



# Hornsea Project Four

## Written Summary of the Applicant's Oral Case at Issue Specific Hearing 3

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### Revision Summary

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## 1 Introduction

1.1.1.1 Issue Specific Hearing 3 (ISH3) on offshore environmental matters for the Hornsea Project Four Offshore Wind Farm took place on 26 April 2022 at 14:00 pm and was held virtually, with attendees attending via Microsoft Teams.

1.1.1.2 The ISH3 broadly followed the agenda published by the Examining Authority (the ExA) on 13 April 2022 (The Agenda). The ExA, the Applicant, and the stakeholders discussed the Agenda items which broadly covered the areas outlined below.

- Historic Environment
- Commercial fishing and Fisheries
- Other Infrastructure and Users
- Aviation and Radar - general
- Shipping and Navigation - general

**Table 1: Summary of the Issue Specific Hearing 3**

Item	ExA Question/Context for discussion	Applicant's Response
<i>Agenda item 1 - Welcome, introductions, arrangements for the hearing</i>		
1	<p>The Examining Authority ("ExA") opened the hearing, introduced themselves and invited those parties present to introduce themselves.</p>	<p>The following representatives introduced themselves to the Examining Authority ("ExA") on behalf of the Applicant:</p> <ul style="list-style-type: none"> <li>- Mr Gareth Phillips, Partner, Pinsent Masons LLP (Lead Advocate)</li> <li>- Mr David King, Offshore Consents Manager for Hornsea Project Four, Ørsted</li> </ul> <p>Mr Phillips confirmed there were a number of other technical experts present that would introduce themselves if called upon.</p>
<i>Agenda item 2 – Historic environment</i>		
2.1	<p>The ExA asked for an update on the progress of the Statement of Common Ground ("SoCG") with Historic England</p>	<p>The agenda item was generally deferred to action points for deadline 4 as Historic England were not present at the hearing.</p> <p>The ExA queried the process for coordination of the discharge of onshore and marine written schemes of investigation ("WSI") for archaeology, noting the Applicant had previously stated in response to MMO's concerns that <i>systems are or can be put in place to govern enforceability</i>. The Applicant confirmed it would clarify its position at deadline 4.</p> <p>The Applicant's position is that there is nothing novel or unique in its proposed regulation of archaeological matters in the intertidal area. East Riding of Yorkshire Council as local planning authority and the MMO as offshore regulator for marine licences have overlapping regulatory jurisdiction in the intertidal area, as do all local planning authorities and the MMO around the UK's coastline. This overlapping jurisdiction is routinely managed on projects developing in the intertidal area. For Hornsea Four specifically, it will be the Applicant's responsibility to ensure that the WSI for onshore archaeology is discharged in accordance with requirement 16 of the DCO in relation to the intertidal area. It will also be the Applicant's responsibility to ensure that the WSI for offshore archaeology is discharged in accordance with condition 13(2) and (3) of Schedule 12 of the DCO in relation to the intertidal. Furthermore, the Applicant will be required to comply with both WSIs as approved, and thus it will be for the Applicant to ensure the</p>

		<p>terms are sufficiently clear and consistent to allow it to do so. The Applicant considers the approach to be sufficiently clear and precise and it is not aware of any substantive difference between Hornsea Four and any other offshore wind (or indeed intertidal) project in terms of the approach to discharge of requirements and conditions. Finally, the Applicant notes that the MMO has developed a Coastal Concordat which is a voluntary process to enable close coordination between the MMO and coastal local planning authorities although for the reasons given in this response the Applicant considers it to be unnecessary for Hornsea Four as the process in the draft DCO is sufficiently precedented and defined.</p>
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*Agenda item 3- Commercial fishing and fisheries*

<p>3.1</p>	<p>The ExA asked for an update on the status of progress on the SoCG with the National Federation of Fishermen’s Organisations and the Holderness Fishing Industry Group (“HFIG”)</p>	<p>Mr Phillips on behalf of the Applicant confirmed the Applicant and HFIG had a meeting to discuss the SoCG scheduled on 9 May 2022 and anticipated that an updated SoCG could be submitted the following day for Deadline 4.</p> <p>Ms. Fiona Nimmo, Director, Poseidon Aquatic Resource Manager introduced herself on behalf of the Applicant. Ms Nimmo responded to a question on differentiation of fleet components and Ms Nimmo confirmed the difference is based on vessel length categories under and over 10m. Ms Nimmo confirmed the Applicant’s assessment considers this differentiation as the assessment is separated for the array area and ECC area. Vessels both over and under 10m are active within the ECC and only vessels over 10m are active in the array area. Ms Nimmo confirmed the assessment could be updated to clarify this in the relevant chapter text but that this would be confirmed with the NFFO and HFIG before doing so.</p> <p>In relation to the navigation risk assessment (NRA), the Applicant confirmed it expected matters to progress with HFIG at the next SoCG meeting, scheduled on 9 May 2022.</p> <p>The ExA requested comment from HFIG and Dr. Roach on behalf of HFIG confirmed further discussion would take place at the next meeting and are confident that matters will be resolved then.</p>
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*Agenda item 4:- Other infrastructure and users*

<p>4.1</p>	<p>The ExA referred to “the gap” between the array areas for Hornsea Four and Hornsea Two</p>	<p>The ExA referred to the information provided by the Applicant at Deadline 3 which added to summary of the oral submissions from ISH1 which stated that there would be no jack-up vessels, other vessels or ancillary structures engaged in construction and or maintenance of Hornsea Four located in the gap. The ExA queried how this would be secured.</p> <p>Mr Phillips on behalf of the Applicant clarified that vessels engaged in Hornsea Four construction and maintenance activities may be required to navigate their way to the Hornsea Four array through the gap, and this has been factored into the NRA and found to be acceptable, with no requirement for mitigation. Mr Phillips noted that the MCA has also confirmed that in “the gap” between Hornsea Two and Hornsea Four all risks have been reduced to as low as reasonably practicable (‘ALARP’).</p> <p>In light of this, Mr Phillips confirmed the Applicant’s position is that there is no requirement for any commitment to be included in the draft DCO or DMLs.</p> <p>In response to a question from the ExA, the Applicant confirmed that all project vessels would have an automatic identification system (AIS) fitted.</p> <p>Nick Salter on behalf of the MCA stated a preference that any construction vessels within the narrowest point are situated north of the turbines so not encroaching on the gap. In response, the Applicant distinguished between vessels that are manoeuvring and those that have dropped anchor or jacked-up. Vessels will only be in the gap if they are going to another location and the Applicant does not propose that vessels would be moored or jacked-up within the gap. The Applicant maintained that a commitment in this regard is unnecessary, and the MCA confirmed its satisfaction with this response.</p>
<p>4.1</p>	<p>The ExA referred the Applicant to the representation from Neo Energy (SNS) Limited (“Neo”) and other oil and gas operators</p>	<p>Ms Nolan on behalf of Neo confirmed that Neo did not intend to submit further evidence regarding future developments and that the main issue was with regard to helicopter access. The Applicant confirmed its understanding that the focus was on helicopter access and that has been addressed by the Applicant in draft protective provisions for the benefit of Neo included within the draft DCO at Deadline 3. The Applicant has proposed a 2.7 nautical miles restricted area from the centre of Neo’s Babbage Platform within</p>

		<p>which it would be prevented from erecting wind turbine generators, unless otherwise agreed in writing between the parties. The Applicant noted the next step is therefore for Neo to respond to the protective provisions. Ms Nolan on behalf of Neo confirmed a response would be provided by Neo at Deadline 4.</p> <p>The Applicant was then asked to comment on the timescale for submission of joint position statements or letters of no objection with other operators.</p> <p>Gareth Phillips on behalf of the Applicant confirmed that draft protective provisions have been provided to Perenco UK Limited for comment and the Applicant's intention is to submit the draft Protective Provisions at Deadline 4. The Applicant can confirm that the draft DCO has been updated to include protective provisions for Perenco.</p> <p>The Applicant notes that action point 5 from the hearing is for Neo and Perenco to respond to the protective provisions proposed by the Applicant.</p> <p>The Applicant confirmed that commercial terms with Harbour Energy and Bridge Petroleum were progressing and the ExA can have confidence that the matters will be resolved before the end of the examination. The Applicant will provide a further update on these matters for Deadline 5, in accordance with action point 6.</p>
4.1	Clarification on the Applicant's response to First Written Question ("FWQ") NAR 1.13	<p>The ExA requested clarification on the Applicant's response to first written question NAR.1.13 and the meaning of "short term duration" in relation to the diversion of shipping. The Applicant confirmed that it would review its response and provide written clarification for Deadline 4.</p> <p>Post-hearing note: The Applicant has now reviewed the term and can confirm NAR.1.13 refers to A2.7 Environmental Statement Volume A2 Chapter 7 Shipping and Navigation (APP-019) which considers risks associated with shipping and navigation users, rather than oil and gas infrastructure, which is considered separately in A2.11 Environmental Statement Volume A2 Chapter 11 Infrastructure and Other Users (APP-023).</p>



		<p>'Short-term duration' refers to both the length of the construction phase as a whole and the likely period during which vessels will be passing or in proximity to existing infrastructure. For the equivalent impact in the operation and maintenance phase, the duration of the risk is assessed to be 'medium-term' due to the length of the operation and maintenance phase.</p> <p>Section 7.10 of A2.7 Environmental Statement Volume A2 Chapter 7 Shipping and Navigation (APP-019) provides details of the assessment methodology for the impact assessment with a key part of this methodology being consideration of the Hazard Workshop (Section 7.10.2) which allows the Applicant to gather expert opinion and knowledge which is used alongside baseline assessment, qualification and quantification to assessment impact significance. It was during this Hazard Workshop process that consultees agreed to the assessment methodology for the impact assessment.</p>
4.2	<p>The ExA asked for an update on discussions between the Applicant and National Grid Viking Link (NGVL)</p>	<p>The ExA noted the joint statement with NGVL and whether the Applicant wished to make further representations.</p> <p>Mr. Phillips on behalf of the Applicant confirmed that that the Applicant's assessment has demonstrated that navigational risk through the gap is acceptable, and this has been confirmed by the MCA in Deadline 2 submissions. As such, Mr Phillips confirmed the Applicant no longer considers NGVL's concerns to be a matter for the consenting process, and mitigation is not required.</p> <p>In response to a query from the MCA, the Applicant confirmed that the relevant conditions requested by the MCA pertaining to navigational risk have been included within the draft DCO at Deadline 3, including conditions relating to hydrographic seabed survey (including the gap) and construction vessel traffic monitoring.</p>
<p><i>Agenda item 5 – Aviation and radar - general</i></p>		
5.1	<p>The ExA sought an update on agreements and discussions with NATS</p>	<p>Mr Phillips on behalf of the Applicant confirmed that Requirement 28 of the draft DCO as currently drafted provides adequate protection for NATS for the purposes of awarding DCO consent. Mr Phillips confirmed that the Applicant was now focused on entering into a mitigation contract with NATS in relation to the mitigation requirements relating to</p>

		<p>Claxby Radar pursuant to Requirement 28 of the draft DCO (i.e. to discharge the requirement). Mr Phillips confirmed it is hoped this agreement will be in place before close of the examination however as noted, that is not necessary.</p> <p>Mr Auld on behalf of NATS confirmed that the focus between the parties is concluding the contract for mitigation which is to be implemented post-consent and working on the SoCG in parallel.</p> <p>Action point 7 requests an update on progress of the SoCG between the Applicant and NATS. The Applicant can confirm that an updated SoCG with NATS will be submitted at Deadline 4.</p>
5.1	<p>The ExA sought an update on the SoCG between the Applicant and the Ministry of Defence (MoD)</p>	<p>The Applicant confirmed that so far as it was aware, the only outstanding matter between the Applicant and the MoD related to the wording of Requirement 23 in the DCO. The MoD agreed and confirmed that there has been constructive dialogue and that an update regarding the wording can be provided by Deadline 5.</p> <p>Mr Phillips on behalf of the Applicant gave some context to the amendments sought by the Applicant to the wording of Requirement 23. The form of requirement sought by the MoD does feature in more recent wind farm DCOs however since then, a strategy paper has been published by the MOD that refers to the likely need for both interim and enduring solutions ('Air Defence and Offshore Wind – Working Together Towards Net Zero' published in Autumn 2021). It's accepted that at the time of consent discharge, there may be a need for an interim solution that the MoD deem <i>tolerable</i>. This would in time be upgraded to or replaced by an enduring solution that the MoD deem to be tolerable. The Applicant considers the wording in previous DCOs to be too broad and in context of the recent strategy paper, the Applicant considers it necessary to adopt the wording of the Guidance referring to intolerable effects. The Applicant further explained the other minor amendments to its proposed wording.</p> <p>Action point 7 has requested an update on progress of the SoCG between the Applicant and the MoD. The Applicant can confirm that an updated SoCG with the MoD will be submitted at Deadline 4.</p>

*Agenda item 6 – Shipping and navigation - general*

6	The ExA wished to clarify the references to LAT and HAT in the DCO	<p>The ExA sought to clarify the difference between LAT and HAT relating to turbine blade clearance and acknowledged that the Applicant has made a robust defence of its position on LAT in written representations.</p> <p>Action point 8 confirms the Applicants proposal to insert a proposed definition within the draft DCO to allow the reader to convert HAT to LAT. The Applicant has included this proposed drafting in article 2(7) of the draft DCO and paragraphs 1(7) of Part 1 of Schedules 11 and 12 of the draft DCO. The Applicant notes action point 9 is for NE and the MMO to confirm they are content with this proposal.</p>
6.1	The ExA asked for an update on the SoCG with Trinity House and the MCA	<p>The Applicant confirmed that it has included various amendments in the draft DCO to seek to resolve any outstanding matters between the parties.</p> <p>Action Point 10 requests comments on the revised draft DCO from the MCA, MMO and Trinity House by Deadline 4.</p>
6	The ExA asked if there was any possibility of further discussion between the Applicant and the Marine Management Organisation (“MMO”) on its requested amendments to the DCO	The Applicant confirmed that all it had made numerous amendments to draft DCO at the last deadline to accommodate the majority of the MMO’s suggestions and that it is awaiting a response from the MMO. The ExA confirmed that it is for the MMO to comment and this has been captured at action point 10.

*Agenda item 7 – Any other business*

7		None.
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*Agenda item 8 – Action points arising from the hearing*

8		None.
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**The ExA adjourned the hearing at 15:21.**

**Table 2 : Action Points**

Action	Description	Action by	Deadline	Applicant's Comment/where has the action been answered.
1	Provide a written response to the Applicant's Deadline 3 responses to HE's Written Representation.	Historic England (HE)	Deadline (D)4	N/A
2	Respond to the updated draft Statement of Common Ground (SoCG) received from the Applicant as soon as possible before Deadline 4.	HE	D4	N/A
3	Applicant to clarify what "systems to govern enforceability" would mean in practice between multiple authorities in regard to archaeological investigation of the intertidal zone, and what the Marine Management Organisation (MMO) would require to reach agreement in this regard.	Applicant	D4	Please see the Applicant's response to agenda item 2.1 above.
4	Clarify if there are any outstanding concerns regarding the historic environment of the intertidal zone and, if there are, to explain them.	HE; East Riding of Yorkshire Council	D4	N/A
5	NEO and Perenco to respond to the Protective Provisions proposed by the Applicant at Deadline 3.	NEO; Perenco	D4	N/A
6	Provide update on progress towards finalising Position Statements with Harbour and Bridge.	Applicant	D5	Update to be provided at Deadline 5
7	Provide an update on progress of SoCG between the Applicant and NATS and the SoCG between the Applicant and Ministry of Defence.	Applicant	D4	The Applicant has submitted updated SoCGs at Deadline 4.
8	Insert as proposed within relevant articles of the Draft Development Consent Order (DCO) a definition and conversion dimension for Highest Astronomical Tide (HAT) in relation to Lowest Astronomical Tide (LAT).	Applicant	D4	Please see the updated text in <a href="#">C1.1 draft DCO including DML</a> .
9	Natural England and MMO to confirm if they are fully satisfied with the inclusion at Deadline 4 in the draft DCO as proposed by the Applicant of a	MMO	D5	N/A

# Hornsea 4



Action	Description	Action by	Deadline	Applicant's Comment/where has the action been answered.
	definition and adjustment factor referencing HAT as a datum as well as LAT; and if not, why not.			
10	Submit comments on the revised draft DCO [REP3-007] and whether this version addresses their outstanding concerns.	Trinity House, MMO; and Maritime and Coastguard Agency	D4	N/A