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The Planning Inspectorate  
National Infrastructure Directorate  
[e-mail only]

Your reference: EN010053  
Our reference:  
DCO/2013/00013

15 July 2015

Dear Sir/Madam,

## **PROPOSED HORNSEA PROJECT TWO OFFSHORE WIND FARM RESPONSE TO EXAMINING AUTHORITY'S RULE 8 LETTER**

The MMO is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the marine area. Should consent be granted for the project, the MMO will be responsible for monitoring, compliance and enforcement of Deemed Marine Licence (DML) conditions.

The MMO received a Rule 8 letter on 22 June 2015 for the proposed Hornsea Offshore Wind Farm (Ref EN010033). In response to this letter, the MMO submits the following:

- 1. Summary of Relevant Representation**
- 2. Responses to the Examining Authority's first round of written questions**
- 3. Notification of a wish to attend a hearing**

Please accept this letter as notification that the MMO does wish to speak at the Issue Specific Hearing on the draft DCO on Thursday 30 July 2015.

The MMO has entered into a Statement of Common Ground with the applicant that will be submitted by the applicant on the MMO's behalf at written deadline 1.

In addition to the issues contained in the responses outlined above, the MMO wishes to raise three new issues for consideration in examination, these are as follows:

### **1. Marine Noise Registry**

The MMO strongly recommends that the applicant includes additional conditions within the DMLs requiring it to submit data to the Department for Environment, Food and Rural Affairs (Defra) Marine Noise Registry (MNR). The MNR is a register of impulsive anthropogenic noise set up by the Joint Nature Conservation Committee (JNCC) in order to create a baseline for impulsive underwater noise in UK waters. The MNR was developed as a result of the Marine Strategy Framework Directive



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(MSFD) 'good environmental status' Descriptor 11 *"Introduction of energy, including underwater noise, is at levels that do not adversely affect the marine environment"*.

The MSFD 'Report of the Technical Subgroup on Underwater Noise and other forms of energy' (27 February 2012) states: *"A first step is to establish the current level and trend in these impulsive sounds. This should be done by setting up a register of the occurrence of these impulsive sounds"*.

These requirements are transposed into UK law via The Marine Strategy Regulations (2010), which state that *"Each public authority must, in exercising any functions so far as affecting the marine strategy area, have regard to any marine strategy developed under regulation"*. Part 4 of the 2010 regulations state that the strategy itself comprises of an assessment of marine waters, a determination of good environmental status, environmental targets and indicators, monitoring, and a programme of measures.

The MMO has engaged with JNCC and Defra in order to devise a process for ensuring the submission of data by marine licence holders granted consent under the Marine and Coastal Access Act (2009). For marine licences, the requirement to submit both 'forward look' and 'close-out' data to the MNR will be added as licence conditions going forward. For Nationally Significant Infrastructure Projects (NSIPs), the MMO has agreed to recommend that all projects proposing piling (or the detonation of explosives) adds conditions to the draft DMLs to ensure that this data is submitted. This data would help provide a more comprehensive picture, rather than fragmented one, of impulsive anthropogenic noise.

'Forward look' data would be provided prior to the commencement of piling and would comprise co-ordinates (a polygon) to show approximate location, activity type and approximate duration. The 'close-out' data would be submitted within six months of commencement of piling and then at six month intervals from the start date until all piling activity has ceased. The 'close out' data would comprise the exact locations and timings that piling activity took place.

## **2. Transfer of Benefit of the Order**

During pre-application the MMO raised objections to the principle of partial transfer of DMLs due to potential complications around the enforceability of conditions post-consent. This is an issue that the MMO has consistently raised on other NSIPs for which the MMO is an interested party. Given that the Secretary of State's judgement on Hornsea Project One was to permit the partial transfer of DMLs, the MMO has worked with the applicant on Project Two to agree the level and detail of notifications required should a transfer be undertaken.

However, upon full review of the draft DCO, the MMO has concerns relating to the provision under article 35(5) in combination with the potential for partial transfer, which states that the consent of the Secretary of State is not required when transferring part of the benefit of the Order to a licence holder under Section 6 of the Electricity Act 1989.

## **3. In-Principle Monitoring Plan (IPMP)**

Following discussions with Natural England, it is noted that the applicant is happy to progress with the IPMP. However, the applicant has expressed some reluctance to include the IPMP in the DCO/DMLs and does not feel that a requirement for the plan is needed.

The MMO fully supports Natural England's and strongly advocates the inclusion of the IPMP in the DCO/DMLs. The MMO considers that the IPMP provides a record of agreement between the parties involved, whilst enabling the flexibility for amendments to be made as appropriate. This approach front-loads post-consent monitoring discussions and provides the developer with a greater understanding and certainty early on for what would be required.

Please note that the MMO reserves the right to make further comment on this application throughout the examination process based upon new information, responses from other interested parties and proposed monitoring or mitigation.

If you require further information on the above, please contact the undersigned.

Yours sincerely,



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