

East Anglia THREE  
Offshore Windfarm

East Anglia THREE

# Written Response to Deadline VII

(8 December 2016)

Document reference – Deadline 7/ Applicant's Response  
to Deadline VII

East Anglia THREE Offshore Wind Farm  
East Anglia THREE Limited



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## Summary

- 1 In its letter of 22 September 2016 (the **Rule 8 Letter**), the Examining Authority (**ExA**) proposed the following submissions to be made by 8 December 2016 (**Deadline VII**):
  - Comments on the Report on the Implications for European Sites (RIES);
  - Comments on the ExA's draft DCO; and
  - Any other information requested by the ExA under Rule 17 of the Examination Procedure Rules 2010.
- 2 This Response to Deadline VII also contains documents requested by the ExA for Deadline VII in the ExA's Hearing Action Points arising from the Development Consent Order Issue Specific Hearing held on Wednesday 26 October 2016, including comments received from conservation bodies on the draft SIP which are incorporated in the Updated SIP (Ref (Doc ref. Deadline 7/Updated Project Site Integrity Plan).
- 3 A list of all documents submitted as part of this Response to Deadline VII is contained at Schedule 1.
- 4 The submission of this Written Response to Deadline VII and documents referred to in paragraph 1 to 3 above, which are submitted by East Anglia THREE Limited (the **Applicant**), is termed the Response to Deadline VII. In the interests of not repeating information that is presented elsewhere, the Applicant has cross-referred to aspects covered in the Applicant's Response to Deadline I dated 13 July 2016 (the Response to Deadline I), the Applicant's Response to Deadline II dated 27 July 2016 (the Response to Deadline II), the Applicant's Response to Deadline III dated 10 August 2016 (the Response to Deadline III), the Applicant's Response to Deadline IV dated 15 September 2016 (the Response to Deadline IV), the Applicant's Response to Deadline V dated 6 October 2016 (the Response to Deadline V), and the Applicant's Response to Deadline VI dated 8 November 2016 (the Response to Deadline VI).
- 5 Where this Written Response to Deadline VII references additional material, such as correspondence or tables, these documents have been submitted with the Response to Deadline VII. This Written Response to Deadline VII does not directly refer to all documents noted in Schedule 1. This is because documents referred to are ancillary to specific response documents which are referred to in this Written Response.
- 6 The documents listed in Schedule 1 have been submitted to the ExA electronically. Each document referred to in this Written Response has an Applicant's Reference further noted in Schedule 1.

## Comments on the Report on the Implications for European Sites (RIES)

- 7 The Applicant has provided with its Response to Deadline VII, Comments on the RIES (Doc ref. Deadline 7/Comments on the REIS / Applicant).
- 8 In summary, comments deal with matters relating to the Outer Thames Estuary SPA and best practice for vessel movements; the Southern North Sea pSAC with particular regard to potential impacts from

piling activity, on harbour porpoise prey species, and in respect of collision risk; and references to reduction of draught height.

## Comments on the ExA's draft DCO

- 9 With this Response to Deadline VII the Applicant has submitted Comments on the ExA's draft DCO (Doc ref. Comments on the ExA dDCO / Applicant).
- 10 As has been the Applicant's practice the above document is structured as a Schedule of Comments to the ExA's draft DCO. A final draft DCO will be submitted by the Applicant at Deadline 8.
- 11 In summary:
- 11.1 The Applicant proposes to include a new Requirement to deal with the operational aspects of the prior notification process previously included in the definition of '*commence*'. The revised wording proposed has been agreed with the Local Authorities.
- 11.2 The use of 'maintain' within the definition of *maintain* is proposed to be replaced with 'upkeep' in the next version of the draft DCO.
- 11.3 Discussions are ongoing with The Crown Estate in relation to the Crown Rights article and National Grid in relation to protective provisions. However, the Applicant remains confident that matters will be agreed before the close of the examination. It is anticipated that the Crown Rights article and the protective provisions for National Grid will be amended from those included in version 4 of the draft DCO and, to the extent that outstanding matters can be agreed, updated wording will be included in the next version of the draft DCO to be submitted at Deadline 8.
- 11.4 The Applicant proposes to delete Requirement 19(2) to the draft DCO on the basis that East Anglia ONE Limited has recently undertaken geo-environmental studies and prepared a report which identifies the extent of contamination (and proposes appropriate mitigation) at the location of Work No. 41. This report has been reviewed by the relevant Local Authorities and the Environment Agency. Accordingly, it has been agreed with the Local Authorities and the Environment Agency that the remaining provisions of Requirement 19 (i.e. to submit a written scheme for Work No.41 to mitigate the potential for release of contaminants for approval by the relevant local authorities in consultation with the Environment Agency, and to carry out the works in accordance with the approved scheme) is sufficient to mitigate any impacts arising from jointing bay works or cable pull through works in this area – please see Schedule 2 of this Written Response.
- 11.5 Design parameters securing the reduction in draught height (both in the Requirements and DML conditions) are proposed to be amended to provide greater certainty as to the measures proposed. The revised wording has been agreed with the MMO, Natural England and RSPB.
- 11.6 The Applicant proposes to amend DML condition 13(c)(v) and to include a new DML condition 13(d)(vi) in order to secure mitigation to minimise disturbance in vessel transit corridors to red

throated diver in the Outer Thames Estuary SPA. These revisions have been agreed with the MMO and Natural England, see correspondence at Schedule 2 of this Written Response.

## Discussions with ENI UK Ltd

- 12 Following the October Hearings the Applicant and Eni UK Ltd (Eni) have been in contact via telephone and email.
- 13 The current position reached in discussions with Eni is summarised in the Applicant's Response to Consultation Questions: Annex A and Proposal 3 Questions (Doc ref: Deadline 7 / Applicant's Response to Consultation Questions) and the Applicant's Response to Eni UK Limited's Position Statement (Deadline 7/Applicant's Response to ENI Position Statement).
- 14 The Applicant has considered the ExA's three proposals set out in Annex A of the ExA's Consultation draft Development Consent Order and is of the view that Proposal 2 is, if the ExA remains of the view that Eni's interest warrants protective provisions, most appropriate. The Applicant has made suggested amendments to the ExA's suggested Protective Provisions (Proposal 2). The Applicant's proposals are contained in Annex A to the Applicant's Response to Consultation Questions: Annex A and Proposal 3 Questions (Doc ref: Deadline 7 / Applicant's Response to Consultation Questions) and the Applicant's comments on Eni's proposed amendments are contained in Annex B. Since receipt of Eni's draft Protective Provision (contained in Annex B) Eni have, shortly before Deadline VII, submitted a further draft Protective Provision incorporating further amendments in response to the Applicants' comments (see Annex C). These amendments are still under discussion between EATL and Eni with a view to agreeing a Protective Provision, if possible. The final position will be notified to the ExA at Deadline VIII.

## Site Integrity Plan (SIP)

- 15 The Updated SIP (Doc ref. Deadline 7/Updated Project Site Integrity Plan) is provided along with a comparison document (Doc ref. Deadline 7/Updated Project Site Integrity Plan (Compare)) showing changes made since the version submitted at Deadline 4. Substantive changes to the SIP as submitted at Deadline 4 (Deadline 4 / Project Site Integrity Plan) include:
    - 15.1 Changes to proposals for consulting TWT and WDC;
    - 15.2 Clarification that the Final Plan must be submitted four months prior to commencement of pile driving for written approval of the MMO;
    - 15.3 Clarification that any new conservation objectives and any Review of Consent outcomes will also be used to determine any mitigation and management measures that need to be secured in the Plan post consent; and
    - 15.4 Comments received from MMO, TWT and WDC which were received after Deadline 4 along with the Applicant's response to these comments.
-

- 16 As requested by the ExA, the Applicant has consulted on the Updated SIP and collated the responses of the MMO, NE, WDC and TWT (collectively, the Conservation Bodies). The Conservation Bodies Comments on the Updated SIP are contained within Appendix 1 of the Updated SIP and in the updated Statements of Common Ground for the Conservation Bodies.

### **Statements of Common Ground (Updates)**

- 17 The Applicant has also provided with this Response to Deadline VII a suite of updated Statements of Common Ground between the Applicant and the following parties:
- 17.1 MMO;
  - 17.2 NE;
  - 17.3 RSPB;
  - 17.4 WDC; and
  - 17.5 TWT.
- 18 As noted in Schedule 1, the above documents are accompanied by Appendices and for ease of reference Track Changed versions. Full document references are also contained in Schedule 1.

### **Negotiations with Statutory Undertakers and TCE**

- 19 In relation to National Grid, negotiations have been ongoing and an agreement has now been reached, subject to completion of legal formalities. The Applicant has executed the engrossments and they are now with National Grid for execution and completion.
- 20 In relation to the Crown Estate the Applicant remains confident that a form of wording for Article 37 can be agreed prior to the close of the examination.

**Schedule 1: Documents Submitted for Deadline VII**

Applicant's Reference	Description Name
Deadline 7/Applicant's Response to Deadline VII	Written Response to Deadline VII
Deadline 7/Comments on the RIES / Applicant	Applicant's Comments on the ExA's REIS Report
Deadline 7/Comments on the ExA dDCO / Applicant	Applicant's Comments on the ExA's dDCO
Deadline 7 / Applicant's Response to Consultation Questions	Applicant's Response to Consultation Questions
Deadline 7/Applicant's Response to ENI Position Statement	Applicant's Response to ENI Position Statement
Deadline 7 / Protective Provisions Plan	Protective Provisions Plan
Deadline 7 /Updated Project Site Integrity Plan	In Principle East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan
Deadline 7 /Updated Project Site Integrity Plan (Compare)	In Principle East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan (Compare against Deadline 4)
Deadline 7/Response to Rule 17 Letter / Applicant	Applicant's Response to the ExA's Rule 17 Letter
Deadline 7/SoCG/Applicant and RSPB	Statement of Common Ground The The Royal Society for the Protection of Birds
Deadline 7/SoCG/Applicant and RSPB (Compare)	Statement of Common Ground The Royal Society for the Protection of Birds (Compare)
Deadline 7/SoCG/NE and Applicant	Statement of Common Ground Natural England
Deadline 7/SoCG/NE and Applicant (Compare)	Statement of Common Ground Natural England (Compare)
Deadline 7/SoCG/TWT and Applicant	Statement of Common Ground The Wildlife Trusts
Deadline 7/SoCG/TWT and Applicant (Compare)	Statement of Common Ground The Wildlife Trusts (Compare)
Deadline 7/SoCG/WDC and Applicant	Statement of Common Ground Whale and Dolphin Conservation
Deadline 7/SoCG/WDC and Applicant (Compare)	Statement of Common Ground Whale and Dolphin Conservation (Compare)
Deadline 7/SoCG/MMO and Applicant	Statement of Common Ground The Marine Management Organisation
Deadline 7/SoCG/MMO and Applicant (Compare)	Statement of Common Ground The Marine Management Organisation (Compare)



## Schedule 2: Additional Correspondence Submitted for Deadline VII

### I – DCO REQUIREMENT 19 CORRESPONDENCE

#### Email from the Applicant to Environment Agency:

**From:** Morrison, Keith  
**Sent:** 02 December 2016 08:25  
**To:** 'Barrell, Martin'  
**Subject:** RE: EA3 and DCO Contaminated Land Requirements

Hi Martin

Thanks for coming back to me on this, our proposed amendment to DCO text to address this matter is set out below. Our legal advisor suggests that we simply amend Requirement 19 to delete reference to the assessment for contamination. The written scheme required for Work No.41 can then either confirm that the former landfill area will be avoided or set out the method statement for managing the excavated waste. There is already a requirement to consult the EA on this in 19(1).

**Contaminated land and ground water**  
*19. – (1) Work No. 41 must not commence until a written scheme applicable to that work, to mitigate the potential for release of contaminants within the Order limits has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.*  
*(2) The scheme must include an assessment report, prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination at the location of Work No. 41 and mitigation measures to be undertaken to limit impacts arising from the potential release of contaminants.*  
*(2) The written scheme referred to in paragraph (1) must be implemented as approved.*

If you are happy with this please let me know as soon as you can as we would like to cover this point in our submission to the ExA at Deadline 7 on 8<sup>th</sup> December. Please note we plan to make our submission the 7<sup>th</sup> December.

Many thanks

Keith

#### Email from the Environment Agency to the Applicant:

**From:** Barrell, Martin [<mailto:martin.barrell@environment-agency.gov.uk>]  
**Sent:** 05 December 2016 14:17  
**To:** Morrison, Keith  
**Subject:** RE: EA3 and DCO Contaminated Land Requirements

Hi Keith


We can confirm that we would be happy with the change proposed to Requirement 19, namely the deletion of part (2) as described in your email below, given the assessment report that has been prepared in support of EA ONE.

We are satisfied that the revised Requirement 19 will provide sufficient controls.

Kind regards

Martin

**Martin Barrell**  
Environment Agency Sustainable Places Planning Specialist  
East Anglia area (East)  
☎ 020302 58450  
✉ [martin.barrell@environment-agency.gov.uk](mailto:martin.barrell@environment-agency.gov.uk)  
📍 Iceni House, Cobham Road, Ipswich, Suffolk. IP3 9JD



National Customer Contact Centre: 03708 506 506  
Incident hotline: 0800 80 70 60 (24 hour service)  
Floodline: 0345 988 11 88 (24 hour service) or type talk 0845 602 634

#### Email from the Local Authorities to the Applicant:

**From:** Philip Perkin [<mailto:Philip.Perkin@eastsuffolk.gov.uk>]  
**Sent:** 08 December 2016 09:28  
**To:** Morrison, Keith  
**Subject:** RE: EA3 and DCO Contaminated Land Requirements

Hi Keith,  
EHO response fyi:

Hi Phil  
I have read the details in respect to the proposed changes to the EA3 requirement and am in agreement that this condition is not necessary given that works will not extend beyond those already undertaken by EA1.

Regards  
Clive

Clive Pink MCIEH CEnvH  
Environmental Health Officer  
Environmental Protection  
Suffolk Coastal and Waveney District Councils  
Tel: 01394 444349  
<mailto:clive.pink@eastsuffolk.gov.uk>  
Suffolk Coastal and Waveney District Councils are working as a partnership and all emails received from us will use the @eastsuffolk.gov.uk email address  
[www.eastsuffolk.gov.uk](http://www.eastsuffolk.gov.uk)  
[www.twitter.com/eastsuffolk](https://www.twitter.com/eastsuffolk) | [www.facebook.com/eastsuffolkcouncils](https://www.facebook.com/eastsuffolkcouncils)

## II – DML CONDITION 13 CORRESPONDENCE

### Email from the Applicant to Natural England:

**From:** Sutherland, Gillian [<mailto:Gillian.Sutherland@ScottishPower.com>]  
**Sent:** 05 December 2016 16:19  
**To:** Thompson, Alex (NE)  
**Cc:** Paolo Pizzolla; Morrison, Keith  
**Subject:** RE: EA3 red throated diver best practice

Hi Alex,

Our confirmed approach is to add the following to the DML, as agreed with the MMO.  
We shall refer to the Outline wording provided by NE in our response to the ExA, which we shall share with yourselves, should you wish to make reference.  
Notably in the Outline document there is reference to Common Scoter which we wouldn't make specific reference to as the key target it is for the Outer Thames and Red Throated Diver, as reflected in the text below.

Please can you confirm NE agrees to this approach, and we shall include with our submission.

Additions will be made to each DML schedule condition 13:  
13(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO-  
.....  
(c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of-  
.....  
(v) vessels and vessels transit corridors, *which minimises disturbance to red throated diver*  
.....  
(d)(vi) *procedures to be adopted within vessels transit corridors to minimise disturbance to red throated diver*

Kind regards,  
Gillian

### Email from Natural England replying to the email above:

**From:** Thompson, Alex (NE) [<mailto:Alex.Thompson@naturalengland.org.uk>]  
**Sent:** 05 December 2016 17:31  
**To:** Sutherland, Gillian  
**Cc:** Paolo Pizzolla; Morrison, Keith  
**Subject:** RE: EA3 red throated diver best practice

Hi Gillian

I can confirm that Natural England agrees to the approach outlined below.

We will refer to your approach in our submission at Deadline 7.

Many thanks

Alex

### Email from the MMO to the Applicant after being forwarded the Applicant's above email to Natural England:

**From:** Gibson, Alan (MMO) [<mailto:Alan.Gibson@marinemanagement.org.uk>]  
**Sent:** 07 December 2016 15:02  
**To:** Sutherland, Gillian; Mongan, Kathleen (MMO)  
**Cc:** Hodson, Ross (MMO); Paolo Pizzolla; Morrison, Keith; [victoria.redman@bonddickinson.com](mailto:victoria.redman@bonddickinson.com)  
**Subject:** RE: EA3 red throated diver best practice

Dear Gillian,  
I can confirm that the MMO are content with the wording proposed below,  
Regards  
Alan

**ScottishPower Renewables**  
**Offshore Wind Development**  
Address: 4th Floor, 1 Atlantic Quay, Glasgow, G2 8JB

[Fastanliathree@ScottishPower.com](mailto:Fastanliathree@ScottishPower.com)

