



Giles Scott
National Infrastructure Consents
(email only)

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

19 July 2016

Dear Mr Scott,

MARINE MANAGEMENT ORGANISATION RESPONSE TO DECC REQUEST FOR COMMENTS ON THE APPLICATION FOR THE PROPOSED HORNSEA PROJECT TWO OFFSHORE WIND FARM

The MMO wishes to make representation in response to the Secretary of State's (SoS's) letter dated 12 July 2016. The letter requested comments from the MMO on the proposed additional provisions to condition 8 of DMLs 1 to 4 contained within Schedules H to K of the draft Development Consent Order (DCO).

It is understood that the proposed amendment to condition 8 is intended to secure additional mitigation measures as concluded by the SoS in the Appropriate Assessment (AA) in order to determine no adverse effect on site integrity of the Southern North Sea potential Special Area of Conservation (SNS pSAC). The MMO considers that the proposed mitigation is not adequately defined to ensure that it will be effective and deliverable to be able to conclude no adverse effect on site integrity of SNS pSAC, particularly given that the AA has not been provided for review. The MMO requests that if additional mitigation measures are referred to within sub-paragraphs (a)-(e), that they meet the criteria stipulated below:

- (i) What the measure is, and how it would avoid or reduce effects;
- (ii) How it would be implemented and by whom;
- (iii) The degree of confidence in its likely success;
- (iv) The timescale of when it would be implemented, maintained and managed;
- (v) How the measure would be secured, monitored and enforced; and how any failures will be rectified.

The MMO considers that the proposed condition 8, sub paragraph 7 should be updated once the AA has been completed to clearly define the specific additional mitigation measures as deemed necessary in order to conclude no adverse effect. This will allow the MMO to ensure the mitigation is implemented post-consent rather than define what mitigation is required (this should be done prior to a decision by the competent authority).

For example, sub paragraph 7 (a) specifies a seasonal restriction to piling is required. The MMO requests that the time period of any piling restriction is clearly defined and included within the condition.

The MMO would like to understand the justification behind the additional wording proposed to sub paragraph 2 (e) of condition 8, as the MMO are content with the drafting of the original wording. The Joint Nature Conservation Committee in their guidance 'Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise' dated August 2010 explicitly states that it is not to prevent disturbance to marine mammals.

Should the SoS, as competent authority, consider that the mitigation detailed in proposed condition 8 (a)-(e) as per the SoS's letter dated 12 July 2016 is adequate, then this should be included within the DCO (as opposed to the DMLs). This will ensure that the mitigation can be implemented by the SoS rather than relying on another regulator to define appropriate mitigation and ensure its timely delivery.

The MMO would welcome the opportunity to provide further comment on the mitigation secured in the proposed condition alongside a draft of the AA.

If you have any questions, please do not hesitate to contact me.

Yours sincerely,

A black rectangular redaction box covering the signature of Lisa Southwood.

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