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To Interested Parties

Your Ref:

Our Ref: EN010056

Date: 28 October 2016

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## **Planning Act 2008 (as amended) – Section 89 and the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 17**

### **Application by East Anglia THREE Ltd for an Order granting development consent for the East Anglia THREE Offshore Wind Farm**

#### **Request for further information**

The Examining Authority (ExA) has reflected on a number of matters discussed at hearings held on 25 and 26 October 2016 and has decided to seek further information covering a range of issues. These queries are set out below, along with notification of further documentation that the ExA is aware will be submitted before the end of the Examination on which Interested Parties (IPs) may wish to comment. As such, the ExA has taken the opportunity to set out when comments on such documents should be submitted.

The deadline for the submission of information set out below is Deadline 6, (8 November 2016), unless otherwise stated.

#### **Number of Turbines in East Anglia ONE when built**

The issue was discussed at the second Environmental Issue Specific Hearing (ISH) and the third Development Consent Order (DCO) ISH regarding the proposal that East Anglia ONE Ltd (EA1) will only build out its consent to 102 turbines. This has not been secured. The East Anglia ONE Offshore Wind Farm Order 2016 (as amended) (EA1 DCO) can still be fully implemented and up to 150 turbines can be constructed with the HVAC option. The ExA needs to take this into consideration in its recommendations and therefore seeks further information as set out below.

*Questions to Natural England (NE) and the Royal Society for the Protection of Birds (RSPB)*

As the proposal to reduce the number of turbines to be constructed under the EA1 DCO to 102 has not been legally secured, the ExA must consider this application on the basis that up to 150 turbines can be constructed under the EA1 DCO. Please can NE and RSPB give their views on the basis of 150 turbines being used for assessment purposes?

Are there any implications for Environmental Impact Assessment (EIA) or Habitats Regulations Assessment (HRA) conclusions?

What are NE's and RSPB's views in respect of conclusions on adverse effects on the integrity of the Flamborough and Filey Coast pSPA/Flamborough Head and Bempton Cliffs SPA?

*Question to the Marine Management Organisation (MMO):*

What in the MMO's view are the implications if assessment is based on the use of 150 turbines as opposed to 102 turbines?

*Requests to the Applicant:*

The revised Collision Risk Modelling (CRM) submitted at Deadline 5 [REP5-026] includes at Appendix 3 the monthly and annual collision mortality for five species assessed for EA1 using Band Option 1. The main body of the revised CRM presents the cumulative and in-combination modelling results using 102 turbines and the amended design for East Anglia THREE (EA3). To ensure the ExA has sight of a full assessment for the 150 turbine scenario, the Applicant is requested to provide a CRM note detailing the cumulative consented totals for the five species, for EIA purposes, and the in-combination totals for HRA purposes, using the 150 turbine data provided in Appendix 3 and the updated design for EA3.

If the Applicant wishes to rely on a maximum of 102 turbines being constructed under the EA1 DCO, the Applicant is requested to explain how this can legally be secured in the absence of an amendment to the EA1 DCO. Please provide legal authority for your submissions.

**Draught Height**

The Applicant confirmed at Deadline 5 [REP5-012] that it has committed to an increase in the draught height by 2m of 70% of turbines built at the EA3 offshore wind farm to mitigate for potential bird collisions.

*Question to the MMO*

Is the MMO content that the Applicant's proposed amendments to the wording of Condition 1 (Design Parameters) of the draft Deemed Marine Licences (dDMLs) within Schedule 10 and 11 of the draft DCO (dDCO), as suggested in the Applicant's answer to Second Written Question HRA11 [REP5-012], secures the construction of 70% of the total number of turbines with an increased draft height, and is enforceable?

*Question to the Applicant and the MMO*

Does Requirement 2 (detailed offshore design parameters) in Schedule 1, Part 3 of the dDCO also need to be amended to reflect the proposed change?

*Question to the Applicant, NE and RSPB*

It is noted that the most recent Statements of Common Ground (SoCGs) between the Applicant and RSPB and the Applicant and NE were provided at Deadline 2 [REP2-049 and REP2-053]. These included a number of outstanding items in relation to offshore ornithology in particular. Given the length of time since their submission, and changes in the design, modelling and assessment during the course of the Examination, please could the Applicant update the SoCGs with these parties and submit for Deadline 6?

### **Southern North Sea Possible Special Area of Conservation (pSAC) and Greater Wash potential Special Protection Area (pSPA)**

*Request to the Applicant*

The Applicant is requested to provide screening and integrity matrices for the Southern North Sea pSAC to accompany its updated Southern North Sea pSAC HRA report to be submitted at Deadline 6. The matrices should be produced in accordance with guidance contained in Planning Inspectorate Advice Note 10.

*Request to NE, The Wildlife Trusts (TWT), Whale and Dolphin Conservation (WDC) and MMO*

NE, TWT, WDC and MMO are requested to comment at Deadline 7 (8 December 2016) on the updated version of the Applicant's Southern North Sea pSAC HRA report which the Applicant will be submitting at Deadline 6. In particular, any outstanding areas of disagreement should be highlighted. The Applicant is requested to provide a final response on these Deadline 7 comments at Deadline 8 (15 December 2016) together with updated SoCGs.

*Question to NE and RSPB*

As the Greater Wash pSPA is now out for public consultation, could NE and RSPB confirm their views in relation to any likely significant effects on the pSPA as a result of the EA3 project?

## **Skills Strategy**

### *Request to Local Planning Authorities (LPAs)*

LPAs are asked to confirm their views on a need for a skills strategy for EA3, having reflected on the Applicant's statement made at the Environmental ISH on 25 October 2016 that the skills strategy for EA1 had not been taken into account in the EA3 Environmental Statement (ES) baseline, that the ES found no significant impact and that therefore the Applicant considers that there is no need for a skills strategy for EA3.

### *Question to the Applicant and LPAs*

Regarding the skills strategy, is document REP1-009 still the most up-to-date skills strategy for EA1 and is it expected to need updating? Any updated document should be submitted into the Examination at Deadline 6.

## **Updated documentation**

The ExA requests that any outline documents that have been updated since they were last submitted into the Examination by the Applicant should be submitted for Deadline 6 (to be accompanied by tracked change versions) to enable comments to be made by all IPs at Deadline 7, with further responses to be made at Deadline 8.

Where documents are updated to address typographical errors and other such minor matters, final versions should be submitted by Deadline 8. The ExA has noted that the Applicant plans to submit the following updated documents at Deadline 6:

- Outline Landscape and Ecological Management Strategy (OLEMS);
- Outline Code of Construction Practice (COCP)
- Outline Written Schemes of Investigation (WSIs)
- pSAC HRA report

The ExA would also welcome the Applicant's updated draft Site Integrity Plan at Deadline 6.

## **Final submissions of draft DCO and other documentation**

The Applicant is requested to ensure that the following documentation is submitted at Deadline 8:

- final draft DCO in Word and PDF
- final draft DCO showing the changes from the application version
- final draft DCO showing the changes from the previous version

- final draft DMLs, renumbered, and renumbering explained
- updated Explanatory Memorandum

Responses to this Rule 17 letter will be published shortly after Deadline 6 to enable all IPs to provide comments at Deadline 7. It is important that these deadlines are adhered to, ensuring that all IPs are able to fully participate in the Examination. To assist, the Examination timetable has been updated on the Planning Inspectorate's website, which is also set out at Annex A to this letter.

We request that IPs send, where practicable, electronic copies of their submissions as email attachments, to [eastangliathree@pins.gsi.gov.uk](mailto:eastangliathree@pins.gsi.gov.uk). Electronic attachments should be clearly labelled with a subject title and not exceed 12MB for each email. If IPs prefer to make submissions in hard copy by post, please ensure that they arrive by the specified deadline.

Yours faithfully

*Philip Asquith*

Philip Asquith  
Lead Member of the Panel of Examining Inspectors

## Examination Timetable

<p><b>18</b></p>	<p><b>Deadline 6</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Post-hearing documents including any written summary of an oral case put at any hearing and any documents/amendments requested by the ExA;</li> <li>• Applicant's revised draft DCO;</li> <li>• Comments on responses to the ExA's Second Written Questions; and</li> <li>• Any other information requested by the ExA under Rule 17 of the EPR.</li> </ul>	<p><b>Tuesday 8 November 2016</b></p>
<p><b>19</b></p>	<p>Publication by the ExA of:</p> <ul style="list-style-type: none"> <li>• The ExA's draft DCO (if required to facilitate examination); and</li> <li>• Report on the Implications for European Sites (RIES).</li> </ul>	<p><b>Thursday 17 November 2016</b></p>
<p><b>20</b></p>	<p><b>Deadline 7</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Comments on the RIES;</li> <li>• Comments on the ExA's draft DCO; and</li> <li>• Any other information requested by the ExA under Rule 17 of the EPR.</li> <li>• Comments on updated plans and documents submitted by the Applicant at D6</li> <li>• Comments on any information submitted at D6</li> <li>• Comments on responses to the ExA's Rule 17 request</li> </ul>	<p><b>Thursday 8 December 2016</b></p>
<p><b>21</b></p>	<p><b>Deadline 8</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Responses to comments on the ExA's draft DCO;</li> </ul>	<p><b>Thursday 15 December 2016</b></p>

	<ul style="list-style-type: none"> <li>• Responses to comments on the RIES; and</li> <li>• Any other information requested by the ExA under Rule 17 of the EPR.</li> <li>• Comments on any information submitted at D7</li> </ul>	
<b>22</b>	The ExA is under a duty to complete the examination of the application by the end of the period of 6 months beginning with the day after the close of the Preliminary Meeting.	<b>Wednesday 28 December 2016</b>