



Marine
Management
Organisation

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

T +44 (0)300 123 1032
F +44 (0)191 376 2681
www.gov.uk/mmo

East Anglia Two Case Team
Planning Inspectorate
EastAngliaTwo@planninginspectorate.gov.uk

(By email only)

MMO Reference: DCO/2016/00005
Planning Inspectorate Reference: EN010078
Identification Number: 20024119

4 March 2021

Dear Rynd Smith,

**Planning Act 2008, Scottish Power Renewables, Proposed East Anglia Two (EA2)
Offshore Windfarm Order
MMO Deadline 7 Response**

On 19 December 2019, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Scottish Power Renewables (the “Applicant”) for determination of a development consent order (DCO) for the construction, maintenance and operation of the proposed East Anglia Two Wind Farm (the “DCO Application”) (MMO ref: DCO/2016/00005; PINS ref: EN010078).

The Applicant seeks authorisation for the construction, operation and maintenance (O&M) of the DCO Application, comprising of up to 75 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (“the “Project”). This includes two Deemed Marine Licences (DMLs) under Schedules 13 and 14.

Due to resourcing issues the MMO is unable to provide a detailed response for Deadline 7. The MMO is committed to making progress during this examination and believes, rather than preparing a detailed response that may not resolve all issues, it is more efficient to use this time to bring outstanding matters to resolve.

The MMO is aiming for all issues to be resolved or have a clear position where no agreement can be provided between each party, at Deadline 8. This will be in line with the Statement of Common Ground to be submitted by the Applicant at this deadline.

The MMO is further committed to making oral submissions on such matters as would have otherwise been addressed at Deadline 7 during the hearings scheduled week commencing 15 March 2021 where attendance is possible.

This document comprises the MMO comments in respect of the DCO Application submitted in response to Deadline 6.



1. Deemed Marine Licences

1a. The MMO had a meeting with the Applicant on 2 March 2020 to discuss and agree the wording for the following draft DML conditions:

- Updated Unexploded Ordnance (UXO) Activities (Condition 16 and 13)
- Southern North Sea Special Area of Conservation Site Integrity Plan (Updated wording in light of Section 9.10 of REP5-075)
- Scour and cable protection (Updated wording in light of section 11.2 of REP6-104)
- Piling/UXO commitments condition (New condition to be added)
- Cessation of piling (the wording amended slightly)

The MMO understands the Applicant is including the agreed condition wording within the dDCO to be submitted at Deadline 7. The MMO will review the Deadline 7 dDCO and intends to confirm our agreement at Deadline 8.

Please note that whilst the MMO is content with the wording of the conditions, this does not alter our current 'without prejudice' positions that UXO clearance activities and any new scour or cable protection installed after construction, that is not defined as maintenance, should not be included in the dDCO. The MMO's default position remains that these activities should be subject to a separate marine licence application.

In addition to this the MMO and the Applicant discussed the following topics:

- Herring Spawning
- Completion of Construction reporting ("As-built" report)
- Sediment Contaminant Sampling
- Disposal Sites

The MMO and the Applicant have discussed the wording of the herring spawning condition in detail, however we were unable to agree the precise wording to be included in the Deadline 7 dDCO. The MMO notes the Applicant has included different wording within the dDCO but has committed to further discussions on this matter. The MMO's latest position is to include the below wording and will continue to engage with the Applicant on this matter.

Herring Spawning

(1) —The undertaker must not undertake pile driving or UXO detonations during a defined period between the 1 November and 31 January. To define the period the undertaker must submit a herring spawning report to the MMO at least six months prior to—

- (a) the date on which it is intended for UXO clearance activities to begin; or
(b) the commencement of construction,
whichever is earlier.*

(2) In reviewing the herring spawning report in (1) the MMO will confirm in writing to the undertaker that such works can take place during this period.

(3) The herring spawning report must include as a minimum;

(a) analysis of the International Herring Larval Survey data for the periods 1-15 January and 16-31 January for the preceding ten years in order to determine when the highest larval densities occur;

(b) methodology of analysis of (3)(a).

The MMO remains in discussions with the Applicant regarding the exact wording in relation to the completion of construction condition or if it should be included at this stage in relation to how this relates to any condition that may arise from the Crown Estate-sponsored



Ornithological Headroom Discussion Group. The MMO and the Applicant will continue discussions to reach an agreement.

In relation to sediment contaminant sampling and disposal sites the MMO's current position is that the sampling that has been completed is not sufficient to allow for the MMO to designate the disposal sites. This is because the sampling undertaken to date does not satisfy requirements set out in the [OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic](#).

In these circumstances, the MMO consider that all dredge and disposal activity should be removed from the dDCO and a separate sediment sampling plan and marine licence sought by the applicant. However, due to the late stage of the application process the MMO has made a pragmatic decision to agree to the inclusion of the dredge and disposal activity within the DCO consent. In order to reflect this, the MMO proposes the following amendments to the DML conditions in blue below.

Details of licensed marine activities

2. —(1) *Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act—*

- (a) the deposit at sea of the substances and articles specified in paragraph 4 below;*
- (b) the construction of works in or over the sea and/or on or under the sea bed;*
- (c) dredging for the purposes of seabed preparation for foundation works and/or cable laying preparation works;*
- (d) debris clearance works;*
- (e) boulder clearance works either by displacement ploughing or subsea grab technique or other equivalent method;*
- (f) UXO clearance works;*
- (g) the removal of out of service cables;*
- (h) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation; and*
- (i) the disposal of up to 3,022,423 m³ of inert material of natural origin and/or dredged material within the offshore Order limits produced during construction drilling or seabed preparation for foundation works, sandwave clearance and boulder clearance works at disposal site reference(s) to be provided by the MMO within the extent of the Order limits seaward of MHWS comprising—*
 - (i) 1,779,891 m³ in respect of the wind turbine generators;*
 - (ii) 400,000 m³ in respect of the inter-array cables;*
 - (iii) 23,732 m³ in respect of the meteorological mast;*
 - (iv) 668,800 m³ in respect of the construction, operation and maintenance platform and the offshore electrical platforms (some of which may alternatively be disposed under licence 2 (transmission)); and*
 - (v) 150,000 m³ in respect of the platform link cables (some of which may alternatively be disposed under licence 2 (transmission)).*

In addition, the MMO recommends the following condition is added to the DMLs, which is intended to make clear that dredging and disposal activities cannot be undertaken until further information is provided. Please note the MMO has not provided a time scale for submission of the further information but will continue to discuss this with the Applicant.

Dredge and Disposal Activities



XX – (1) No works relating to dredge and disposal can take place until the following have been submitted to and approved in writing by the MMO unless agreed otherwise in writing by the MMO:

- a) a request to determine the details of an additional sediment contaminants sampling campaign; and*
- b) a dredge and disposal process document, in light of the results, to identify what requirements will need to be adhered to during any dredge and disposal activities.*

(2) Any dredge and disposal activities must be undertaken in accordance with the dredge and disposal process document approved under paragraph (1).

The MMO provided our comments on the above to the Applicant prior to Deadline 7 and is in discussion with the Applicant regarding the exact wording.

2. Resolved issues

2a. Commercial fisheries

The MMO is content with all commercial fisheries issues and welcomes the use of gravel rather than larger rocks as cable protection. In addition to this the MMO is content with the use of concrete mattresses and has no further comments.

2b. Seaward of Mean High Water Springs Co-ordinates

The MMO notes the Applicant has confirmed the co-ordinates in Schedule 1 are correct and the MMO has reviewed these along with the Co-ordinates in Schedule 13 and 14 and confirms that these are correct.

2c. Maximum turbine generator tip heights within Schedule 1 Works 1- 4

The MMO agrees with the Applicant that there is no need for these heights to be included in Schedule 1 as they are included in the DMLs and has no further comments on this matter.

2d. Maximum heights of offshore ancillary works

The MMO agrees with the Applicant that reference to the maximum height of the offshore platform inclusive of these ancillary structures is not required.

2e. Arbitration

The MMO can confirm that the current DCO drafting excludes the Deemed Marine Licences and the MMO from Arbitration and has no further comments to make.

3 Outstanding issues

The MMO will be providing comments at Deadline 8 on the following outstanding issues/further information requests below.

3a. Securing Compensation

The MMO understands the Applicant is providing a Compensation Schedule at Deadline 7 and the MMO will review this and provide comments to the Applicant. In addition to this the MMO is attending a joint workshop with the Applicant, Natural England and Royal Society for the Protection of Birds (RSPB) next week to discuss these matters further.

3b. Hornsea Project Three Offshore Wind Farm (HOW03) decision implications

The MMO is still discussing the implications on EA2 of the Hornsea Project Three decision and will provide further comments at Deadline 8.

3c. Vanguard decision



The MMO is still discussing the implications on EA2 of the Norfolk Vanguard Offshore Wind Farm Judicial Review decision and will provide further comments at Deadline 8.

3d. Aldeburgh Town Council

The MMO notes the Aldeburgh Town Council's submission at Deadline 6 and will provide a response at Deadline 8.

3e. Benthic Ecology

The MMO will confirm at Issue Specific Hearing 13/14 or Deadline 8 that all issues are resolved.

3f. Fish Ecology

The MMO will confirm at Issue Specific Hearing 13/14 or Deadline 8 that all issues are resolved.

3g. Underwater Noise

The MMO will confirm at Issue Specific Hearing 13/14 or Deadline 8 that all issues are resolved.

3h. Offshore In Principle Monitoring Plan

The MMO is still reviewing the updated Offshore In Principle Monitoring Plan submitted at Deadline 6 and will provide an update at Issue Specific Hearing 14 or Deadline 8.

3i. Sabellaria Reef Management Plan

The MMO is still reviewing the updated Sabellaria Reef Management Plan submitted at Deadline 6 and will provide an update at Issue Specific Hearing 14 or Deadline 8.

3j. Other Documents

The MMO is continuing to reviewing all other documents submitted by the Applicant and other Interested Parties and has no new outstanding issues other than those raised above.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours Sincerely,

[REDACTED]
Rebecca Reed
Marine Licensing Case Officer

[REDACTED] [@marinemanagement.org.uk](mailto:[REDACTED]@marinemanagement.org.uk)

