduct VAT on supplies purchased during the construction phase. Accordingly, A/S Femern Landanlæg will be fully entitled, under the general rules of VAT legislation, to deduct VAT on supplies purchased during the construction phase because the company will receive railway charges from the railway operators, cf. section 41 and the comments on it. This applies to Danish VAT under the Danish VAT Act, and the German authorities have stated that equivalent rules apply to German VAT. Femern A/S will therefore not be charged VAT except for the net change in cash and cash equivalents there may be from the time when a contractor charges VAT until the time when the company deducts it in the cases in which the contractor and not Femern A/S itself has to pay VAT to the tax authorities. In connection with all invoices on which VAT is payable, Femern A/S will therefore be able to deduct VAT in its Danish or German VAT returns.

#### 17.10. EETS Directive

Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community (the EETS Directive) applies to all forms of electronic collection of tolls within the EU, including collection within the road network, in urban areas and between large towns and cities, on motorways, on major and minor roads and on various systems such as tunnels, bridges and ferries.

Where tolls are collected electronically in connection with the construction and operation of the fixed link across the Fehmarnbelt, the EETS Directive and the European Commission Decision of 6 October 2009 on the definition of the European Electronic Toll Service and its technical elements apply, as is the case for the Great Belt link and the Øresund link.

#### 17.11. Relationship with EU state aid rules

It is assessed that the financing model described in section 11.1 above does not mean that state aid is paid to Femern A/S and A/S Femern Landanlæg, as these enterprises are not economically active in the sense of article 107, paragraph 1, of the Treaty on the Functioning of the European Union, and that the Commission will definitely be able to approve any state aid to these enterprises on the basis of article 107, paragraph 3 (b). It is also assessed that the Commission does not share the Government's opinion that no state aid is to be paid to Femern A/S and A/S Femern Landanlæg. For this reason and on the basis of the above undertaking, the Commission was notified of the financing model on 22 December 2014. Implementation of the project is conditional on the Commission's approval of the project's financing model.

On 16 March 2009, the Danish authorities notified the Commission of the assumed financing model for the planning phase for the fixed link across the Fehmarnbelt. On 14 July 2009, the Commission made its decision on the matter. In its decision letter, the Commission stated that Femern A/S acts as a public authority as regards the company's participation in the planning process for the infrastructure, and that funding for that purpose therefore does not constitute state aid as defined in article 107(1) of the Treaty on the Functioning of the European Union (TFEU) (ex article 87 (1) TEC). However, the Commission was

unable, on the existing basis, to rule out that public funding for the planning phase could also entail funding for the future operator.

The Commission consequently assessed, in the event that state aid pursuant to article 107(1) TFEU was involved, whether the notified financing could be approved according to the exemption in article 107(3)(b) TFEU, that provides for state aid to be given to important projects of common European interest. The Commission concluded that the fixed link across the Fehmarnbelt in its current phase and in any event in its planning phase meets the conditions for an exemption according to article 107 (3)(b).

The overall conclusion in the Commission's decision was thus that the financing measures presumably do not constitute state aid as defined in article 87(1) TEC, and that they are in any event compatible with the internal market. The Commission also emphasised that its decision was without prejudice to assessment of future financing measures pertaining to the construction project. Furthermore, the Commission took into consideration the Danish authorities' intention to notify it of the financing model for the project in the construction and operating phases before this model comes into force.

On 15 October 2014, the Commission made a decision in connection with a complaint about alleged unlawful state aid to Øresundsbro Konsortiet and the special depreciation rules and opportunities for carrying forward losses that parts of the Sund og Bælt Group currently enjoy. In connection with the case, the Government and the Swedish authorities informed the Commission that it is not intended for Øresundsbro Konsortiet to receive state aid after the debt has been fully repaid. The Governments have therefore undertaken to obtain the Commission's prior approval if, contrary to expectations, it should be necessary to grant state aid to Konsortiet after 2040. Consequently, the special rules on tax depreciation and carrying forward losses will have to be abolished no later than in 2040. In the simultaneous Bill amending the Act on Sund og Bælt Holding A/S, the Act on the planning of a fixed link across the Fehmarnbelt with associated landworks in Denmark and the Danish Corporation Tax Act, these special rules will be revoked with effect from the 2016 financial year.

On the basis of the Commission's decision in connection with the complaint about alleged unlawful state aid to Øresundsbro Konsortiet, it is assumed that the guarantees that the state makes to Femern A/S and A/S Femern Landanlæg will be limited in time.

#### 17.12. Relationship with the Aarhus Convention

The Bill meets the requirements in the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention). The EU is a contracting party under the Aarhus Convention and the Convention is therefore also implemented in EU law, cf. Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC (the former EIA Directive) and 96/61/EC.

In relation to the construction project, the Aarhus Convention applies, among other things, to the environmental impact assessments that are required under the EIA Directive, including changes to the project that may have a significant impact on the environment. Approval by the Danish Transport Authority of changes, etc. to the construction project under the proposed provision in section 8 takes the place of normal EIA permission under section 11 g, subsection 4, of the Danish Planning Act, and constitutes, in relation to the EIA Directive, the permission basis for the planning and construction of a fixed link across the Fehmarnbelt. This decision is therefore subject to articles 6 and 9, paragraph 2, of the Aarhus Convention and article 11 of the EIA Directive. The same applies to the proposed rules on supplementary EIA in the proposed section 8, subsection 2.

The Convention also applies to the Construction Act. As the Construction Act will be adopted under the conditions for application of the EIA Directive's exemption provision in article 1, paragraph 4 (formerly), the Construction Act, including the implementation report, also meets the requirements for involvement of the public under the Aarhus Convention.

Under article 9, paragraph 2, of the Aarhus Convention, each party to the Convention must, "within the framework of its national legislation, ensure that members of the public concerned, having a sufficient interest ... have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6" of the Convention. What constitutes sufficient interest is established in accordance with the general rules of Danish law and in accordance with the objective of giving the public concerned access to judicial review within the framework of the Convention. Non-governmental organisations that work to promote environmental protection and meet all requirements under national legislation are considered to have sufficient interest, cf. also article 2, paragraph 5, of the Convention.

It follows from the judgment by the Court of Justice of the European Union of 18 October 2011 in the joined cases C-128/09 – C-131/09, C-134/09 and C-135/09, Boxus and Roua et al., paragraph 57, that article 9, paragraph 2, of the Aarhus Convention and article 11 of the EIA Directive must be interpreted in such a way that, when a project that is subject to the area of application of these provisions is adopted by an Act, it must be possible, under national procedural rules, for the question of whether this Act meets the conditions in article 1, paragraph 4 (now article 2, paragraph 5), of the EIA Directive to be reviewed by a court or an independent and impartial body established by law. It also follows from article 9, paragraph 3, of the Convention that "where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment". This obligation is also considered to be met, in relation to the present Bill, by the general right to bring civil proceedings in Danish law. Under article 9, paragraph 4, of the Aarhus Convention, "the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive".

The process at Danish courts is assumed to meet the requirements in the Aarhus Convention. Under Danish practice, any person who has a legal interest under the general rules of Danish law, including organisations subject to article 2, paragraph 5, of the Aarhus Convention, may therefore, among other things, bring the question of a construction act's compatibility with, for example, the EIA Directive before the Danish courts. The same applies to decisions made under the Construction Act or Acts or rules subject to the proposed section 14. In the light of the Court of Justice of the European Union's judgment of 13 February 2014 in case C-530/11, the Commission versus the United Kingdom, it is specified in the proposed section 47 that, in connection with proceedings on matters concerning the environment that are subject to the Act, the court must ensure that the costs of the case are not insurmountably high for the parties concerned. This obligation is incumbent on all courts at all levels.

#### 18. Public authorities and organisations, etc. consulted

A draft Bill was sent to the following public authorities and organisations, etc. for consultation in the period from 28 November 2014 to 5 January 2015:

Regional Municipality of Bornholm, Danish Regions, Faxe Municipality, Guldborgsund Municipality, Local Government Denmark, Køge Municipality, Langeland Municipality, Lolland Municipality, Næstved Municipality, Region Zealand, Ringsted Municipality, Slagelse Municipality, Sorø Municipality, Stevn Municipality, Svendborg Municipality, Vordingborg Municipality, the Danish Bar and Law Society, Asfaltindustrien, the Economic Council of the Labour Movement, BAT-Kartellet, the Association of Danish Law Firms, the Danish Growth Council, Danish Operators c/o Maersk Olie og Gas, CyklingDanmark.dk, Danish Fishermen, the Sports Confederation of Denmark, Danmarks Jægerforbund, Danmarks Naturfredningsforening, the Danish Shipowners' Association, Danmarks Skibsmæglerforening, Danmarks Sportsfiskeforbund, the Danish Wind Turbine Owners' Association, Dansk Akvakultur, Dansk Amatørfiskeforening, Dansk Botanisk Forening, the Danish Construction Association, the Danish Cyclists' Federation, the Danish Energy Association, Dansk Energi Brancheforening, the Danish Chamber of Commerce, Dansk Fritidsfiskeforbund, Danish Horticulture, the Confederation of Danish Industry, the Danish Transport Federation, Dansk Jernbaneforbund, Dansk Ledningsejerforum, Dansk Metal, the Danish Ornithological Society, Dansk Sejlunion, the Danish Forest Association, Dansk Sportsdykker Forbund, the Danish Transport and Logistics Association, Danske Handicaporganisationer, Danish Ports, Danish

Maritime, DANVA (Dansk Vand- og Spildevandsforening), the Danish Ecological Council, DONG Energy, DSB, the Danish Oil Industry Association, ENERGINET. DK, the United Federation of Danish Workers (3F), Fonden Femern Belt Development, Forbrugerrådet, Forenede Danske Motorejere, the Danish Association of Consulting Engineers, Foreningen af Vandværker i Danmark, Fritidshusejernes Landsforening, the Danish Outdoor Council, Green Network, Greenpeace Danmark, the Danish Confederation of Trade Unions (LO), the Danish Agriculture & Food Council, Landdistrikternes Fællesråd, Movia, Mærsk Olie & Gas A/S, NOAH, DB Schenker A/S, Rederiforeningen af 1895, Scandlines Danmark ApS, Sund og Bælt Holding A/S, Spildevandsteknisk Forening, Trafikforbundet, Trafikselskaberne i Danmark, the Danish Wind Industry Association, Visit Denmark, WWF and Øresundsbro Konsortiet.

## 19. Summary table

	Positive consequences/reduction in costs	Negative consequences/additional costs
Financial consequences for the State, municipalities and regions	The State receives VAT revenue from cars using the part of the fixed link that is located in Danish territory. A/S Femern Landanlæg finances the annual costs of operation, maintenance and renewal of the part of the railway between Ringsted and south of Holeby that the company owns. It is estimated that the average annual cost will be DKK 234 million (2014 prices). The State will therefore save the costs of operation, maintenance and renewal of the existing installations in this section.	The local municipalities affected by the construction project and relevant government agencies will be given a number of administrative tasks in connection with the construction project that may represent a small additional cost.
Administrative consequences for the State, municipalities and regions	None.	The local municipalities affected by the construction project and relevant government agencies will be given a number of administrative tasks in connection with the construction project.
Financial consequences for the business community	The construction project is expected to generate commercial and economic benefits for the business community.	None.
Administrative consequences for the business community	None.	None.
Environmental consequences	Overall, the project will result in reduced emissions of CO <sub>2</sub> .	Area interventions, barrier effect and disruption of nature, landscape and cultural environments, among other things because the project constitutes a new source of noise and a barrier for people and animals.
Administrative consequences for citizens	None.	None.

Relationship with EU law	<p>The environmental studies and consultations carried out meet the requirements in EU law.</p> <p>The Bill also meets the requirements in the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention).</p>
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## Comments on individual provisions in the Bill

### On section 1

The proposed provision in subsection 1 authorises Femern A/S to construct and operate a fixed link across the Fehmarnbelt and to take the measures necessary to do this, including changes to the structures, cf. sections 8 and 9.

However, it has been agreed with the the political parties backing the Fehmarnbelt Fixed Link that Femern A/S will not be entitled to sign the four large tunnel contracts before a renewed assessment of the overall finances of the project, including an updated risk assessment, has been submitted to the political parties backing the project, cf. section 11.2.1. of the general comments on the Bill for further details.

The provision should be seen in connection with section 11 of the Bill, which places Femern A/S under an obligation to carry out a number of preventive measures. With the authorisation, Femern A/S is able to manage the construction of the necessary structures and facilities and take other measures required for the construction and operation of the fixed link across the Fehmarnbelt.

Since the Planning Act was passed, Femern A/S has managed the preparation, study and planning of the coast-to-coast project. In connection with the passing of the Planning Act, it was expected that Femern A/S would also be responsible for the construction and operation of the coast-to-coast project, which is proposed with this provision. The coast-to-coast project will be financed in accordance with section 4 of the Bill.

In relation to area use, the Act has legal effect only in Danish territory, and the provision in subsection 1 therefore only constitutes authorisation to do what is necessary in respect of German law in relation to the part of the coast-to-coast project that is to be implemented in German territory. Consequently, in respect of the part of the coast-to-coast project that is to be implemented in German territory, the provision authorises Femern A/S, as the developer, to acquire the necessary areas and establish the necessary structures, installations, etc.

Femern A/S will therefore have to obtain permission, etc. in the usual manner and under the existing German rules. This is in accordance with the Treaty, which, in article 1, paragraph 1, establishes that Denmark will build and operate the construction project and that Denmark will pay the costs of this. The division of tasks between Denmark and Germany is specified in article 3, paragraph 1, of the Treaty. Germany is responsible for the development of the landworks in German territory. In accordance with article 1, paragraph 1, of the Treaty, Femern A/S' authorisation therefore only covers implementing and paying the costs of the part of the coast-to-coast project in German territory that does not come under development of landworks in German territory.

The structure which Germany is responsible for constructing is specified in article 5, paragraph 2, of the Treaty. The demarcation between the structures which Femern A/S and Germany are responsible for constructing in German territory is specified in article 2, paragraphs 4 and 6, of the Treaty.

The main elements of Femern A/S' authorisation to construct and operate a fixed link across the Fehmarnbelt are listed in subsection 2.

It is proposed in subsection 2 (1) to establish an immersed tunnel between Puttgarden in Germany and Rødbyhavn in Denmark with a combined rail and road link consisting of a dual-track electrified railway and a four-lane motorway with associated structures.

It is proposed in subsection 2 (2) to establish new reclaimed land located in Danish territory off Rødbyhavn. The provision in section 1 authorises Femern A/S to implement the necessary measures to establish new reclaimed land off Rødbyhavn. The authorisation also means that Femern A/S, in accordance with the general principle of growth that the production of assets accrues to the producer, must be considered to be the owner of the new reclaimed land.

Subsection 3 specifies that the alignment on land, through the Fehmarnbelt and project areas that are

subject to subsection 2 is shown in the map schedule attached as schedule 1 to the Act.

Subsection 4 specifies that the new reclaimed land in Danish territory that is subject to subsection 2 is shown in the map schedule attached as schedule 2 to the Act.

It is proposed in subsection 5 that the Minister for Transport may lay down rules for area use of the reclaimed land established in pursuance of subsection 2 (2) that is not used for the permanent structure. One objective of the provision is to give the Minister for Transport the opportunity to ensure and regulate public access to the reclaimed land as the reclaimed land will consist of recreational areas and natural features. The Minister for Transport will involve Lolland Municipality in connection with the exercise of the provision. Rules established under subsection 5 will, under the provision, have the same legal effects as a national directive and will thus have to be respected by Lolland Municipality when it prepares the subordinate planning. Consequently, Lolland Municipality's urban area and local development plans must not conflict with the Minister for Transport's rules for area use, cf. sections 11-13 of the Danish Planning Act. If existing, valid plans do not comply with rules established under subsection 5, Lolland Municipality must amend the plans. This means that the urban area development plan must be amended when it is next revised.

On section 2

The proposed provision in subsection 1 authorises A/S Femern Landanlæg to construct and operate the Danish landworks and to take the measures necessary to do this, including changes to the structures, cf. sections 8 and 9. The provision should be seen in connection with section 11 of the Bill, which places A/S Femern Landanlæg under an obligation to carry out a number of preventive measures. With the authorisation, A/S Femern Landanlæg is able to manage the construction of the necessary structures and facilities and take other measures required for the construction and operation of the Danish landworks.

Since the Planning Act was passed, A/S Femern Landanlæg has managed the preparation, study and planning of the Danish landworks. In connection with the passing of the Planning Act, it was expected that A/S Femern Landanlæg would also be responsible for the construction and operation of the Danish landworks, which is proposed with this provision. The coast-to-coast project will be financed in accordance with section 4 of the Bill.

In the planning phase, A/S Femern Landanlæg brought in Banedanmark to manage tasks concerning preparation of the Danish railway landworks, while the Danish Road Directorate was brought in to manage tasks concerning the Danish road landworks, which is expected to continue in the construction phase.

The main elements of A/S Femern Landanlæg's authorisation to construct and operate the Danish railway landworks are listed in subsection 2. It is proposed in subsection 2 (1) to upgrade the railway installations from Vordingborg to Mashedø and from Orehoved to Rødby with a new track. The railway will follow the original alignment along the existing railway track. Curves will need to be straightened in some places to ensure that passenger trains can travel at 200 km/h.

It is proposed in subsection 2 (2) to upgrade the railway landworks from Ringsted to Mashedø and from Orehoved to south of Holeby so that passenger trains can travel at 200 km/h. The railway will be electrified and fitted with the new ERTMS2 signalling system.

In subsection 2 (3), it is proposed to establish a new passenger railway station at Ladhavevej, south of Holeby. The station will have two platforms and a platform bridge with stairs and a lift will be built, and shelters and cycle parking will be installed. An access road and a car park for buses and cars will be built.

It is proposed in subsection 2 (4) to establish a new railway bridge over Mashedø Sund and a single-track railway bascule bridge over Guldborgsund.

Subsection 3 specifies that the section of the railway and the installations that are subject to subsection 2 are shown in the map schedule attached as schedule 3 to the Act.

The main elements of A/S Femern Landanlæg's authorisation to construct and operate the Danish road

landworks are listed in subsection 4. It is proposed in subsection 4 (1) to establish a new bridge over the Sydmotorvejen motorway at Lundegårdsvej as a consequence of the construction of a new passenger railway station at Ladhavevej, south of Holeby.

It is proposed in subsection 4 (2) that environmental improvements be made to the existing motorway in the section between Sakskøbing and Rødbyhavn.

It is proposed in subsection 5 that the Minister for Transport may decide to close the motorway (Sydmotorvejen) as the main road in the section between the connection point of the fixed link and Rødbyhavn if an evaluation after the opening of the fixed link shows that the volume of traffic has fallen to a level that is appropriate to a municipal road in terms of traffic and function. If the section is reclassified as a trunk road, it must be converted to a suitable standard.

The consequences of such a decision will be that the current 4-lane motorway section is closed and removed in a short section north of the junction with Ottelundevej, while the 4-lane motorway section towards Rødbyhavn is converted into a 2-lane road of a suitable standard. These 2-lane road sections will, after they have been built, be classified as municipal roads, and the parts of the 4-lane motorway section that are closed as a trunk road and will not form part of the 2-lane municipal road will be closed and removed.

The proposed provision in subsection 6 specifies that the section specified in subsection 5 is shown in the map schedule attached as schedule 4 to the Act.

It is proposed in subsection 7 that the Minister for Transport be authorised, in connection with the opening of the new upgraded railway, to close the existing section of railway from Rødbyhavn to the point at which the new upgraded railway turns off towards the tunnel mouth. After the establishment of the new upgraded railway, trains will travel on the new upgraded section towards the tunnel mouth and train operation will therefore not be maintained to Rødbyhavn. The authorisation means that the closed section of railway can be removed if this is considered to be relevant.

On section 3

In subsection 1 of the provision, it is proposed that Femern A/S and A/S Femern Landanlæg be subject to Danish corporate legislation with the amendments specified in subsections 2 and 3 of the provision. The provision entails, for example, that rules on dividend payment, changes in capital and employee representation on the companies' Boards are governed by the Danish Companies Act.

In subsection 2, it is proposed that the Minister for Transport must approve the Articles of Association and amendments to them for Femern A/S and A/S Femern Landanlæg. Under the Danish Companies Act, this approval would have to be by the Annual General Meeting. After the Act has been passed, Femern A/S' and A/S Femern Landanlæg's current Articles of Association will be amended in accordance with this Act.

In subsection 3, it is proposed that, in matters of material importance, the Minister for Transport may give Femern A/S and A/S Femern Landanlæg general and specific instructions for the performance of the companies' activities. Under the Danish Companies Act, the shareholders would only have the opportunity to exercise their influence at the Annual General Meeting. The provision therefore means that, on material matters, the Minister for Transport may give the companies instructions, even outside the Annual General Meeting. The intention of this provision is not for the Minister for Transport to be able to intervene in the day-to-day operation of the companies, only in cases with wider scope.

This authorisation to give instructions also means that the Minister for Transport is entitled to order Femern A/S not to sign the four large tunnel contracts before a renewed assessment of the overall finances of the project, including an updated risk assessment, has been submitted to the political parties backing the project, cf. section 11.2.1 above for further details on the construction costs of the coast-to-coast project.

On section 4

The provision in subsection 1 gives Femern A/S and A/S Femern Landanlæg extensive rights to raise

loans and use other financial instruments, including in international capital markets and by using existing and any future financial instruments, for example various forms of derivatives.

Loans and other financial instruments must be used to finance and refinance planning, construction and operation and other necessary measures in relation to the construction and operation of the construction project. Loans must be raised as specified by the Minister of Finance in order to achieve the best possible terms.

In subsection 2, the Minister of Finance is authorised to issue a Treasury guarantee for the obligations of Femern A/S and A/S Femern Landanlæg relating to loans and other financial instruments. The content of the provision corresponds to section 7, subsection 3, of the Planning Act.

In pursuance of subsection 3, the central government is also entitled to grant government re-lending as specified by the Minister of Finance. The Appropriation Acts will include authority for the central government to grant this re-lending. The loan proceeds are paid from the central government's account and the derived financing requirement is covered by regular government on-the-run issues. The companies pay interest and instalments to the central government.

In pursuance of subsection 4, the central government guarantees, without any specific notification in each case, Femern A/S' and A/S Femern Landanlæg's financial obligations that are not guaranteed in subsection 2. In pursuance of this provision, the government guarantee is limited to obligations that the two specified companies have assumed in relation to the construction of the construction project, but will also apply to obligations in connection with the construction of the construction project that the companies have assumed before the structures are taken into use but where the companies' obligations only cease after the time at which they are taken into use.

The provision means that, for example, arbitration cases concerning works in connection with the construction project that are carried out up to the time when the fixed link is taken into use are covered by the central government's liability, even if the arbitration cases are only concluded or initiated after it has been taken into use.

However, obligations for, for example, repair, operation and maintenance of the fixed link and any new works that are carried out after it has been taken into use will not be covered by the central government's liability in pursuance of subsection 4. Equally, financial obligations that the companies have assumed in the construction phase but are not linked to the actual construction of the construction project will not be covered by the central government's liability.

On section 5

Under the provisions in subsections 1 and 2, Femern A/S and A/S Femern Landanlæg separately pay the costs for planning, construction, operation and other necessary measures in relation to the construction and operation of the structures covered by sections 1 and 2. This also covers costs as a consequence of the performance of the works, for example any liability for damages incurred by the companies.

The provision in subsection 3 establishes that costs associated with the operation of the structure specified in section 2, subsections 4 and 5, are paid by the Danish Road Directorate.

The title to the structures, assets, real property, etc. that Femern A/S and A/S Femern Landanlæg pay to acquire in connection with the performance of the companies' tasks, the division of the title to the coast-to-coast project and the landworks between the companies and the division in relation to the part of the railway landworks that is expected to be owned by the State and A/S Femern Landanlæg, respectively, and in relation to the road landworks in Denmark, are governed by sections 38 and 39.

The provision is in accordance with articles 6 and 8 of the Treaty.

On section 6

The provision in subsection 1 means that the Minister for Transport may transfer his or her powers in this

Act to Femern A/S or A/S Femern Landanlæg, where appropriate.

The provision in subsection 2 establishes the opportunity for the Minister for Transport to decide that selected tasks concerning the construction and operation work that may be covered by the tasks incumbent on Femern A/S or A/S Femern Landanlæg under sections 1 and 2 are to be managed by Banedanmark, the Danish Road Directorate or institutions under the Danish Ministry of the Environment.

As competence for the railways rests with Banedanmark, the Minister for Transport may, under section 6, subsection 2, of the Bill, decide to transfer tasks concerning the construction and operation of railway installations to Banedanmark. Accordingly, competence for the roads rests with the Danish Road Directorate, for which reason the Minister for Transport may, under section 6, subsection 2, of the Bill, decide to transfer tasks concerning the construction and operation of road installations to the Danish Road Directorate. Moreover, it will be possible to transfer tasks to institutions under the Danish Ministry of the Environment, including the Danish Nature Agency, when this is considered to be appropriate in respect of these institutions' environmental expertise.

The Minister for Transport will establish rules on the division of tasks to be managed by Banedanmark, the Danish Road Directorate and institutions under the Danish Ministry of the Environment in relation to the tasks managed by Femern A/S and A/S Femern Landanlæg. However, it is assumed that, for the tasks that may be transferred to Banedanmark, the Danish Road Directorate and institutions under the Danish Ministry of the Environment, the institutions will be regarded as developers with associated liability, obligations and rights, including in relation to optimum time and cost management of the tasks.

Where the Minister for Transport decides that tasks are to be transferred to Banedanmark and the Danish Road Directorate, the Minister for Transport will also have to make a decision on the basis for establishing title in accordance with section 39 of the Bill.

It is assumed that the decision by the Minister for Transport to transfer the tasks is accompanied by financing of the tasks. The Appropriation Acts will include a special appropriation provision to the effect that Banedanmark and the Danish Road Directorate may receive revenue under the contracts with the companies and costs may be paid under these contracts. The same will apply in connection with tasks transferred to institutions under the Danish Ministry of the Environment.

Where Banedanmark, the Danish Road Directorate or institutions under the Danish Ministry of the Environment involve private enterprises in the performance of these tasks, these contracts will be put up for tender under the existing national rules and EU rules.

Under section 3, subsection 3, of the Bill, the Minister for Transport may, on matters of material importance, give the companies general or specific instructions for the performance of their activities. This authority to give instructions also applies in connection with delegation under section 6.

On section 7

Under the proposed provision in section 7, the construction project must be implemented within the framework of the project's environmental impact assessments.

When the Danish Parliament passes the Construction Act, Femern A/S and A/S Femern Landanlæg will be authorised to implement the construction project in pursuance of the provisions in sections 1 and 2 of the Bill and schedules 1-4 to the Act, the project description in sections 3-5 of the general comments on the Bill and the implementation report that applies to the performance of the work. The environmental impact of the construction project is described and assessed in the environmental studies of the project, i.e. in the EIA reports with their supplements, and the assessment of the impact of the project on Natura 2000 sites, on which the Danish Parliament's adoption of the Act is based. The Construction Act takes the place of the EIA permission the project would otherwise have needed under the general EIA rules, and the Construction Act also constitutes approval of the construction project under article 6, paragraph 3, of the Habitats Directive.

Projects that are adopted in detail by a special Act are exempt from the normal EIA rules in the Danish

Planning Act, cf. section 11 h of the Danish Planning Act. When EIA permission is granted under the general rules, it will be an assumption, possibly formulated as a condition, that the project is established in accordance with the assumptions on which the EIA report produced is based, and that it therefore remains within the environmental assessments contained in the report (although the limits may be made stricter in other conditions or decisions, etc. concerning the project).

The provision in section 7 has a corresponding objective in relation to the implementation of the construction project. Under this provision, Femern A/S and A/S Femern Landanlæg (Banedanmark and the Danish Road Directorate) and, in practice, the contractors, are under an obligation to carry out the relevant construction and civil engineering works in such a way that the impact on the environment, including the impact on Natura 2000 sites, is kept within the limits of the project's environmental impact assessments, cf. above. The Minister for Transport supervises this.

The environmental impact of the construction and civil engineering works carried out in accordance with the implementation report must normally be assumed to lie within the limits of the construction project's environmental impact assessments in the EIA reports and their supplements. If the implementation report contains instructions, etc. on the performance of the construction project, these instructions apply regardless of whether they are more restrictive for the developer than the limits, etc. specified in or used as the basis for the project's environmental impact assessments.

As stated in the reference to sections 8 and 9, the provision in section 7 does not entail a restriction in the right to make changes or extensions to the construction project, where this is done in accordance with the rules in sections 8 and 9.

On section 8

It is proposed in subsection 1 that any changes to or extensions of the construction project that may be harmful to the environment may not be commenced without the consent of the Danish Transport Authority.

The provision concerns especially changes, etc. in the construction phase that may be harmful to the environment and cannot be kept within the construction project's environmental impact assessments in the EIA reports and their supplements that were produced prior to the Construction Act or supplementary EIA reports that may be produced under section 8. This may concern both changes to the physical structures and changes to the construction activities in the construction phase. The provision applies only during the construction phase, until the entire construction project has been completed. Subsequently, the construction and any need to make changes or extensions to the construction will be subject to the general rules of nature and environmental legislation.

The provision applies to changes or extensions when they may be harmful to the environment, which corresponds to 13 a in Annex II to the EIA Directive. There are not expected to be any changes or extensions subject to Annex I to the EIA Directive (mandatory EIA obligation) but, if there are, they will also be subject to the provision. Article 2, paragraph 1, of the EIA Directive states that, among other things, changes or extensions to projects that have already been approved must be subject to a requirement for permission.

The phrase "changes to or extensions of the construction project that may be harmful to the environment" should be understood in accordance with the corresponding phrase in Annex II (13 a) to the EIA Directive and in schedule 2 (14) to Danish Executive Order no. 1184 of 6 November 2014 on the assessment of the effects of certain public and private projects on the environment in pursuance of the Danish Planning Act (EIA Executive Order). Project changes, etc. that entail derogation from the implementation report will generally always be subject to subsection 1. The notification rules established in pursuance of subsection 3 (1) will therefore require that notification of such project changes, etc. be given.

The requirement for prior permission also applies where screening under subsection 2 results in no supplementary EIA being required. The Danish Transport Authority may also establish conditions for such permission or rules laid down in pursuance of subsection 3 (4), cf. below.

It follows from the proposed provision in subsection 2 that the Danish Transport Authority decides, on the

basis of a notification from Femern A/S or A/S Femern Landanlæg, whether a supplementary EIA report must be prepared before permission is granted under subsection 1 (screening). In such case, Femern A/S or A/S Femern Landanlæg will prepare the supplementary EIA report. The Danish Transport Authority publishes the report in order to consult the public and the authorities concerned.

The planned process means that Femern A/S or A/S Femern Landanlæg, as developer, must give notification of changes or extensions to the construction project that may be harmful to the environment. The detailed requirements for the notification are established in rules in pursuance of subsection 3 (1). Notification must be given in advance, and project changes and extensions that may be harmful to the environment may not be started until the Danish Transport Authority has made a decision under subsection 1.

Changes and extensions to the construction project that undoubtedly cannot be harmful to the environment may be implemented without advance notification under section 8. Femern A/S or A/S Femern Landanlæg must notify the Danish Transport Authority of other project changes, etc. In cases of doubt, the Danish Transport Authority assesses, on the basis of the notification and any other information obtained, whether the environmental impact of the project change, etc. of which it has been notified falls within the framework of the previous assessments of the construction project's impact on the environment, cf. section 7, and is in accordance with the implementation report. If it does, the Danish Transport Authority confirms that the project change, etc. of which it has been notified may be implemented. If this is not the case, the Danish Transport Authority must assess, by means of screening, whether supplementary EIA is required.

The decision by the Danish Transport Authority on whether there is an obligation to prepare a supplementary EIA report (screening) must be made in accordance with the general criteria in Annex III to the EIA Directive. Rules on this must be established in pursuance of subsection 3 (3). The decision must be published in accordance with rules established under subsection 3 (5).

In accordance with the EIA Directive, it is established that the supplementary EIA report is to be prepared by the developer. Depending on which part of the construction project the changes, etc. concern, the report must therefore be produced by Femern A/S or A/S Femern Landanlæg. There may be situations in which a project change, etc. concerns several developers. In such case, the report is to be prepared by them jointly.

In pursuance of subsection 3 (2), rules are established to the effect that the Danish Transport Authority may request other authorities, including Banedanmark and the Danish Road Directorate, plus Femern A/S or A/S Femern Landanlæg, to provide relevant information and assessments for both the screening and, if there is an obligation to prepare an EIA, the supplementary EIA report.

The Danish Transport Authority must ensure that the supplementary EIA report meets the content requirements specified by the rules established in pursuance of subsection 3 (3) in accordance with article 5 of the EIA Directive, cf. Annex IV of the Directive.

The Danish Transport Authority publishes the supplementary EIA report in order to consult the public and the authorities concerned and processes the consultation responses received. In the event of project changes, etc. with transboundary environmental impact, the Danish Transport Authority must also ensure that the public and authorities in the Member States affected are consulted in accordance with the EIA Directive and the Espoo Convention.

On the basis of the consultation, the Danish Transport Authority decides whether the project change, etc. is permissible, possibly on certain conditions. Rules on this must be established in pursuance of subsection 3 (4). The decision must be published in accordance with rules established under subsection 3 (5).

It is proposed in subsection 3 that the Minister for Transport, after negotiation with the Minister for the Environment, may establish rules on the case management, including on the implementation of the screening and the supplementary EIA, as well as on decisions under subsections 1 and 2. The provisions in subsections 1 and 2, with the rules established in pursuance of subsection 3 with effect for the construction project, will replace the general EIA rules in Danish legislation, cf. the comments on subsection 4 below. The rules in pursuance of subsection 3 will be established in accordance with the EIA

Directive.

It is intended that an executive order with rules established in pursuance of subsection 3 and section 9, subsection 3, will enter into force immediately after the commencement of the Construction Act.

Under 1), rules may be established on giving notification under subsection 2 of changes or extensions to the construction project to the Danish Transport Authority, including on both the form and content of the developer's notification. Among other things, rules may be established on the information required for a screening to be carried out, as well as rules to the effect that the developer must use a specific form for the notification.

Under 2), rules may be established on the duty of other authorities, Femern A/S and A/S Femern Landanlæg to provide the information necessary to assess changes or extensions under subsection 2. The rules will oblige other authorities, including Banedanmark and the Danish Road Directorate, plus Femern A/S and A/S Femern Landanlæg, at the request of the Danish Transport Authority, to disclose relevant information and assessments for both the screening and, if there is an obligation to prepare an EIA, the supplementary EIA. The information must be made available to the developer that is responsible for the notification or is to prepare the supplementary EIA report, cf. subsection 2.

Under 3), rules may be established on the implementation of assessments under subsection 2 and on the content of the EIA report. The provision concerns both the initial assessment of whether there is an obligation to prepare an EIA (the screening) and the implementation of the supplementary EIA, where this is required, including preparation of the supplementary EIA report and consultation of the public and public authorities affected about this report.

It is intended to establish rules that essentially correspond to the content of section 3, cf. schedule 3 (Decision on whether there is an obligation to prepare an EIA or not), section 4 (Establishment of the content of the EIA report (scoping)), section 5, cf. schedule 4 (the EIA report) and section 6 (Consultation of the public about the EIA report) of the Danish EIA Executive Order. However, it will be necessary to establish the rules in due consideration of the fact that they only concern this construction project, among other things by specifying that a supplementary EIA under the Construction Act is not implemented in connection with a municipal planning process, which is normally the case in connection with EIA under the Danish Planning Act. It will also be possible to take into account that section 8 only concerns project changes, etc. and supplementary environmental assessments in relation to the EIA material that has been subject to public consultations, etc. For these reasons, the supplementary EIA report may have a limited scope in the context.

In relation to consultation of the public, it will also be possible to set a time limit that is shorter than that under the Danish EIA Executive Order (8 weeks), as the EIA Directive requires a minimum time limit of 30 days.

In connection with these rules, it is also necessary to establish rules that implement the procedural requirements in articles 7-9 of the EIA Directive when a project change, etc. can be expected to have transboundary environmental impact, including rules on the involvement of the public and authorities in the Member States affected, cf. the comments on subsection 2.

Under 4), it is possible to establish rules to the effect that the Danish Transport Authority may set conditions for the decision on permission under subsection 1, including on the content of such conditions. It must be possible to set conditions to the effect that the developer must implement specific measures with a view to avoiding, reducing or neutralising the harmful impact on the environment that may be outlined in the supplementary environmental impact assessment, when such an assessment has been produced. It must also be possible to set conditions that take into account the considerations under the rules in nature and environmental legislation that are derogated from in section 12 of the Bill, as a project change, etc. in pursuance of section 12 may be implemented without permission, approval or exemption under this legislation that would otherwise be required. In addition, it must be possible to set the conditions that are regarded as being important preconditions for approval of the project change, etc.

It will also be possible to set conditions on, for example, preventive measures in relation to nature in cases

in which permission is granted for the change, etc. without a supplementary EIA having been carried out because the screening concluded that there was no obligation to carry out an EIA.

Under 5), rules may be established on publication, including on digital announcement only, of decisions under subsections 1 and 2 and of the supplementary EIA report. The rules must meet the requirements in the EIA Directive for publication of environmental assessments and the basis for them, and on publication of the decisions in question, including decisions that there is no obligation to prepare an EIA. The provision on digital announcement only corresponds to section 11 g, subsection 2 (3), and section 11 h, subsection 2, of the Danish Planning Act.

It is proposed in subsection 4 that provisions in other legislation that stipulate requirements for environmental impact assessment (EIA) do not apply to changes and extensions covered by subsection 1. The provisions in subsections 1 and 2, and the rules established in pursuance of subsection 3 will therefore replace the general EIA rules in Danish legislation, including the EIA rules in the Danish Planning Act, the Danish Coastal Protection Act and the Danish Raw Materials Act, and Danish Executive Order no. 764 of 23 June 2014 on the assessment of the effects of certain public and private projects on the environment (the EIA Executive Order) in pursuance of the Danish Planning Act, Danish Executive Order no. 579 of 29 May 2013 on environmental assessment of certain installations and measures in territorial waters, issued in pursuance of the Danish Coastal Protection Act, among other things, and Danish Executive Order no. 1422 of 12 December 2011 on environmental assessment of raw material extraction on the seabed, issued in pursuance of the Danish Raw Materials Act.

In subsection 5, it is proposed that the decisions by the Danish Transport Authority under subsections 1 and 2 may not be referred to any other administrative authority. The provision covers both screening decisions on whether a supplementary EIA is to be implemented (EIA obligation) and decisions on EIA permission, including on conditions for such permission. The proposal on preclusion of the right to appeal was found necessary in respect of the progress and finances of the construction project and to create certainty for the conditions for both the project and the residents, etc. in the construction period. The decisions may, however, be brought before the courts, cf. section 47 of the Bill.

On section 9

In subsections 1 and 2, it is proposed that changes or extensions to the construction project that, in themselves, or in connection with other plans and projects, may have a material impact on a Natura 2000 site may not be initiated without the consent of the Danish Transport Authority. If, on the basis of a notification from Femern A/S or A/S Femern Landanlæg, cf. section 8 (2), the Danish Transport Authority assesses that a change or extension to the construction project may have a significant impact on a Natura 2000 site, a detailed assessment of the impact of the change or extension on the Natura 2000 site must be carried out in relation to the conservation objective of the site in question. If the assessment shows that it cannot be ruled out that the change or extension will damage the Natura 2000 site, the Danish Transport Authority may not consent to the change or extension unless the special conditions for derogating from the protection of the Natura 2000 site are met, cf. below.

The proposed provisions correspond to section 7, subsections 1 and 2, of Danish Executive Order no. 408 of 1 May 2007 on designation and administration of international nature protection sites and protection of certain species as amended (the Danish Habitats Executive Order), which implements article 6, paragraph 3, of the Habitats Directive (92/43/EEC).

It is proposed that the Danish Transport Authority be assigned competence to process project changes, etc. of which it has been notified in relation to the Natura 2000 rules. Reference is made here to section 6 of the general comments and section 46 of the Bill and the comments on the section.

The proposed provisions mean that changes or extensions to the construction project that undoubtedly cannot have a material impact on a Natura 2000 site may be implemented without prior notification under section 9. Femern A/S or A/S Femern Landanlæg must notify the Danish Transport Authority of other project changes. In cases of doubt, the Danish Transport Authority assesses, on the basis of the notification and any other information obtained, whether the impact of the project change, etc. of which it has been notified falls within the framework of the previous assessments of the construction project's

impact on Natura 2000 sites, cf. section 7, and is in accordance with the implementation report. If this is the case, the Danish Transport Authority confirms that the project change, etc. of which it has been notified may be implemented. If this is not the case, the Danish Transport Authority must carry out a provisional assessment of the project change or extension of which it has been notified (screening). The provisional assessment is carried out to assess whether the project change, etc. may have a significant impact on a Natura 2000 site. The objective of the provisional assessment is to decide whether the change, etc. is such that a more detailed impact assessment is required.

It follows from the practice of the Court of Justice of the European Union concerning article 6, paragraph 3, of the Habitats Directive (for example the judgment of 7 September 2004 in case C-127/02 Waddenzee (paragraph 45)) that, if it is not possible to rule out, on the basis of objective criteria, that the project change, etc., in itself or in connection with other projects, may have a significant impact on a Natura 2000 site, a more detailed impact assessment must be carried out. If a material impact can be ruled out on the basis of the result of the provisional assessment, the change, etc. may be permitted under subsection 1.

When the Danish Transport Authority has carried out an impact assessment, the Danish Transport Authority may consent to the change of which it has been notified if, on the basis of the impact assessment and in consideration of the conservation objective of the Natura 2000 site, the Authority is certain that the project change, etc. will not damage the integrity of the Natura 2000 site (the designation basis). This is the case when, from a scientific point of view, it is possible to establish without any reasonable doubt that no such impact will occur. If this is not possible, the Danish Transport Authority must reject the project change of which it has been notified and the project change may not be implemented unless the conditions in section 10 of the Danish Habitats Executive Order and article 6, paragraph 4, of the Habitats Directive for derogating from protection of the Natura 2000 site have been met. Reference is made to the comments on subsection 5 below.

It is proposed in subsection 3 that the Minister for Transport, after negotiation with the Minister for the Environment, may establish rules on the implementation of the provisional assessment and the habitat impact assessment, as well as on decisions under subsections 1 and 2. It is intended to issue a general executive order with the rules established in pursuance of subsection 3 and section 8, subsection 3. The proposed 1) - 5) correspond, with some technical differences, to section 8, subsection 3, 1) - 5), of the Bill. Consequently, reference is made to the comments concerning these provisions.

In rules established in pursuance of 3), it will also be possible to determine that a draft habitat impact assessment under subsection 2 must be produced by Femern A/S or A/S Femern Landanlæg for the Danish Transport Authority's case processing and assessment. This corresponds to the obligation for the developer concerning production of supplementary EIA reports, which, in accordance with the EIA Directive, is stipulated in section 8, subsection 2, of the Bill.

In rules established in pursuance of 4), it is also possible to determine that, when granting permission under subsection 1, the Danish Transport Authority may also set conditions, for example on remedial measures to avoid or reduce any negative impact of the project change on a Natura 2000 site. This also applies in cases in which permission is granted for the change, etc. without a habitat impact assessment having been carried out because the screening concluded that there would be no material impact on a Natura 2000 site.

Under 6), it is possible to establish rules on a coordinated and/or joint procedure for the supplementary EIA and the habitat impact assessment. The authorisation is designed to cover cases in which a change, etc. triggers requirements for assessments under both the EIA and Natura 2000 rules. Article 2, paragraph 3, of the EIA Directive states, among other things, that, in the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from the EIA Directive and the Habitats Directive, Member States shall, where appropriate, ensure that coordinated and/or joint procedures fulfilling the requirements of both sets of EU rules are provided for. The rules established in pursuance of 6) will implement article 2, paragraph 3, in relation to project changes, etc. in the area of the Construction Act as there may be cases in which any changes or extensions to the construction project trigger requirements for a supplementary impact assessment under both section 8 (EIA) and section 9 (Natura 2000). Reference is made to section 6.2 of the general comments and section 46 of the Bill and the comments on the section.

If an impact assessment carried out under subsection 2 shows that it is not possible to rule out that the change or extension of which notification has been given will damage a Natura 2000 site, the Danish Transport Authority may generally not grant permission for the change or extension, cf. subsection 2, second sentence. However, in pursuance of 7), it is possible to establish rules on the conditions for permitting changes or extensions to the construction project when the assessment under subsection 2 does not rule out damage to a Natura 2000 site. Under such rules, the Danish Transport Authority will therefore be able to derogate from subsection 2, second sentence, and it is intended that rules will be established that correspond to the derogation procedure in section 10 of the Danish Habitats Executive Order.

It follows from section 10 of the Danish Habitats Executive Order that a project that may damage a Natura 2000 site may nevertheless be implemented under a number of qualified conditions and a procedure that includes information being supplied to the European Commission or, if the project may harm so-called priority species and habitat types (particularly rare or special), an opinion being obtained from the Commission unless the project is implemented in respect of human health and public safety or has significant beneficial effects on the environment. The procedure requires the involvement of the Danish Ministry of the Environment (Danish Nature Agency) before a decision is made.

The rules established in pursuance of 7) will implement article 6, paragraph 4, of the Habitats Directive in respect of project changes and extensions in the area of the Construction Act. Reference is made to section 17.3 of the general comments as regards article 6, paragraph 4, of the Habitats Directive.

It is proposed in subsection 4 that provisions in other legislation that stipulate requirements for assessment of impact on Natura 2000 sites do not apply to changes and extensions covered by subsection 1. The proposed rule covers the provisions in other legislation that implement the obligations in article 6, paragraph 3, of the Habitats Directive, including sections 7-9 of the Danish Habitats Executive Order, as these obligations, in respect of changes or extensions to the project, are implemented with the rules in subsections 1 and 2, and rules established in pursuance of subsection 3, cf. above.

It is proposed in subsection 5 that the Minister for Transport, after negotiation with the Minister for the Environment, may establish rules on protection of animal and plant species in connection with decisions on permission for changes or extensions to the construction project. It is intended for rules to be established that essentially correspond to the scheme in sections 11-12 of the Danish Habitats Executive Order concerning protection of species listed in Annex IV to the Habitats Directive and on the right to derogate from this protection. It is proposed that administration of the rules established under subsection 5 be assigned to the Danish Transport Authority in connection with the Authority's tasks under subsections 1 and 2.

Under section 11 of the Danish Habitats Executive Order, permission and exemption, etc. under a number of provisions in environmental legislation may not be granted if the activity applied for may damage or destroy breeding sites or resting places in the natural range of animal species listed in Annex IV (a) to the Habitats Directive or destroy the plant species listed in Annex IV (b) to the Directive in all stages of life. The assessment must be clear from the decisions made under the relevant provisions in the environmental legislation. Under section 12 of the Danish Executive Order, the authority that is to make the decision may derogate from section 11 if no satisfactory alternative is found and if the derogation does not prevent the maintenance of the conservation status of the population in question in its natural range. Derogation may only take place in the situations that are listed exhaustively in section 12. An opinion must be obtained from the Danish Nature Agency before a decision is made, and the Agency must be notified of the final decision in order that it can inform the European Commission.

Sections 11-12 of the Danish Habitats Executive Order, with a number of other provisions in the legislation, implement parts of articles 12-16 of the Habitats Directive on species listed in Annex IV to the Directive and articles 5 and 9 of the Birds Directive in respect of "all species of naturally occurring birds in the wild state in the European territory of the Member States to which the Treaty (establishing the European Community) applies". Reference is made to section 17.3 of the general comments as regards articles 12-16 of the Habitats Directive.

The rules established in pursuance of subsection 5 will therefore help ensure that the obligations to protect species under the Directives specified are met in connection with decisions on permission for project changes and extensions in the area of the Construction Act.

Among other things, the rules will mean that requirements may be made, as conditions for the permission, on preventive measures that Femern A/S or A/S Femern Landanlæg may, where appropriate, carry out under the rules in section 9 of the Bill.

In subsection 6, it is proposed that the decisions by the Danish Transport Authority under subsections 1 and 2 and under rules laid down in pursuance of subsections 3 and 5 may not be referred to any other administrative authority. The provision covers both provisional assessment (screening decision) of whether an impact assessment must be carried out and decisions on permission, including on conditions for such permission. The proposal is based on consideration for the progress and finances of the construction project. The decisions may, however, be brought before the courts, cf. section 47 of the Bill.

On section 10

In order to establish clarity on the environmental assessment procedures to be followed in the event of changes or extensions to the construction project for a fixed link across the Fehmarnbelt with associated landworks in Denmark, it is proposed in section 10 to stipulate that such changes or extensions do not require assessments under the Danish Act on environmental assessment of plans and programmes (the Danish Environmental Assessment Act)

It follows from the proposed provision that any decisions on changes or extensions to the construction project after the Act has entered into force cannot trigger requirements for screening or environmental assessment under the Danish Environmental Assessment Act, regardless of whether such changes, etc. might trigger requirements for a supplementary EIA procedure and/or habitat assessment under sections 8 and 9 of the Bill.

It should also be noted here that the rules in the Danish Planning Act on preparation of urban area and local development plans do not apply to the construction project, cf. section 12, subsection 2, of the Bill, and that any changes or extensions to the project do not trigger any other requirements for the adoption of new plans at municipal, regional or national level either. The existing urban area and local development plans, etc. for the areas subject to the Construction Act are not revoked by the Construction Act, but the plans do not apply to the implementation of the construction project.

Reference is made to section 17.2 of the general comments.

On section 11

Sections 1 and 2 of the Bill give Femern A/S and A/S Femern Landanlæg the necessary authority to implement preventive measures to the required extent. However, the provisions in subsections 1 and 2 place Femern A/S and A/S Femern Landanlæg under an obligation to implement preventive measures to the extent necessary to counteract any harmful impact as a consequence of the construction and if they are considered necessary for general nature protection, including under obligations in EU law that follow from the Birds and Habitats Directives. To meet these obligations, preventive measures are implemented via the Construction Act partly to contribute to the necessary extent to ensuring the construction work does not have a harmful impact on species and populations.

The EIA report and the implementation report describe a number of specific preventive measures that will be implemented, including the principles for measures to ensure that replacement natural features develop as intended. It will be possible to identify possible preventive measures other than those specified in the Construction Act and the implementation report in connection with additional field studies of the area and the implementation of the project. Such other preventive measures will be able to replace those described in the EIA report to the extent to which they will not also have the potential to damage other parts of the environment.

On the basis of the assumed preventive measures and the establishment of replacement biotopes, etc.

assumed in the implementation report, it is assessed that the construction project may be implemented within the framework of sections 29 a and 30 of the Danish Nature Protection Act, including the Danish Executive Order on protection of species, and section 6 a, subsections 1 and 2, and section 7 of the Danish Hunting and Game Administration Act, implementing the species protection in article 5 of the Birds Directive and article 12 of the Habitats Directive. These provisions continue to apply to the construction project, although section 13 applies.

It may also be necessary to take measures to prevent damage to the Natura 2000 sites affected by the project. On assessment in relation to Natura 2000 sites, reference is made to section 15.5.3 of the general comments.

The provision in subsection 3 gives Femern A/S and A/S Femern Landanlæg authority to implement other preventive measures that are necessary for nature protection. Under the provision, areas that are subject to section 3 of the Danish Nature Protection Act may be replaced if they are affected by the project. Accordingly, it will be possible to implement measures to protect species other than those that are subject to the Habitats and Birds Directives, including other species subject to the Danish Executive Order on protection of species.

On section 12

The areas in which the construction project is to be implemented are subject to a number of provisions in general nature and environmental legislation, including the Danish Nature Protection Act, the Danish Forests Act and the Danish Planning Act, that regulate the right to carry out physical works or interventions in areas. The objective of the provision is to clarify the relationship between the Construction Act and the rules in nature and environmental legislation that require permission, etc. before physical measures are taken in open country and in and near certain habitat types and animal and plant species.

Even though the provision means that parts of the general nature and environmental legislation are derogated from, the considerations behind these rules are still met in the construction project by Femern A/S and A/S Femern Landanlæg being required, in the performance of the project, to comply with the Construction Act and in the guidelines contained in the comments on the Bill and the implementation report and the frameworks of the environmental studies. Overall, these frameworks ensure that the considerations are met that would normally have been met via the provisions that are derogated from. Reference is made to the implementation report for a description of the relevant works implemented in the construction project that may normally require permission under the provisions in question.

The provisions and requirements for permission or exemption in the other legislation that is not explicitly derogated from continue to apply to the construction project, including the rules in the Acts on supervision, enforcement and penalties. The same applies to other rules, for example on damages or on environmental damage in the respective Acts. However, depending on the circumstances, the proposed section 13 applies to decisions, including decisions concerning supervision, enforcement and penalties concerning the construction project, made under this provision. On the relationship between supervision of compliance with the Construction Act and other legislation, reference is made to section 6.3.4 of the general comments.

The provision applies not only in relation to the permanent structure (tunnel trench, railway installations, etc.) but also in relation to works in the temporary project area, including the tunnel element factory and the work harbour. However, the provision only governs works that are subject to sections 1, 2 and 11 of the Bill. The performance of works that are not subject to these sections therefore still requires that Femern A/S and A/S Femern Landanlæg obtain the necessary permissions and exemptions, etc. under the legislation specified in the provision. The provision also only applies in the construction phase of the project, which is defined in this context as the phase up to 2 years after the opening of the coast-to-coast project. In connection with administration under the Acts specified after this phase, the general principle is that the structure may be operated and maintained in the normal manner when the construction project has been completed, but if, as part of the operating phase, new changes need to be made to the status of, for example, a protected area or a nature area, the normal rules apply.

Under subsection 1, the performance of works under sections 1, 2 and 11 of this Act does not require

exemption or permission under sections 50 and 65, subsections 1-3, cf. part 2, of the Danish Nature Protection Act and section 35, subsection 1, of the Danish Planning Act.

In the first instance, the provision means that the construction project may be implemented without consideration for the existing protections, including that it is not necessary to apply for exemption in connection with the protection at Østerskov, Næsbyholm Gods and Bavelse Gods, and the protection at Saksfjed Inddæmning. The provision also means that, irrespective of section 3 of the Danish Nature Protection Act and without exemption, it is possible to change the status of a number of the habitat types affected by the construction project. Irrespective of section 15 of the Danish Nature Protection Act, it is possible to make the necessary changes to the status of the parts of the section of coastline that are affected by the production area, establishment of the new reclaimed land, the permanent structure and the section between Ringsted and Rødbyhavn. The same applies to works within the lake, stream and forest protection line, cf. sections 16 and 17 of the Danish Nature Protection Act. The provision also means that it is not necessary to obtain rural zone permission under section 35 of the Danish Planning Act to erect the buildings and other structures that are specified in the Bill, including for temporary structures and installations.

The provision in subsection 2 stipulates that the rules on urban area development plans and local plans in the Danish Planning Act, sections 20, 22 and 26 a of the Danish Nature Protection Act, part 4 of the Executive Order on the protection of certain animal and plant species and care for injured game, sections 8-13 and 26-28 of the Danish Forests Act, parts 8 and 8 a of the Danish Museums Act, the Danish Farm Properties Act and parts 1 a-4 of the Danish Coastal Protection Act do not apply to the performance of works under sections 1, 2 and 11.

The derogation from the rules on urban area development plans and local plans is based on the fact that the Construction Act constitutes the legal framework for the construction project, and implementation of the construction project therefore does not require physical planning under the Danish Planning Act. Consequently, it is not necessary either to adopt new plans or amend existing planning to be able to implement the construction project. The works in sections 1, 2 and 11 in both the permanent and the temporary project areas do not require exemption or similar from existing planning either.

In addition, the provision derogates from a number of rules that limit the right to carry out many of the essential works that are a precondition for implementation of the construction project. This concerns in part the provisions on public access to beach areas and other sections of coastline (section 22 of the Danish Nature Protection Act), on closure of roads (section 26 a of the Danish Nature Protection Act) and part 4 of the Danish Executive Order on protection of species outside Annex IV to the Habitats Directive. The provisions on forest protection obligations in the Danish Forests Act are also derogated from.

Finally, parts 8 and 8 a of the Danish Museums Act, the Danish Agriculture Act and parts 1 a-4 of the Danish Coastal Protection Act are derogated from. In relation to the Danish Museums Act, an agreement will be made between Femern A/S/A/S Femern Landanlæg and the Danish Ministry of Culture (the Danish Agency for Culture) on management of the customary archaeological investigations and, where appropriate, management of any finds, etc. made during the implementation of the construction works. For works that affect stone and earth dikes and ancient monuments subject to part 8a of the Act, the implementation report describes how cultural heritage considerations are met when performing these works.

At the time of adoption of the Construction Act, a significant part of the areas on Lolland that are to be used for the construction project are designated for agricultural purposes with the consequent obligations. Among other things, the provision means that Femern A/S and A/S Femern Landanlæg do not need to apply to have this designation reversed under the rules in part 5 of the Danish Agriculture Act. The Danish Agriculture Act is derogated from because the Danish Parliament decides, with the Construction Act, that the areas subject to the Act will no longer be agricultural areas and it will therefore be superfluous to implement the case processing required to reverse the agricultural designation and other formal restrictions under the Danish Agriculture Act.

In relation to the Danish Coastal Protection Act, it is intended for Femern A/S and A/S Femern Landanlæg to be responsible for sea defences and coastal protection in connection with the construction project in

accordance with the EIA report and the implementation report.

Section 17, subsection 1, of the Danish Land Division Act requires that land that is reclaimed from territorial waters must be registered in the land register by registration or land transfer. Registration of the land reclamation will normally be subject to the existence of documentation that the land was reclaimed in accordance with permission from the Danish Coastal Authority, cf. section 12, subsection 1, of Executive Order no. 1676 of 20 December 2013 on registration works. As the Danish Coastal Protection Act does not apply, section 1 of the Construction Act will constitute adequate documentation that the requirement in section 12, subsection 1, of the Executive Order on registration works must be regarded as having been met.

The provision in subsection 3 means that works to establish an immersed tunnel and a work harbour, cf. section 1, subsection 2, 1), do not require permission under part 4 of the Danish Raw Materials Act.

The Danish Raw Materials Act contains rules about advance permission for the use of raw materials, among other things. The requirement for permission applies, among other things, in connection with excavation for the immersed tunnel, i.e. the tunnel portal and the cut-and-cover tunnel, and in and around the work harbour at Rødby, as the materials excavated from these works are intended to be used in the construction project on land for land reclamation.

The provision means that no permission for use is required under the Danish Raw Materials Act for the works on the tunnel trench and portal, and the works in and around the work harbour at Rødby. Excavation and use must instead comply with the implementation report and be within the framework of the environmental studies, including in relation to the marine Natura 2000 sites.

The provision only applies to the specified works on the immersed tunnel and the work harbour. Raw material extraction and other use of materials outside the project area, for example in Kriegers Flak or Rønne Banke (if the contractors opt to use these resources) will require normal permission under the Danish Raw Materials Act. The same will apply to any extraction from common areas. However, these decisions are subject to section 13.

Reference is also made to section 6.3.1 of the general comments.

On section 13

It is proposed in subsection 1 that decisions made by a municipal council or a government agency concerning the construction project that are made under the Danish Construction Act, the Danish Hunting and Game Administration Act, the Danish Nature Protection Act, the Danish Watercourses Act (excluding part 13), the Danish Forests Act, the Danish Water Supply Act, the Danish Coastal Protection Act, the Danish Environmental Protection Act and the Danish Raw Materials Act and rules issued in pursuance of these Acts may not be appealed against to any other administrative authority, but cf. subsection 2.

With the provision, it is proposed that the rules on right of appeal, appeal authority and stay of proceedings as a result of appeals in the specified Acts be derogated from so that appeals against decisions under the specified Acts in connection with works for the construction of a fixed link across the Fehmarnbelt do not follow the normal rules in the respective Acts and are precluded. Preclusion of the right to appeal was found necessary to ensure progress. However, decisions may still be brought before the courts under the general rules on this. The provision is not limited to works in the project area. It also covers other decisions under the specified Acts when they affect the right to implement the project or may result in delay or similar. For example, raw materials extraction outside the project area is also covered.

Case processing also remains governed by the specified Acts, i.e. the rules that apply to applications, supervision and penalties and the procedure for decisions also apply unamended. The same applies to the requirements and conditions applicable to permissions, exemptions, etc. under the Acts. Where the provisions in the Acts in question contain discretionary powers, and where these permit the interests of the developer and the interests of society to be taken into account in a given project, the general assessment is that the interests of the construction project may be assigned significant weight. The Minister for Transport may also attach corresponding importance to this criterion when processing appeal cases or

cases in which the Minister has taken over competence.

The activities and works in question assume prior EIA assessment and permission in some cases. The environmental consequences of the construction project are described and assessed in the EIA report, and no new EIA procedure is required. The municipal council or a government agency should base its decision on the EIA carried out when it needs to specify requirements and conditions in permissions under the respective Acts. However, the proposed provision in section 8 on the EIA procedure for changes to the construction project applies to significant changes in the construction phase in relation to that which was previously assessed. In this connection, reference is made to the general comments in section 6.2 above and the comments on section 8 of the Bill.

Preclusion of the right to appeal applies only during the construction phase of the fixed link across the Fehmarnbelt and therefore no longer applies when the link has been completed, regardless of whether there may subsequently be a need for decisions under the specified Acts.

It is proposed in subsection 2 that Femern A/S and A/S Femern Landanlæg may refer municipal decisions, including, for example, a condition under the Acts specified in subsection 1, to the Minister for Transport as the administrative appeals body. As in subsection 1, the Minister for Transport's processing of these appeal cases remains governed by the specified Acts, i.e. the requirements and conditions that apply to permissions, exemptions, etc. under the Acts continue to apply. Where it is possible under the relevant Acts, by exercising discretion, to include the interests of an applicant or a developer or the public interest in the construction project, the Minister for Transport will also be able to include and attach decisive importance to these interests when deciding on the appeal case. In this connection, the Minister will be able to make use of his or her knowledge of the construction project.

With subsection 3, it is proposed that the Minister for Transport be authorised, for cases concerning the construction project, to be able to assume the powers of the municipal council under the Acts specified in subsection 1 in individual cases. This right only concerns competence to make a decision in a specific individual case (call in) that is pending at the municipal council under the Acts specified in subsection 1. The provision will be used, among other things, where, in order to ensure the progress of the construction, a case needs to be processed and decided on by an authority that has significant insight into the context and framework of the project. The provision may also be relevant in relation to subsection 2 if a municipality does not make a decision in a case that is of significant importance to the progress of the construction project.

Just as under subsection 2, the Minister for Transport must make a decision under the provisions in and practice under the Acts specified in subsection 1, although importance may be attached to the interests of the construction project, including the avoidance of significant delay or increase in costs of the construction project, if this is possible under the relevant Acts. Even if the Minister for Transport decides to make a decision in a specific case, this decision does not change the general rules on supervision and enforcement. However, the Minister for Transport may also decide to assume competence in a supervision case.

It follows from the provision in subsection 4 that the Minister for Transport's decision in appeal cases under subsection 2 and in cases in which the Minister has assumed the powers of the municipal council under subsection 3 may not be appealed against to any other administrative authority.

The provision in subsection 5 establishes that the municipal supervisory authorities do not supervise decisions by a municipal council covered by subsection 1. Under part VI of the Danish Local Government Act (Consolidation Act no. 186 of 19 February 2014), the State administration supervises compliance by municipalities with the legislation that applies in particular to public authorities where there are no separate appeal and supervision authorities that are able to make a decision on the case in question. It follows from part VII of the same Act that the Ministry of Economic and Business Affairs in Denmark is the recourse body in relation to a number of specified decisions on sanctions, consent and approval that are made by the State administration, and that the Ministry of Economic and Business Affairs in Denmark is the supreme supervisory authority in relation to the State administration's decisions or omissions as part of the exercise of supervision. It follows from section 1, subsection 2, of the Danish Local Government Act that the rules in the Danish Local Government Act are subordinate to other legislation.

Derogation from the rules on right of appeal, appeal authority and stay of proceedings as a result of appeals in subsection 1 may mean that the municipal supervisory authorities gain competence that they do not have under existing legislation. As this is not the intention, it is proposed in subsection 5 that the municipal supervisory authorities do not supervise decisions by a municipal council covered by subsection 1. Reference is made to the above grounds for derogating from the rules on right of appeal in the Acts specified in subsection 1.

The proposed provision means that neither the State administration nor the Ministry of Economic and Business Affairs in Denmark has competence to supervise decisions by a municipal council under subsection 1, including case processing rules, where legality can best be assessed along with an assessment of the legality of the decision, for example grounds, legal/objective criteria, inquisitorial procedure.

Municipal supervisory authorities are only precluded from supervising decisions under subsection 1. Consequently, the municipal supervisory authorities will be able to ensure that municipalities comply with, for example, the rules in the Danish Public Administration Act on legal incapacity, inspection of documents by parties, examination of parties, etc. plus inspection of documents under the Danish Open Administration Act.

With the provision in subsection 6, the Minister for Transport is authorised to establish rules to the effect that, for the Minister for Transport's processing of appeal cases or call-in cases under subsections 2 and 3, the municipal council is under an obligation to produce information for an assessment of conditions that are governed under the Acts specified in subsection 1 within the municipality in question. The provision is designed to ensure that the Minister for Transport can receive the information held by the municipal council or that the municipal council can reasonably be ordered to produce for the Minister for Transport's processing of the case. The provision corresponds to the provision in section 83 of the Danish Environmental Protection Act, under which the Minister for the Environment may order municipal councils to produce information for an assessment of conditions that are governed under the Act within the area of the individual municipality. It is possible to demand that the information be provided in a specific form.

On section 14

With the proposed provision in subsection 1, first sentence, the Minister for Transport is authorised to issue rules on pollution and nuisance from the implementation of the construction project. The provision only covers pollution and nuisance that would normally have to be governed under part 5 of the Danish Environmental Protection Act and not other pollution and nuisance that occurs in connection with the implementation of the construction project, such as those governed by the Danish Water Supply Act, for example.

The proposed provision means that the Minister for Transport may meet the protection obligations under the Danish Environmental Protection Act in pursuance of the Bill by setting thresholds for the permissible pollution and nuisance from the construction project's sites and project areas. In such case, the Minister for Transport will act on the basis of the principles in the Danish Environmental Protection Act and the general objective is not to achieve a lower level of protection than normal unless significant considerations related to the implementation of the construction project indicate it.

The provision consequently means that, in a case in which a local regulation, an order or a condition in a decision, for example, may result in significant delay or increase in costs for the construction project, the construction project may, by means of the rules issued by the Minister for Transport, be prioritised higher than the local interests that will normally be considered in pursuance of the Danish Environmental Protection Act or rules issued in pursuance of it based on an overall trade-off between the opposing interests.

When establishing rules, including thresholds for pollution or nuisance, the Minister for Transport must also ensure that relevant rules of EU law are complied with. In connection with the use of the proposed provision, the Minister for Transport will involve other authorities that are expert in the relevant area.

Reference is made to section 6.3.2 of the general comments on setting thresholds for pollution and nuisance.

The provision in subsection 1, second sentence, grants the Minister for Transport the right to establish rules on self-inspection for the account of Femern A/S or A/S Femern Landanlæg. The self-inspection will be implemented by experts, including by authorised, accredited or similar experts and corresponding laboratories. The Minister for Transport may also establish rules on supervision and enforcement, including rules to the effect that decisions on supervision and enforcement of rules established under this provision may not be referred to any other administrative authority. In this connection, the Minister for Transport may, among other things, decide that the supervision and enforcement provisions in the Danish Environmental Protection Act will also apply fully or partially in relation to the rules issued. The Minister may, for example, also designate the supervisory authority and decide that the supervisory authority may issue orders to the person responsible to disclose information, take measurements or carry out other studies for its own account, etc. The provision corresponds to section 72 of the Danish Environmental Protection Act, under which the person who is responsible for an enterprise that may give rise to pollution must, on request, disclose all information, including information on financial and accounting matters. In this connection, the authorities may, among other things, order the person responsible to take samples, conduct analyses and take measurements of substances that are emitted into the environment, plus noise and vibrations, and to establish the causes or effects of pollution that has taken place.

Subsection 2 specifies that the Danish Environmental Protection Act and rules issued and decisions, i.e. orders, prohibitions and exemptions, among other things, made in pursuance of the Act do not apply to pollution and nuisance from the parts of the construction project covered by rules issued under subsection 1. Where the Minister for Transport issues rules, pollution and nuisance are subsequently solely governed by these rules. This also covers a condition in an environmental approval under part 5 of the Danish Environmental Protection Act where this is compatible with EU law, including in particular Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (the Industrial Emissions Directive). If, for example, rules are established on noise for the part of the project area that includes the tunnel element factory, these rules will replace conditions in the environmental approval for the tunnel element factory under part 5 of the Danish Environmental Protection Act.

If, at the time when a decision is made or rules are issued, appeal cases on the legality of decisions, including prohibitions or orders issued by Lolland Municipality, are pending, the Environmental Board of Appeal will be able to complete these cases under the existing rules, depending on the circumstances. However, the decisions in question do not have forward-acting effect for the implementation of the construction project when the Minister for Transport made the decision or issued rules.

Reference is also made to the general comments in section 6.

On section 15

With subsection 1, the Minister for Transport is authorised to establish rules on compensation to residents and owners of holiday homes for nuisance and inconvenience associated with the implementation of the construction project if the Minister for Transport decides to regulate nuisance or pollution by issuing rules in pursuance of section 14 of the Bill. The Minister for Transport is also authorised to establish rules on who is entitled to compensation, the size of the compensation, payment, deadlines, interest, etc. Residents are generally persons over 18 years of age who are registered in the national register at a home that is affected by pollution or nuisance while the residents are actually living in the home.

A holiday home means a home that is used as a holiday home, regardless of its zone status. The Act consequently covers holiday homes of all kinds, including holiday homes in which it is not permitted to reside throughout the year, whether the holiday home is within or outside a holiday home area. This designation is the same as that applied in relation to tax legislation.

The provision, which is optional for the Minister for Transport, corresponds essentially to section 14 b of the Danish Cityring Act (Act no. 552 of 6 June 2007 with subsequent amendments), except that it is specified that holiday home owners are also subject to the rule. There may, in particular, be a right to compensation

when the proposed provision in section 14 is used to give contractors in the construction project the right to carry out polluting construction work or construction work that causes a particular nuisance, for example in the evening and at night.

The intention of the provision is to establish rules on the practical organisation of the scheme. In this respect, reference is made to section 6.3.2. of the general comments.

It follows from the provision in subsection 2 that the Minister for Transport may establish rules to the effect that Femern A/S or A/S Femern Landanlæg must offer residents who are particularly exposed to nuisance as a consequence of the regulation under section 14 the opportunity to be rehoused or to have their homes acquired. In this connection, the Minister for Transport may establish rules to the effect that the municipal council in the municipality of residence must, at the request of the resident, allocate a home for rehousing from among the homes that the municipal council is entitled to allocate under the Danish Social Housing Act or has at its disposal under the Danish Urban Renewal Act. The Minister for Transport may also establish rules on the procedure for rehousing or acquisition, including rules on the terms of agreements for rehousing, costs of rehousing and termination of a rehousing agreement. The Minister for Transport may also establish rules to the effect that the agreement will be terminated if the home where there is nuisance is let or used as a residence or as a holiday home.

The intention of the provision is for the Minister for Transport to establish rules on when residents are entitled to rehousing, including for residents with special needs, rules on the process of requesting rehousing, on the scope of the rehousing agreement and on documentation of removal expenses and other expenses that are to be reimbursed by Femern A/S or A/S Femern Landanlæg.

The Minister for Transport may also decide, among other things, that the municipal council in the municipality of residence must allocate a replacement home if the individual resident is unable to find a suitable proposal himself or herself. The municipality may allocate both homes that the municipality is entitled to allocate under the Danish Social Housing Act and dwellings that the municipality has at its disposal under the Danish Urban Renewal Act. The tenancy between the resident and the landlord is entered into under the general rules on tenancy, and the relationship between the municipality and the landlords continues to be governed by the general rules. The provision does not entail any derogation from these rules. However, it grants explicit authority for the municipality to be ordered to allocate the residents in question a home for temporary rehousing even if it might not be possible to allocate them a home under the Danish Social Housing Act and the Danish Urban Renewal Act.

The Minister for Transport may finally establish rules on when an agreement on rehousing between a resident and Femern A/S or A/S Femern Landanlæg must be terminated, and may decide that the agreement is terminated if the home where there is nuisance is let or used as a residence or as a holiday home.

Subsection 2 also means that the Minister for Transport may establish rules to the effect that residents who own their home may request Femern A/S or A/S Femern Landanlæg to buy the home at market price (acquisition). For example, this might be people who are particularly sensitive to nuisance, etc. This will be relevant in particular personal circumstances, including documented health conditions or special family circumstances. It is required that the owner has permanent residence in the home.

When Femern A/S or A/S Femern Landanlæg acquires a home following a request for acquisition, it owns it and may resell it at a later time. Any loss of value or increase in value is of no concern to the former owner. Acquisition assumes that the resident is the owner of the home and it is legally possible for Femern A/S or A/S Femern Landanlæg to purchase the home. For example, it may be excluded for housing association homes, certain owner-occupied flats, social housing, etc. or where the statutes of the owners' association exclude Femern A/S or A/S Femern Landanlæg as the owner.

Rehousing and acquisition will not be relevant for holiday home owners unless the holiday home is used legally for year-round residence.

Under the provision in subsection 3, the Expropriation Commission for Government Expropriation on the Islands will decide on compensation, rehousing and acquisition under the rules issued in pursuance of

section 14, subsections 1 and 2, and section 15, subsections 1 and 2, if it is not possible to reach agreement between the parties or in the event of disagreement on an agreement that has been made. The Expropriation Commission may, if it considers it to be appropriate, process such cases on a written basis after consultation of the parties in accordance with the relevant rules in the Danish Public Administration Act.

If a case is brought before the Expropriation Commission by the resident or the owner, Femern A/S or A/S Femern Landanlæg pays compensation in accordance with its offer until a final decision has been made. Rehousing may only be initiated from the time at which there is a rehousing agreement or decision, and compensation is paid in the meantime. If a resident brings a compensation case before the Expropriation Commission and wishes to change to rehousing after a period of time, the person is not precluded from doing so. The Expropriation Commission subsequently decides whether the compensation previously paid out must be increased.

The Commission processes the case under the regulation issued under the proposed sections 14 and 15. Under subsection 4, cases relating to compensation, rehousing and acquisition are otherwise dealt with by the Expropriation Commission under the rules in the Danish Act on the procedure in connection with expropriation of real property.

The provision in subsection 5 specifies that compensation and amounts paid in connection with rehousing under rules established in pursuance of subsections 1 and 2 are not included in an assessment of whether a person is entitled to social security benefits and do not result in any reduction in such benefits. Under the provision, therefore, when assessing whether a person is entitled to social security benefits under other legislation and when calculating the size of these benefits, amounts that are received as compensation for pollution and nuisance as a consequence of the construction project under the rules issued in pursuance of subsection 1 (compensation) must be disregarded. Nor is any deduction made from social security benefits for these amounts.

The rule also applies in a situation in which the Expropriation Commission and the Valuation Commission, cf. subsection 3, or the ordinary courts decide on compensation and amounts paid in connection with rehousing under rules issued in pursuance of subsections 1 and 2. The provision covers all social security benefits and implies that compensation for pollution and nuisance from the implementation of the construction project must be disregarded when awarding these benefits, calculating their size and paying them. The provision applies to all amounts that residents and owners receive from Femern A/S or A/S Femern Landanlæg, either as compensation for nuisance as a consequence of the construction project or in connection with rehousing, including amounts to cover removal expenses and amounts for the establishment of special and necessary arrangements and appliances, etc.

The provision establishes finally that compensation and other amounts, including those for rehousing, are tax-free. Compensation and other amounts are not included in the calculation of the recipient's taxable income. The acquisition price when a home is acquired is not tax-free and is taxed under the existing rules on capital gains from sale of real property.

The provision in subsection 6 means that, when rules have been issued in pursuance of subsections 1 and 2, including rules on rehousing, the rules in part 9 of the Danish Act on urban renewal and urban development do not apply to matters relating to health risks in buildings that are used as homes or for occupancy as a consequence of noise pollution from the construction project.

The provision means that rules issued in pursuance of subsection 1, including rules on rehousing, and pollution and nuisance from the construction project may not, under the Danish Act on urban renewal and urban development, mean that the municipal council may decide that a building represents a health risk (condemnation), cf. sections 75-76 of the Danish Urban Renewal Act, and that rehousing must be provided under these rules, cf. sections 61-63 of the Danish Urban Renewal Act. The provision means that, in connection with administration of the Danish Urban Renewal Act, the municipal council must disregard pollution and nuisance from the implementation of the construction project. Nor do the other rules in part 9 of the Danish Urban Renewal Act apply.

The provision has no significance for the other rules in the Danish Urban Renewal Act, and it remains

possible to make a decision to condemn a building for reasons other than pollution and nuisance from the implementation of the construction project, including on account of settlement damage, fire or risk of collapse as a consequence of excavation work, etc.

It should be noted that this provision also applies to pending cases under part 9 of the Danish Urban Renewal Act when the Act enters into force. When the Minister for Transport has issued rules under the proposed subsections 1 and 2, part 9 of the Danish Urban Renewal Act will not apply to pending matters relating to health risks in buildings that are used as homes or for temporary residence as a consequence of noise pollution from the construction project. It will subsequently be possible for the residents to be rehoused under the new more favourable rules, and any condemnation cases, etc. under part 9 of the Danish Urban Renewal Act will lapse.

Reference is also made to the general comments in section 6.3.2.

On section 16

Under the provision in subsection 1, part 6 of the Danish Environmental Protection Act and rules issued in pursuance of this Act do not apply to non-hazardous seabed spoil that is moved within surface waters with a view to land reclamation. The expression 'non-hazardous' corresponds to the condition in article 2, paragraph 3, of the Waste Framework Directive on the requirement for sediments to be 'non-hazardous'.

As specified in section 6.3.3. of the general comments, it is estimated that only around 5% of the seabed materials (primarily peat and mud with poor geotechnical properties) that are excavated at the tunnel portal and the cut-and-cover tunnel at Rødbyhavn, in the tunnel trench and in and around the work harbour at Rødbyhavn will be waste. However, by far the majority of the spoil excavated in the rest of the project (approximately 95%), which is primarily expected to consist of sand and clay with good technical properties, meaning that it can be used in, for example, installations on land, is assessed to be not waste but a by-product, cf. article 5 of the Waste Framework Directive and section 2, subsection 2, of the Danish Waste Executive Order.

The provision therefore only concerns the parts of the seabed materials in the project that have a quality (poor geotechnical properties) that means they are waste rather than a by-product. The provision means that these seabed materials are exempted from the waste rules provided that the materials are only moved within surface waters with a view to land reclamation, i.e. are used specifically for landfill. Materials that are used on land or are dumped elsewhere in territorial waters instead of being used for landfill will, however, not be covered by the provision. These materials must instead be processed under the general waste rules.

The provision in subsection 2 grants the Minister for Transport authority to establish rules on when seabed materials must be regarded as non-hazardous. The Minister for Transport may also establish rules on sampling and self-inspection for the account of Femern A/S and A/S Femern Landanlæg and on supervision and enforcement. It is intended for the Minister for Transport, in partnership with the Minister for the Environment, to, among other things, establish rules with thresholds for the content of hazardous substances in seabed materials, sampling and a self-inspection programme for the materials used for landfill. These rules are designed to ensure that the seabed materials are non-hazardous and that the condition in article 2, paragraph 3, of the Waste Framework Directive is therefore met. Hazardous waste is defined in article 3 (2) of the Waste Framework Directive and section 3 (22) of the Danish Waste Executive Order.

On section 17

Under the provision, sections 10-16 apply accordingly to changes or extensions to the construction project that are subject to section 8, subsection 1, and section 9, subsection 1. The provision means, among other things, that permitted project changes may also be implemented without the application of the legislation specified in section 12, that right of appeal under the Acts specified in section 13 is also precluded for decisions that concern the change or extension, and that it is possible to establish rules on pollution and nuisance under sections 14-15.

## On section 18

As a consequence of the construction project, work is required on pipes, cables and supply installations, including the relocation or discontinuation of supply pipes and cables located in road areas or in other public or private properties. To ensure that, in respect of payment for pipe and cable relocation, the construction project is not placed in a worse financial position than, for example, the road authority would be in for a road project, the provision proposes a way of regulating and specifying how the costs are to be paid.

At the time of introduction of the Bill, the existing Danish Public Roads Act was Consolidation Act no. 1048 of 3 November 2011, most recently amended by Act no. 552 of 2 June 2014. The Danish Parliament has passed a new Public Roads Act in the form of Act no. 1520 of 27 December 2014, which enters into force on 1 July 2015 with a few exceptions ('the new Danish Public Roads Act'). At the same time, the above Consolidation Act no. 1048 of 3 November 2011 is repealed. Section 77 of the new Danish Public Roads Act corresponds to section 106 of the existing Danish Public Roads Act.

Under existing law, it follows from section 106, subsection 1, of the Danish Public Roads Act (section 77, subsection 1, of the new Danish Public Roads Act) on the so-called 'guest principle' that works on pipes or cables in or above municipal roads, including the necessary relocation of pipes or cables, etc. in connection with the regulation or rerouting of the road, are to be paid by the owner of the pipes or cables in question unless specified otherwise by an agreement or an order issued by an expropriation commission appointed in pursuance of the Danish Act on the procedure in connection with expropriation of real property or a decision made by a municipal council under sections 37 and 38, cf. section 40, of the Danish Water Supply Act. There is a corresponding provision in section 70 of the Danish Private Shared Roads Act concerning pipes or cables in private shared roads in towns, cities and urban areas.

Under case law, the guest principle also applies outside road areas. In a judgment of 22 September 2009 (UfR 2009.2978H - M3 judgment), the Danish Supreme Court stated that the guest principle is the name of a supplementary rule that is applied in cases in which permission has been granted, free of charge, to install a pipe or cable in a property. The rule means that the owner of the pipe or cable, as a 'guest', must pay for the pipe or cable works necessitated by the landowner's change of use of the area in which the pipe or cable is installed. An acquirer of real property generally assumes the rights and obligations of the assignor concerning the property. The Danish Supreme Court states that the guest principle is expressed in section 106 of the Danish Public Roads Act (section 77 of the new Danish Public Roads Act). This provision covers works that are implemented by the road authority within the framework of the objectives for which the authority may be responsible.

In a judgment of 4 September 2007 (UfR 2007.3009H – Flintholm Station judgment), the Danish Supreme Court also stated that the guest principle in section 106 of the Danish Public Roads Act (section 77 of the new Danish Public Roads Act) also applies to roads in which pipe or cable works are carried out in connection with a 'complex construction project', regardless of which parts of the project necessitate the pipe or cable works.

The provision proposes specification of the fact that the provision on the guest principle in section 106, subsection 1, of the Danish Public Roads Act (section 77 of the new Danish Public Roads Act) and section 70, subsection 1, of the Danish Private Shared Roads Act applies to pipe or cable works in connection with the construction project. In other words, the guest principle in road areas applies in cases in which pipe or cable work is necessitated by works implemented within the framework of the objectives that may be pursued under this Construction Act. The provision counters any doubt about whether the construction project should be regarded as a 'complex construction project' in the sense attributed to these words by the Danish Supreme Court in the judgment on Flintholm Station, cf. above.

The non-mandatory rules on the guest principle apply to pipe and cable works in or above areas other than road areas in connection with the construction project specified in sections 1 and 2.

## On section 19

Supply pipes and cables are important infrastructure installations and it is recognised in existing law that

road authorities must show consideration for pipes and cables in connection with road projects. The objective of the provision is to ensure that the owner of the pipe or cable has the opportunity to propose any changes to the planned construction work when this entails the owner of the pipe or cable having to pay costs of works on or relocation of the pipe or cable. The owner of a pipe or cable must therefore be involved with a view to investigating how the construction work subject to section 18 of the Bill can be organised in the economically most appropriate manner.

The provision in subsection 1 proposes that the Minister for Transport may implement the planned construction work if, in exceptional cases, it is not possible to reach agreement with the owner of the pipe or cable on how the construction work can be organised with due consideration for the owner. It is assumed that the Minister for Transport previously attempted to discuss the planned construction work with the owner of the pipe or cable with a view to organising the work in the most appropriate manner for both the construction project and the owner. It is also proposed that the Act directly stipulate that the Minister for Transport may order that the owner of the pipe or cable perform the pipe or cable works that are necessary for the implementation of the construction work. The provision is designed to ensure that the construction project can be implemented within the fixed time frame. At the same time, the provision must be administered in due consideration of the owners of pipes or cables with a view to finding viable solutions that meet the various supply needs as far as possible.

The provision proposed in subsection 2 means that the Minister for Transport may, in special cases, perform the pipe or cable works ordered for the account of Femern A/S and A/S Femern Landanlæg or the owner of the pipe or cable, where the owner does not perform the pipe or cable works ordered and thus delays the construction project. The owner of a pipe or cable may be charged costs if the owner does not perform or assist with pipe or cable work, including as a minimum in connection with technical instructions (non-compliance with the obligation to limit loss). In such case, the Minister for Transport will be under an obligation to have the works on the pipes or cables carried out by a third party with specialist knowledge of the pipe or cable work in question.

Such cases could exist, for example, if a delay in completion of pipe or cable works entails major increases in costs for Femern A/S and A/S Femern Landanlæg, for example in the form of damages or compensation to other contractors that are delayed in the performance of their tasks. Such cases may also exist in connection with delays in areas that have an important function for the implementation of the construction project.

The rules proposed in section 19 will generally not involve compensation. However, it is not possible to rule out the possibility that, in cases in which the guest principle, cf. section 18 of the Bill, does not apply to the pipe or cable in question, the rules proposed will have such an intensive, atypically heavy financial impact on an owner of a pipe or cable that the situation will involve an expropriative intervention against this person. In such case, the owner of the pipe or cable in question will be entitled to full compensation for any loss under the proposed section 21.

On section 20

Femern A/S and A/S Femern Landanlæg will, as part of the implementation of the project, acquire a number of properties in which there are pipes and cables.

The owner of a property must grant permission for pipes, cables or supply installations to be located on the property. This applies whether the pipe, cable or supply installation fully or partially supplies the property itself or is just part of the area's general distribution network. If the pipe, cable or installation is installed in the property to supply the property, it is generally assumed that the utility company may make technical conditions that are to apply to the location of the pipe, cable or installation in the property as part of performance of its supply obligation. Many utility companies have standard terms and conditions and they often request that they be registered on the property in which the pipe or cable is installed.

It is proposed in subsection 1 that the Minister for Transport set the terms and conditions that are to apply to pipes, cables and supply installations located on properties owned by Femern A/S or A/S Femern Landanlæg in connection with the construction or operation of the construction project. It is assumed that the Minister for Transport has previously discussed these terms and conditions with the owner of the pipe

or cable or the utility company. When setting these terms and conditions, the Minister for Transport takes into account the interests of both the construction project and the pipe, cable or supply installation. The Minister for Transport is therefore not bound by the content of any standard terms and conditions.

The provision in subsection 2 proposes that the Minister for Transport be granted power to set new or amended terms and conditions for existing pipes, cables or supply installations that might be located in properties owned or acquired by Femern A/S or A/S Femern Landanlæg if this is considered necessary for the construction project or its operation, including for reasons of safety. It is assumed that the Minister for Transport has previously discussed these terms and conditions with the owner of the pipe or cable or the utility company.

The rules proposed in section 20 will generally not involve compensation. However, it is not possible to rule out the possibility that the power to set new or amended terms and conditions for existing pipes, cables or supply installations will have such an intensive, atypically heavy financial impact on an owner of a pipe, cable or installation that the situation will involve an expropriative intervention against this person. In such case, the owner of the pipe, cable or installation in question will be entitled to full compensation for any loss under the proposed section 21.

On section 21

Where pipe or cable works or terms and conditions set for pipes or cables in pursuance of sections 18-20 might constitute expropriation, owners of pipes, cables or installations are entitled to full compensation for any loss under section 21 of the Bill.

The provision in section 21 is relevant in cases subject to sections 18 and 19, where the guest principle in section 106, subsection 1, of the Danish Public Roads Act may, in exceptional cases, be derogated from by means of agreement with the consequence that Femern A/S or A/S Femern Landanlæg has to pay for the pipe or cable in question to be rerouted. The provision may also be relevant in cases subject to section 20, subsection 2, if amended terms and conditions that the Minister for Transport may set for a pipe or cable installation result in a loss for the owner of the pipe or cable.

If it is not possible to resolve any payment claims by agreement, subsection 1 proposes that any such payment claims be fixed by the expropriation and valuation authorities under the Danish Act on the procedure in connection with expropriation of real property.

The provision in subsection 2 proposes that the rules in section 51, subsections 1 and 2, of the Danish Public Roads Act (section 103 of the new Danish Public Roads Act) should apply to the fixing of compensation so that general and special benefits may be deducted from any compensation. Compensation may lapse entirely if the intervention is estimated to result in greater benefits for the owner than the loss suffered by the owner in connection with the measure. Under the provision, it is proposed that Femern A/S or A/S Femern Landanlæg pay all related costs.

On section 22

Femern A/S and A/S Femern Landanlæg are authorised, in pursuance of sections 1 and 2 of the Bill, to take the necessary measures during the construction phase to implement the construction project specified in sections 1 and 2 of the Bill, including building new roads and making changes to existing roads or paying the related costs.

During the construction phase of the coast-to-coast project, access roads to construction site areas for the portal and ramps, the tunnel element factory and temporary accommodation facilities will be built on Lolland. There will also be other construction site roads, depending on how the contractor organises the areas.

Several roads will be built in areas owned by Femern A/S or areas that Femern A/S is expected to have at its disposal during the construction phase. These roads, which will be used only by Femern A/S and its contractors, etc. will be private roads, cf. section 3 of the general comments on the Bill, and several of the roads will be removed when the construction phase has been completed.

The implementation of the coast-to-coast project also requires permanent changes to the roads on Lolland. The construction of the motorway requires some local roads to be rerouted or modified. It will also be necessary to build new bridges on Færgevej over the new motorway and railway, and over the new motorway in connection with the junction at Ottelundsvej. Access to some properties will be changed as a result of the coast-to-coast project, but they will all retain road access to the public roads. Femern A/S will assess whether road access to the properties that the company has acquired by means of advance expropriation will be maintained.

Under section 10, subsection 2, of the Danish Public Roads Act (section 8, subsection 2, of the new Danish Public Roads Act), the road authorities decide which works are to be performed on their roads and pay the costs associated with protection and other preparatory measures, construction, operation and maintenance of these roads, unless decided otherwise. Reference is also made to section 101 of the Danish Public Roads Act (section 73 of the new Danish Public Roads Act), which stipulates, among other things, that excavation of a public road area requires permission. This provision applies accordingly to private shared roads in towns, cities and urban areas in connection with construction, excavation and backfilling, cf. section 67 of the Danish Private Shared Roads Act.

The proposed provision establishes that Femern A/S or A/S Femern Landanlæg may construct new roads and make changes to existing roads or pay the costs of doing so where necessary for the implementation and operation of the construction project specified in sections 1 and 2 without a decision on this being made in pursuance of the Danish Public Roads Act or title III of the Danish Private Shared Roads Act. Among other things, this means that it is not necessary for the companies to obtain approval for the individual road projects from the road authority, and it is not necessary to obtain permission for excavation from the road authority before the road works are started.

As no regulatory processing is implemented in pursuance of the Danish Public Roads Act or title III of the Danish Private Shared Roads Act, it is assumed that Femern A/S and A/S Femern Landanlæg will ensure, by application of section 22, that, for example, landowners with a significant individual interest in the works to be performed will have an opportunity to express their opinion where possible, and an attempt will be made to organise the work in such a way that all significant interests in it are safeguarded.

Under section 10, subsection 1, of the Danish Public Roads Act (section 8, subsection 1, of the new Danish Public Roads Act), the road authorities are under an obligation to maintain their public roads in the condition required by the type and volume of traffic. It is assumed that Lolland Municipality will maintain the municipal roads that are important for the construction and operation of the coast-to-coast project in a good operational condition, equivalent to the level and quality required for the operation of Femern A/S' installations. In addition, operation and maintenance must be performed in accordance with the legislation and the procedures that may be agreed between the individual municipality and Femern A/S or A/S Femern Landanlæg.

If Femern A/S or A/S Femern Landanlæg finds it necessary, for the implementation and operation of the coast-to-coast project, to maintain and repair public roads and private shared roads, the proposed provision also renders it unnecessary for the companies to obtain permission from the road authority. This means, for example, that Femern A/S or A/S Femern Landanlæg may repair damage to roads that are of material importance for the construction and operation of the coast-to-coast project without prior permission from the road authority.

It should also be noted that changes to existing private shared roads require permission from the road owner and the persons entitled to use the road before the road works may be performed, unless the works involve repairs of damage that must be performed immediately to ensure traffic safety and public right of way. Alternatively, the right to perform road works may be ensured by means of expropriation under section 27 of the Bill. Compensation for loss as a consequence of intervention may be fixed by the Expropriation Commission under the Danish Act on the procedure in connection with expropriation of real property.

It is assumed that Femern A/S or A/S Femern Landanlæg will apply the generally applicable norms and standards when constructing new roads and modifying existing roads and for operation, maintenance and

repair during the construction phase. Femern A/S and A/S Femern Landanlæg will ensure that the roads meet the traffic needs of both existing users and the construction project. New roads or changes to existing roads will therefore be dimensioned for heavy traffic, etc. to the necessary extent. Femern A/S and A/S Femern Landanlæg will also keep the road authority informed about the construction works to allow for the necessary coordination, partly in respect of traffic flow.

On section 23

In pursuance of section 90, subsection 1, of the Danish Public Roads Act (section 124, subsection 1, of the new Danish Public Roads Act), the municipal council may decide that a municipal road is to be changed to a private shared road (downward reclassification). Downward reclassification means, among other things, that the road authority is no longer responsible for maintaining the road in the condition required by the type and volume of traffic. The landowners instead are responsible for operation and maintenance, cf. sections 13 and 44 of the Danish Private Shared Roads Act.

In connection with the implementation of the coast-to-coast project and its subsequent operation, it is essential for the infrastructure to have the necessary level of operation and maintenance, and it is assessed that there is greater certainty of this if the roads are subject to the Danish Public Roads Act.

Femern A/S' use of private shared roads may also be impeded or at least be rendered difficult if landowners block the roads or similar. In such situations, the progress of the coast-to-coast project will be better ensured if roads are public roads rather than private shared roads. The road authority can immediately remove any blockage from a public road. In the case of a private shared road in the countryside, where traffic-related measures do not require the prior approval of the road authority or police, the road authority may only demand that the blockage be removed if the road authority assesses that the blockage means that the road is no longer in a good, safe condition in relation to the type and scope of traffic, cf. section 15, subsection 1, and section 16, subsection 1, of the Danish Private Shared Roads Act.

The provision in subsection 1 therefore proposes that the Minister for Transport may order the municipal council, which is competent under roads legislation in relation to municipal roads and private shared roads that are affected by the construction project, to admit a private shared road as a public road (municipal road) if the private shared road is important for the construction or operation of the construction project. During the construction phase, the exercise of this authority could, for example, be relevant to ensure security of supply to the production facilities, while the exercise of this authority in both the construction and operating phases, for example, could be relevant to create good conditions for safety and rescue services during the construction and operation of the construction project.

Upward classification of a private shared road to a public road is an intervention similar to expropriation, and the owners are entitled to compensation if they suffer a loss. If it is not possible to reach agreement on compensation, any compensation is fixed under subsection 2 by the expropriation and valuation authorities under the Danish Act on the procedure in connection with expropriation of real property.

Subsection 3 proposes that the rules in section 51, subsections 1 and 2, of the Danish Public Roads Act (section 103 of the new Danish Public Roads Act) should apply to the fixing of compensation so that general and special benefits may be deducted from any compensation. Compensation may lapse entirely if the upward reclassification is estimated to result in greater benefits for the owners than the loss suffered by the owners in connection with the measure.

On section 24

The proposed provision aims to ensure that Femern A/S and A/S Femern Landanlæg have the authority to transfer land, buildings, installations, etc. that are owned by one of the two companies and are no longer necessary for the construction and operation of the construction project.

As the construction project progresses, there will continually be land, buildings, installations, etc. that are no longer necessary for the implementation of the construction project. However, most of the land acquired will serve a purpose for the construction project right up to the end of the construction phase.

Where land, buildings, installations, etc. do not serve a purpose in relation to the construction project during the construction phase or after its completion, Femern A/S and A/S Femern Landanlæg will be able to transfer the land, etc. to another public authority, for example Lolland Municipality or another government agency free of charge or for a reduced charge.

The provision covers any type of real property, including residual land, buildings, pipes, cables, road areas, installations on leased land, land reclamation areas or similar.

On section 25

As stated in the comments on section 38, the boundary of the road link in the fixed link across the Fehmarnbelt (the coast-to-coast project) is specified in article 2, paragraphs 4-6, of the Treaty. This means that the boundary between the road link in the fixed link across the Fehmarnbelt and other road landworks in Denmark is where the road link in the fixed link across the Fehmarnbelt joins the Sydmotorvejen motorway between Sakskøbing and Rødbyhavn. The interface between the road link in the fixed link across the Fehmarnbelt and the road landworks in Germany is directly at the junction in Puttgarden (end of the exit ramp, beginning of the entry ramp). This junction is therefore attributed to the German road landworks.

Public roads mean roads, streets, bridges and squares that are open to public traffic and are administered by the State or municipality under the Danish Public Roads Act, cf. section 1, subsection 1, of the Danish Public Roads Act (section 3, 2), of the new Danish Public Roads Act).

Under the Danish Public Roads Act, the administration of roads such as the road established with the fixed link across the Fehmarnbelt will be assigned to the Danish Road Directorate, cf. section 2, subsection 4, of the Danish Public Roads Act (section 6, subsection 2, of the new Danish Public Roads Act). However, it is assumed in the Treaty that Denmark will form a company that is to undertake operation and maintenance, cf. article 6, paragraph 1, of the Treaty.

The proposed provision in subsection 1 specifies that the part of the road link that is located in Denmark is a public road subject to the Danish Public Roads Act and rules issued in pursuance of this Act. The jurisdiction of the competent Danish authorities therefore covers Danish territory and the Danish part of the Exclusive Economic Zone up to the national border.

It is proposed that Femern A/S administer the road link belonging to the coast-to-coast project specified in section 1, cf. section 38, under the Danish Public Roads Act. Femern A/S is therefore the road authority in the sense of the road legislation and may make decisions under the Danish Public Roads Act and rules issued in pursuance of this Act.

As stated above, the road link in the fixed link across the Fehmarnbelt is a continuation of the Sydmotorvejen motorway, which is administered by the Danish Road Directorate, cf. section 2, subsection 4, of the Danish Public Roads Act (section 6, subsection 2, of the new Danish Public Roads Act). In certain cases, therefore, it may be appropriate for the Danish Road Directorate to exercise the powers under the Danish Public Roads Act and rules issued in pursuance of this Act. Consequently, it is proposed in subsection 2 that Femern A/S may authorise the Danish Road Directorate or another agency established under the Ministry of Transport to exercise the powers granted to Femern A/S under subsection 1.

It is proposed in subsection 3 that the Danish Public Administration Act apply to Femern A/S where the company carries out tasks as a road authority, cf. subsection 1.

On section 26

Under section 1, subsection 1, of the Danish Ports Act, the Act applies to ports that are used for the commercial transportation of goods, vehicles and passengers and for landing fish. The work harbour that will be built as part of the coast-to-coast project is not subject to the Danish Ports Act in its entirety as it will only be used by Femern A/S for the construction of the fixed link across the Fehmarnbelt. Femern A/S' port activity will be designed not to make a profit, but to implement the construction project, and it therefore does not involve commercial transportation. Although the work harbour is not subject to the Danish Ports

Act in general, sections 3, 4 and 15 of the Danish Ports Act do apply, as these provisions apply to all ports, including those that are not otherwise subject to the Act, cf. section 1, subsection 2, of the Danish Ports Act.

Under the proposed provision in section 26, the provision in section 14 a, subsections 2 and 3, and rules issued in pursuance of section 14 a, subsection 1, of the Danish Ports Act also apply to the work harbour. The provisions and rules issued in pursuance of this section concern enhancement of security of port facilities and ports, and Executive Order no. 896 of 9 July 2010 on enhancement of security of ports and Executive Order no. 414 of 8 May 2012 on enhancement of security of port facilities were issued under this section.

The background for the proposal that section 14 a of the Danish Ports Act should apply to the work harbour is that the harbour will receive ships that are subject to the rules on maritime security. In order to enhance the security of the international maritime transport chain, these ships must call at secure port facilities.

Under the proposed provision, the work harbour is subject to the same provisions on enhancement of security of port facilities and ports as those applicable to Danish commercial ports. This means that the security of the work harbour must be approved and supervised in the same way as for all other ports and port facilities that are subject to the rules on maritime security.

On section 27

Under the proposed provision in subsection 1, the Minister for Transport is authorised to expropriate the areas and rights, etc. necessary for the construction and operation of the construction project or changes to it, plus the establishment of climate-related preventive measures.

The authorisation also grants the Minister for Transport authority to expropriate areas to be used for access roads, work sites, material depots, etc. and supplements the final specific expropriation decisions in the proposed provisions in sections 29-33. When the construction works have been completed, it is generally assumed that the temporarily expropriated areas, etc. will be reinstated as far as possible and returned to the original owner.

For the homes that are expropriated on account of vibrations and magnetic field impact, Banedanmark may choose to demolish them or resell them with the reduction in value that may be caused by the impact. In this connection, Banedanmark may offer the original owners the opportunity to buy their homes back.

Compensation is fixed as described in the proposed section 36.

The proposed provision in subsection 2 means that, in special cases, the Minister for Transport may, at the request of the owner, expropriate a property that is particularly seriously affected by the construction project before the time of the ordinary expropriations.

'Particularly seriously affected' generally means a situation in which the Minister for Transport assesses that there is a significant risk that the property in question will subsequently be fully expropriated. It will not be required that it is expected that the property will have to be fully expropriated. Consequently, if the other conditions are met, it may be the case that the State acquires an area even if the property is only partially expected to be expropriated or if the owner suffers significant inconvenience in connection with the implementation of the construction project. This means that the expected partial expropriation or the inconvenience that the construction project entails must have a significant scope.

Even if the requirement that the property must be affected particularly seriously by the construction project is met, the condition that it must be a special case must also be met before the Minister for Transport may expropriate the property in question at a time before the ordinary expropriations. An example of a 'special case' may be if advance expropriation may avert significant financial consequences if a business will suffer a considerable loss of income unless expropriation takes place before the ordinary expropriations. Expected changes in property prices may not, in themselves, be considered to constitute a significant financial consequence.

Another special case may be if the owner has special personal reasons for wanting the property to be acquired before the time of the ordinary expropriation. Such personal reasons may be documented illness, advanced age, impending birth or other social reasons.

Advanced expropriation will only be relevant if the owner of the property or business in question requests it.

Compensation is fixed as described in the proposed section 36.

The proposed provision in subsection 3 authorises the Minister for Transport, in connection with expropriation, to assign properties along the construction project easements relating to electrical operations or other easements, including, for example, on building lines, rights of way or drainage pipes, with consequent restrictions that are necessary for the construction and operation of the construction project.

In relation to the easement on electrical operations, it may be necessary, on the basis of the provisions in the Danish Heavy Current Executive Order, to assign easements to the construction project's neighbouring properties along the new installations equivalent to the electrical operations easement assigned along other electrified sections of railway. The easement entails restrictions, for safety reasons, on planting, construction, etc. in the properties that are adjacent to the construction project.

Compensation is fixed as described in the proposed section 36.

The provision in subsection 4 proposes that expropriation take place under the rules in the Danish Act on the procedure in connection with expropriation of real property.

On section 28

Section 28 of the Bill concerns preliminary studies, etc. Since the 1920s, railway legislation has contained a provision to the effect that each landowner must permit the railway authority to carry out certain studies on private land of which notice has been given. The provision is in section 21 e of the Danish Railway Act, and section 45 of the Danish Public Roads Act (section 99 of the new Danish Public Roads Act) contains a corresponding provision.

It is proposed in subsection 1 that the Minister for Transport is entitled at any time, with proper identification and without a court order, to undertake soil studies, surveys, marking or other studies of outdoor areas with a view to the construction and operation of the construction project in the proposed sections 1 and 2 or changes to it, plus climate-related preventive measures, if they are considered to be necessary.

In relation to section 21 e of the Danish Railway Act, the provision is proposed extended to include climate-related preventive measures. The background to the extension is the need to be able to carry out these studies for climate-related preventive measures on a par with changes to existing installations. This need may become even greater if climate conditions continue to change, with more heavy showers. A corresponding amendment of section 21 e of the Danish Railway Act is proposed in the present draft Bill for a Danish Railway Act (consultation version, Railway Bill, 22 December 2014).

It is proposed in subsection 2 that the Minister for Transport may, under the same conditions as those specified in subsection 1, have preliminary archaeological investigations carried out. This authority allows for the initiation of studies under subsection 1 and preliminary archaeological investigations under subsection 2 immediately after the Act enters into force.

The provision means that the Minister for Transport is entitled to carry out the studies in question without a court order on privately owned land when they are necessary in connection with the construction and operation of the construction project, among other things. The background to this is that there would be extreme limits to what a judge could decide on if a court order were required. In addition, this will only involve a right to carry out outdoor studies and thus not access to the homes of private individuals. It is assumed that the Minister for Transport will decide to carry out the studies in question without a court order, but that the actual performance of the studies may be assigned to private individuals, including companies, contractors or chartered surveyors. In this connection, the private individuals must show proper

authority for their entitlement to carry out the studies.

The preliminary archaeological investigations may mean that agricultural areas, for example, cannot be used for a shorter or longer period of time. Consequently, there is a need for authority to be able to carry out these studies, also where they entail inconvenience for the owners of the areas in question, and it is therefore typically impossible to obtain a voluntary agreement with the landowner to make use of a specific area. This authority is ensured with the provision in subsection 2.

If the landowner suffers a loss as a result of the preliminary archaeological investigations and it is not possible to reach agreement with the owner on compensation for the loss, the compensation is fixed as described in the proposed section 36.

According to the proposed provision in subsection 3, owners and users of areas covered by subsection 1 must be notified in writing no later than 14 days before the commencement of the study.

As preliminary archaeological investigations, cf. subsection 2, are more thorough than the studies subject to subsection 1, it is proposed in subsection 4 that owners and users must be notified in writing no later than 28 days before the commencement of the preliminary archaeological investigations.

If it is not possible to notify owners and users in writing in accordance with subsections 3 and 4, information on the studies or the preliminary archaeological investigations must be published in local media or similar according to the proposed provision in subsection 5. It is up to the Ministry of Transport to decide how the information will be published. It may, for example, be published on the website of the Ministry of Transport, Femern A/S or Lolland Municipality.

On section 29

Section 29 of the Bill concerns permanent land acquisition and cancellation with final effect of the rights to buildings on rented land.

The coast-to-coast project will be implemented on the basis of a tight timetable, and any delay to the project will have major economic consequences. The proposed provision, which contains final, specific expropriation decisions, is designed to contribute to creating the necessary scope during the construction phase to ensure that ownership problems, and in particular the time required to resolve them, are prevented, to the necessary extent, from impeding the progress of the coast-to-coast project and thus having major economic consequences.

The permanent land acquisition and cancellation of all rights are required for the establishment of the installations on land, including the establishment of a number of rainwater retention basins. To ensure access to one of these rainwater retention basins, an access road from Østersøvej via part of title number 244ø Rødby Markjorder will be expropriated.

For the construction of a technical building (portal building) at the entrance to the future tunnel beneath the Fehmarnbelt, it is necessary to expropriate part of title number 244k Rødby Markjorder. As, when the Act is adopted, there will be temporary land acquisition of a large area from title number 244k Rødby Markjorder, cf. section 31, subsection 1, of the Bill, for the establishment of the production area, it is proposed that the necessary permanent land acquisition take place at the same time.

For the power supply to the installation, a new 132/10 kV main transformer station will be installed on the north-western corner of Færgevej/Strandholmsvej. To ensure access to the construction site during the construction phase, it is necessary to acquire road access via Finlandsvej, Sulkavavej and part of title number 244ed Rødby Markjorder. As title number 244ed will be fully expropriated for the toll plaza, etc. later in the construction process, the provision grants authority to expropriate the entire property at title number 244ed Rødby Markjorder. A customary expropriation process will normally last minimum 3-9 months. This is a problem because the main transformer station must be functional as soon as possible. In order to avoid any unnecessary delay, it is proposed that the Danish Parliament decide to expropriate the area marked in schedule 6 to the Act against full compensation immediately when the Bill is passed.

In respect of the relationship with section 73 of the Danish Constitution, reference is made to section 9 of the general comments.

The proposed provision in subsection 1 grants the Minister for Transport, immediately when the Act enters into force, access to all of title number 244ed and the part of title numbers 244k and 244ø Rødby Markjorder that is marked in schedule 6 to the Act.

In connection with the public consultation on the Bill, Femern A/S notified owners of land of the consultation, including how the owners should safeguard their interests in connection with it. The owners were also notified of the introduction of the Bill, including the legal effects if the Bill is passed as introduced. The owners also received detailed maps showing the intervention in the individual properties. The owners were also offered the opportunity to have the project marked out on the ground.

After the Act has been passed and has entered into force, Femern A/S will, in cases in which no voluntary agreement has been made on the size of compensation, pay an amount on account equivalent to what Femern A/S estimates it is obliged to pay under the circumstances if the owner requests an advance on the expropriation compensation. The payment will be made subject to repayment if the Expropriation Commission for Government Expropriation on the Islands determines that the compensation will be lower than the amount paid. Consequently, the Expropriation Commission is not bound by the parties' claims, or by the amount paid out on account by Femern A/S when it subsequently determines the amount of compensation. If a voluntary agreement has been made on the amount of compensation, the payment will correspond to this amount. In these cases, payment will be made when the conditions in the agreement have been met.

If it is necessary for the Minister for Transport to gain access to additional areas, an expropriation decision may be made under the proposed section 27.

Under the proposed provision in subsection 2, all other rights to or via the areas expropriated under subsection 1 are cancelled with final effect, which is in accordance with standard expropriation practice. The Minister for Transport may also remove any structures and installations in the areas specified in subsection 1, cf. section 34 of the Bill.

By means of advance acquisition under section 14, subsection 1, of Danish Act no. 285 of 15 April 2009, Femern A/S acquired access to the property at title number 244b Rødby Markjorder. With the proposed provision in subsection 3, the rights via title number 244b Rødby Markjorder to building numbers 1 and 3 on rented land are cancelled with final effect. This means that two wind turbines installed on the property will have to be removed.

The wind turbines may, if necessary (if they are not removed by the owners), be removed by Femern A/S, cf. section 34 of the Bill. Compensation is fixed as described in the proposed section 36.

On section 30

Section 30 of the Bill concerns temporary land acquisition, where the owners may request permanent acquisition, and cancellation with final effect of the rights to buildings on rented land.

Femern A/S has designated an area east of Rødbyhavn where the tunnel elements are to be manufactured at a purpose-built production plant. The production plant will be sited partly on land and partly beyond the existing coastline, with its own work harbour.

Of the total area that is to be used for the production area and the construction of the tunnel portal (approximately 190 ha (excl. dike)), approximately 87 ha is owned by Femern A/S, partly as a consequence of advance acquisitions under the Planning Act, approximately 2 ha is public road, leaving approximately 101 ha to be acquired, at the time of introduction of the Bill, before the production area and the tunnel portal can be established in their entirety.

A continuous footpath and cycle path runs along the top of the dike, and this will be interrupted by the establishment of the production area. Instead, a temporary joint path will be installed around the production

area to compensate for the interrupted cycle path on the dike (the Baltic Sea route).

The coast-to-coast project will be implemented on the basis of a tight timetable, and any delay to the project will have major economic consequences. The proposed provision, which contains final, specific expropriation decisions, is designed to contribute to creating the necessary scope during the construction phase to ensure that ownership problems, and in particular the time required to resolve them, are prevented, to the necessary extent, from impeding the progress of the coast-to-coast project and thus having major economic consequences.

In addition, the production area and the tunnel portal play a central role in the construction works and their establishment will be time-consuming. Moreover, to ensure traffic safety, it is important for the joint path around the production area to be built so that it can be used when the current joint path is interrupted. It is therefore essential that, immediately on commencement of the Act, the Minister for Transport be granted a right to control the entire area included in the production area and used for the construction of the tunnel portal. It is necessary to control the area until 2023, as the tunnel element factory will be dismantled and the area reinstated after the end of the construction phase. This will ensure the commencement and progress of the project immediately after the commencement of the Act. A customary expropriation process will normally last minimum 3-9 months. In order to avoid any unnecessary delay, it is proposed that the areas specified be expropriated, after which the expropriated owners and users will have the right to claim compensation.

In respect of the relationship with section 73 of the Danish Constitution, reference is made to section 9 of the general comments.

With the proposed provision in subsection 1, the Minister for Transport is granted a right to control the remaining areas included in the production area and used for the construction of the tunnel portal immediately on commencement of the Act and until 31 December 2023, as part of the production area is subject to the proposed section 31. In addition, the Minister for Transport is granted a right to control the areas to be used for the construction of the joint path and for the establishment of a temporary amphibian fence in title number 244dy. The areas subject to subsection 1 are undeveloped agricultural land, although there are 31 wind turbines installed, which will have to be removed.

In connection with the public consultation on the Bill, Femern A/S notified owners of land of the consultation, including how the owners should safeguard their interests in connection with it. The owners were also notified of the introduction of the Bill, including the legal effects if the Bill is passed as introduced. The owners also received detailed maps showing the intervention in the individual properties. The owners were also offered the opportunity to have the project marked out on the ground.

After the Act has been passed and has entered into force, Femern A/S will, in cases in which no voluntary agreement has been made on the size of compensation, pay an amount on account equivalent to what Femern A/S estimates it is obliged to pay under the circumstances if the owner requests an advance on the expropriation compensation. The payment will be made subject to repayment if the Expropriation Commission for Government Expropriation on the Islands determines that the compensation will be lower than the amount paid. Consequently, the Expropriation Commission is not bound by the parties' claims, or by the amount paid out on account by Femern A/S when it subsequently determines the amount of compensation. If a voluntary agreement has been made on the amount of compensation, the payment will correspond to the agreed amount. In these cases, payment will be made when the conditions in the agreement have been met.

If it is necessary for the Minister for Transport to control the areas included in the production area and the joint path, cf. schedule 7 to the Act, after 31 December 2023, an expropriation decision may be made under section 27 of the Bill.

With the proposed provision in subsection 2, the right via title number 244eø Rødby Markjorder to building number 1 on rented land is cancelled with final effect. This means that the wind turbine installed on the property must be removed. The wind turbine may, if necessary (if it is not removed by the owner), be removed by Femern A/S, cf. section 34 of the Bill. Moreover, the Minister for Transport's right of control under subsection 1 must be respected by holders of all other rights via the properties specified in

subsection 1. This means that any tenancy rights and rights of use that conflict with the Minister for Transport's right of control are automatically cancelled temporarily during the construction phase, and the Minister for Transport may remove any structures and installations on the properties specified in subsection 1, cf. section 34 of the Bill.

As a consequence of the duration of the temporary control under subsection 1, it is proposed in subsection 3 that the owner of an area subject to subsection 1 may, at any time, demand that the Minister for Transport acquire the area permanently against payment of compensation.

Under the proposed provision in subsection 3, a request for acquisition must be submitted to the Minister for Transport before 31 December 2023. No other conditions apply to acquisition.

The proposed provision in subsection 4 means that all rights to or via the area are cancelled with final effect on acquisition under subsection 3, and the Minister for Transport may remove any structures and installations that have not already been removed under subsection 2, cf. section 34 of the Bill.

When the construction works have been completed and Femern A/S returns the area subject to subsection 1 to the owners, a watercourse will be installed in a part of the area that is included in the production area, cf. section 33, subsection 1, of the Bill and the comments on this. In other respects, the area will be reinstated to the widest possible extent. Compensation is fixed as described in the proposed section 36.

On section 31

Section 31 of the Bill concerns temporary land acquisition where the owners may not request permanent acquisition.

A consistent feature of the landscape to the east and west of Rødbyhavn is the existing dike running as an easily recognisable landscape element throughout the project area on Lolland.

The coast-to-coast project will be implemented on the basis of a tight timetable, and any delay to the project will have major economic consequences. Part of the dike is included in the production area, which plays a central role in the construction works and the establishment of which will be time-consuming, cf. the comments on section 33, subsection 2, of the Bill. Another part of the dike will be used in connection with the establishment of the new reclaimed land west of Rødbyhavn, a nature area with salt meadows, fen, ponds and recreational area with sandy beaches. The reclaimed land is another important part of the construction works, as the purpose of the land reclamation is to make use of excavated seabed spoil and thus reduce the transportation of the spoil. Land reclamation is a precondition for the construction project, ensuring the progress of the construction project and a financially viable solution for the seabed spoil. The proposed provision, which contains final, specific expropriation decisions, is designed to contribute to creating the necessary scope during the construction phase to ensure that ownership problems, and in particular the time required to resolve them, are prevented, to the necessary extent, from impeding the progress of the coast-to-coast project and thus having major economic consequences.

In respect of the relationship with section 73 of the Danish Constitution, reference is made to section 9 of the general comments.

With the proposed provision in subsection 1, the Minister for Transport is granted, immediately on commencement of the Act and until 31 December 2023, a right to control the part of title numbers 244k, 244x, 244y, 244æ, 244ø, 244bo, 244fa, 244fe, 253, 546a, 549r, 549u and 549x Rødby Markjorder that is marked in schedules 5, 6 and 7 to the Act. Among other things, the areas will be used temporarily to build access roads to rainwater retention basins, to establish a temporary amphibian fence and for the construction of the tunnel portal. Title number 549r Rødby Markjorder will be used to establish a temporary amphibian fence and as a temporary work site in connection with any modification of the road bridges, cf. section 33, subsection 3.

In connection with the public consultation on the Bill, Femern A/S notified owners of land of the consultation, including how the owners should safeguard their interests in connection with it. The owners were also notified of the introduction of the Bill, including the legal effects if the Bill is passed as introduced.

The owners also received detailed maps showing the intervention in the individual properties. The owners were also offered the opportunity to have the project marked out on the ground.

After the Act has been passed and has entered into force, Femern A/S will, in the absence of a voluntary agreement on the size of compensation, pay an amount on account equivalent to what Femern A/S estimates it is obliged to pay under the circumstances if the owner requests an advance on the expropriation compensation. The payment will be made subject to repayment if the Expropriation Commission for Government Expropriation on the Islands determines that the compensation will be lower than the amount paid. Consequently, the Expropriation Commission is not bound by the parties' claims, or by the amount paid out on account by Femern A/S when it subsequently determines the amount of compensation. If a voluntary agreement has been made on the amount of compensation, the payment will correspond to the agreed amount. In these cases, payment will be made when the conditions in the agreement have been met.

If it is necessary for the Minister for Transport to control the part of title numbers 244k, 244x, 244y, 244æ, 244ø, 244bo, 244fa, 244fe, 253, 546a, 549r, 549u and 549x Rødby Markjorder that is marked in schedules 5, 6 and 7 to the Act after the 31 December 2023, an expropriation decision may be made under the proposed section 27.

Under the proposed provision in subsection 2, the Minister for Transport's right of control under subsection 1 must be respected by holders of all other rights via the areas specified in subsection 1. This means that any tenancy rights and rights of use that conflict with the Minister for Transport's right of control are automatically cancelled temporarily during the construction phase, and the Minister for Transport may remove any structures and installations in the areas specified in subsection 1, cf. the proposed section 34.

When the construction works have been completed and Femern A/S returns the part of the dike that is subject to subsection 1 to the owner (Det Lollandske Digelag), the dike will be modified in some respects, cf. section 33, subsection 2, of the Bill and the comments on this. In general, the existing dike along the coastline will, however, to the widest possible extent, be preserved and reinstated where it was temporarily removed so it can continue to function as a storm surge dike and be an easily recognisable landscape element.

Compensation is fixed as described in the proposed section 36.

On section 32

Section 32 of the Bill concerns a temporary right to control access roads to construction site areas, etc.

Securing the necessary access roads to construction site areas for the portal and ramps, tunnel element factory and temporary accommodation facilities is essential to the implementation of the coast-to-coast project.

Moreover, the coast-to-coast project will be implemented on the basis of a tight timetable, and any delay to the project will have major economic consequences. The proposed provision, which contains final, specific expropriation decisions, is designed to contribute to creating the necessary scope during the construction phase to ensure that ownership problems, and in particular the time required to resolve them, are prevented, to the necessary extent, from impeding the progress of the coast-to-coast project and thus having major economic consequences.

Traffic to and from the construction site at the portal area will travel via Gl. Badevej. Consequently, the road has been widened from Færgevej to the turning place at the existing dike.

An access road to the temporary accommodation facilities will be built. The road will be a branch of Færgevej and will run east of Strandholmsgården, after which it will join the temporary accommodation facilities. However, the road will be temporary and will only be used in the construction phase, after which it will be removed along with the other production facilities. However, the part of the road that is in direct continuation of Strandholmsgården will be retained to allow future access to Ny Strandholm Pumpestation.

An access road to the tunnel element factory will be built. It will run along the same route as part of the existing unpaved Færgevej, after which it will turn 90 degrees to the south towards the production area. Where the road follows Færgevej, it will have two lanes, while the last approximately 400 m up to the gate to the contractors' area will have three lanes.

Some of these access roads are or will be private shared roads under existing legislation, as some landowners, etc. have or will be granted a right of way on the roads. However, the sections of road that are closest to the production area, in particular, will be of vital importance to the coast-to-coast project. The roads must be passable for work traffic, emergency traffic, etc. at all times and it may be necessary to block these sections of road fully or partially to ensure safety in the area.

To ensure that Femern A/S has full control over the sections of road, it is proposed with the provision in subsection 1 that the Minister for Transport be entitled to control the roads marked in schedule 6 to the Act until 31 December 2023. This will allow Femern A/S to control the sections of road in the same way that Femern A/S is able to control the production area, cf. the proposed section 30, and the private roads built by Femern A/S in the area.

If it is necessary for the Minister for Transport to control the roads that are marked in schedule 6 to the Act after 31 December 2023, an expropriation decision may be made under the proposed section 27.

It is proposed in subsection 2 that the Minister for Transport's right of control under subsection 1 must be respected by holders of all other rights via the properties specified in subsection 1. It is assumed that Femern A/S will make agreements on the use of the sections of road with the owners of the properties that have or will be granted a right of way on them. Under existing legislation, the properties in question are entitled to necessary access to a public road, and, if the changes in access conditions entail operational disadvantages, the owners in question may have a claim for compensation, which is fixed under section 36 of the Bill.

In connection with the public consultation on the Bill, Femern A/S notified owners of land of the consultation, including how the owners should safeguard their interests in connection with it. The owners were also notified of the introduction of the Bill, including the legal effects if the Bill is passed as introduced. The owners also received detailed maps showing the intervention in the individual properties. The owners were also offered the opportunity to have the project marked out on the ground.

After the Act has been passed and has entered into force, Femern A/S will, in the absence of a voluntary agreement on the size of compensation, pay an amount on account equivalent to what Femern A/S estimates it is obliged to pay under the circumstances if the owner requests an advance on the expropriation compensation. The payment will be made subject to repayment if the Expropriation Commission for Government Expropriation on the Islands determines that the compensation will be lower than the amount paid. Consequently, the Expropriation Commission is not bound by the parties' claims, or by the amount paid out on account by Femern A/S when it subsequently determines the amount of compensation. If a voluntary agreement has been made on the amount of compensation, the payment will correspond to the agreed amount. In these cases, payment will be made when the conditions in the agreement have been met.

On section 33

Section 33 of the Bill concerns the right to make changes to areas, etc.

The coast-to-coast project will be implemented on the basis of a tight timetable, and any delay to the project will have major economic consequences. In connection with the implementation of the coast-to-coast project specified in section 1, it will be necessary to establish a number of different structures and installations, and to change existing structures. These will be both temporary and permanent interventions that will need to be done as soon as possible. Consequently, it is necessary for the Minister for Transport to be ensured the right to make the necessary changes and to control the areas that are necessary to implement the changes.

The proposed provision, which contains final, specific expropriation decisions, is designed to contribute to

creating the necessary scope during the construction phase to ensure that ownership problems, and in particular the time required to resolve them, are prevented, to the necessary extent, from impeding the progress of the coast-to-coast project and thus having major economic consequences.

In connection with the public consultation on the Bill, Femern A/S notified owners of land of the consultation, including how the owners should safeguard their interests in connection with it. The owners were also notified of the introduction of the Bill, including the legal effects if the Bill is passed as introduced. The owners also received detailed maps showing the intervention in the individual properties. The owners were also offered the opportunity to have the project marked out on the ground.

After the Act has been passed and has entered into force, Femern A/S will, in the absence of a voluntary agreement on the size of compensation, pay an amount on account equivalent to what Femern A/S estimates it is obliged to pay under the circumstances if the owner requests an advance on the expropriation compensation. The payment will be made subject to repayment if the Expropriation Commission for Government Expropriation on the Islands determines that the compensation will be lower than the amount paid. Consequently, the Expropriation Commission is not bound by the parties' claims, or by the amount paid out on account by Femern A/S when it subsequently determines the amount of compensation. If a voluntary agreement has been made on the amount of compensation, the payment will correspond to the agreed amount. In these cases, payment will be made when the conditions in the agreement have been met.

The proposed provision in subsection 1 grants the Minister for Transport the right to control title numbers 244l, 244o 244at, 244av, 244az, 244aæ, 244ba, 244dy and 244fc, Rødby Markjorder, cf. schedule 7 to the Act, in order to construct a watercourse (permanent change).

In relation to the construction of a watercourse (permanent change), it is necessary, in connection with the establishment of the production area, to remove Strandholm Pumpestation. Before the establishment of the production area, this will be re-established approximately 400 m to the west as Ny Strandholm Pumpestation. An agreement has been made to move the pumping station. In respect of the operation of Ny Strandholm Pumpestation, a number of the existing watercourses and drainage ditches will be rerouted to maintain the existing drainage structure.

The new watercourse will be constructed in part in the area acquired temporarily for the production area, cf. section 30, subsection 1, of the Bill. The watercourse, which will continue to drain the area after the completion of the construction works, may only be constructed permanently in a property that is not owned by Femern A/S if an agreement has been made with the property's owners and users to do so. Alternatively, the right to control the property may be secured by means of expropriation. A customary expropriation process will normally last minimum 3-9 months. This is a problem as Ny Strandholm Pumpestation is being constructed and must be functional as soon as possible. In order to avoid any unnecessary delay, it is proposed that a right to construct the necessary watercourses permanently be expropriated, after which the expropriated owners and users will have the right to claim compensation.

The proposed provision in subsection 2 grants the Minister for Transport the right to make changes to the status of the dike in title numbers 244k, 244bo and 244fa Rødby Markjorder, cf. schedules 5, 6 and 7 to the Act, as this is necessary in relation to the construction and operation of the coast-to-coast project.

The consistent feature of the eastern and western landscape is an existing dike running as an easily recognisable landscape element throughout the project area on Lolland.

Part of the dike will be included in the production area, cf. section 31 of the Bill and the comments on the section. In connection with the construction works, it is also necessary to make permanent changes to the status of the dike. Where the dike borders on the new reclaimed land, it is necessary to use parts of the dike in connection with the land reclamation. In the area at the production plant, the dike will be rerouted temporarily, and, where the motorway and railway cross the dike, it will be necessary to break through the dike and build a new dike around the tunnel portal. When the construction work has been completed, the dike will be changed permanently in some respects. In general, the existing dike along the coastline will, to the widest possible extent, be preserved and reinstated where it was temporarily removed. After reinstatement, the dike will continue, in connection with the construction project, to function as a storm

surge dike and be an easily recognisable landscape element

With the provision in subsection 3, it is proposed that the Minister for Transport be authorised to make changes to bridges (permanent change) up to 31 December 2023. In connection with the implementation of the coast-to-coast project specified in section 1, an access road will be built to construction site areas for the portal and ramps, tunnel element factory and temporary accommodation facilities. The work entails construction and upgrading of a total of approximately 5 km of paved road with a joint cycle/footpath. Part of the access road to construction site areas for the portal and ramps, etc. consists of Færgevej, which crosses the existing motorway and the existing railway on road bridges owned by the Danish Road Directorate and Banedanmark, respectively. The access road, including Færgevej, is of vital importance to the implementation of the coast-to-coast project, in particular until the work harbour has been built and materials, etc. can be delivered by sea. As a consequence of the work traffic, it may be necessary to repair the road surfacing with associated membranes and reinforce the bridge structure. It is essential that Femern A/S be able to continually repair any damage to the access road, including Færgevej.

Femern A/S and A/S Femern Landanlæg are authorised, in pursuance of sections 1 and 2 of the Bill, to take the necessary measures to implement the construction project, including building new roads and making changes to existing roads. In this connection, changes may be made to Færgevej, which is a public road, including the part of Færgevej located on the road bridge. With the proposed provision in subsection 3, the Minister for Transport is also granted the right to make changes to the bridge (bridge structure), including maintaining the bridge and repairing damage to the bridge (bridge structure), if the Minister for Transport finds it necessary in respect of the implementation and operation of the coast-to-coast project, cf. schedule 6 to the Act. The bridge (bridge structure) will not be reinstated at the end of the construction period.

With the provision in subsection 4, it is proposed that the Minister for Transport be authorised to construct natural features (permanent change). The areas incorporated permanently and temporarily in the construction phase in connection with the implementation of the coast-to-coast project specified in section 1 comprise several protected nature areas (salt meadow, marsh, meadow, fen, ponds and watercourses/ditches, plus Strandholm Sø lake). A new lake with approximately the same size as Strandholm Sø will be created. An open nature area of the same size is also planned around the new lake. The other natural features that disappear will also be replaced by new natural features. The new recreational areas and nature areas will be larger than those that disappear. The coast-to-coast project specified in section 1 incorporates 10 ponds. 13 ponds will also be isolated. 37-43 new ponds will be established as part of the project. 10 of these new ponds will be established before the incorporation of the existing ponds to ensure the ecological functionality of the area for a number of amphibian species protected by Annex IV of the Habitats Directive throughout the construction and operating phases. To further meet the needs of the amphibian species protected by Annex IV, open landscape will be established around the ponds at the same time as the ponds are established. This means that the new nature areas will only undergo one overall construction phase. In addition, a temporary amphibian fence will be erected around the production area and the access roads to it to avoid amphibians migrating into the area, cf. section 30, subsection 1, and section 31, subsection 1, of the Bill.

The new natural features can be established on a property that is not owned by Femern A/S if an agreement has been made with the owners of the property to this effect or, alternatively, right of control over the area has been created by means of expropriation. A customary expropriation process will normally last minimum 3-9 months. For the protection of the flora and fauna, it is important to obtain right of control quickly, as part of the new natural features must be established before the existing protected nature areas are incorporated, which will take place shortly after the commencement of the Act. In order to avoid any unnecessary delay, the provision proposes that a right to construct new natural features permanently be expropriated, after which the expropriated owners and users will have the right to claim compensation.

The proposed provision in subsection 4 grants the Minister for Transport the right to control title numbers 1a and 1r Lungholm Inddæmning, Olstrup, and 244o and 549r Rødby Markjorder, cf. schedules 6 and 7 to the Act, in order to establish replacement natural features.

If necessary in order to maintain and care for the new natural features, the Minister for Transport is authorised, under section 27, subsection 3, of the Bill, to assign the properties an easement with

consequent restrictions by means of expropriation. Among other things, it may be necessary to ensure that the areas concerned are not cultivated, drained, fertilised or sprayed, and that fish, crayfish, duck, geese or other poultry are not released or fed in and near the replacement natural features.

With the proposed provision in subsection 5, the Minister for Transport is authorised to build roads (permanent change). In the construction phase, the incorporation of the section of coast and the establishment of the new reclaimed land will have a marked impact on outdoor activities and other leisure activities close to the coast. The most serious impacts and restrictions will occur during the construction phase, while in the operating phase a new situation will be created in which losses and restrictions in relation to the existing opportunities will be replaced by several new recreational opportunities for the area's residents and visitors. As part of the implementation of the coast-to-coast project specified in section 1 of the Bill, Lolland will have two new sandy beaches in the area west of Rødbyhavn. One beach will be established in the western part of the reclaimed land. The other beach will be established in front of Lalandia as a semicircular lagoon. An inner lagoon will be created around the existing sandy beach at Rødbyhavn that can be used for recreational purposes and for paddling.

At the same time as the establishment of the beaches, 140 parking spaces will be created on the reclaimed land off the existing coastline. The parking spaces will therefore be located in an area owned by Femern A/S. Road access to the beaches will be provided by extending Sandholmvej (public road), which will run from the north side at ground level and cross the dike on a longitudinal ramp approximately 100 m long. The roads will cross at the same height as the top of the dike and then run at ground level on the reclaimed land.

For a large part of the construction phase, approximately 4 km of the coast each side of Rødbyhavn will be closed for access. To mitigate the impacts of the lost beach areas, the construction works will be organised so that the westernmost part of the reclaimed land will be established early in the construction phase with a view to creating a new beach immediately west of it. The new beach will function as an alternative to the closed beaches until the remainder of the land reclamation with the lagoon beach and paddling beach in the inner lagoon has been created.

The proposed provision in subsection 5 grants the Minister for Transport the right to build roads in title numbers 1eq, 1ez, 1fq, 1fu, 244bc, 244fa and 271k Rødby Markjorder, cf. schedule 5 to the Act. The roads will be used by Femern A/s and its contractors, among others, and will have the status of private shared roads or public roads. It is proposed that the roads in title number 244fa Rødby Markjorder be classified as public roads, but the Minister for Transport may, in pursuance of section 89, subsection 1, of the Danish Public Roads Act (section 61 of the new Danish Public Roads Act), decide not to separate the area in the land register, as special conditions apply. The road is located on the dike and it is appropriate for the maintenance of the dike that Det Lollandske Digelag retain the title to the dike. The road authority has the title to the roads' furniture.

The proposed provision in subsection 6 grants the Minister for Transport the right to place a drainage pipe in title number 244k Rødby Markjorder, as marked in schedule 6 to the Act (permanent change).

In pursuance of the proposed provision in subsection 7, the Minister for Transport is granted authority, until 31 December 2023, to establish and maintain a water pipe (temporary change). Studies have shown that there is a need for a supplementary water pipe to guarantee the water supply for production in the tunnel element factory in the event of a pipe fracture (redundancy). The water pipe is planned to be installed in an east-west course in agricultural areas east of Havnevej. The water pipe will pass beneath the Sydmotorvejen motorway and continue to Strandholmsvej, following that road until the place where the future toll plaza will be established. From there, it will run through agricultural areas and along Humlegårdsvej, Ferd. Jensensvej and Færgevej. The supplementary water supply to the production area entails a temporary area requirement of approximately 1.0 ha, of which approximately 0.5 ha will be used as a temporary easement area in connection with the installation of the water pipe.

With the proposed provision in subsection 7, the Minister for Transport is granted, until 31 December 2023, the right to place the water pipe on the properties at title numbers 12a, 12d, 12h, 15c, 15d, 244al, 244at and 244bc Rødby Markjorder and to register an easement on 2 m each side of the pipe to protect the water pipe, which is buried and therefore not visible on the land, cf. schedule 6 to the Act. Consequently, it is not

possible for the landowner to demand that the water pipe be removed during the construction period. When the coast-to-coast project specified in section 1 has been completed, the water pipe will be sealed and left in place. At the same time, the easement will be cancelled. The water pipe left in place will not cause any inconvenience to future use of the properties, including any future construction works. The water pipe can consequently be easily excavated. If it is necessary for the Minister for Transport to have the water pipe placed in the areas marked in schedule 6 to the Act, with the associated easements, after 31 December 2023, an expropriation decision may be made under the proposed section 27. If Lolland Forsyning A/S wants to retain the water pipe after the coast-to-coast project specified in section 1 has been completed, Lolland Forsyning A/S must acquire the necessary rights to do so.

With the provision in subsection 8, it is proposed that the Minister for Transport be authorised to widen roads (temporary change). An alternative route to the tunnel element factory, etc. will be established to guarantee transport to and from the area if it is not possible to use the bridges on Færgevej. The route runs from Havnevej over the existing motorway and from there along Strandholmsvej towards the south and on along a newly created extension of Finlandsvej towards Færgevej. The widening involves ensuring clearance under the existing railway and straightening some curves to ensure traffic safety, plus local widening to ensure that traffic travelling in opposite directions can pass. In addition, Finlandsvej will be widened, and the junction of Finlandsvej/Færgevej/Gl. Badevej will be modified. At the same time, some passing places will be established on Strandholmsvej south of the underpass beneath the existing railway and down to Færgevej.

For reasons of road safety, the junction of Gl. Badevej/Finlandsvej and Færgevej will be converted to two staggered T junctions. This will ensure good visibility, which will benefit the future situation in which Færgevej will pass over the new motorway and the new railway. For the conversion of the junction, it will be necessary to control private property of approximately 0.3 ha. It is essential to compliance with a strict timetable for the local area to be prepared logistically before the coast-to-coast project begins. This includes ensuring access and road safety for the high volume of transportation by road. The junction is essential to traffic to the area and must therefore be ready as soon as possible.

With the proposed provision in subsection 8, the Minister for Transport is granted, until 31 December 2023, the right to widen Finlandsvej, Strandholmsvej and Færgevej. The widening of the roads affects the properties at title numbers 12a, 12h, 85b, 112b, 271h, 271i, 271k, 271l and 271n Rødby Markjorder, as shown in schedule 6 to the Act. If it is necessary for the Minister for Transport to retain the widening of the roads after 31 December 2023, an expropriation decision may be made under the proposed section 27. The alternative route, including the extension of Finlandsvej, will be established as a permanent structure so that the route may form part of the local road network in the area. It will thus be possible to use the route after the construction phase of the coast-to-coast project specified in section 1. If Lolland Municipality wishes to retain the route after the coast-to-coast project specified in section 1 has been completed, Lolland Municipality must acquire the necessary rights to do so.

In connection with the performance of construction works subject to subsections 1-8, it is necessary to control property that is not owned by the Minister for Transport and over which the Minister for Transport has not been granted a right of control. The proposed provision in subsection 9 concerns temporary work sites and ensures that the Minister for Transport may have temporary control over the necessary areas immediately on commencement of the Act, cf. schedules 5, 6 and 7 of the Act.

Under the proposed provision in subsection 10, the Minister for Transport's right of control under subsections 1-9 must be respected by holders of all other rights via the areas specified in subsections 1-9. This means that any tenancy rights and rights of use that conflict with the Minister for Transport's right of control are automatically cancelled temporarily during the construction phase, and the Minister for Transport may remove any structures and installations in the areas specified in subsections 1-9.

Compensation will be fixed as described in section 36.

On section 34

Section 34 of the Bill concerns notification and the removal of structures, installations, plants, etc. The legal effect of the final, specific expropriation decisions begins when the Act enters into force.

At this time, the Minister for Transport gains title to and a right of control over the properties concerned, cf. sections 29-33 of the Bill. Femern A/S has notified the owners of structures and areas subject to sections 29-33 of the Bill of the introduction of the Bill, including the legal effects if the Bill is passed as introduced. Although the owners have already been notified by Femern A/S, it is proposed in subsection 1 that the owners receive one additional notice before the areas or rights in question are taken into use by Femern A/S.

The notice, which is given out of consideration for the owners, gives the owners a minimum of 14 days from receipt of the notice to remove any structures, installations, plants, etc. if the owners want to remove them themselves. When expropriation takes place, the construction authority usually acquires the expropriated area with the structures, installations, plants, etc. and is entitled to clear the area. In return, owners receive full compensation for their loss, cf. section 73 of the Danish Constitution. Section 34 of the Bill offers owners themselves the opportunity to clear expropriated areas if they so wish. All owners will receive detailed information on when the Minister for Transport will take the areas into use, regardless of whether the areas are acquired permanently or are to be used only temporarily. If an owner chooses not to clear the area, the owner will still receive full compensation for his or her loss, cf. section 73 of the Danish Constitution.

If it is not possible to notify owners in writing under subsection 1, the proposed provision in subsection 2 means that information on use of the area must be published in the local media or similar. It is up to the Minister for Transport to decide how the information will be published. It may, for example, be published on the website of the Ministry of Transport, Femern A/S or Lolland Municipality.

If the areas are not cleared no later than 14 days after notification, the Minister for Transport may, with the proposed provision in subsection 3, without additional notice, have the structures, installations, plants, etc. in the areas removed. This applies regardless of whether the areas are actually taken into use immediately after the end of the period of notice. The provision does not exclude the possibility that notice of more than 14 days may be given to carry out the clearance.

In respect of pipes and cables, reference is made to section 20 of the Bill. Compensation is fixed as described in section 36.

On section 35

Section 35 of the Bill concerns registration. When the Act has entered into force, the Minister for Transport gains title to and a right of control over the properties concerned, cf. sections 29-33 of the Bill. It is proposed that this title and right of control over the properties concerned be registered immediately after the commencement of the Act out of consideration for the owners and users of the properties. At the same time, rights are cancelled with final effect, cf. section 29, subsections 2 and 3, and section 30, subsection 2, of the Bill.

In connection with the public consultation on the Bill, Femern A/S notified the affected owners of land of the consultation, including how the owners should safeguard their interests in connection with it. The owners were also notified of the introduction of the Bill, including the legal effects if the Bill is passed as introduced. Notification was by individual letters, describing the specific interventions in the property, among other things. The letters were sent with maps illustrating the scope of the intervention, and all owners were offered the opportunity to have the project marked out on the ground. The individual letters to the affected owners state that any rights holders have not been informed about the Bill as Femern A/S does not have all information on them. The owners were therefore requested to inform any rights holders about the Bill. This information may be provided, for example, by the owners giving the rights holders a copy of the individual letter.

Title and right of control are registered with Femern A/S as the holder of the title and right of control.

On section 36

Section 36 of the Bill concerns compensation for intervention in pursuance of sections 27-33.

It is proposed in subsection 1 that compensation for intervention in pursuance of sections 27-33 of the Bill be determined, in the absence of agreement on the matter, by the expropriation and valuation authorities in accordance with the rules in the Danish Act on the procedure in connection with expropriation of real property.

This may concern compensation for damage caused to owners and users by the measures specified in the proposed section 28. It may also concern compensation for intervention under sections 27-33 that has the nature of expropriation. In such cases, the compensation must be complete, cf. section 73 of the Danish Constitution, which means that compensation must be paid that puts the owner/user in the same financial position as if the expropriation had not taken place. It will primarily be possible to pay compensation for loss as a consequence of surrendering areas and the imposition of easements. However, it will also be possible to pay compensation for inconvenience as a consequence of the expropriation, including temporary and permanent inconvenience and inconvenience under law concerning relations between neighbours. Not only the owner/user of the property to be expropriated may have a claim for compensation. Neighbours, for example, may also have a claim. The compensation fixed in pursuance of section 36 of the Bill may therefore also be compensation paid on the basis of law concerning relations between neighbours. In such cases, compensation is paid when the tolerance threshold under law concerning relations between neighbours is exceeded and the other general conditions in the law of torts are met.

Subsection 2 proposes that the rules in section 51, subsections 1 and 2, of the Danish Public Roads Act (section 103 of the new Danish Public Roads Act) should apply to the fixing of compensation so that both general and special benefits may be deducted from any compensation. Compensation may lapse entirely if the intended measure is estimated to result in greater benefits for the owner than the loss suffered by the owner in connection with the measure.

On section 37

The provision implements article 14, paragraphs 1-3, of the Treaty in Danish law.

Article 14 concerns the division of responsibility and labour in relation to public safety and order and emergency preparedness. Article 14, paragraph 1, of the Treaty specifies that the competent Danish authorities are responsible for matters concerning emergency preparedness, etc. on Danish territory (sovereign territory) and in the Danish part of the Exclusive Economic Zone, while the competent German authorities are, accordingly, responsible for these matters on German territory (sovereign territory) and in the German part of the Exclusive Economic Zone.

Article 14, paragraph 2, specifies, among other things, that the Danish and German rescue and ambulance services must, to the necessary extent, work together in accordance with the existing bilateral or other agreements. Among other things, on 16 May 1985, Denmark and Germany made an agreement on provision of mutual assistance in the event of disasters or serious accidents with the aim of facilitating mutual assistance and accelerating the dispatch of emergency personnel and equipment. The principles in this agreement are expected to apply to the relevant extent to the fixed link across the Fehmarnbelt, as specified by article 14, paragraph 2, of the Treaty.

Where detailed analysis of the emergency preparedness for the coast-to-coast project specified in section 1, including in connection with the design of the safety concept specified below, shows that efficient transboundary emergency preparedness requires further agreements between Denmark and Germany, the competent Danish authorities may make such agreements with the competent German authorities.

The proposed provision in subsection 1 means that, in accordance with the Treaty, the competent Danish authorities have overall responsibility for the organisation of emergency preparedness, etc. for the coast-to-coast project specified in section 1 during both the construction and operating phases. The competent Danish authorities include the police, the rescue service, the ambulance service and other emergency services, plus the customs authorities and the armed forces.

The competent Danish authorities will generally ensure public safety and order and be responsible for

emergency preparedness under existing law, including the Danish Executive Order on risk-based municipal rescue services (Danish Executive Order no. 765 of 3 August 2005), which specifies the tasks of the municipal rescue services.

With reference to the coast-to-coast project specified in section 1, it is established, in accordance with article 14, paragraph 1, of the Treaty that the jurisdiction of the competent Danish authorities covers Danish territory (sovereign territory) and the Danish part of the Exclusive Economic Zone up to the national border.

Under the proposed provision in subsection 2 and in accordance with article 14, paragraph 3, of the Treaty, Femern A/S is under an obligation to prepare a safety concept that must be agreed with the competent authorities of the two countries before the fixed link across the Fehmarnbelt is opened. In addition to customary emergency preparedness, etc., this safety concept also comprises a description of the collaboration between the competent Danish and German authorities and Femern A/S and plans for possible emergency situations. As for other major construction projects, so-called SURR groups were appointed in 2011 to deal with safety, accidents, rescue and clearance.

Under article 14, paragraph 3, of the Treaty, the safety concept must be agreed with the competent Danish and German authorities. Consequently, Femern A/S, with the competent Danish and German authorities, is responsible for planning emergency preparedness, including carrying out the necessary analyses, studies, workshops, game plans, exercises, etc., and thus producing a decision-making basis for the dimensioning of the emergency preparedness, including personnel and equipment. Femern A/S has implemented a number of the activities specified since 2010.

The provision proposed in subsection 3 means that, to the extent necessary, for example, to ensure a transboundary element in the design of the organisation in pursuance of the provision, including in particular in relation to the competent German authorities, the Minister for Transport may establish rules on the matters specified in subsection 1. This may, for example, concern establishing rules on the scope and content of the obligations that the competent Danish authorities must fulfil in the maintenance of public safety and order and emergency preparedness, including possibly the interface for the collaboration between the competent Danish and German authorities. Among other things, it will be necessary to regulate the German rescue authorities' right to carry out rescue work in the Danish part of the tunnel. There are many possible scenarios for the division of labour between the Danish and German authorities, and the rules will only be formulated precisely when a number of exercises have been carried out on how different types of accident at different places in the tunnel are best managed.

This means that, with authority in subsection 3, the Minister for Transport may, among other things, after negotiations with the relevant authorities, including in particular the police, the fire and rescue services and the ambulance service, establish binding rules on the basis of the safety concept prepared by Femern A/S that amend, supplement or abolish the existing rules. To a large extent, the rules will codify the agreements made between the Danish and German competent authorities in the light of the exercises carried out, including the necessary agreements made with the German authorities. The provision also provides the basis for establishing uniform standards for emergency preparedness across the Fehmarnbelt. For example, it may be necessary to establish special rules on how radio communication should be organised.

With authority in the provision in subsection 4, it will be possible for Femern A/S to be ordered to pay costs that the competent Danish authorities are specifically ordered to pay as a consequence of being ordered, in pursuance of subsection 1, to be responsible for the establishment of the necessary preparedness for both the construction and operating phases of the coast-to-coast project specified in section 1. On the basis of this provision, Femern A/S may be ordered to pay costs that the competent Danish authorities consider to be necessary and that are imposed on the authorities to be able to perform the special preparedness tasks that follow directly from subsections 1 and 2 and any rules under subsection 3, and to the extent to which the tasks do not come under the ordinary performance of tasks.

Consequently, Femern A/S may not be ordered to pay for, for example, general preparedness, and it is necessary to consider whether synergy effects can be achieved between general preparedness and the preparedness for the coast-to-coast project specified in section 1. Where this is the case, the company must only be held liable for proportionate payment. In connection with the application of subsection 4, the

Minister for Transport will involve Lolland Municipality and Femern A/S to elucidate the matter.

On section 38

The proposed provision in section 38 means that Femern A/S will be the owner of the coast-to-coast project specified in section 1. The provision assumes that the company owns both temporary and permanent structures that are necessary for the work the company has to perform. Femern A/S will therefore, in connection with the implementation of the coast-to-coast project, be the owner of the Fehmarnbelt tunnel and the associated areas and facilities of a temporary and permanent nature.

The precise demarcation of the permanent structures that Femern A/S owns, including in relation to other companies and State institutions, is fixed under section 39, subsection 2, in accordance with article 2, paragraphs 4, 5 and 6, of the Treaty. On the Danish side, this means that the demarcation of the road link included in the coast-to-coast project and other road installations is the place at which the road link included in the coast-to-coast project joins the Sydmotorvejen motorway.

The demarcation of the rail link included in the coast-to-coast project and the rest of the railway installations in Denmark is the place at which the rail link included in the coast-to-coast project joins the existing section of railway between Ringsted and Rødby. The demarcation of the road and rail links included in the coast-to-coast project on German territory will be according to a proposal by Femern A/S in accordance with article 2, paragraph 6, cf. article 2, paragraph 4, of the Treaty.

On section 39

The provision in section 39 contains provisions on establishing the title to the existing railway in the section from Ringsted to south of Holeby, the existing road landworks in connection with the fixed link across the Fehmarnbelt and the landworks subject to section 2 of the Act.

Subsection 1 specifies that A/S Femern Landanlæg and the State each owns a share of the landworks specified in section 2.

The State currently owns the existing railway in the section from Ringsted to Rødby at Holeby and the existing road landworks in connection with the fixed link across the Fehmarnbelt. The landworks covered by the Act in Denmark, cf. section 2, will be constructed as enlargement or upgrade of the existing installations.

During the construction phase for the Danish landworks specified in section 2, the State will continue to be the owner of the existing railway in the section from Ringsted to Rødby at Holeby and the existing road landworks in connection with the fixed link, while the enlargement and upgrade in the form of the Danish landworks covered by the Act and specified in section 2 will be owned by A/S Femern Landanlæg during the construction phase. For the same reason, ownership of the new installations for which Banedanmark and the Danish Road Directorate are, in practice, expected to be responsible in pursuance of section 6 of the Act, but which will be financed by A/S Femern Landanlæg, will be attributed to A/S Femern Landanlæg until the end of the construction phase.

Ownership will therefore be limited in time in such a way that the Danish landworks will be owned by A/S Femern Landanlæg during the construction phase until the end of the construction phase.

Subsection 2 specifies that the Minister for Transport will, after the end of the construction phase, divide the title to the landworks.

After the end of the construction phase, ownership of the railway landworks will be divided, giving A/S Femern Landanlæg and the State shared ownership of the landworks (exchange of properties) based on the contributions by the parties, including contribution of existing installations or payment of actual construction costs. However, in all cases, this will be determined by the Minister for Transport.

The ownership of the railway landworks will thus be divided using a model for the exchange of property under which the State and A/S Femern Landanlæg separately gain ownership of a part of the overall

section from Ringsted to Rødby at Holeby corresponding to their respective contributions. It is expected that the State will contribute the existing railway installations, among other things, while A/S Femern Landanlæg will contribute construction costs actually paid in connection with the construction of the new overall section. Banedanmark will be responsible for construction of the associated railway landworks as developer, but in such a way that Banedanmark can receive income under an agreement with A/S Femern Landanlæg, and that costs can be paid in accordance with this.

The Minister for Transport's demarcation of the railway landworks and other existing and new structures, for example buildings and work sites, will be done on the basis of uniform principles for the valuation of existing structures and for each of the investments by A/S Femern Landanlæg and the State in the structure in the section in question from Ringsted to Rødby at Holeby.

A/S Femern Landanlæg will pay the actual construction costs for the works described in section 2 for railway landworks in connection with the coast-to-coast project specified in section 1. If A/S Femern Landanlæg pays additional costs for the railway landworks, including costs for the signal programme, these will be included accordingly in the calculation of the construction costs actually paid.

For the demarcation of the railway landworks, the State is regarded as contributing the existing railway infrastructure in the section in question from Ringsted to south of Holeby, actual upgrade costs in the same section until the installations subject to the Act have been completed and costs for the signal programme. Taking these expected upgrade works into consideration, the standard of the existing railway infrastructure will be identical to that of the new railway infrastructure.

Existing work sites and buildings used by Banedanmark in connection with maintenance and reinvestment tasks in the section from Ringsted to Rødby at Holeby will be distributed by the Minister for Transport between the State and A/S Femern Landanlæg in such a way that the work sites and buildings have a natural connection to the parts of the section each party owns. It is assumed that any areas that are used by the parties jointly, regardless of which of the parties owns the facility, may only be sold with the consent of the non-owning party.

After the completion of the railway landworks in the section from Ringsted to Rødby at Holeby and their division, each party will subsequently hold the title to its part of the section and be responsible for operation and maintenance of its part of the section.

It is expected that the Danish Act on Sund og Bælt Holding A/S will contain separate authority for it only to be possible to transfer operating and maintenance tasks for the railway landworks to Banedanmark for the entire section from Ringsted to Rødby at Holeby.

After the end of the construction phase, the State will be the owner of the road landworks, which will include both the existing road landworks and the enlargement and upgrade of the road landworks as specified in section 2. The title will be divided by the Minister for Transport. The Danish Road Directorate will be responsible for construction of the road landworks specified in section 2 as developer. For the construction of the road landworks, the Danish Road Directorate will obtain financing under an agreement with A/S Femern Landanlæg.

On section 40

Subsection 1 specifies that Femern A/S is the infrastructure manager of the rail link in the fixed link across the Fehmarnbelt.

Femern A/S is responsible for planning and plan approval of the railway infrastructure and has prepared a safety management system with a view to becoming the infrastructure manager for the railway. The company has in-depth knowledge of infrastructure management and the obligations that follow in terms of traffic management and technical operation and renovation and maintenance of the installations of the railway infrastructure. Finally, the company has in-depth knowledge of both Danish and German requirements and standards that are applicable by virtue of the project's transboundary nature, with the result that the project is not comparable with other Danish railway infrastructure.

It is also in accordance with article 11, paragraph 1, of the Treaty, which specifies that the infrastructure management of the fixed link across the Fehmarnbelt will be handled by the company that is responsible for the construction, operation and maintenance of the fixed link.

It is assumed that an interface agreement will be prepared between Banedanmark and Femern A/S in their capacities as infrastructure managers of the Danish railway landworks and the fixed link across the Fehmarnbelt, respectively. Banedanmark's role as infrastructure manager for the Danish railway landworks is governed by the Danish Railway Act.

Channels for rail traffic on the fixed link across the Fehmarnbelt are allocated in accordance with article 11, paragraph 2, of the Treaty by the manager of the Danish railway landworks in partnership with the competent German authorities.

The proposed provision in subsection 2 grants authority for Banedanmark to allocate capacity in infrastructure owned by Femern A/S.

On section 41

The proposed provision specifies that the Minister for Transport stipulates specific regulations on the level of and principles for the regulation of railway companies' payment to Femern A/S for the railway companies' use of the rail link in the fixed link across the Fehmarnbelt specified in section 1. This follows from article 10, paragraph 1, of the Treaty.

Under the proposed subsection 1 and in accordance with Directive 2012/34/EU establishing a single European railway area, the Minister for Transport stipulates specific regulations on the level of railway companies' payment to Femern A/S so that, among other things, the level reflects construction costs for the coast-to-coast project in the long term and not only costs incurred directly as a consequence of the rail service. Moreover, the Minister for Transport stipulates regulations on the principles for regulation of railway companies' payment, including the time of payment and any indexation, and otherwise ensures uniform, non-discriminatory payments (charges) for railway companies that operate the same form of transportation, etc.

The proposed provision in subsection 2 specifies that the Minister for Transport stipulates specific regulations on the level of and principles for the regulation of railway companies' payment to the State and A/S Femern Landanlæg for use of the Danish railway landworks specified in section 2.

For the State's railway network, there are regulations on payment for its use in Danish Executive Order nos. 214 of 10 March 2014 and 215 of 6 March 2014. The Minister for Transport must therefore stipulate specific regulations on payment for use of the Danish railway landworks that will be owned by the State and A/S Femern Landanlæg. It is expected that the Minister for Transport will, among other things, stipulate regulations to the effect that payment for use of the Danish railway landworks will accrue proportionally to A/S Femern Landanlæg, although in such a way that Banedanmark collects the amount on behalf of the State and A/S Femern Landanlæg.

If the Minister for Transport stipulates that A/S Femern Landanlæg must refund an environmental subsidy to the railway companies under the existing rules for this, it is expected that A/S Femern Landanlæg, after having received payment for the railway companies' use of the railway landworks, will pay this amount to Banedanmark, which will subsequently pay the environmental subsidy to the railway companies. Moreover, the Minister for Transport will stipulate regulations in accordance with article 10, paragraph 3, of the Treaty so that no special charges will be collected in addition to the charges usually applicable. Danish railway legislation will also apply on Danish territory to the rail link in the fixed link across the Fehmarnbelt. This follows from article 10, paragraph 2, of the Treaty.

On section 42

The provisions in section 42, subsections 1-6, correspond, with some amendments, to the provisions in the Danish Act on Sund og Bælt Holding A/S in section 16, subsections 1-5 and 7, on fixing the toll for use of the motorway link across the Great Belt.

It is assumed with subsection 1 that Femern A/S, as owner of the fixed link across the Fehmarnbelt, will collect the charges at the toll plaza in Denmark. The charges accrue to the company and will contribute to financing the repayment of the fixed link across the Fehmarnbelt with associated landworks in Denmark.

With the provision in subsection 2, it is proposed that the Minister for Transport fix the charges for use of the fixed link across the Fehmarnbelt, including in accordance with article 9, paragraph 2, of the Treaty. The charges are fixed under the existing Danish rules and rules of EU law, including the rules in Directive 1999/62/EC and Directive 2004/54/EC (Eurovignette and EETS), so that the charges for road use relate to the size and type of the vehicle and the costs associated with the construction, operation and maintenance of the fixed link across the Fehmarnbelt, including financing costs with the current market interest on capital employed and the current market costs for guarantees. However, it is assumed that the charges will also be adjusted in line with changes in prices. In accordance with article 9, paragraph 3, of the Treaty, the competent German authorities must be notified at least three months in advance of any change to the charge.

With the proposed provision in subsection 3, it is established that, on the basis of the charges fixed by the Minister for Transport, general discount schemes may be introduced, for example in the form of weekend discounts, volume discounts, etc. Femern A/S must, however, as a consequence of subsection 2 and article 9, paragraph 3, of the Treaty, allow the Minister for Transport to notify the relevant authority in Germany of changes to the charges.

In pursuance of the proposed provision in subsection 4, the Minister for Transport will also fix a supplement to the existing charges for the event that a vehicle uses the fixed link across the Fehmarnbelt without paying for it. The owner (user) of a vehicle is liable for the payment unless the owner (user) documents that the driver used the vehicle without authorisation, for example if the vehicle was stolen. The term registered 'owner (user)' means that, where a user of the vehicle is registered in the Danish Vehicle Register, the liability is incurred by the user and not the owner. If no user is registered, the owner is liable. The formulation consequently has the same meaning as under, for example, section 65, subsection 1, of the Danish Traffic Act on duty of disclosure, etc. for the owner (user).

In pursuance of the proposed provision in subsection 5, Femern A/S may charge generally applicable costs for out-of-court collection under Section 9 a of the Danish Interest Act and reminder and collection fees under section 9 b of the Danish Interest Act for non-payment for use of the road link. Under the proposed provision in subsection 6, all charges and general discount schemes must be published on the company's website. Immediately after any changes to charges and discount schemes, they must be shown on the company's website.

In accordance with article 14, paragraph 4, of the Treaty, vehicles used in connection with construction or operation of the fixed link across the Fehmarnbelt or for the safeguarding of public safety and order and emergency preparedness in the fixed link across the Fehmarnbelt are exempt from payment of charges in pursuance of section 42. Exemption from charges in pursuance of the proposed rule in subsection 7 applies irrespective of whether the vehicle is owned by a public or private organisation or business, but it is assumed that, in order for the exemption to apply, the vehicles can easily be recognised as vehicles that are used for the tasks covered by the provision or that they can be identified as such without any doubt. Examples include vehicles belonging to the armed forces, civil defence, fire service, other emergency services and the police.

Where vehicles are connected, the motor vehicle determines whether the combination is exempt from the charge.

On section 43

Under section 1, subsection 1, of the Danish CCTV Monitoring Act, private individuals are prohibited from using CCTV to monitor streets, roads, squares or similar areas that are used for public road traffic. Consequently, private monitoring of the fixed link across the Fehmarnbelt requires special statutory authority. Monitoring of traffic by Danish authorities using CCTV is not subject to the Danish CCTV Monitoring Act.

To ensure that Femern A/S may use CCTV monitoring, the proposed provision in subsection 1 grants authority for this. The provision in subsection 1 corresponds, with minor amendments, to section 17, subsection 1, of the Danish Act on Sund og Bælt Holding A/S, in which there is statutory authority for A/S Storebæltsforbindelsen and A/S Øresundsforbindelsen to monitor the fixed links across the Great Belt and the Øresund using CCTV. The expression 'CCTV monitoring' means, in accordance with the definition in section 1, subsection 2, of the Danish CCTV Monitoring Act, permanent or regularly repeated monitoring of individuals using a remote-controlled or automatic camera, photography device or similar camera. Femern A/S must, by means of signs or another clear method, provide information on CCTV monitoring. The provision contains direct authority to record the CCTV monitoring. This avoids subsequent doubt about its legality in relation to the Danish Personal Data Act (Act no. 429 of 31 May 2000 on the processing of personal data).

With the provision in subsection 2, it is proposed that the Minister for Transport may generally decide that Femern A/S may deliver CCTV monitoring data that has been recorded in the Danish part of the fixed link across the Fehmarnbelt to the German police and the German rescue authorities. The provision therefore clarifies restrictions in the Danish CCTV Monitoring Act and the Danish Personal Data Act, and makes it possible for German police and rescue authorities to receive transmissions of CCTV monitoring from the Danish part of the fixed link across the Fehmarnbelt from Femern A/S. In pursuance of the provision, the Minister for Transport will be able to decide the circumstances under which disclosure may take place.

In pursuance of the proposed provision in subsection 3, Femern A/S may record number plates automatically in order to facilitate collection of payment. With authority in the provision, it will therefore be possible to automatically record the number plates of the vehicles that use the fixed link across the Fehmarnbelt. On the basis of this and by using data from the Danish Vehicle Register, cf. the access in subsection 4, it will be possible to collect payment. The data that is collected in connection with the automatic registration of number plates will, as for the planned CCTV monitoring, have to be processed in compliance with existing legislation, including the Danish Personal Data Act.

In relation to the proposed provision in subsection 4, it should be noted that registration of number plates makes it possible to identify the vehicle's owner (user) by means of access to SKAT's vehicle register (the Danish Vehicle Register).

Access to information in the Danish Vehicle Register is governed, by means of authorisation in section 17, subsection 2, of the Danish Vehicle Registration Act, by sections 101-105 of Danish Executive Order no. 20 of 15 January 2013 on registration of vehicles. Private individuals are generally unable to gain access to the identity of a vehicle's owner or user, cf. section 101, subsection 1. However, insurance companies and authorised number plate operators have terminal access to the Danish Vehicle Register, cf. sections 104 and 105 of the Executive Order. It will be possible to establish similar terminal access for Femern A/S on the basis of the provision.

With the introduction of the provision, Femern A/S will, in the case of a vehicle registered in Denmark, be able to gain access to information on it in the Danish Vehicle Register with a view to payment collection and any further legal action. Reference is made to the comments on section 42, subsection 4, on the formulation 'owner (user)'.

On section 44

The provision grants authority to establish CCTV monitoring of the areas used for the construction of the coast-to-coast project during the construction phase. Such CCTV monitoring will be designed to prevent industrial accidents and crime in the area, including in particular theft and vandalism.

In order to help the additional road traffic flow in the construction phase without unnecessary delays for the road users, the provision also permits the use of CCTV monitoring of traffic flow in the areas that will be particularly affected by the construction work. The areas affected specifically comprise some road junctions and sections in the area at the end of the ramp from the Sydmotorvejen motorway (exit 50), the approach to Sydmotorvejen from Færgevej and exit 49 from Sydmotorvejen. The monitoring carried out in pursuance of this provision will not be registered (recorded) as the sole purpose will be to monitor traffic flow continuously. Reference is also made to the general comments on the Bill in section 16.4.

Finally, the provision specifies that signs or another clear method must be used to provide information that the areas used for the construction of the coast-to-coast project are subject to CCTV monitoring. However, there will be no duty to provide information on signs that traffic flow is being monitored by CCTV.

When the construction phase has been completed, the CCTV monitoring implemented under the provision will have to be terminated.

On section 45

The provision is based on article 8 of the Treaty. The provision means that the Danish part of territorial waters and the seabed are made available to Femern A/S and A/S Femern Landanlæg at no charge for use for the construction project. Accordingly, under the Treaty, Germany must make the German part of territorial waters and the seabed available at no charge. Where private rights are attached to the areas that are incorporated temporarily or permanently, compensation must be paid under the general rules on compensation in legislation.

On section 46

It is proposed that the tasks specified in sections 8 and 9 of the Bill be assigned to the Danish Transport Authority to implement the requirement in article 9 a of the EIA Directive in the area of the Act. Article 9 a was introduced by European Parliament and Council Directive 2014/52/EU of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (amendment of the EIA Directive). The amendment Directive entered into force on 15 May 2014 and must be implemented no later than 16 May 2017.

Article 9 a, paragraph 1, states that "Member States shall ensure that the competent authority or authorities (EIA authorities) perform the duties arising from this Directive in an objective manner and do not find themselves in a situation giving rise to a conflict of interest". Article 9 a, paragraph 2, states that "Where the competent authority is also the developer, Member States shall at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from this Directive". Recital 25 of Directive 2014/52/EU states, in connection with the new article 9 a, that "Conflicts of interest could be prevented by, inter alia, a functional separation of the competent authority from the developer."

The Habitats Directive (92/43/EC) does not contain a corresponding rule on appropriate separation between the functions as developer and habitat authority. However, Directive 2014/52/EU introduced new rules in the EIA Directive's article 2, paragraph 3. Among other things, these concern the procedure for assessment of plans' and projects' possible impact on Natura 2000 sites, cf. article 6, paragraph 3, of the Habitats Directive. Article 2, paragraph 3, of the EIA Directive states, among other things, that, in the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from the EIA Directive and the Habitats Directive, Member States shall, where appropriate, ensure that coordinated and/or joint procedures fulfilling the requirements of both sets of EU rules are provided for.

It is estimated that there may be cases in which any changes or extensions to the construction project that are subject to this Bill, cf. sections 8 and 9 of the Bill, trigger requirements for supplementary environmental impact assessment under both sets of rules, and that it is relevant to establish a coordinated and/or joint procedure for such assessments. Consequently, it is also considered appropriate for the competence to make decisions under the EIA and Habitats Directives, respectively, to be placed with the same authority.

Against this background, in subsection 1, it is proposed that the Danish Transport Authority be assigned the competence to perform the tasks specified in section 8, subsections 1 and 2 (supplementary EIA) and section 9, subsections 1 and 2 (supplementary habitat assessments), of the Bill. Regarding the specific tasks the Danish Transport Authority will perform, reference is made to the special comments on sections 8 and 9 of the Bill.

As a public authority, the Danish Transport Authority will be subject to legislation, including the Danish Open Administration Act, the Danish Public Administration Act and the Danish Environmental Information

Act, in connection with the performance of the tasks under the Construction Act.

With a view to implementing the requirement in article 9 a of the EIA Directive on preventing conflicts of interest, it is also proposed in subsection 2 that the Danish Transport Authority should not be dependent on instructions on the consideration and settlement of individual cases. It is assumed that the Danish Transport Authority will be allocated the necessary special administrative and staff resources to be able to perform the tasks arising from time to time involving environmental assessments of project changes, etc.

On section 47

The proposed time limit for legal proceedings in subsection 1 ensures that, after a certain period of time, it is no longer possible to cast doubt on the correctness of a decision under the Act at the courts. The time limit applies to any legal proceedings against the public authorities that require the decision in question to be reviewed. The time limit for legal proceedings may not be derogated from by the public authority that made the decision in question. All decisions in pursuance of the Act will be published on the website of the Danish Ministry of Transport in anonymised form, to the extent considered appropriate. The time limit for legal proceedings is calculated from the date on which the decision was published or the date on which the person in question was notified, whichever is later.

The proposed provision in subsection 2 means that, in the case of proceedings on matters concerning the environment that are covered by the Act, the court must ensure that the costs of the case are not insurmountably high for the parties concerned. This obligation is incumbent on all courts at all levels.

The provision must be seen in connection with the existing rules in the Danish Administration of Justice Act. The general principle in the Act is that the losing party pays the costs incurred by the winning party, provided that they were necessary for the proper conduct of the case. Costs for legal assistance, etc. are compensated by a suitable amount, and the other costs are compensated in full. In pursuance of section 312, subsection 3, of the Danish Administration of Justice Act, the court may, however, decide on its own initiative that the losing party is not required to compensate the other party for the costs incurred, or is required to compensate only part of the costs, if special grounds exist. Such grounds may exist if the costs would otherwise be considered to be insurmountably high for the party in question, where, under the legislation or international obligations, etc., there is a requirement for the available legal remedies not to be insurmountably expensive. At the same time, the proposal must be seen in connection with the rules in part 31 of the Danish Administration of Justice Act on legal aid, among other things.

The provision aims to ensure compliance with the requirement in the Aarhus Convention that the available legal remedies must not be insurmountably expensive. The provision must therefore be understood in accordance with the Convention and the EIA Directive, plus the associated practice of the Court of Justice of the European Union, cf., among other things, the judgments of the Court of Justice of the European Union of 11 April 2013 in case C-260/11, *Edwards and Pallikaropoulos*, and 13 February 2014 in case C-530/11, *the Commission versus the United Kingdom*.

On section 48

The proposed provision in subsection 1 establishes rules on penalties in the form of fines for non-compliance with the provisions in section 8 or 9, i.e. if changes or extensions to the construction project subject to the provisions are made without the necessary permission from the Danish Transport Authority. The provision ensures compliance with article 10 a of the EIA Directive and article 3 (h) of Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (the Environmental Crime Directive).

Changes or extensions to the project without permission from the Danish Transport Authority under section 8 or 9 may also constitute non-compliance with other legislation, cf. section 17.

Under the proposed provision in subsection 2, in regulations issued under the Act, it is possible to specify punishment by fines. The provision may in particular be relevant in connection with regulations issued under section 1, subsection 5, section 8, subsection 3, section 9, subsections 3 and 5, section 13, subsection 6, section 14, subsection 1, section 16, subsection 2, and section 37, subsection 3, of the Act.

When fixing the size of the fine under subsections 1 and 2, it is necessary to ensure compliance with article 5 of the Environmental Crime Directive, under which "Member States shall take the necessary measures to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties".

It is proposed in subsection 3 that companies, etc. (legal entities) may be held criminally liable under the rules in part 5 of the Danish Penal Code. This applies both to non-compliance with section 8 or 9 of the Act and to non-compliance with rules in regulations issued in pursuance of the Act.

On section 49

It is proposed that the Act enter into force on the day after publication in the Danish Law Gazette. There is a desire for the Act to enter into force as soon as possible to ensure the progress of the project.

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