



TRINITY HOUSE

28 March 2022

The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Your Ref: EN010098

Identification No. 20029842

**Hornsea Four Offshore Wind Farm
Written Submission to Examining Authority (ExA) for Deadline 2 on Draft
Development Consent Order and Deemed Marine Licences and Response to
Examining Authority (ExA) First Round of Written Questions**

Dear Sir / Madam

We refer to the above application for development consent.

Accordingly, Trinity House respectfully requests to submit representations to the ExA for Deadline 2 in respect of the draft Development Consent Order, the Deemed Marine Licences and the ExA's first round of Written Questions as follows:-

APP-203 C.1.1 - Draft Development Consent Order (draft DCO):

Article 39 Arbitration

Trinity House notes that Article 39 of the draft DCO makes provision in respect of Arbitration. It provides that any difference under any provision of the DCO, unless otherwise provided for, must be referred to and settled in arbitration.

Trinity House is concerned that the exercise of its statutory functions to provide for safety of navigation, including the requiring of the marking and lighting of potential obstructions during the construction, operation, maintenance and possible decay of the works authorised by the proposed DCO, might be regarded as being subject to the Arbitration provisions in the DCO.

The "saving" provision included in the draft DCO at Article 42 is intended to preserve Trinity House's ability to exercise its statutory functions. Nothing in the DCO should, in our view, fetter the statutory powers of Trinity House in respect of DCOs and DMLs, to give direction in terms of aids to navigation requirements and for the prevention of danger to navigation.

We consider therefore that it is important that there is clarity that the saving for Trinity House in the DCO, if adopted, should also not be subject to any other provision in the draft DCO.

Trinity House would therefore submit that Article 39 (Arbitration) of the draft DCO should be amended as follows to include the following additional provision:-

(3) This article is without prejudice to article 42 (saving provision for Trinity House).

Draft Deemed Marine Licence (draft DML)

• Schedule 11 (Generation Assets)

Part II (Conditions): Section 7 - Notification and Inspections

7(13) Trinity House notes the reference to 'working days' in this part and suggests that for reasons of consistency with the other paragraphs in this section 7 (these referring typically to 'days' rather than 'working days') - and for reasons of navigational safety - that the wording of section 7(13) should be amended to omit the word 'working' before 'days'.

Thus:-

*(13) In case of the development of a cable exposure the undertaker must notify the MMO and the Kingfisher Information Service within three **working** days following the undertaker becoming aware of it. Copies of such notification must be provided to the MCA, Trinity House and the UK Hydrographic Office within five **working** days of service on the MMO.*

Trinity House also notes several other references to 'working days' within Part II of Schedule 11, section 7 (Notification and Inspections) and suggests that consideration is given to adopting a consistent reference to 'days', rather than 'working days' in this part.

Part II (Conditions): Section 13 - Pre-construction plans and documentation

13(1)(h)(ii) – Trinity House requests that the drafting of this paragraph is amended to include a reference to a requirement for consultation with Trinity House, in addition to the MCA, as regards the identification of cable protection exceeding 5% of navigable depth.

Thus:-

*(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA **and Trinity House**) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection.*

13(1)(i) For consistency with the drafting of Part II of Schedule 11, section 8(3) **Aids to navigation** in the draft DML, Trinity House requests that the reference to 'aid to navigation management plan' in paragraph 13(1)(i) is amended to read 'aids to navigation management plan'

Thus:-

*(i) an **aids** to navigation management plan for that stage to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 relating to that stage for the lifetime of the authorised project.*

Part II (Conditions): Section 18 – Construction Monitoring

18(2)(b) Trinity House notes the inclusion, in this part of the draft DML, for the requirement for vessel traffic monitoring by automatic identification system for the duration of the construction period, including annual reporting to the MMO and MCA.

Trinity House considers that it is important that it is also included as a recipient to these reports and would therefore request the drafting is amended to reflect this as follows:-

(2)(b) vessel traffic monitoring by automatic identification system for the duration of the construction period, including annual reporting to the MMO, ~~and~~ MCA and Trinity House;

Part II (Conditions): Section 19 - Post Construction Monitoring

Trinity House notes that Part II of Schedule 11, section 19 of the draft DML, does not appear to include provision for vessel traffic monitoring post construction. This data being important for Trinity House in order for it to consider and assess the efficacy of the mitigation placed, including aids to navigation, to ensure continued navigation safety post construction.

Accordingly, Trinity House would request the inclusion of a new paragraph in this part as follows:-

(5) Post construction monitoring must include vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of authorised project, unless otherwise agreed in writing by the MMO. An appropriate report must be submitted to the MMO, Trinity House and the MCA at the end of each year of the three year period.

- **Schedule 12 (Transmission Assets)**

Part II (Conditions): Section 7 - Notification and Inspections

7(13) Trinity House notes the reference to 'working days' in this part and suggests that for reasons of consistency with the other paragraphs in this section 7 (these referring typically to 'days' rather than 'working days') - and for reasons of navigational safety - that the wording of section 7(13) should be amended to omit the word 'working' before 'days'.

Thus:-

(13) In case of the development of a cable exposure the undertaker must notify the MMO and the Kingfisher Information Service within three ~~working~~ days following the undertaker becoming aware of it. Copies of such notification must be provided to the MCA, Trinity House and the UK Hydrographic Office within five ~~working~~ days of service on the MMO.

Trinity House also notes several other references to 'working days' within Part II of Schedule 12, section 7 (Notification and Inspections) and suggests that consideration is given to adopting a consistent reference to 'days', rather than 'working days', in this part.

Part II (Conditions): Section 13 - Pre-construction plans and documentation

13(1)(h)(ii) – Trinity House requests that the drafting of this paragraph is amended to include a reference to a requirement for consultation with Trinity House, in addition to the MCA, as regards the identification of cable protection exceeding 5% of navigable depth.

Thus:-

(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection.

13(1)(i) For consistency with the drafting of Part II of Schedule 12, section 8(3) **Aids to navigation** in the draft DML, Trinity House requests that the reference to 'aid to navigation management plan' in paragraph 13(1)(i) is amended to read 'aids to navigation management plan'

Thus:-

(i) an aids to navigation management plan for that stage to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 relating to that stage for the lifetime of the authorised project.

Part II (Conditions): Section 18 - Construction monitoring

Trinity House notes that Part II of Schedule 12, section 18 of the draft DML, does not appear to include provision for vessel traffic monitoring during construction. This data being important for Trinity House in order for it to consider and assess the efficacy of the mitigation placed, including aids to navigation, to ensure navigation safety during the construction phase.

Accordingly, Trinity House would request the inclusion of a new paragraph in this part as follows:-

(5) Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. An appropriate report must be submitted to the MMO, Trinity House and the MCA at the end of each year of the construction period.

Part II (Conditions): Section 19 – Post Construction monitoring

Trinity House notes that Part II of Schedule 12, section 19 of the draft DML, does not appear to include provision for vessel traffic monitoring post construction. This data being important for Trinity House in order for it to consider and assess the efficacy of the mitigation placed, including aids to navigation, to ensure continued navigation safety post construction.

Accordingly, Trinity House would request the inclusion of a new paragraph in this part as follows:-

(5) Post construction monitoring must include vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of authorised project, unless otherwise agreed in writing by the MMO. An appropriate report must be submitted to the MMO, Trinity House and the MCA at the end of each year of the three year period.

Trinity House Response to ExA1 First Round of Written Questions

ExQ1	Question to:	Question	Trinity House Response
NAR.1.5	Maritime and Coastguard Agency (MCA) and Trinity House (TH)	<p>Layout principles and Search and Rescue</p> <p>Are you satisfied that the draft DMLs in the draft DCO [APP-203] would secure the commitment made in pre-application consultation between the Applicant and TH that after post-consent design development "Micro-siting ... would not compromise the 500m minimum width required for the SAR lanes as required by Layout Principle 3" [APP-047, page 16] and if not, why not and what additional drafting would you wish to see inserted?</p>	Trinity House consider the MCA the authority who should answer this question. Trinity House can only comment on surface navigation matters and the 500m corridor is for helicopter SAR operations.
NAR.1.6	Maritime and Coastguard Agency (MCA) and Trinity House (TH) and UK Chamber of Shipping	<p>Definition of separation distance between Hornsea Four and Hornsea Two</p> <p>Confirm if you are satisfied with the exclusion of blade overfly from the proposed separation distance between Hornsea Four and Hornsea Project Two (June 2020), the distance definition between WTGs centre-to-centre and the potential for ancillary equipment (eg jack-up plant) to reduce the navigable gap width between the two developments. If you are not satisfied, why not?</p>	Trinity House are content with the exclusion of blade overfly from proposed separation distance. This could be mitigated by the developer informing the UKHO of the minimum distance that could be experienced so that the windfarm can be correctly charted. We also note the applicants' statement 469 in ES [APP-082] on not locating other infrastructure outside of the respective order limits.
NAR.1.7	Maritime and Coastguard Agency (MCA) and Trinity House (TH) and UK Chamber of Shipping	<p>Navigational risk assessment for gap between arrays Please confirm whether you are satisfied with:</p> <ul style="list-style-type: none"> the navigational risk assessment conclusions for shipping transit through the proposed gap between Hornsea 4 and Hornsea 2 with a 'pinch-point' of 2.2nm width (centre to centre of proposed WTGs); and 	Trinity House note the mitigation mentioned in ES [APP-082] for the period of construction and mitigation needs to be provided following consultation with all parties to ensure safe navigation through the gap. This mitigation will need to be correctly promulgated through correct charting and other maritime safety information broadcasts like notices to mariners and the master

		<ul style="list-style-type: none"> the appropriateness and sufficiency of additional safety measures proposed in the ES [APP-082] during construction or maintenance of the proposed OWF when the width could be reduced by the presence of construction vessels and safety zones and noting TH's concern that the given width does not account for WTG blade overfly. <p>If you are not satisfied with this explain why and what actions you would wish to see to address your concerns.</p>	<p>of vessels navigating through the gap can then make a proper assessment for them and their vessel. If the development gains consent the buoyage mentioned in the ES can be assessed fully on receipt of the final layout and build schedule. This could be adjusted depending on the developers' requirements and to ensure navigation safety.</p>
NAR.1.8	Maritime and Coastguard Agency (MCA) and Trinity House (TH) and UK Chamber of Shipping	<p>Traffic Monitoring Are you satisfied with the Applicant's response and commitment to Traffic Monitoring "for the duration of the construction period" [APP-133, page 355]? If not, why not?</p>	<p>Trinity House consider our omission from those who get supplied with the data from the traffic monitoring unsatisfactory. This data is used to assess the efficacy of the mitigation placed, including aids to navigation, to ensure navigation safety at all stages of the project. We would recommend that Trinity House are copied in to these reports and this is included within the relevant sections of the Development Consent Order. Please note the additional comments made within this submission specifically on the draft DCO/DML.</p>

We trust that these submissions are helpful and would ask that all correspondence regarding this matter is addressed to myself at russell.dunham@trinityhouse.co.uk and to Mr Steve Vanstone at navigation@trinityhouse.co.uk

Yours faithfully,

Russell Dunham

Russell Dunham ACII
Legal Advisor

Email: Russell.dunham@trinityhouse.co.uk