



Marine  
Management  
Organisation

Marine Development  
Lancaster House  
Hampshire Court  
Newcastle upon Tyne  
NE4 7YH

T +44 (0)300 120 1032  
[www.gov.uk/mmo](http://www.gov.uk/mmo)

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

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

24 September 2015

Dear Sir/Madam,

### **PROPOSED HORNSEA PROJECT 2 OFFSHORE WIND FARM ORDER RESPONSE TO EXAMINATION DEADLINE 3**

The Marine Management Organisation (MMO) is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the marine area.

The MMO has an interest in Hornsea Project 2 which proposes the construction and operation of up to 360 wind turbine generators and associated development within English waters. The DCO application includes four deemed marine licences (DMLs) under Section 65 of the Marine and Coastal Access Act 2009 (MCAA09). Should consent be granted for the project, the MMO would be responsible for approvals and enforcement under the DMLs.

Following the Issue Specific Hearing (ISH) at the Ashbourne Hotel, North Killingholme, Immingham on 15 and 16 September 2015, the MMO summary of its oral representations is below.

#### **1. Agenda Item 3.4: Construction Onshore and Inter-tidal: Intertidal Zone Issues**

The Royal Society for the Protection of Birds (RSPB) raised concerns about the wording of the condition 20(3) of the draft DMLs in Schedule I and J of version 4 of the draft DCO. The condition states that:

*“The undertaker must not construct or install those licensable activities comprised in Work No. 4A or Work No. 5A in the intertidal area between 1 October and 31 March (inclusive) **unless otherwise agreed in writing with the MMO, in consultation with Natural England**”.* [MMO bold]

The RSPB requested that the wording “unless otherwise agreed in writing with the MMO, in consultation with Natural England” be removed from the condition. The applicant responded that approval would only be given to changes that are within the limits assessed in the Environmental Statement (ES). Both the applicant and Natural England

were content with the wording of the condition as it is currently drafted. The MMO stated that it would consider any alternative drafting if it was proposed.

Having reflected on this discussion, the MMO is content with the current wording of the condition as it ensures that any deviations from this restriction must be approved by the MMO. Should any alternative wording for the condition is proposed the MMO will consider this and provide a response where relevant.

## **2. Agenda Item 3.6. Robustness of Code of Construction Practice (CoCP) and DCO/DMLs**

The Examining Authority (ExA) asked whether the MMO was content with how the various management plans are secured in the DCO/DML under Requirement 8.

The MMO has no comment to make at present. However we are keen to ensure that any additional environmental mitigation proposed is secured appropriately; for example, the Intertidal Access Management Plan proposed by Natural England.

## **3. Agenda Item 4.1. Construction Offshore: Clearance height of bridge links**

The applicant stated that the recommendation for a minimum 22m clearance for bridge links came from MGN371 guidance, but does not apply to fixed offshore structures. The applicant advised that other similar projects have been consented with lower clearance heights for fixed platforms and that safety zones [under s95 of the Energy Act 2004] will be sought to mitigate any residual navigational risk from these platforms. As a result, the applicant believes the 22m clearance for fixed structures is not necessarily required.

The MMO confirmed that agreement over the bridge heights would form part of the pre-construction approval process, during which the MMO will consult the Maritime and Coastguard Agency (MCA) and Trinity House, the experts in navigational safety.

## **4. Agenda Item 4.2. Construction Offshore: In Principle Monitoring Plan (IPMP)**

The MMO confirmed it is pleased with the progress that is being made with this document and notes that a second draft is anticipated from the applicant in the week commencing 28 September 2015. The MMO also stated that it considers that the IPMP should be included in the DCO in order to ensure it is accessible to others that may be involved with post-consent monitoring in the future. The MMO noted that some draft wording has been discussed between Natural England and the applicant.

The MMO welcomes the ExA's request for the applicant to provide draft wording at either deadline three or four. The MMO will be happy to review and comment on any draft wording provided by the applicant.

## **5. Agenda Item 4.3. Construction Offshore: Co-operation between Hornsea Project 1 and Hornsea Project 2**

The ExA asked the MMO whether any progress had been made with regards to Requirement 21 "Offshore Co-operation" to ensure co-operation with Hornsea Project 1. The MMO noted that although it had no concerns with the change in ownership of the project, which would not affect the applicant's ability to comply with the conditions of the

consent, it remains concerned about co-operation between Hornsea Project 1 and Hornsea Project 2. The MMO noted that it was agreed in the Statement of Common Ground (SoCG) between the MMO and the applicant that a clarification note would be provided to explain how co-operation would work in practice with Project 1 if not secured through the DCO and DMLs.

The MMO was aware that an updated SoCG between Hornsea Project 1 and Hornsea Project 2 had been submitted that contains a memorandum of understanding between the two projects that may address some of these concerns. The MMO is currently reviewing this document and will discuss with the applicant and ExA if we believe further information or DCO/DML drafting is recommended.

#### **6. Agenda Item 7.2: Fishing, Navigation & Aviation: Fishing Liaison & Co-existence plans**

The ExA asked the applicant for an update on the progress made in respect of the remaining areas of disagreement with the fishing industry. The applicant confirmed that the National Federation of Fishermen's Organisations (NFFO) requested that a coexistence and liaison plan is adopted and reflected in the DMLs. The applicant felt that this was not necessary as there are provisions within the DML to ensure that plans relating to the responsibilities of the Fisheries Liaison Officers (FLOs) (i.e. the project environmental management and monitoring plan) are approved by the MMO. The MMO noted that it would be able to consult with any parties it sees fit, and should it require advice on such issues it may choose to consult with the NFFO prior to discharge of these plans.

#### **7. Agenda Item 7.5. Fishing, Navigation & Aviation: Cumulative assessment of the impacts of fishing inside dredge disposal sites**

The MMO noted that in its SoCG with the applicant it discussed the cumulative assessment of the impacts on fishing inside active dredge disposal sites within 50km of the Hornsea Project 2. These sites include Babbage (HU203), Triton Knoll (HU 204), Westernmost Rough (HU 207) and Bridlington (HU015), as well as numerous sites within the Humber Estuary. However, the applicant provided justification for which sites were included in the assessment during the SoCG discussions and the MMO was satisfied with this explanation.

This issue is considered to be resolved and no residual issues remain on this topic.

#### **8. Agenda Item 7.6. Fishing, Navigation & Aviation: New Ownership Arrangements for Hornsea Project 2**

The ExA asked whether the MMO had any comments to make regarding the new ownership arrangements for Hornsea Project 2. The MMO confirmed that whilst it is not within the MMO's remit to comment on commercial arrangements, it has no concerns with the new ownership arrangements and does not consider that the new ownership would hinder the ability of the applicant to comply with the conditions of the DCO/DMLs.

#### **9. Agenda Item 10.6. Marine Mammals: Mitigation and monitoring**

The ExA asked whether condition 10(2) (e) (vii) under "Pre-construction plans and documentation" which states that, where appropriate, the use of noise reduction at source

technologies should be considered, is sufficient. The MMO stated that it is content that the flexibility in the condition allows for consideration of the best available technology at the time and that marine mammal mitigation will be secured through the project marine mammal mitigation protocol (MMMP) during the pre-construction approval process.

#### **10. Agenda Item 10.7. Marine Mammals: Control of hammer energy/piling**

The ExA noted that the applicant stated that if greater hammer energy is required than the maximum assessed in the ES, the applicant would seek approval from the MMO. The ExA asked whether this meant that there was potential for approval to be given beyond the envelope assessed in the ES. The MMO agreed with Natural England's comments that the applicant would need to remain within the noise limits assessed in the ES. Should the applicant require higher hammer energies than the maximum assessed it would need to provide further evidence to demonstrate that the ES predictions would not be exceeded.

#### **11. Agenda Item 10.8. Marine Mammals: Submission of data to the Defra Marine Noise Registry**

The ExA requested an update on the MMO's recommendation that conditions be included in the DMLs to ensure that noise data, relating to piling, is submitted to Defra's Marine Noise Registry. The MMO confirmed that draft wording had been submitted to the applicant, who has confirmed that in principle they are content to adopt these conditions subject to a 'go-live' date for the registry (currently expected to be late September 2015).

Following the hearing the applicant submitted its revisions to this wording to the MMO and it has provided comments back to the applicant.

#### **12. Agenda Item 10.9. Marine Mammals: Need for European Protected Species Licence**

The ExA asked whether the MMO is still satisfied that a European Protected Species (EPS) licence could be granted. The MMO confirmed that this would be addressed after the MMMP has been further refined and approved. An EPS licence would be required if, after mitigation, there is a residual risk of injury or disturbance to cetaceans. The MMO confirmed that the applicant submitted a shadow EPS application, for which the MMO has issued a letter of comfort.

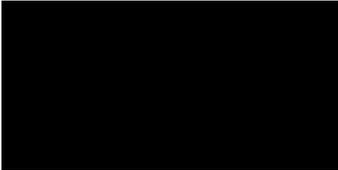
#### **13. Agenda Item 11. Marine Processes**

The ExA asked whether MMO's concerns about the characterisation of the coastal baseline, including the need for more recent data and coastal monitoring programmes, had been addressed. The MMO confirmed that justification for the applicant's conclusion that the shoreline is of minor vulnerability with moderate to high levels of recoverability was provided during the SoCG. The MMO confirmed that all matters relating to this topic have now been agreed.

## Conclusion

The above summarises, with context, the MMO's comments made in the ISH and is the MMO's current position on these matters. However, please note that the MMO reserves the right to make further comments on this application throughout the examination process and to modify its present advice or opinion in view of any additional information that may come to our attention.

Yours sincerely,



Lisa Southwood  
Marine Licensing Case Officer  
D +44 (0)191 376 2716  
E [lisa.southwood@marinemanagement.org.uk](mailto:lisa.southwood@marinemanagement.org.uk)