

East Anglia THREE
Offshore Windfarm

East Anglia THREE

Written Response to Deadline VIII

(15 December 2016)

Document reference – Deadline 8/ Applicant's Response
to Deadline VIII

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 15 December 2016 (**Deadline VIII**):
 - Responses to comments on the ExA's draft DCO;
 - Responses to comments on the RIES; and
 - Any other information requested by the ExA under Rule 17 of the Examination Procedure Rules 2010.
- 2 This Response to Deadline VIII also contains information requested by the ExA for Deadline VIII in the ExA's Hearing Action Points arising from the Development Consent Order Issue Specific Hearing held on Wednesday 26 October 2016.
- 3 A list of all documents submitted as part of this Response to Deadline VIII is contained at Schedule 1.
- 4 The submission of this Written Response to Deadline VIII 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 VIII. 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), the Applicant's Response to Deadline VI dated 8 November 2016 (the Response to Deadline VI) and the Applicant's Response to Deadline VII dated 8 December 2016.
- 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 VIII. This Written Response to Deadline VIII does not directly refer to all documents noted in Schedule 1. This is because some 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.

Responses to comments on the ExA's draft DCO and REIS

- 7 With this Response to Deadline VIII the Applicant has submitted its Response to Comments of other parties at Deadline 7 (Doc ref. Deadline 8/ Comments on Deadline 7 Responses / Applicant).

Applicant's draft DCO

- 8 With this Response to Deadline VIII the Applicant has submitted its draft Development Consent Order (Version 5) (Doc ref. Deadline 8/Draft DCO/005) along with the required Validation Report (Doc ref. Deadline 8/Draft DCO Validation Report) and an updated Schedule of Changes to the draft DCO (Doc ref. Deadline 8/Draft DCO/EATHREE DCO Schedule of Changes).
- 9 In summary, changes made from the dDCO submitted at Deadline 4 are:
- 9.1 As agreed with the Local Authorities, new Requirement 37 has been included for the operational aspects of the prior notification process previously included in the definition of '*commence*'.
 - 9.2 The definition of 'maintain' has been amended to replace '*maintain*' with '*upkeep*'.
 - 9.3 The Crown Rights article has been amended in line with the Applicant's comments on the dDCO at Deadline VII (Doc ref. Deadline 7/ Applicant's Response to Deadline VII).
 - 9.4 Requirement 19(2) to the draft DCO has been amended in line with the Applicant's comments in the Response to Deadline VII (Doc ref. Deadline 7/ Applicant's Response to Deadline VII).
 - 9.5 Protective provisions for National Grid have been updated in accordance with agreed wording, and new protective provisions have been included for the benefit of Eni;
 - 9.6 Design parameters securing the reduction in draught height (both in the Requirements and DML conditions) have been amended as agreed with the MMO, Natural England and RSPB.
 - 9.7 DML condition 13(c)(v) and 13(d)(vi) have been updated in line with the Applicant's Response to Deadline VII (Doc ref. Deadline 7/ Applicant's Response to Deadline VII); and
 - 9.8 Amendments to the DMLs in response to Historic England's comments at Deadline 7.
- 10 Under the Examination timetable and based on current Rule 17 letters this Deadline VIII is the final opportunity for the Applicant to submit its draft Development Consent Order. Therefore, with this Response to Deadline VIII the Applicant also submits two comparison versions of the draft DCO showing track changes between:
- 10.1 The dDCO as originally submitted and the final dDCO (Comparing Version 1 to Version 5) (Doc ref. Deadline 8/Draft DCO/Track Changes (001 and 005) (Compare); and
 - 10.2 The dDCO submitted at Deadline VI and the final dDCO (Comparing Version 4 to Version 5) (Doc ref. Deadline 8/Draft DCO/Track Changes (004 and 005) (Compare).
- 11 An updated Explanatory Memorandum (Doc ref. Deadline 8/Explanatory Memorandum) and comparison of the same with the original version submitted is also provided, Doc Ref. Deadline 8/Explanatory Memorandum (001 and 002) (Compare).

Discussions with ENI UK Ltd

- 12 Protective provisions have now been agreed with Eni and have been included in the final dDCO submitted at Deadline VIII.

Negotiations with National Grid

- 13 In relation to National Grid, negotiations have completed and an agreement has now been reached on the form of protective provisions to be included in the dDCO. The agreed form of provisions has been included in the dDCO submitted at Deadline VIII.

Discussions with TCE

- 14 In relation to the Crown Rights article, the Applicant has included the revised wording (as set out in the Applicant's comments on the ExA's dDCO (Doc ref. Deadline 7/Comments on the ExA dDCO/Applicant)) within Article 37 of the final dDCO submitted at Deadline VIII. This wording has been agreed with TCE. The Section 135 consent letter is being finalised with TCE, and the Applicant reserves its right to comment on any further submissions from TCE.

Discussions with other parties

- 15 The Applicant has liaised further with Historic England (HE) and the MMO on HE's submissions and it has been agreed that the DMLs should be amended to require the WSI to be submitted for the MMO's approval (in consultation with HE) at least 6 months prior to commencement of licensed activities. The final dDCO submitted at Deadline 8 has been amended to reflect the agreed wording for condition 13(1)(h) as well as an agreed updated reference in condition 13(4). Email correspondence confirming that this wording has been agreed by HE and the MMO is attached at Schedule 2 of this Written Response. The correspondence also confirms that the agreed amendments resolve all outstanding concerns of HE.

Action Points arising from CA Hearing

- 16 The ExA raised Actions Points from the Compulsory Acquisition Hearing held on Tuesday 25 October 2016. Those Action Points for Deadline 8 and the Applicant's response are set out in this section.
- 17 As requested the Applicant has submitted a final refreshed Statement of Reasons (Doc ref. Deadline 8/Statement of Reasons) and Book of Reference (Revision 3) (Doc ref. Deadline 8/Book of Reference (003)). A track changed Book of Reference (Version 002 and 003) has also been provided, Doc ref. Deadline 8/Book of Reference/ Track Changes (002 and 003)).
- 18 The reasons for the Book of Reference updates fall into two categories:
- 18.1 *Updates in response to the ExA's request:* these updates are summarised below in Table 1, and are shown in red in the tracked changed Book of Reference (Version 002 and 003);
- 18.2 *General updates as a result of diligent inquiry:* these updates are to numerous plots across Parts 1 to 5 and are also shown in red in the Tracked Changes BoR; they are as a result of:

- 18.2.1 OS3 search results of October 2016;
- 18.2.2 Companies House searches in October 2016; and
- 18.2.3 discussions with land agents, owners, occupiers and persons with an interest in the land.

Table 1: Book of Reference Amendments

Type of Amendment	Amendment made to the BoR
In response to PINS' request, the Applicant has re-inserted relevant deceased parties into the BoR where a death certificate has not been provided to the Applicant.	Part 1 211 & 454C Part 2 153 Part 3 153

- 19 The Applicant was asked to provide an explanation of the working space required for cable laying, per Para 7.13 of the Statement of Reasons. This was provided in the updated Statement of Reasons submitted for Deadline 6 (Deadline 6/Updated Statement of Reasons (Version 4)).
- 20 The Applicant was asked to provide an explanation of differing dimensions quoted relating to the cable corridor in Paras 7.13, 7.17 and 7.19 of the Statement of Reasons. This was provided in the updated Statement of Reasons submitted for Deadline 6 (Deadline 6/Updated Statement of Reasons (Version 4)).
- 21 The Applicant was asked to provide an update of Schedule 1 to the Statement of Reasons. The Applicant notes that where a document has not been amended and so no updated version produced no change has been made to the text. Where an Erratum was produced this is also not reflected in the text.

Other Documents Submitted at Deadline VIII

- 22 The Plan of Plans has also been updated as a result of changes to the DCO. The revised Plan of Plans (Doc ref. Deadline 6/Action Points/ Plan of Plans (Version 3) is now corrected to include Whale and Dolphin Conservation as a Consultee to the Site Integrity Plan.
- 23 The Applicant has also provided an updated Plan of Landowner Negotiations (Doc ref. Deadline 8/ Landowner Negotiations Update) as requested by the ExA to confirm the final position of Landowner Negotiations prior to close of the Examination. This has been updated to show 44 of a total 59 landowners with completed agreements, with the remaining 15 landowners at various stages of agreement.

- 24 Alongside the Landowner Negotiations Update the Applicant also submits an updated Plot by Plot Analysis (Doc ref. Deadline 8/Plot by Plot (Update)). As requested by the ExA this document presents the status of agreement with all landowners, as reflected in the Landowner Negotiations Update, and also includes discussion with third parties with an interest in land plots.

Schedule 1: Documents Submitted for Deadline VIII

Applicant's Reference	Description Name
Deadline 8/Applicant's Response to Deadline VIII	Applicant's Response to Deadline VIII
Deadline 8/Draft DCO/005	Development Consent Order (Version 5)
Deadline 8/Draft DCO/Track Changes (001 and 005) (Compare)	Development Consent Order (Version 1 to 5) (Track Changed)
Deadline 8/Draft DCO/Track Changes (004 and 005) (Compare)	Development Consent Order (Version 4 to 5) (Track (Changed))
Deadline 8/Draft DCO Validation Report	Development Consent Order Validation Report
Deadline 8/Draft DCO/EATHREE DCO Schedule of Changes	Development Consent Order Schedule of Changes
Deadline 8/Explanatory Memorandum	Explanatory Memorandum
Deadline 8/Explanatory Memorandum (001 and 002) (Compare)	Explanatory Memorandum (Version 1 to 2 Compare)
Document Reference – Deadline 8 / Comments on Deadline 7 Responses / Applicant	Applicant's Comments on Responses to Deadline 7
Deadline 8/Plan of Plans (Version 3)	Plan of Plans (Version 3)
Deadline 8/ Landowner Negotiations Update	Landowner Negotiations Update
Deadline 8/Plot by Plot (Update)	Plot by Plot Analysis (Update)
Deadline 8/Statement of Reasons (Version 5)	Updated Statement of Reasons
Deadline 8/Updated Statement of Reasons (Compare)	Updated Statement of Reasons (Compare)
Deadline 8/Book of Reference (003)	Book of Reference Version 3
Deadline 8/Book of Reference/Track Changes (002)	Book of Reference Version 3 (track changes)

and 003)	
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Ryder, Chloe

From: Gibson, Alan (MMO) <Alan.Gibson@marinemanagement.org.uk>
Sent: 15 December 2016 08:52
To: Campbell, Rick; Pater, Chris; Mongan, Kathleen (MMO)
Cc: Morrison, Keith; Sutherland, Gillian; Redman, Victoria; McNamee, Anthony; Houghton, John; Mack, Ian
Subject: RE: Updated EA3 DCO

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Rick,
I can confirm that the MMO is content to accept the proposed changes below,
Regards

Mr. Alan Gibson | Marine Licensing Manager | Her Majesty's Government – Marine Management Organisation

Direct Line: 0208 0265070 | Alan.gibson@marinemanagement.org.uk | Address: Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH | [Website](#) [Twitter](#) [Facebook](#)

From: Campbell, Rick [mailto:RCampbell@ScottishPower.com]
Sent: 14 December 2016 15:54
To: Pater, Chris; Gibson, Alan (MMO); Mongan, Kathleen (MMO)
Cc: Morrison, Keith; Sutherland, Gillian; Redman, Victoria; McNamee, Anthony; Houghton, John; Mack, Ian
Subject: Updated EA3 DCO

Dear all

Thank you for the call yesterday.

Below is the amended condition 13(1)(h) and 13(4) to deal with the points discussed and agreed on yesterday's call.

MMO, can I ask that you confirm that you are content with the amends set out below?

HE, please confirm that this addresses all of the concerns raised in your response to the ExA dated 8 December 2016.

In particular, now that reference to 6 months has been included in the condition as set out below, can HE confirm that it is content for the definition of "commence" to remain as drafted in the dDCO, especially given that this has already been agreed with the MMO and Local Authorities.

Finally, we have not included reference to 'published research frameworks' as requested in the letter as this is not sufficiently precise and is too vague to be enforceable. We note that this was not included in previous DMLs for other offshore wind DCOs. Given the late stage of your request to include this, we hope that we can agree it should not be included in this particular instance.

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—

.....

- (h) A written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean low water, which must be submitted at least 6 months prior to commencement of the licensed activities and must accord ~~in accordance~~ with the outline written scheme of investigation (offshore); and industry good practice, ~~and~~ in consultation with the statutory historic body to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction;
 - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS (Online Access to the Index of archaeological investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
-

(4) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation, and which has been submitted to and approved by the MMO.

If you have any questions, please don't hesitate to come back to me.

Kind regards

Rick



Rick Campbell
Project Manager

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Ryder, Chloe

From: Pater, Chris <Chris.Pater@HistoricEngland.org.uk>
Sent: 14 December 2016 20:12
To: Rick Campbell
Cc: Mack, Ian; Alan Gibson, (MMO); Redman, Victoria; Pater, Chris; 'Kathleen.Mongan@marinemangement.org.uk'; Houghton, John; Keith Morrison; Sutherland, Gillian; McNamee, Anthony; Fletcher, Will; Churchley, Stuart
Subject: Re: Updated EA3 DCO

Dear Mr Campbell,

Thank you for your email and to address the matters identified for our attention:

- 1) We agree with the amended wording of the draft Deemed Marine Licence(s), as set out below.
- 2) We accept the definition given for "commence" in the draft Development Consent Order as stated for this proposed project.
- 3) We note your explanation given for not amending the draft DML(s) to include reference to "published research frameworks" and we accept that decision for this proposed project.

We have no further comment or other advice to offer.

Your sincerely,

Christopher Pater
Head of Marine Planning
Mb: 07797 653897



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On 14 Dec 2016 15:54, "Campbell, Rick" <RCampbell@ScottishPower.com> wrote:
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Kind regards

Rick



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