

From: [Helen Croxson](mailto:Helen.Croxson@mcga.gov.uk)
To: "HornseaProjectThree@pins.gsi.gov.uk"
Cc: [Russell Dunham](mailto:Russell.Dunham@thls.org); [Trevor Harris](mailto:Trevor.Harris@thls.org); "[Stephen Vanstone](mailto:Stephen.Vanstone@thls.org)"; [Nick Salter](mailto:Nick.Salter@mcga.gov.uk); [Peter Lowson](mailto:Peter.Lowson@mcga.gov.uk)
Subject: RE: Hornsea 3 Offshore Windfarm Project (EN010080-001331) - Further Written Submission to Examining Authority at Deadline 10
Date: 02 April 2019 21:00:39
Attachments: [image003.png](#)
Importance: High

Dear Examining Authority,

Hornsea 3 Offshore Windfarm Project (EN010080- 001331) - 20010612

Further to my letter dated 1st April 2019 submitted at deadline 10 to the ExA, it has been brought to my attention by Trinity House that the applicant has made some further recent amendments to the draft Development Consent Order for the Hornsea Three Offshore Windfarm Project.

The MCA has considered Trinity House's views and we fully support the concerns raised in their written submission at deadline 10 (as seen below) regarding the proposed removal of MCA and Trinity House for the notifications of 'any damage to, or destruction or decay of the authorised project seaward of MHWS'. The MCA therefore would like to request that the original wording is reinstated in Scheduled 11 and 12 of the draft DMLs. The MCA's role is to assess the impact of 'any damage to, or destruction or decay of the authorised project', on the safety of navigation and on our Search and Rescue obligations, and to respond accordingly.

In addition the MCA would also support the view that Trinity House, having regard to its role as a General Lighthouse Authority, should be included as a consultee to 1) the cable laying plan and encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum (Schedule 11 Part 2 (Condition 13(h)(iii)) and in Schedule 12 Part 2 (Condition 14(h) (iii))), and 2) should be a recipient of the vessel traffic monitoring reports together with the MMO and MCA (Schedule 11 Part 2 (Condition 18(c) and (d))).

My apologies for the late submission of this information. We hope the ExA will take these views into account as part of the examination process.

Kind regards

Helen



Helen Croxson, Offshore Renewables Advisor
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Please note I currently work Tuesdays, Wednesdays and Thursdays.

From: Russell Dunham <Russell.Dunham@thls.org>
Sent: 02 April 2019 13:46
To: HornseaProjectThree@pins.gsi.gov.uk
Cc: [Navigation <Navigation.Director@thls.org>](mailto:Navigation.Director@thls.org); [Roger Barker <Roger.Barker@trinityhouse.co.uk>](mailto:Roger.Barker@trinityhouse.co.uk); [Trevor Harris <Trevor.Harris@thls.org>](mailto:Trevor.Harris@thls.org); [Helen Croxson <Helen.Croxson@mcga.gov.uk>](mailto:Helen.Croxson@mcga.gov.uk); [Peter Lowson <Peter.Lowson@mcga.gov.uk>](mailto:Peter.Lowson@mcga.gov.uk); [Nick Salter <Nick.Salter@mcga.gov.uk>](mailto:Nick.Salter@mcga.gov.uk); [Richard Bell <Richard.Bell@mcga.gov.uk>](mailto:Richard.Bell@mcga.gov.uk); [Thomas Arculus <Thomas.Arculus@thls.org>](mailto:Thomas.Arculus@thls.org)
Subject: Hornsea Project Three Offshore Wind Farm - Written Submission to Examining Authority at Deadline 10
Importance: High

Dear Sir

EN010080 - Registration number 20010148

Written Representation to Examining Authority's at Deadline 10 - Hornsea Project Three Offshore Wind Farm

Trinity House wishes to draw the Examining Authority's attention please to a serious issue of concern regarding the applicant's late proposed amendment to the **draft Development Consent Order** in respect of the Hornsea Three Offshore Wind Farm Project.

Specifically, from review of the applicant's Schedule of Changes (published on 27 March 2019) and revised draft DCO (published 27 March 2019 version E) the applicant has sought to amend Condition 7(11) Part 2 of Schedule 11 relating to the notification requirements relating to 'damage to, or destruction or decay of the authorised project seaward of MHWS..... as soon as possible and no later than 24 hours.....' etc. The proposed change is also replicated in Schedule 12 Part 2 under Condition 8(11).

The effect of this change in both Schedules would appear to be to **remove** both Trinity House and the MCA from the notification requirement in respect of such damage occurring etc. The applicant's reason for proposing this change is, we understand, based on the incorrect assumption that the UKHO (as stated in the applicant's Schedule of Changes) is '*the body which manages reporting of marine hazards on behalf of MCA and Trinity House*'. Trinity House contends that this assumption

is not correct.

The amendment, if agreed, would create the risk that relevant statutory bodies, specifically Trinity House (and we would suggest also the MCA) would not be directly notified by the undertaker of a serious marine hazard involving the authorised project and which may require an immediate assessment of the risk and danger to navigation and potential further intervention by Trinity House. The intent of this Condition is to provide early notification of a potential marine hazard occurring and to enable the relevant statutory bodies to take and/or direct appropriate intervention action, in their respective and distinct areas of responsibility, to mitigate the hazard. It is not merely a notification requirement by the undertaker for subsequent wider promulgation by the UKHO, albeit of course the UKHO remains an important and relevant party to such notification

In particular, as a General Lighthouse Authority (and with reference to its statutory duties under the Merchant Shipping Act, 1995 - as previously highlighted in Trinity House's written and oral submissions relating to this Examination), it may be necessary, in such circumstances, for Trinity House to give directions to the undertaker in relation to the marking of the marine hazard by, for instance, appropriate marine Aids to Navigation. It is also possible that Trinity House might also need to directly undertake further intervention measures, in order to mitigate the risk, depending on the nature of the hazard and danger and in consultation with the MCA. It is also of note in this regard the circumstances in which such damage or destruction to the works might occur which could be, for instance, due to an incident involving a contractor's vessel during the construction of the works. Such matters and hazards therefore require direct notification to Trinity House by the undertaker (and we would suggest to the MCA as originally provided for).

Trinity House is not aware of any prior consultation by the applicant regarding the above referenced proposed amendment to the DML Schedules 11 & 12. Indeed, the attached **Statement of Common Ground (SoCG)** dated 26 March 2019 (page 13) signed by the applicant includes the standard wording in relation to these Conditions (e.g. that such notification *includes* Trinity House and the MCA - and the MMO UKHO - as per the original wording) and is shown 'agreed' by the applicant.

It is therefore of concern that, at this late stage of the Examination, the applicant proposes further amendments to the DMLs that contradict its position as stated in the agreed SoCG. Moreover, which could also have a potentially significant impact on safety of navigation as detailed above. Trinity House would therefore request please that the original wording is reinstated in Schedules 11 and 12 (as above) of the draft DMLs to include notification to Trinity House. We also consider that, as per the original wording, the MCA might similarly consider that they should also continue to be included as a notified party in the DML.

We further note, incidentally, the applicant's further recent proposed amendment to Schedule 11 Part 2 Condition 7(11) relating to the notification requirements in the event of the 'development of a cable free span'. This provision is also replicated in Schedule 12 Part 2 Condition 8(11).

This provision follows the reference to damage to, or destruction etc. of the authorised works in the aforementioned Condition. Trinity House would highlight in this regard the alternative construct for this Condition that it asserted as part of the Examination of the Norfolk Vanguard Offshore Wind Farm application. In particular, as a matter of good drafting practice, and since this wording deals with a separate, albeit related, matter to the rest of the requirement, Trinity House considers that the new wording proposed by the applicant should form the basis of a new sub-paragraph to this Condition in each case.

Trinity House further notes the applicant's recent proposed change to Schedule 11 Part 2 (Condition 13(h)(iii)) and in Schedule 12 Part 2 (Condition 14(h) (iii)). It is noted in this regard that the applicant has inserted additional text in the draft DML relating to the cable laying plan and encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum. We further note that whilst there is a requirement for consultation with the MCA, in relation to ensuring that future navigation is not compromised, it is suggested that Trinity House, having regard to its role as a General Lighthouse Authority, is also included as a consultee in this regard.

Trinity House further notes the applicant's recent change to Schedule 11 Part 2 (Condition 18(c) and (d)) which relate to vessel traffic monitoring arrangements. Similar provisions are provided for under Schedule 11 Part 2 (Condition 19(d)). In each of these Conditions Trinity House considers that it should be a recipient of the vessel traffic monitoring reports together with the MMO and MCA.

We note in this regard that in Schedule 12 Part 2 (Condition 20 (2) (d)) Trinity House **is** included as a recipient for vessel traffic monitoring reports and therefore it is appropriate that these should be reflected as above in Schedule 11. However, we note that in Schedule 12 Condition (19) (2) that Trinity House is not included for vessel traffic monitoring reports. Accordingly, for consistency, Trinity House considers that it should also be included for vessel traffic monitoring reports under this Condition.

On a final aspect, and without repeating in full its earlier extensive representations regarding Article 38 (Arbitration) (and the inclusion of Arbitration provisions in the associated DMLs) Trinity House remains of the view that it is imperative that the finalised Order makes clear that Trinity House would not be subject to Arbitration (the proposed amendment to the drafting of which has previously been submitted by Trinity House, at the request of the Examining Authority, following ISH 9 on 8 March for the consideration of the Examining Authority).

Trinity House respectively submits its comments to the Examining Authority for its consideration. It is appreciated that the timing of these further written representations is close to the end of the Examination process, for which Trinity House wishes to apologise to the Examining Authority. However, (excepting the earlier representations by all parties on the Arbitration conditions), the written presentations above have principally been due to the need to respond to the applicant's significant recent changes to the DMLs at Deadline 9.

Kind Regards

Russell Dunham



Russell Dunham ACII
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From: Karma Leyland [<mailto:KALEY@orsted.co.uk>]
Sent: 26 March 2019 13:25
To: Trevor Harris <Trevor.Harris@thls.org>; Stephen Vanstone <Stephen.Vanstone@thls.org>
Subject: FW: Hornsea Three Trinity House Draft SOCG V1.2

Hi Trevor

Attached please find signed SOCG.

Please review one last time to make sure you are happy.

Thanks for the prompt turnaround.

See you after Examination!

Best
Karma

Best regards,
Karma Leyland
Senior Project Lead
Environmental Management UK
Wind Power

Ørsted
[REDACTED]

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