

DECISION

Tallinn

15.03.2019 no. 16-7/18-1251-033

Commencement of the procedure for the issue of a superficies licence

Consumer Protection and Technical Regulatory Authority (Technical Surveillance Authority until 31 December 2018, hereinafter CPTRA) is a governmental authority operating in the area of government of the Ministry of Economic Affairs and Communications who, pursuant to sections 22⁶–22¹⁶ of the Water Act (hereinafter WA), processes applications for superficies licences and decides on issuing a superficies licence as well as on amending the terms and conditions of the licence.

Circumstances and course of procedure

Easternlightestonia OÜ is a subsidiary of Eastern Light AB. Eastern Light AB is installing a fibre-optic submarine cable between Sweden (Stockholm) and Finland (Helsinki and Kotka). It is then planned to install a new fibre-optic cable system south of Helsinki: along the coastline of Estonia, Latvia, Lithuania and Poland to the northern part of Germany. The new cable network will improve fibre-optic and internet connections throughout the Baltic region, leading to a new rental market for the cable network that is open and independent of operators and which provides better security and reliability.

Easternlightestonia OÜ (registry code 14115623) submitted an application for a superficies licence to the CPTRA on 24 April 2018 and a supplemented application on 27 June 2018 applying for a superficies licence to install a fibre-optic communication cable on the seabed from Kakumäe Peninsula to the Estonian exclusive economic zone (EEZ) in the Gulf of Riga. The application was accompanied by “Estonian Light AB fibre-optic cable system in the Baltic Sea. Preliminary estimate of environmental impact assessment (EIA) in the section from the point of submersion on Kakumäe Peninsula to the Estonian EEZ in the Gulf of Riga” prepared by Skepast&Puhkim OÜ (25 June 2018, assignment no. 2017_0102, corrected version sent to the CPTRA on 15 January 2019). The application and the accompanying documents are registered in the public document register of the CPTRA www.ttja.ee (document reference number 16-7/18-1251).

Pursuant to subsection 22⁵ (1) of the WA, a superficies licence is required in order to encumber a delimited part of a public water body with construction works that are permanently connected to the bottom of the water body and are not permanently connected to the shore.

Pursuant to subsection 104 (2) of the Building Code, submerged cable lines, pipelines and other utility network lines and utility works that are connected to the shore, as well as construction works that are connected to the shore by means of submerged cable lines, pipelines and other utility network lines and utility works, are not deemed to constitute construction works that have a permanent connection to the shore. Based on the above, it is necessary to apply for a superficies licence to install a communication cable in the sea.

Eastern Light AB has chosen a type of cable with minimal impact on the environment. The cable is manufactured by NSW located in Nordenham, Germany, and the cable model is MINISUB SA 144. Only a cable comprising mainly a steel sheath and glass fibre core covered with plastic is installed on the seabed. The cable is not energised and light travelling in glass fibres (emitted by communication devices at the ends of the cable located on land) passes through it. The cable does not generate electromagnetic fields, heat, sound, vibration or any pollution, nor does it contain lead or other substances that may impact the environment.

The submarine cable is released freely to the seabed from a cable-laying vessel travelling along a specified route at the speed of 4–7 knots (the installation of the entire cable will take about one week and the potential disturbance caused by the installation of the cable is short-term). The steel sheath of the cable with tensile strength of 290 kN provides strong protection and the high density of the cable will cause it to sink quickly and accurately to the seabed where it will sink into the sediment layer due to its weight. Due to the specific weight of the cable lateral movement is minimal and the cable is released into the water with enough slack to prevent it from being under tension on the seabed or situated above the seabed. The cable is installed in one piece.

Near the shore, the submarine cable is connected to land through a borehole underneath the shore. An opening of approximately 110 m in diameter running below the shore and seabed is drilled by horizontal drilling, and the opening starts on the ground approximately 100 m from the waterline and reaches into the water to where the depth of water is 5–10 m. No excavation is carried out on the shore, and the submarine cable is installed several metres below the seabed in coastal areas, leaving the seabed intact.

The length of the communication cable to be installed is about 279 km (the total length of the cable is 304 km) and the diameter of the cable is 27 mm, and only the cable is installed on the seabed.

The total surface area of the communication cable from Kakumäe Peninsula to the Estonian exclusive economic zone in the Gulf of Riga is 753.3 m².

Coordinates of the area of a public water body to be encumbered:

X: 6 589 985.0, Y: 532619.7
X: 6 590 359.1, Y: 531 849.3
X: 6 590 417.1, Y: 531 010.5
X: 6 591 575.6, Y: 528 783.1
X: 6 592 759.3, Y: 527 301.9
X: 6 593 771.0, Y: 525 482.5
X: 6 594 658.4, Y: 522 929.9
X: 6 594 629.6, Y: 520 611.7
X: 6 594 517.6, Y: 518 714.2
X: 6 593 475.9, Y: 513 078.3
X: 6 588 808.4, Y: 504 765.2
X: 6 581 314.0, Y: 491 351.3
X: 6 576 915.9, Y: 488 166.1
X: 6 573 333.4, Y: 484 476.9
X: 6 570 807.3, Y: 477 776.6
X: 6 567 261.6, Y: 473 788.1

X: 6 565 455.6, Y: 473 626.6
X: 6 564 966.7, Y: 473 138.9
X: 6 565 003.9, Y: 473 128.2
X: 6 565 612.1, Y: 473 350.2
X: 6 566 445.9, Y: 472 723.3
X: 6 566 513.0, Y: 471 168.4
X: 6 556 033.6, Y: 456 566.3
X: 6 552 263.1, Y: 451 016.4
X: 6 551 352.1, Y: 449 665.9
X: 6 550 208.2, Y: 447 966.0
X: 6 547 876.6, Y: 446 948.0
X: 6 542 840.4, Y: 448 362.8
X: 6 539 327.6, Y: 449 166.8
X: 6 535 918.7, Y: 448 843.7
X: 6 534 163.2, Y: 449 859.9
X: 6 531 285.8, Y: 452 786.3
X: 6 527 834.0, Y: 455 790.7
X: 6 521 971.4, Y: 460 892.2
X: 6 520 146.2, Y: 462 098.4
X: 6 519 431.4, Y: 462 733.5
X: 6 518 761.4, Y: 462 920.8
X: 6 517 571.5, Y: 463 096.2
X: 6 516 412.1, Y: 463 948.1
X: 6 515 193.3, Y: 463 954.2
X: 6 514 018.6, Y: 464 505.8
X: 6 511 784.6, Y: 464 179.8
X: 6 511 296.2, Y: 464 302.6
X: 6 508 344.0, Y: 465 535.6
X: 6 505 778.6, Y: 464 894.5
X: 6 502 638.9, Y: 464 134.1
X: 6 495 106.4, Y: 467 101.4

Pursuant to subsection 22⁷ (1) of the WA, the procedure for the issue of a superficies licence is commenced by the CPTRA.

Pursuant to subsection 22⁷ (2) of the WA, the competent authority shall make a decision to commence or not to commence the procedure for the issue of a superficies licence after obtaining an opinion from the authorities concerned. The authority expressing an opinion shall substantiate the opinion. Based on this, the CPTRA submitted the specified documents for the application for a superficies licence to obtain an opinion on the commencement of a procedure for the issue of a superficies licence to the Environmental Board, the Environmental Inspectorate, the Ministry of the Environment, the National Heritage Board, the Ministry of Finance, the Ministry of Defence, the Ministry of Economic Affairs and Communications, the Estonian Maritime Administration, Haabersti District Government, Lääne-Nigula

Rural Municipality Government, Lääneranna Rural Municipality Government, the Estonian Road Administration, Tallinn Environmental Board in letter no. 16-7/18-1251-003 of 28 June 2018.

On 12 July 2018 the Environmental Board submitted a response letter no. 7-9/18/10878-2, explaining that the communication cable to be installed is situated in the sea partially in the Nõva-Osmussaare special conservation area, Väinamere special conservation area and the special management zone of Väinamere open water of Matsalu National Park. The Nõva-Osmussaare special conservation zone is included in the Natura 2000 network as Nõva-Osmussaare area of conservation and Nõva-Osmussaare area hosting birds. The Väinamere special conservation area and Matsalu National Park are included in the Natura 2000 network as Väinamere area of conservation and Väinamere area hosting birds.

According to the application, the cable is installed on the seabed and no excavation work will be carried out in the course of it. In the opinion of the Environmental Board, such installation method does not damage the favourable condition of the protected marine habitat type. There are no habitats of protected species in the communication cable route the condition of which could be affected by the installation of the cable. The installation of the communication cable (one-time disturbance) and the cable situated on the seabed will also not have a significant impact on birds stopping at sea or seals travelling in the area if work is carried out at the times and under the conditions permitted in the rules of protection of Matsalu National Park and to be determined by the Environmental Board in the course of the procedure for the issue of a building permit and permit for special use of water. Given that the fibre-optic communication cable is not a cable that would significantly affect fish fauna, the Environmental Board does not consider it necessary to carry out further studies of fish fauna in the course of the procedure for the issue of a superficies licence for the cable.

The installation of the fibre-optic communication cable in the sea applied for is not included in the list of activities with significant environmental impact specified in subsection 6 (1) of the Environmental Impact Assessment and Environmental Management System Act (hereinafter EIAEMSA). No excavation work, dumping of soil or any other activities altering the morphology of the seabed that could endanger protected habitat types and their condition are carried out in the course of the installation of the cable. The Environmental Board agrees with the opinion expressed in the EIA preliminary estimate that the installation of the communication cable is not expected to have a significant adverse environmental impact, including impact on the Natura 2000 network area. The Environmental Board has no objections to the commencement of the procedure for the issue of a superficies licence applied for by Easternlightestonia OÜ.

On 3 July 2018 the Environmental Inspectorate submitted a response letter no. 13-1/18/3828-2, explaining that the Environmental Inspectorate does not have the competence to provide assessments for building design documentation.

On 24 July 2018 the Ministry of the Environment submitted a response letter no. 16-3/18/4324-2, explaining that they consent to the commencement of the procedure for the issue of a superficies licence. However, it was pointed out that a permit for special use of water must be applied for from the Ministry of the Environment in order to carry out the planned activity. The Ministry of the Environment is of the opinion that the planned activity does not have significant environmental impact, incl. impact on the Natura 2000 areas, and there is no need to conduct a full environmental impact assessment.

On 27 July 2018 the National Heritage Board submitted their response letter no. 1.1-7/1593-1, explaining that the EIA preliminary estimate appended to the application has insufficiently addressed the area of cultural heritage. According to the application, the communication cable passes through the protection zone of cultural monument reg. no. 27873. The monument and its protection zone must be taken into account in determining the location of the fibre-optic communication cable, and activities must be planned outside the protection zone of the monument. Pursuant to section 24¹ of the Heritage Conservation Act (hereinafter HCA), it is prohibited to anchor, trawl, dredge and dump solid substances on underwater monuments and in their protection zones. All work planned on underwater monuments and in their protection zones must be approved by the National Heritage Board.

The location of the communication cable is subject to restrictions to the extent of 0.5 nautical miles on either side of the cable, which may impede the exploration of wrecks of cultural value, installation of

anchor buoys and diving activities. A protection zone, which is normally up to 0.3 nautical miles from the boundaries of the monument, is also defined when taking underwater wrecks of cultural value under protection. Remains of vessels or other archaeological objects may also be found in the protection zone.

The requirement of underwater archaeological survey in the area of the communication cable route must be determined upon the commencement of a procedure for the issue of a superficies licence (clause 22⁷ (7) 3) of the WA, subsection 40 (5) of the HCA) to determine the existence and extent of objects of cultural value in the area to be encumbered.

The surveys must also be carried out within 0.8 nautical miles on either side of the route. The extent of the survey area is determined on the basis of restricted areas associated with the installation of the communication cable and taking an object of cultural heritage under protection.

An underwater archaeological survey must be carried out before a superfices licence is issued. The action plan of an underwater archaeological survey is approved, the permit for surveys is issued and the survey report is approved by the National Heritage Board. Ascertaining the existence of cultural heritage is an important factor in determining the location of the communication cable route and also necessary in order to ensure the preservation of an existing but yet unknown underwater cultural heritage in the course of carrying out long-term activities on the seabed.

On 27 September 2018 the National Heritage Board submitted a letter no. 1.1-7/2235, correcting their letter no. 1.1-7/1593-1 of 27 July 2018 and explaining that they are adjusting the extent of the underwater archaeological survey area to 0.25 nautical miles from the centre line of the communication structure based on clause 14 3) of the Minister of Economic Affairs and Infrastructure Regulation No. 73 "Extent of protection zones of construction works, procedure for carrying out operations within protection zones, and requirements for marking out of protection zones".

On 15 November 2018 the Minister of Defence submitted a response letter no. 12-1/18/2986, explaining that there are still many various undiscovered objects resembling an explosive device in the Baltic Sea. To ensure the safety of the fibre-optic communication cable and the safety of its installers the Ministry of Defence proposes conducting a seabed survey in the section of the cable route prior to the installation of the fibre-optic communication cable in order to identify possible objects resembling an explosive device or infrastructure objects. As according to clause 3 (1) 4¹) of the Estonian Defence Forces Organisation Act, the function of the Defence Forces is the disposal of ordnance in the internal waters or territorial sea and in the exclusive economic zone, it is requested that a report on objects resembling an explosive device found in the course of the survey is submitted to the Defence Forces.

On 2 August 2018 the Ministry of Economic Affairs and Communications submitted a response letter no. 1.10-13/18-0095/6663, explaining that given the fact that the activity does not affect maritime safety or the safety of vessel traffic on waterways, the Ministry of Economic Affairs and Communications has no objections to the commencement of the procedure for the issue of a superfices licence.

On 4 July 2018 the Estonian Maritime Administration submitted a response letter no. 6-3-1/1644, stating that the Estonian Maritime Administration has no objections to the commencement of the procedure for the issue of a superfices licence.

On 28 June 2018 Haabersti District Government submitted an e-mail, informing that the construction of Easternlightestonia OÜ fibre-optic communication cable on the seabed in the section from Kakumäe Peninsula to the Estonian EEZ in the Gulf of Riga does not harm the Kakumäe Bay or otherwise adversely affect the well-being of the district. The communication cable is not permanently connected to the shore. The construction of the fibre-optic communication cable is considered expedient and the application for a superfices licence for the construction of the cable is consented to. Regarding the issue of whether to initiate or not to initiate environmental impact assessment, the matter was referred to the Estonian Environmental Board and the Tallinn Environmental Board.

On 11 July 2018 Lääneranna Rural Municipality Government submitted a response letter no. 2018/8-3/1144-2, stating that the registered immovable of Matsi port situated in Matsi village, Lääneranna rural municipality, is planned as one landing location in the EIA preliminary estimate of the installation of the Easternlightestonia OÜ fibre-optic communication cable. The registered immovable is owned by Lääneranna rural municipality and negotiations are underway with Lääneranna Rural Municipality

Government for the use of the immovable. Underground power cables are situated on the registered immovable of Matsi port, which must be taken into account in preparing the building design documentation and during construction. The building design documentation for the installation of the fibre-optic cable within the boundaries of Matsi port must be approved by Lääneranna Rural Municipality Government. Lääneranna Rural Municipality Government is of the opinion that based on the results of the environmental preliminary estimate, commencement of environmental assessment is not necessary. The communication cable is installed in the ground on the registered immovable of Matsi port and the disturbing environmental impact occurring during installation is short-term. Additionally, the technical building servicing the communication cable to be built as part of the project is provided for in the detailed plan solution of Matsi port (detailed plan has been adopted by Lääneranna Council of Rural Municipality Decision No. 56 of 17 May 2018; the public presentation of the plan is currently underway). The exterior finish of the technical building must be similar to the finish of the surrounding buildings. Noise modelling was carried out for the technical building during the planning procedure (Noise level survey of the technical building of Matsi port, Estonian, Latvian & Lithuanian Environment OÜ, 2018). According to the modelling, noise levels in the nearest outdoor areas are a maximum of 30 dB during the day and 16 dB at night. Ventilation equipment to be installed in the technical building and generator for power outages do not exceed noise limits on neighbouring registered immovables.

On 12 July 2018 the Estonian Road Administration submitted a response letter no. 15-2/18/32140-2, stating that the Estonian Road Administration has no objections to the commencement of the procedure for the issue of a superficies licence. The proposal of the EIA preliminary estimate with regard to the need for environmental assessment was also agreed with. From the point of view of the Estonian Road Administration, there is no need to conduct a full EIA. It is requested that in the course of the procedure for the issue of a superficies licence, installation of cables in the Väinameri Sea is not planned for the winter period when vessel traffic in the Väinameri Sea may be suspended for the construction of Rohuküla-Heltermaa and Virtu-Kuivastu ice roads. **The Estonian Road Administration requested that (a) permitted period(s) for cable installation works are established as a condition for the superficies licence which would preclude work from 1 December to 1 April or that the permitted period of work is tied to the formation of ice cover in the Väinameri Sea.**

On 10 July 2018 Tallinn Environmental Board submitted a response letter no. 6.1-4.3/956-2, stating that they consent to the issue of a superficies licence. Tallinn Environmental Board agrees with not initiating an EIA.

The Ministry of Finance and Lääne-Nigula Rural Municipality Government did not submit their response letters. Pursuant to subsection 22⁷ (2) of the WA, if the authority expressing an opinion does not submit the opinion within 30 days, it shall be deemed that the authority has no objections to the application for a superficies licence. Based on the above, the CPTRA deems that the Ministry of Finance and Lääne-Nigula Rural Municipality Government have no objections to the application for a superficies licence.

The CPTRA forwarded the opinions and positions of the authorities concerned to Skepast&Puhkim OÜ who serves as the environmental consultant to Easternlightestonia OÜ for consideration when applying for a superficies permit.

On 28 August 2018 Skepast&Puhkim OÜ submitted to the CPTRA a table with the comments of Easternlightestonia OÜ regarding the opinions and positions of the authorities concerned (in the document register under reference number 16-7/18-1251-017).

Pursuant to 22⁷ (3) of the WA, if no circumstances precluding the commencement of the procedure for the issue of a superficies licence become evident, the competent authority shall publish a notice in the official publication *Ametlikud Teadaanded*, in at least one national daily newspaper and on its website before commencement of the procedure. The notice shall set out data about the applicant and application for a superficies licence.

Based on the above and subsection 22⁷ (3) of the WA, the CPTRA published on 12 September 2018 in *Ametlikud Teadaanded* a notice of the intention to commence the procedure for the issue of a superfices licence in connection with the application for a superfices licence by Easternlightestonia OÜ to install a fibre-optic communication cable on the seabed in the section from Kakumäe Peninsula to the Estonian exclusive economic zone (EEZ) in the Gulf of Riga. The same information was published on the website of the CPTRA and on 13 September 2018 in *Postimees*.

Pursuant to subsection 22⁷ (4) of the WA, other interested parties had the right to submit their own applications for a superfices licence for encumbering the same section of a public water body with construction works within 20 days of publishing the notice.

During the publication no applications for a superfices licence for the same section of a public water body were submitted to the CPTRA.

Legal conclusions

According to subsection 22⁶ (1) and subsections 22⁷ (1) and (2) of the WA, the CPTRA shall make a decision to commence or not to commence the procedure for the issue of a superfices licence after obtaining an opinion from the authorities concerned. The procedure for the issue of a superfices licence is commenced pursuant to section 22⁷ of the WA. Section 11 of the EIAEMSA provides for the initiation of and refusal to initiate environmental impact assessment.

The installation of a communication cable in a public water body is not an activity with significant environmental impact pursuant to subsection 6 (1) of the EIAEMSA and the EIA is not mandatory. According to clause 11 6) of the Government of the Republic Regulation No. 224 "Detailed list of areas of activity requiring a preliminary estimate of the necessity of environmental impact assessment" of 29 August 2005, a preliminary estimate of the necessity of environmental impact assessment must be given in the event of planning the construction of a power transmission line or communication cable on the bed of a water body.

Together with the application for a superfices licence, Easternlightestonia OÜ submitted the preliminary estimate of environmental impact "Estonian Light AB fibre-optic cable system in the Baltic Sea. Preliminary estimate of environmental impact assessment (EIA) in the section from the point of submersion on Kakumäe Peninsula to the Estonian EEZ in the Gulf of Riga" (assignment no. 2017_0102) prepared by Skepast&Puhkim OÜ. The preliminary estimate has been prepared based on the requirements specifying the content of the preliminary estimate based on section 6¹ of the EIAEMSA and the Minister of the Environment Regulation No. 31 "Detailed requirements for the content of preliminary estimate" of 16 August 2017. The provisions of subsection 6¹ (1) of the EIAEMSA were taken into account in the assessment of the planned activity.

The preliminary estimate concluded that the planned activity does not result in an adverse impact on the protected species and habitats in the Natura areas of the region. The activity does not cause the decrease, loss or fragmentation of the area of habitat types nor the extinction, disturbance, habitat change, etc. of species. The impact of the planned activity during construction and operation does not impair the integrity of the Natura 2000 areas in the region. The favourable condition of species and habitats under protection purpose is ensured. The preliminary estimate revealed that adverse impact on

the protection purpose of Nõva-Osmussaare area of conservation, Nõva-Osmussaare area hosting birds, Väinamere area of conservation and Väinamere area hosting birds is precluded.

Environmental impact is short-term during the construction period when the cable is being installed. No impact in transboundary context is foreseen. Vibration can only occur during construction work on land.

If the requirements arising from protection rules and the Nature Conservation Act are taken into consideration in planning and installing the communication cable, there is no impact on Nõva-Osmussaare special conservation area, Väinamere special conservation area, Matsalu National Park and Haapsalu-Noarootsi wetland. If finds of cultural heritage or an archaeological cultural layer are discovered during the installation of the cable, the requirements set out in the Heritage Conservation Act shall be complied with. In the vicinity of the Neugrund shallow, the cable is partially situated in the military training area, and cooperation with the Ministry of Defence is engaged in during the planning of the planned activities. In the Pärnu County area, the cable comes to land through the Matsi port basin, and cooperation with the operator of Matsi port is engaged in during the planning of the planned activities.

Based on the above that the planned activity does not cause significant environmental impact or adverse impact on Natura 2000 areas, the CPTRA is of the opinion that conducting an EIA is not necessary.

According to subsection 228 (1) and (2) of the WA, the competent authority shall refuse to commence the procedure for the issue of a superficies licence if the issue of the superficies licence is clearly impossible; procedure for the issue of another superficies licence has already been commenced in the area set out in the application, and it is not possible to issue a second superficies licence for the relevant area due to the nature of the construction works to be built on the basis of the superficies licence to be issued as a result of such procedure; the drawing up of a spatial plan has been initiated and the planning procedures have not been completed; or a national special spatial plan has to be prepared in order to build the planned construction works.

According to subsection 22¹¹ (4) of the WA, if the procedure for the issue of a superficies licence has been commenced in respect of an area for which also a spatial plan has been commenced and if the planning procedure has not been completed, the superficies licence issued on the basis of the given procedure for the issue of the superficies licence shall be valid for one year after the adoption of the spatial plan.

At the time of the commencement of the procedure for the issue of a superficies licence, the procedure for drawing up a national spatial plan for the Estonian maritime area and the adjacent coastal area as well as for drawing up a thematic plan for the exclusive economic zone has been initiated by the Government of the Republic Order No. 157 of 25 May 2017 in the area set out in the application. On 4 September 2018, Skepast&Puhkim OÜ, the environmental consultant to Easternlightestonia OÜ, notified the CPTRA that Easternlightestonia OÜ agrees with the period of validity of the superficies licence provided for in subsection 22¹¹ (4) of the WA and wishes to proceed with the procedure, so the CPTRA waives the grounds for refusal to commence the procedure for the issue of superficies licence provided for in clause 22⁸ (2) 2) of the WA.

Based on the application for a superficies licence submitted by the developer and the opinions of the authorities concerned, no circumstances that would preclude the commencement of the procedure for the issue of a superficies licence were identified.

Hearing

Pursuant to subsections 40 (1) and (2) of the Administrative Procedure Act, on 7 December 2018, by letter no. 16-7/18-1251-023, the CPTRA sent the draft decision to commence the procedure for the issue of a superficies licence to Easternlightestonia OÜ for examination and for providing their opinion and position within two weeks as of the receipt of the draft. The same was sent for information to the Environmental Board, the Environmental Inspectorate, the Ministry of the Environment, the National Heritage Board, the Ministry of Finance, the Ministry of Defence, the Ministry of Economic Affairs and Communications, the Estonian Maritime Administration, Haabersti District Government, Lääne-Nigula Rural Municipality Government, Lääneranna Rural Municipality Government, the Estonian Road Administration, Tallinn Environmental Board, and the Ministry of the Interior.

On 14 December 2018 Skepast&Puhkim OÜ submitted an e-mail, notifying that there are no further proposals for the draft of the commencement of the procedure for the issue of a superficies licence and informing in the same that Easternlightestonia OÜ also has no further proposals to the draft of the commencement of the procedure for the issue of a superficies licence and they agree with conditions presented, and also informing that Easternlightestonia OÜ would not be sending a separate letter of confirmation.

On 14 December 2018 the National Heritage Board submitted a response letter no. 1.1-7/2676-1 requesting to add to clause three of the decision on the draft of the commencement of the procedure for the issue of a superficies licence that a survey report approved by the National Heritage Board must be submitted to the CPTRA.

On 14 December 2018 the Estonian Maritime Administration submitted a response letter no. 6-3-1/2789, informing that there were no objections to the application for a superficies licence.

On 17 December 2018 the Environmental Board submitted a response letter no. 7-9/18/10878-4, drawing attention to the fact that the decision to not initiate environmental impact assessment must make reference to clause 11 (8) 5) of the EIAEMSA and the draft decision must also include clause 6 (2) 18) of the EIAEMSA and clause 15 8) of Regulation No. 224 as grounds for considering the necessity of EIA (the same also applies to the decisive part of the draft decision). In the same letter the Environmental Board approved the decision to not initiate environmental impact assessment based on subsection 11 (10) of the EIAEMSA because the route corridor of the communication cable Nõva-Osmussaare special conservation area, Väinamere special conservation area and Matsalu National Park and Nõva-Osmussaare area of conservation, Nõva-Osmussaare area hosting birds, Väinamere area of conservation and Väinamere area hosting birds included in the Natura 2000 network.

On 17 December 2018 the Ministry of Economic Affairs and Communications submitted a response letter no. 1.10-13/18-0095/10682, informing that there were no objections to the commencement of the procedure for the issue of a superficies licence.

On 19 December 2018 the Estonian Road Administration submitted a response letter no. 15-2/18/32140-4, informing that the table with the relevant comments of Easternlightestonia OÜ regarding the opinions and positions of authorities concerned (in the document register under reference number 16-7/18-1251-017) submitted by Skepast&Puhkim OÜ on 28 August 2018 does not include the position presented in the Estonian Road Administration response letter no. 15-2/18/32140-2 of 12 July 2018. It was requested that the position is taken further into account.

On 17 December 2018 Haabersti District Government submitted an e-mail, informing that there are no objections to the commencement of the procedure for the issue of a superficies licence.

Based on the above, the CPTRA supplemented the decision to commence the procedure for the issue of a superficies licence. On 14 December 2018 Skepast&Puhkim OÜ also submitted an updated table with the comments of Easternlightestonia OÜ regarding the opinions and positions of authorities concerned (in the document register under reference number 16-7/18-1251-031).

Decision

Pursuant to subsections 22⁷ (1) and (7) of the Water Act and subsections 6 (2) and (4), subsection 9 (1) and subsections 11 (2), (4) and (8) and (8¹), subsection 12 (1¹) of the Environmental Impact Assessment and Environmental Management System Act and clause 11 6) of the Government of the Republic Regulation No. 224 “Detailed list of areas of activity requiring a preliminary estimate of the necessity of environmental impact assessment” of 29 August 2005:

1. commence the procedure for the issue of a superficies licence pursuant to the application for a superficies licence submitted by Easternlightestonia OÜ on 27 June 2018 for the installation of a fibre-optic communication cable on the seabed in the section from Kakumäe Peninsula to the Estonian exclusive economic zone (EEZ) in the Gulf of Riga;
2. do not initiate environmental impact assessment because the planned installation of the fibre-optic communication cable does not have significant environmental impact. Proceedings regarding environmental impact assessment are not joined and, based on the information available, no occurrence of environmental impact in transboundary context is expected;
3. carry out underwater archaeological surveys pursuant to the proposal of the National Heritage Board where the extent of the survey area is 0.25 nautical miles from the centre line of the communication structure. The action plan of underwater archaeological survey is approved and a permit for the survey is issued by the National Heritage Board. Submit the survey report approved by the National Heritage Board to the CPTRA no later than on 2 January 2020;
4. carry out a seabed survey in the section of the cable route to ensure safety and submit the survey results to the CPTRA and the Ministry of Defence no later than on 2 January 2020.

A notice of the initiation of environmental impact assessment for the application for a superficies licence is published in the official publication *Ametlikud Teadaanded* within 14 days and persons concerns and other parties to the proceeding are notified thereof with a separate letter.

A person who believes that this administrative act violates their rights has the right to file a challenge with the Director General of the Consumer Protection and Technical Regulatory Authority (Sõla 23a, 10614 Tallinn, e-mail info@ttja.ee) pursuant to the procedure provided for in the Administrative Procedure Act or an appeal to Tallinn Administrative Court (Tallinn Courthouse, Pärnu mnt 7, 15082 Tallinn, e-mail tlnhktallinn.menetlus@kohus.ee) pursuant to the procedure provided for in the Code of Administrative Court Procedure within 30 calendar days after becoming aware of the administrative act.

(signed digitally)

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