

Application by SMart Wind Ltd for

Hornsea Offshore Wind Farm (Zone 4) - Project Two

The Examining Authority's second round of written questions and requests for information

Issued on 29 September 2015

The following table sets out the Examining Authority's (ExA) second round of written questions and requests for information.

Questions are set out using an issues-based framework derived from the initial assessment of principle issues provided as Annex C to the letter of 15 May 2015. Additional sets of questions are added to the framework of principle issues to address the assessment of the application. The questions have sought to take into account, amongst other information, the Deadline 3 responses received from the applicant and other parties on 24 September 2015. However, given the tight timetable, if respondents believe any of the ExA's second round of written questions have already been covered in Deadline 3 submissions, they should refer in their responses to where they have been covered.

Column 2 of the table indicates **which persons questions are directed at**. The ExA would be grateful if all bodies named could answer all questions directed to them, providing either a substantive response, or indicating that the question is not relevant to them for a reason. The direction of questions in this way does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a **unique reference number** which combines an issue number and a question number. These numbers run sequentially on from those set out in the first round of written questions for ease of reference.

When you are answering a question, please start your answer by quoting the unique reference number.

If you are answering a few questions, answers in a letter will suffice. If you are answering several questions, it will assist the ExA if you use a table based on this one. An editable version of this table in Microsoft Word is available upon request from the case team, if you wish to request a word version please email Hornsea2@pins.gsi.gov.uk.

Question to:		Question:
G	General	
G5	applicant	Please provide, in tabular form, an update on progress towards the granting of all other consents required by the proposed development, including consents already secured.
G6		Please provide, in tabular form, an update on progress towards securing Statements of Common Ground (SoCG) with various parties, and if SoCG are not finalised please advise on when the ExA can expect them.
G7		Please submit a table providing a chronological listing of all updated documents (including the plans) – structured by the main examination topic areas. The table should set out clearly all application documents and if/when they have been superseded and by what. This table will be an important document (i) for the SoS in terms of having the necessary information to make a decision and, (ii) if consent is granted, for the discharging authorities.
G8		Please provide an update to ES Volume 4, Annex 4.5.5 (APP-068), which sets out all mitigation, enhancement and monitoring measures committed to in in the ES, and shows how they are secured in in the draft DCO and DMLs.

Question to:		Question:
G9		Please provide an update to the Environmental Information Signposting Document (APP-0206).
G10	applicant, Hornsea Project 1; MMO; MCA; TH; ChofS and any other parties who wish to comment	<p>Please explain in the light of the advice on changing an application post acceptance (Guidance for the examination of applications for development consent, March 2015) why the changes to the Order made in respect of (a) the reduction in size of plot 506 and proportionate increase to plot 505 on Land Plan sheet 27 of 27; and (b) the amendment to the Offshore Works Plans to reflect the reduction in order limits to remove one of the Project's export cable route options within the Hornsea Project 1 wind farm array are not being treated as material amendments? (REP3-027)</p> <p>Do any interested parties wish to comment on these two proposed amendments to the Order?</p>
EOO	Ecology offshore: ornithology	
EOO14	applicant	<p>Please provide updated HRA matrices with:</p> <p>a) references to Hornsea Project 1 removed, unless relevant; and</p> <p>b) screening /integrity matrices as relevant for the Flamborough and Bempton Cliffs Spa.</p>
EOO15	applicant, NE	Please provide an update on the position reached on the Ornithology Road

Question to:		Question:
		Map, including the Clarification Notes, as mapped out in Appendix Y to Deadline 3.
EOO16	applicant, NE, RSPB	<p>Please provide an update on the positions reached in the most recent SoCG on the effects of Hornsea Project 2 on Special Protection Areas (SPA) populations of kittiwake, gannet, guillemot, razorbill and puffin, for the project alone and in combination. Relevant data should be presented in tabular form.</p> <p>This should include in particular the issues around kittiwake, including Flamborough Head Bempton Cliff and Flamborough and Filey Coast (FHBC/FFC) population trends, and additional clarification on kittiwake apportioning.</p>
EOO17	applicant, NE, RSPB	Please provide an update on the positions reached in SoCG on the effects of Hornsea Project 2 on EIA species (including lesser black backed gull, and greater black backed gull). Relevant data should be presented in tabular form.
EOO18	applicant, NE	Please provide an update on discussions between the applicant and NE on migratory bird collision risk.
EOO19	applicant, NE and RSPB	Given the paucity of recent data on Offshore Windfarm (OWF) ornithological impacts, and the importance noted in NPS EN-3 of improving the evidence base, can the applicant please:

Question to:		Question:
		<p>a) set out the Project approach to the monitoring of offshore ornithological impacts (not limited to the pre- and post- construction surveys); and</p> <p>b) indicate where the approach will be secured in the DCO/DMLs.</p>
EOO20	NE, MMO and RSPB	Further to the submission of 'Notes of NE/RCUK Post Consent Monitoring Seminar (March 2015)' to Deadline 3 (REP3-032), can NE, MMO and RSPB please advise on potential good practice for project specific, and strategic, ornithological impacts monitoring?
EOMM	Ecology offshore: marine mammals	
EOMM26	applicant	The ExA wishes to draw the applicant's attention to the Habitats Regulations Assessment (HRA) undertaken by the Secretary for State (SoS) for the Dogger Bank Teesside Offshore Wind Farm. The SoS chose to include the Southern North Sea draft SAC for harbour porpoises in this assessment, even though this was at the early stages of consideration for possible future designation with approval and final consultation to follow. In light of this, and given the possible inclusion of the application within the dSAC, please could the applicant, in consultation with NE, update their HRA report to assess effects on this relevant harbour porpoise dSAC?
EOMM27	NE	What is the basis in international law for extending the Wash pSPA beyond the limit of the territorial sea?
EOMM28	applicant	Please update the ExA on the addition of a condition in the DML to require submission of data to the Defra Marine Noise Registry, as recommended by

Question to:		Question:
		NE and MMO.
EL	Ecology – onshore and intertidal	
EL16	applicant	Please provide an update on the discussion with NE and RSPB regarding the applicable tide height above chart datum (CD) at Grimsby and working tide height at the cable landfall area, including revisions to DML A2 and B2 Condition 20(4).
EL17		Similarly, please provide an update on the RSPB proposal that the tailpiece on Condition 20(3) of DML A2/B2, which allows winter working with the agreement from MMO and NE be removed. Have the potential effects of this tailpiece on the Condition been assessed in the HRA?
EL18		Have the effects on the intertidal zone from carrying out ducting over three years been included in the worst case scenario in the ES?
EL19	RSPB	When the Phillips66 Sealine Replacement pipeline was installed, was working restricted to the months of June, July and August?
EL20	RSPB	How close is the Hornsea Project 2 cable land fall to the high tide roost at Tetney?

Question to:		Question:
EL21	applicant, NE	Please provide in tabular form the NE/applicant conclusions about the effects of Hornsea Project 2, (i) alone and (ii) in combination, on features of: a) the Humber Estuary SPA; b) the Humber Estuary Ramsar site; and c) the Humber Estuary SAC.
EL22	applicant	Please provide a HRA screening matrix for the Greater Wash dSPA.
EL23	Relevant local authorities	Are the local authorities satisfied that the effects of Hornsea Project 2 on Bradley Wood Local Nature Reserve have been adequately assessed?
LH	Landscape and heritage	
LH15	Historic England Local authorities	Section 5 of the SoCG between the applicant and Lincolnshire County Council (LCC) in relation to onshore heritage refers to a disagreement in relation to completion of the agreed programme of archaeological trial trenching evaluation in respect of non-designated archaeological remains. a) Do HE and the local authorities agree with the applicant that the trenching undertaken to date combined with the various non-intrusive surveys has characterised the archaeology of the proposed cable route?

Question to:		Question:
		<p>b) Is this sufficient to properly assess the heritage interest of the proposed development.</p> <p>c) Is this sufficient information to be able to propose appropriate mitigation?</p> <p>d) Does the applicant's commitment, (in Table 6.22 of Volume 3, Chapter 6: Historic Environment (APP-048a)) to include the recording as appropriate of those areas of archaeology not previously subject to trial trenching as required by Requirement 6 of the draft DCO prior to construction (paras 5.1.3 and 5.1.4 of the SoCG) (REP2-033 and REP2-035) represent a satisfactory response to the issue?</p> <p>e) If not please state why not and how the DCO could secure this work if it is deemed necessary?</p>
LH16	applicant, North Lincolnshire Council and Lincolnshire County Council	<p>The applicant believes that following the geophysical survey in the area to the east of Habrough Road (between Plots 105 and 107) and of Plots 121, 127, 134 and 141 the further trial trenching, with further mitigation as applicable, (proposed as mitigation within Volume 3, Chapter 6 Historic Environment (APP-048a)), is appropriate for Plots 121, 127, 134 and 141 to the North of Chase Hill Road and for the east of Habrough Road between Plots 105 and 107.</p> <p>Furthermore, the applicant believes that Requirement 6 of the draft DCO secures this mitigation adequately (REP2-035), but North Lincolnshire Council and Lincolnshire County Council disagree (REP2-033 and REP2-</p>

Question to:		Question:
		<p>035)</p> <p>Will the applicant explain:</p> <p>a) why it is not necessary to undertake this geophysical survey work in the examination period;</p> <p>b) how long the survey work might take; and</p> <p>c) provide wording to ensure that if it is not carried out prior to the Secretary of State's decision on the DCO, the survey work is secured in the DCO for early implementation?</p>
LH17	Historic England (HE), North Lincolnshire Council North East Lincolnshire Council	<p>The applicant has provided at Deadline 2a visualisations of the worst case scenario visual impact of the two main buildings at the electrical transmission stations in Works 8A and 8B if the mode of transmission is HVDC (REP2A-011).</p> <p>a) Do HE and the local authorities have any further comment to make on the visual impact of these structures specifically and with reference to the setting of listed buildings and schedule monuments in the vicinity and the adequacy of the proposed mitigation?</p> <p>b) With particular reference to Thornton Abbey and Manor Farm Moated Site East Halton – if further mitigation is required what form should it take?</p>
LH18	applicant	Please explain why the two electrical transmission station main buildings at

Question to:		Question:
		<p>Works 8A and 8B could have a maximum height of 40m if the mode of transmission is HVDC (Draft DCO Schedule A, Part 3 Detailed Design Parameters para 2(11))?</p> <p>Given that the maximum height of the equivalent structure at Hornsea Project 1 is 24m are there circumstances in which the maximum height could be reduced in the HVDC transmission mode?</p>
LH20	Hornsea Project 1; applicant; Local authorities	<p>a) Has the hedgerows plan for Hornsea Project 1 been signed off by the local authorities?</p> <p>b) If so, has Hornsea Project 1 undertaken studies to determine which hedgerows to remove?</p> <p>c) If so, could this information, as has been the case for archaeological information, be used to assist Hornsea Project 2?</p> <p>d) Has a protocol been agreed between the applicant and the local authorities on (i) relevant criteria for hedgerow removal, and (ii) which hedgerows to remove?</p>
CL	Construction – onshore and inter-tidal	
CL19	applicant, and local authorities	Please provide an update on the inclusion of the Local Planning Authorities in the onshore co-operation agreement in relation to transmission works (DCO Requirement 26).

Question to:		Question:
CL20	National Grid; Northern Power Gen	<p>Please comment on:</p> <p>a) the capacity of the North Killingholme National Grid Sub-station to receive electrical power from the C.Gen Power Station and the Hornsea Project 1 and Hornsea Project 2 substations, in both HVAC and HVDC modes;</p> <p>b) if the technical issues of routing and connecting power cables through the restricted area to the north of the sub-station can be overcome; and</p> <p>c) the steps that need to be taken to ensure that this is achievable.</p>
CL21	applicant, Hornsea Project 1, C. Gen, National Grid	Please advise on the possibility and practicability of a four-way SoCG to progress the securing of cable access routes for all relevant parties to the North Killingholme National Grid Sub-station and outline the mechanisms by which agreement will be secured on the routes and connections to the National Grid from C.Gen, Hornsea Project 1, Hornsea Project 2 and NGET.
CL22	C.Gen, North Lincolnshire Council	Please provide an update on the application to North Lincolnshire Council for a Certificate of Lawfulness, including screening opinion given (dated 23/07/15) and application documents, in respect of the routes for cable connections to the Killingholme Sub-station and any negotiations with the land owners required to secure appropriate land rights for the installation?
CL23	applicant	Please provide an update to the Compound Works Table (submitted for the 15 September 2015 Hearing, and as Appendix N for Deadline 3) to provide more information <i>per compound</i> on:

Question to:		Question:
		<p>a) predicted construction traffic, rather than by route-based data;</p> <p>b) compound size in m²; and</p> <p>c) purpose/use of compounds.</p> <p>Please also provide noise buffering maps in relation to those compounds with planned HDD activity, which are adjacent to residential areas.</p>
CL24	applicant	<p>Works Plan sheet 24 of 27 provided as Appendix C at Deadline 3 (REP3-007) indicates that the limits of deviation of Works 7A and 7B pass in close proximity to residential properties at the point where the cable corridor crosses Top Road. As an example of how negative impacts on residential amenity during the construction phase will be mitigated generally please set out the measures that will be deployed in terms of dealing with noise, dust, mud on the highway, hours of working, use of artificial light, hedgerow reinstatement, managing traffic on Top Road and communications with local residents in this particular case and where they are secured?</p>
CL25	applicant, NE, RSPB	<p>With regard to the Intertidal Access Management Plan, please advise on:</p> <p>a) progress made; and</p> <p>b) how the plan is secured?</p>
CL26	RSPB, NE	<p>Are the RSPB and NE satisfied with the scope of contents of the Code of Construction Practice (CoCP), including how the role of the Ecological Clerk</p>

Question to:		Question:
		of Works (ECOW) is secured?
CS	Construction – offshore	
CS17	applicant, MMO and NE	Please provide an update on the progress between the applicant and the MMO/NE in resolving issues relating to the 'In Principle Monitoring Plan', including inclusion in the draft DCO.
CS18	applicant, Hornsea Project 1	Given that both Hornsea Projects 1 and 2 are now under DONG Energy ownership, can both projects be included in the DCO Schedule A, Part 3, Requirement 21?
CS19	Hornsea Project 1	Given that Hornsea Project 1 have indicated that their project will start in January 2016, when will the offshore cable surveys be completed? Will the surveys be extended to cover Hornsea Project 2 as well?
CS20	applicant, E.ON E&P UK Ltd	Please provide an update on a SoCG between the applicant and E.ON E&P UK Ltd to develop a co-existence agreement, possibly also with Protective Provisions.
CS21	applicant	How will the phased build-out of the various offshore elements of Hornsea Project 2 be controlled to avoid piecemeal rather than sequential development?

Question to:		Question:
SE	Socio-economics	
SE8	applicant	Please provide further analysis to estimate the percentage of local people who might gain employment in (i) the construction stage, and (ii) the operation and maintenance (O&M) stage of Hornsea Project 2, under the medium scenario.
SE9	applicant	Please advise on: a) what further measures the applicant is considering, to build on the current employment and skills initiatives in the region; b) what measures the applicant is considering in particular for disadvantaged groups; and c) how the additional measures will be secured in the Employment and Skills Plan (DCO, Requirement 18)(REP2A-003)?
SE10	LEP	Will the Humber Local Enterprise Partnership (LEP) please advise on the scope for local recruitment to the Hornsea Project 2?
SE11	applicant, local authorities	Please will the applicant advise on the next steps in the development of a Community Benefits Fund?
SE12	applicant, local authorities	a) What are the current socio-economic impacts monitoring provisions anticipated by the applicant and the local authorities for Hornsea Project 2?

Question to:		Question:
		b) How will such provisions be secured in the DCO?
FNA	Fishing, navigation and aviation	
FNA25	applicant	Please provide a final SoCG with the commercial fisheries organisations.
FNA26	applicant and ConocoPhillips	Referring to FNA 18 in the applicant's replies to first round questions, 'The parties agreed to draw up an action plan which both parties will be agreeable to. The applicant intends to provide further information on this matter to the ExA in due course.' When will the ExA see this further information?
FNA27	applicant	Have you completed the marine traffic validation exercise as described in your reply to FNA13 of R1 of ExA questions? If not, when can it be expected?
CA	Compulsory acquisition	
CA17	applicant, The Crown Estate	In relation to Crown land: a) Has the Crown Estate (TCE) granted consent for the acquisition of interests held otherwise by the Crown on land within its control? If so

Question to:		Question:
		<p>– please provide documentary evidence of this.</p> <p>b) The ExA notes the applicant’s response in relation to Crown Land and article 39 as set out in their summary of oral case for the compulsory acquisition hearing of the 17 September 2015 (REP3-015). The ExA do not have any concern regarding the drafting of Article 39 which is common article included in DCOs to protect Crown Interests. However, the ExA remain concerned that 39(a) purports to permit the Crown to consent to the compulsory acquisition of their interests which is not permissible under the Planning Act 2008. The ExA is aware that in other DCOs Crown Interests have been expressly excluded from compulsory acquisition by the description of the land in the Book of Reference (BoR) including the phrase “except for the interests of The Crown Estate / The SoS for transport / The SoS for defence.” This has the effect of preventing the compulsory acquisition of Crown interests because the “Order land” over which compulsory acquisition is authorised is defined as “the land described in the Book of Reference”. The applicant is asked to consider either excluding the Crown Interest in this way or to amend Articles 18 & 19 to expressly exclude interests of the Crown from the compulsory acquisition sought.</p> <p>c) Can TCE comment on its view of the CA powers being sought in the draft DCO and the interests held otherwise than by the Crown in land owned by the Crown and whether the terms of s135 (1)(2) are met?</p>
CA18	applicant	Does the Protective Provision agreed between the Hornsea Project 1 companies and the applicant cover the agreed rights and protective

Question to:		Question:
		provisions for the two parties in respect of the construction and use of the proposed joint access road to the Hornsea Project 1 and Hornsea Project 2 transmission stations at Plot Nos. 507 and 509 as shown on Land Plan 27 of 27 Revision: 02 submitted at Deadline 3 (REP3-005)? If not can a statement explaining the arrangements that will be in place, and how they are to be secured, be submitted to the ExA?
CA19	Highways England, applicant	<ol style="list-style-type: none"> 1. In relation to the transferred Plot Nos: 272, 377, 378, 388, 437, 441 – for which the applicant is seeking the acquisition of new rights – does HE have any comments to make on the rights being sought? 2. Plot Nos. 175, 176, 178, 179 and 181 to 187 remain as Crown Land – can the applicant provide an update in relation to the transfer of these plots from the Secretary of State for Transport and whether it considers them still to be Crown Land.
CA20	applicant	<p>Notwithstanding the information provided in the submitted Funding Statement and at the Compulsory Acquisition ISH please provide the following information:</p> <ol style="list-style-type: none"> a) The estimated capital cost of the two Hornsea Project 2 projects A and B. b) An indication of the mechanisms likely to be employed by DONG Energy in raising the capital sum required, with reference to experience on similar projects. c) An assessment of the likelihood that the required funds will be raised

Question to:		Question:
		<p>within the five year period for commencement of the project in the light of current conditions for raising large financial sums for major infrastructure projects in general and offshore renewable energy in particular.</p> <p>d) A statement on the decision-making procedures that DONG Energy will enter into to ensure the required capital funding is in place prior to making its Final Investment Decision (FID).</p>
CA21	applicant	<p>a) Please explain the current ownership and legal status of Chase Hill Road as the access to the Centrica CCTG power station.</p> <p>b) With particular reference to Plot Nos. 513, 514, 515, 517, 518, 520, 521, 522, shown on Land Plan 27 of 27 Revision: 02 submitted at Deadline III REP3-005) please explain the improvements and any other engineering, drainage or installation work envisaged for Chase Hill Road; the nature of the permanent rights being sought and a statement that the land shown for the acquisition of permanent rights is sufficient for this purpose.</p>
CA22	applicant/NGET	Please explain why and under what circumstances the proposed access through Plot No. 511 shown on Land Plan 27 of 27 Revision: 02, submitted at Deadline 3 (REP3-005), is required?
CA23	applicant	1. In respect of the Order Lands shown on Land Plan 27 of 27 Revision: 02, submitted at Deadline 3 (REP3-005), please provide an explanation and outline method statement of how the land required for temporary occupation will be utilised – in terms of activity, land use

Question to:		Question:
		<p>and spatial extent – in the following scenarios, with particular reference to Plot Nos. 493, 494, 496, 498, 501, 502, 504, 505, 506, 508, 518 and show how access to Plot Nos. 500 and 506 will be achieved if:</p> <p>a) Hornsea Project 1 transmission stations not commenced.</p> <p>b) Hornsea Project 1 transmission stations under construction.</p> <p>c) Hornsea Project 1 transmission stations complete.</p> <p>2. If Hornsea Project 1 transmission station is under construction or completed prior to Hornsea Project 2 Plot No. 505 will not be available for temporary occupation. If this is the case and the Hornsea Project 2 transmission stations can be constructed without requiring the use of Plot No. 505 how can the case for including it in the Order be justified?</p>
CA24	applicant	Further to the Deadline 3 submission, at Appendix S, please provide a further update in respect of the status of outstanding agreements with landowners.
CA25	applicant, East Lindsey District Council	<p>a) Please explain why the beach at the cable landfall site is not designated as public open space with particular reference to Plot Nos. 21 and 33?</p> <p>b) Can East Lindsey District Council explain the local plan status of the beach at the cable landfall site?</p>
CA26	applicant	Further to the Deadline 3 submission, at Appendix U (REP3-025), please provide a further update on progress towards agreeing proposed

Question to:		Question:
		<p>Protective Provisions (PPs) with the following:</p> <ul style="list-style-type: none"> a) Centrica KPS Ltd; b) VPI Immingham CHP LLP; c) National Grid Electricity Transmission; d) National Grid Gas Plc; and e) Northern Powergrid Yorkshire Plc. <p>If PPs are not finalised please advise on when the ExA can expect them.</p>
CA27	Conoco Phillips, Conoco Phillips 66	<p>It is the applicant's opinion that neither Conoco Phillips or Phillips 66 are statutory undertakers for the purpose of s.127 and s.138 of PA2008 (Deadline 3, Appendix 17 – Summary of Oral Case – Compulsory Acquisition Hearing September 2015, paras 7.3 – 7.9) (REP3-015). Do Conoco Phillips and Conoco Phillips 66 agree and if not please state your reasons?</p>
CA28	E. ON E&P UK Ltd	<p>It is the applicant's opinion (applicant's Statement of Agreement with Statutory Undertakers submitted at Deadline 3, Appendix U) (REP3-025) that (i) s.127 does not apply to E.ON E&P UK Ltd's interests, and (ii) s127 applies to land held by a statutory undertaker and concerns the CA of land. E.ON E&P UK Ltd's interests are offshore and therefore the CA provisions in the DCO (and by consequence s.127) do not apply.</p> <p>Does E.ON E&P UK Ltd wish to comment?</p>

Question to:		Question:
DC	Draft Development Consent Order (DCO)	
DC31	MMO	Is the MMO now satisfied with the latest version of the DMLs? If not, what further amendments do they require?
DC32	applicant	<p>Will the applicant please provide:</p> <p>a) An estimate of the total contingent liability associated with acquisition of land or interests in land and any possible claims for blight; and</p> <p>b) A specific and enforceable mechanism or options for mechanisms in the draft DCO whereby all payments are secured back to a parent company.</p>

Question to:		Question:
DC33	NE, MMO and local authorities	<p>a) Do NE, MMO and the local authorities consider that they have sufficient information on the principles and parameters to be used in drafting the Ecological Management Plan (EMP) to be confident that the submitted plan will be capable of approval?</p> <p>b) Do they consider that they have or will have sufficient information and assurances about monitoring to be confident that the submitted EMP will be monitored adequately?</p> <p>c) Do they consider that they will have sufficient information to be confident about the enforcement of the EMP?</p>
DC34	NE, MMO and local authorities	<p>a) Do NE, MMO and the local authorities consider that they have sufficient information on the principles and parameters to be used in drafting the CoCP to be confident that the submitted code will be capable of approval?</p> <p>b) Do they consider that they have or will have sufficient information and assurances about monitoring to be confident that the submitted CoCP will be monitored adequately?</p> <p>c) Do they consider that they will have sufficient information to be confident about the enforcement of the CoCP?</p>