



Hornsea Project Four

Written Summary of the Applicant's Oral Case at Issue Specific Hearing 9

Deadline: 6, Date: 27 July 2022

Document Reference: G6.9

Revision: 01

Prepared Pinsent Masons, July 2022
Checked Faye McGinn, Orsted, July 2022
Accepted Thomas Watts, Orsted, July 2022
Approved Julian Carolan, Orsted, July 2022

G6.9
Ver. A

Revision Summary

<i>Rev</i>	<i>Date</i>	<i>Prepared by</i>	<i>Checked by</i>	<i>Approved by</i>
01	27/07/2022	Pinsent Masons LLP	Faye McGinn, Orsted	Julian Carolan, Orsted

Revision Change Log

<i>Rev</i>	<i>Page</i>	<i>Section</i>	<i>Description</i>
01	-	-	Submitted at Deadline 6

Table of Contents

1	Introduction.....	4
---	-------------------	---

Table of Tables

Table 1: Summary of the Issue Specific Hearing 9.....	5
Table 2: Action Points	14

1 Introduction

1.1.1.1 Issue Specific Hearing 9 (ISH9) on offshore environmental matters for the Hornsea Project Four Offshore Wind Farm took place on 19 July 2022 at 13:30 pm and was held virtually, with attendees attending via Microsoft Teams.

1.1.1.2 The ISH9 broadly followed the agenda published by the Examining Authority (the ExA) on 11 July 2022 (The Agenda). The ExA, the Applicant, and the stakeholders discussed the Agenda items which broadly covered the areas outlined below:

- Infrastructure and Other Marine Activities and Users;
- Navigation and Radar (Marine and Air); and
- Historic Environment.

Table 1: Summary of the Issue Specific Hearing 9

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 ExA representatives introduced themselves as follows:</p> <ul style="list-style-type: none"> - Jo Dowling (ExA Inspector Lead) - Stephen Bradley (ExA Inspector) - Rod Macarthur (ExA Inspector) - Gavin Jones (ExA Inspector) <p>The ExA confirmed that Andrew Mahon (ExA Inspector) will watch the recording.</p>	<p><u>Applicant</u></p> <p>The representative for the Applicant introduced themselves as follows:</p> <ul style="list-style-type: none"> - Gareth Phillips (Partner at Pinsent Masons LLP), who asked the ExA for permission for the other representatives of the Applicant to introduce themselves as and when they are required. The ExA agreed. <p><u>bp Exploration Operating Company Ltd ("bp")</u></p> <p>The representatives for bp introduced themselves as follows:</p> <ul style="list-style-type: none"> - Andrew Tait QC (instructed by Herbert Smith Freehills LLP) - Ben Kek (Deputy Project Director).
<i>Agenda Item 2 – Historic Environment</i>		
2.1	<p>The ExA gave context that Historic England ("HE") had sent their apologies for their lack of attendance at this Issue Specific Hearing 9 and instead made a written submission (AS-043). The ExA added that HE confirmed that progress has been made to produce an updated associated Statement of Common Ground ("SoCG") (REP5a-005).</p> <p>The ExA asked the Applicant whether they had any comment on reservations still maintained by HE on the identification of potential impacts and Environmental Impact Assessment ("EIA") conclusions.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed no further comment.</p>

Item	ExA Question/Context for discussion	Applicant's Response
2.2	<p>The ExA referred to a letter dated 14 July 2022 where the HE agreed the substance of conditions in the DMLs within the draft development consent order ("DCO") to secure delivery of archaeological assessment of geophysical survey post consent and pre-construction. The ExA asked the Applicant whether it intends to update the SoCC with HE or whether the Applicant's position is that it is already fully documented.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed no further updates required as it is already fully documented.</p>
<p><i>Agenda Item 3- Other Infrastructure and Users</i></p>		
3.1	<p>The ExA noted that National Grid Viking Link Limited submitted an email on 18 July 2022 (AS-047) confirming that it anticipates that early settlement can now be reached in provision of a suitable commercial agreement and is therefore withdrawing its objection to the proposed development and will not be attending this Issue Specific Hearing 9. The ExA asked if the Applicant had anything further to add.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed nothing further to add.</p>
3.1	<p>In relation to the other uses of sea space in the vicinity of the proposed development, the ExA asked the applicant to give a brief update on the status of the completion of the position statements with other users of the sea space (including Bridge Petroleum ("Bridge"), Harbour Energy, NEO Energy (SNS) Ltd ("NEO") and Perenco UK Ltd ("Perenco").</p>	<p>Nicola Allan (Oil and Gas Commercial Manager at Orsted), on behalf of the Applicant, provided an update in relation to each of these four other users:</p> <p><u>Bridge Petroleum</u></p> <p>Ms Allan confirmed that there are protective provisions ("PPs") in the DCO for Bridge which were discussed at Issue Specific Hearing 7, although there is a discrepancy with how they appear due to a formatting error. The correct version of the PPs have been re-sent to Bridge and Ms Allan confirmed that the correct version of the PPs will be put into the draft DCO for Deadline 7.</p> <p><u>Harbour Energy</u></p>

Item	ExA Question/Context for discussion	Applicant's Response
		<p>Ms Allan responded that the Applicant is at late stages of an agreement. The Applicant sent a joint statement to the Examining Authority on Friday 15 July 2022 which was accepted into the examination (AS-046). This statement provides that the intention of the Applicant and Harbour Energy is to submit their preferred set of PPs at Deadline 6 together with an explanatory note as to the content of the PPs. Ms Allan added that it has since been agreed on Monday 17 July 2022 that if the two parties have not reached an agreement by Deadline 7 then each party shall submit separate PPs into the examination. Ms Allan updated that the Applicant had sent its version of the PPs to Harbour Energy on 19 July 2022, although the Applicant is still awaiting receipt of Harbour Energy's version. Ms Allan reported that the Applicant is confident that as the negotiations are advanced an agreement can be reached.</p> <p>Post Hearing note: Harbour have indicated to the Applicant its proposal to submit draft Protective Provisions at DL6 to give the Examiners sufficient time to consider. The Applicant has given this further consideration and agreed to submit a set of Protective Provisions at DL6 also. The Parties remain committed to completing a commercial coexistence agreement.,</p> <p><u>NEO</u></p> <p>Ms Allan confirmed that the Applicant had drafted a position statement between the Applicant and NEO although the Applicant did not receive any comments from NEO on the draft. Therefore, the Applicant has put PPs into the draft DCO for the protection of NEO. Ms Allen added that the Applicant has also provided NEO with a draft cooperation agreement and expects that NEO will respond with a marked-up version of that cooperation agreement within the few days following this Issue Specific Hearing 9.</p> <p><u>Perenco</u></p> <p>Ms Allan confirmed that the Applicant has reached agreement with Perenco on all matters and that there are related commercial agreements in place or in the process of being signed. Ms Allan informed that the ExA can expect to receive notification within a day or so from this Issue Specific Hearing 9 to remove the PPs as they relate to the radar early</p>

Item	ExA Question/Context for discussion	Applicant's Response
		<p>warning system and the microwave link. This notification is to be submitted jointly by the Applicant and Perenco. In relation to the helicopter access issues, Ms Allan informed the ExA that as Perenco are engaged in a joint venture on this matter, although it is agreed, Perenco have a sign-off process with their commercial partner before the agreement can be signed. The Applicant expects to submit notification that this has been removed within a week or so of this Issue Specific Hearing 9. Ms Allan confirmed that it is expected that this matter will be resolved by the end of the examination and all PPs for Perenco will be removed from the draft DCO.</p> <p>Post Hearing note: two of the three Agreements with Perenco were completed on 14th July 2022 and the notification submitted to the ExA to remove the Protective Provisions from the DCO pertaining to the microwave link and radar early warning system.</p>
3.1	<p>The ExA raised that in the Applicant's Responses to the Examining Authority's Second Written Questions (REP5-074), the Applicant had reported that at the time of Deadline 5 there was no application by Scotland to England Green Link Two. The ExA asked the Applicant whether there has been any change in this regard.</p>	<p>Mr Phillips, on behalf of the Applicant, said that the Applicant would consider whether there are any updates and confirm in writing.</p> <p>The ExA also requested that if there is no change in position, then the Applicant should confirm whether it is likely to be confirmed before the end of examination. Mr Phillips, on behalf of the Applicant, confirmed this would be provided too.</p> <p>The Applicant can confirm that National Grid Ventures (the developer of Scotland to England Green Link Two) has confirmed that a marine licence application was submitted to the MMO for this project in June 2022. This application has not yet been added to the MMO's public register and so the Applicant does not have access to the supporting information on which to review its cumulative effects assessment.</p> <p>Post-hearing note: The Applicant confirms as of 26/07/22 the National Grid Ventures marine licence application for the Scotland to England Green Link Two project has been published for consultation on the MMO's Public Register. The Applicant will therefore review the information provided and, where necessary, provide an update on this at Deadline 7.</p>

Item	ExA Question/Context for discussion	Applicant's Response
3.2	<p>The ExA referred to bp's comments at Issue Specific Hearing 1 (REP3-045) on behalf of the NEP Partnership where bp outlined an indicative timetable for the submission of the applications and granting of consents for the use of the Endurance Aquifer for carbon storage (the "Endurance Project"). The ExA asked bp to provide an update on the current status of this process in terms of what applications have been or will be submitted, the timeframes for the determination of consent and any relevant challenge periods?</p>	<p>Mr Tait QC, on behalf of bp, pointed the ExA to bp's position in Appendix 5 of (Rep3-047) and confirmed:</p> <ol style="list-style-type: none"> 1. In relation to the environmental statement ("ES"), Mr Tait QC stated that this document was submitted to the Offshore Petroleum Regulator for Environment and Decommissioning in September 2022 on behalf of the Secretary of State ("SoS") under the 2020 EIA Regulations. 2. In relation to the store permit application, that is expected to be made to the North Sea Transition Authority in November 2022 under the Storage of Carbon Dioxide Licensing Regulations 2010. 3. The anticipated date for determination, which for the ES is May 2023 and for the store permit is June 2023. 4. There would be a potential judicial review periods to follow of 6 weeks from each of those determination dates. <p>Mr Tait QC confirmed that the project remains on course to meet those timings.</p>
3.2	<p>The ExA then raised the issue of whether the Endurance Project and Hornsea Four could co-exist and noted the key issue of bp's ability to monitor the acquirer in addition to access issues. The ExA acknowledged the submissions made on monitoring options and the views of the different parties, and also acknowledges that bp are proposing to make further submissions at Deadline 6 on the report made by Mr Sewell at Appendix A of the Applicant's Response to the Rule 17 Letter (REP5-075). As such, the ExA confirmed there was nothing to be examined orally but gave both parties the opportunity to add anything of relevance which may have arisen since the last deadline, including any intentions for future submissions on the matter (save for bp's</p>	<p>Mr Phillips, on behalf of the Applicant, said that there are no new points to raise at this stage although the Applicant will await bp's submissions to be made at Deadline 6.</p> <p>Mr Tait QC, on behalf of bp, directed the ExA to (REP5a-025) in relation to technical matters already covered but confirmed that further information will be provided at Deadline 6.</p>

Item	ExA Question/Context for discussion	Applicant's Response
	intended Deadline 6 submission as already mentioned).	
3.2	<p>The ExA then opened a without prejudice conversation in relation to the potential for the two projects to co-exist and noted one option from the Applicant's documents that the turbines could be spaced further apart to allow for bp's monitoring.</p> <p>The ExA then asked how co-existence of the two projects would be secured, for example whether it would need a requirement or condition, whether existing requirements or conditions already deal with that issue, or whether existing requirements or conditions could be amended to deal with that. The ExA made reference to requirement 2 (detailed offshore design parameters) or condition 1 (design parameters) or condition 13 (pre-construction plans of deemed marine licences).</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed that the solutions suggested by the ExA would work. Alternatively, Mr Phillips suggested that similar provisions could be added to a set of PPs which could then be recommended to the SoS. The ExA asked the Applicant whether they could consider how, if the ExA recommended both projects were to co-exist, this would be secured in the draft DCO. Mr Phillips confirmed the Applicant would provide this by Deadline 6.</p> <p>The Applicant has considered the drafting of its preferred protective provisions, and considers that the most appropriate mechanism for facilitating turbine spacing would be to update the protective provisions as follows:</p> <p>Paragraph 10(b) of Part 8 of Schedule 9 would be updated as follows (see red underline):</p> <p><i>"10. The coexistence and proximity agreement must be based on the plan of the licensee's works and the plan of the undertaker's works and must take account of—</i></p> <p><i>(a) the nature and location of each party's works on any plan of each party's works as known at that time;</i></p> <p><i>(b) the location and extent of sea and/or airspace required for each party's works (including all applicable exclusive zones) as known at that time <u>and a minimum distance between each wind turbine generator of 2,000 metres in all directions measured from the centre point of the wind turbine generator;</u></i></p> <p><i>(c)</i>"</p> <p>The Applicant will update Part 8 of Schedule 9 to the DCO at deadline 7 to make this change.</p>

Item	ExA Question/Context for discussion	Applicant's Response
3.2	<p>Section 2.2 of the Exodus report submitted by the Applicant (REP5-075) is based on slides presented by bp at a workshop in October 2021. The ExA requested a copy of those slides to be provided by Deadline 6, meetings notes from the question and session following the workshop, and a copy of the K42 and K43 reports for the White Rose Projects.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed that the Applicant will provide the ExA with the K42 and K43 reports and the meetings notes from the question and answer session. However, the Applicant only has access to the October slides and believes that subsequent slides are available, but the Applicant does not have access to them. Mr Tait QC confirmed, subject to instructions, that bp could provide those subsequent slides. The Applicant has been made aware by bp that it will submit presentation slides dated February 2021 and October 2021, plus the Q&A minutes dated November 2021 at deadline 6.</p>
3.2	<p>The ExA questioned whether any party had anything further they wished to add in relation to bp.</p>	<p>Mr Tait QC, on behalf of BP, referred to the Applicant's no overlap EIA review (REP5A-016) which seeks to address a point made by bp at Annex 2 of (REP1-057). Mr Tait added that bp considers that the SoS has the environmental information available consistent with a decision to provide for an exclusion area through bp's PPs.</p> <p>Mr Phillips, on behalf of the Applicant, thanked Mr Tait QC and raised one further point in relation to Mr Sewell report and why there was a change in expert. Mr Phillips clarified that the authors of the original expert report did not wish to participate in the examination therefore there was no ability to ask them for a further update (either in terms of bp's technical updates or subsequent matters). Hence, the Applicant instructed Mr Sewell as another credible expert in the oil and gas industry. His instructions included him to assist with the examination and to explain to the Applicant and bp what may be achieved in this area.</p>
<p><i>Agenda Item 4 – Aviation and Radar – general</i></p>		
4.1	<p>The ExA asked the Applicant for an update on the outstanding matters 002, 003 and 009 in the SocG with the Ministry of Defence ("MoD"). The ExA raised that each of the points are not agreed but with no material impact and added that there appears to be an action on the Applicant to consider alternative drafting of requirement 23 of the draft DCO for point 009.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed that point 009 will be dealt with by Deadline 6, whereas the Applicant does not consider the need to address the other matters 002 and 003 as the Applicant believes these are settled. Mr Phillips confirmed that they will remain as 'Not Agreed' with no material impact.</p> <p>ExA asked for clarification on whether it would be useful for further explanation on why 002 and 003 are not screened and why there are no material impacts. Mr Phillips, on behalf of the Applicant, confirmed that he did not think such an explanation was necessary, as the material point is that the requirements that need to be put into the DCO have been</p>

Item	ExA Question/Context for discussion	Applicant's Response
	<p>The ExA will also ask the MoD to respond to the above issues.</p>	<p>agreed with the relevant stakeholders and so the final position of both parties is that the issue has been properly addressed.</p>
<p>4.1</p>	<p>The ExA asked the Applicant for an update on points 007 and 008 of the SoCG with the National Air Traffic Service ("NATS") and acknowledged that a mitigation contract is being negotiated.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed that the Applicant intended to update and submit the SoCG by Deadline 6 (subject to the Mitigation Services Contract (MSC) being finalised). Mr Phillips also confirmed that the drafting of the relevant requirement has been agreed and appears in the draft DCO as submitted at the previous deadline.</p> <p>The ExA then asked the Applicant to clarify whether the wording which references the draft DCO and points 007 and 008 of the SoCG between the Applicant and NATS should be rewritten to reference requirement 28 within Schedule 1 as opposed to Schedule 11. Mr Phillips, on behalf of the Applicant, confirmed that was correct.</p>
<p><i>Agenda Item 5 - Shipping and Navigation</i></p>		
<p>5</p>	<p>The ExA passed on the Maritime and Coastguard Agency ("MCA") apologies and noted their written submission (AS-037). The ExA explained that the written submissions in relation to the SoCG (REP5-053) provide that:</p> <ol style="list-style-type: none"> 1. Item 2.1 can be amended to being agreed; 2. Item 4.1 for the proposed locations for offshore artificial nesting structures can be changed to being agreed pending MCA confirmation of navigation risk and controls. <p>The ExA referred to Issue Specific Hearing 7 where the Applicant had noted that any offshore artificial nesting structure would be subject to a separate marine licence.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed nothing further to add and confirmed that the Applicant would update the SoCG for Deadline 6 (or as soon as discussions with the MCA are complete).</p>

Item	ExA Question/Context for discussion	Applicant's Response
5.1	<p>The ExA asked the Applicant whether it had anything further to add and whether it would update the SoCG for Deadline 6 accordingly.</p> <p>The ExA asked the Applicant that, in light of their clarification at (REP5-074) that the minimum clear distance between the extremities of two pairs of bridging platforms might be 630 metres due to the size of the offshore substations and offshore accommodation platform, how many of these bridging platforms might be linked and what is the likelihood of two pairs of linked offshore structures being located in proximity to each other.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed that there will only be one bridge link between one pair of offshore platforms, and the Applicant's response to Examiners questioning on two pairs of bridge linked platforms (at REP5-074) now moot. The Applicant will update the glossary in A1.4 Project Description (REP5-002) accordingly.</p>
5.2	<p>The ExA noted that the air draft below any bridge link between offshore platforms and clarification of design parameters (draft DCO Schedule 1, Part 3, Requirement 3 [REP5a-002]) was dealt with at Issue Specific Hearing 7. As such, the ExA requested an action on the MCA to be given the opportunity to comment on such design parameters and layout principles but also asked whether the Applicant considered there to be anything outstanding here.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed nothing is outstanding as the MCA have confirmed they are happy with layout principles.</p>
5.3	<p>The ExA asked the Applicant whether agreement with the MCA around the navigation risk controls for artificial bird nesting structures will be reached outside of the DCO.</p>	<p>Mr Phillips, on behalf of the Applicant, confirmed the applicant is confident that an acceptable position will be reached with MCA in relation to the artificial nesting structures.</p>
<i>Agenda Item 6 - Any other business</i>		
6.1	<p>The ExA confirmed no other business from their perspective and queried whether any interested party has any further points to raise in relation to the points from this agenda.</p>	<p><i>None of the interested parties raised any other business.</i></p>

Item	ExA Question/Context for discussion	Applicant's Response
<i>Agenda Item 7 - Action points arising from the Hearing</i>		
		See Table 2.
<i>Agenda Item 8 – Close of Hearing</i>		
	The ExA closed the hearing at 14:20.	

Table 2: Action Points

Action	Description	Action by	Deadline	Applicant's Comments/where has the action been answered
1	To listen to the recording of the hearing for Agenda Item 3.1 where the Applicant provided an update on Joint Position Statements and provide written comments if there is anything that they wish to add to the Applicant's update.	bp Exploration Operating Company Ltd, Harbour Energy, NEO Energy (SNS) Ltd and Perenco UK Ltd	Deadline (D) 6	N/A
2	Consider, on a without prejudice basis, how the measures that the Applicant considers would be necessary to enable monitoring in the Overlap Zone (e.g. wider spacing of turbines) could be secured in the draft Development Consent Order (DCO). Provide a copy of the K42 and K43 project reports in relation to the White Rose Project.	Applicant	D6	<p>The Applicant will update paragraph 10(b) of Part 8 of Schedule 9 to the DCO as follows (see red underline):</p> <p><i>"10. The coexistence and proximity agreement must be based on the plan of the licensee's works and the plan of the undertaker's works and must take account of—</i></p> <p><i>(a) the nature and location of each party's works on any plan of each party's works as known at that time;</i></p> <p><i>(b) the location and extent of sea and/or airspace required for each party's works (including all applicable exclusive zones) as known at that time and a minimum distance between each wind turbine generator of</i></p>

Action	Description	Action by	Deadline	Applicant's Comments/where has the action been answered
				<p><i>2,000 metres in all directions measured from the centre point of the wind turbine generator;</i></p> <p>(c)....."</p>
3	Provide a copy of the K42 and K43 project reports in relation to the White Rose Project.	Applicant	D6	<p>[The following links provide K42 and K43:</p> <p>Capture Power Report Template (publishing.service.gov.uk)</p> <p>And</p> <p>K.43 Field Development Report (publishing.service.gov.uk)</p>
4	Provide the latest version of the Ocean Bottom Nodes (OBN) Workshop slides that were originally given in the October 2021 but that were subsequently updated and a copy of the meeting notes for the Question and Answer session on the OBN referred to in the Xodus report [REP5-075].	bp Exploration Operating Company Ltd	D6	N/A
5	Provide an update on progress towards agreement for points 002, 003 and 009 of the Statement of Common Ground (SoCG) between the Applicant and the Ministry of Defence (MoD).	MoD	D6	Matters 002 and 003 settled and to remain 'Not Agreed - No Material Impact'. Matter 009 will be updated at Deadline 6 to "Agreed".
6	Update on progress of agreement on points 007 and 008 of the SoCG between the Applicant and National Air Traffic Service (NATS).	NATS	D6	Matters 007 and 008 to be updated at Deadline 6 to "Agreed" subject to the Mitigation Services Contract (MSC) being finalised by NATS.

Hornsea 4



Action	Description	Action by	Deadline	Applicant's Comments/where has the action been answered
7	Update the wording of the SoCG between the Applicant and NATS (points 007 and 008) to refer to Requirement 28 within Part 3 of Schedule 1, rather than Schedule 11.	Applicant	D6	SoCG updated at Deadline 6 subject to the Mitigation Services Contract (MSC) being finalised by NATS.
8	Update the SoCG [REP5-053] to reflect the points made by the Maritime and Coastguard Agency (MCA) in its submission [AS-037].	Applicant	D6	Matters 2.1 and 4.1 to be updated at Deadline 6 to "Agreed".
9	Confirm if it is satisfied with all the Layout Principles [REP5-008].	MCA	D6	N/A
10	Clarify with the MCA that any offshore nesting structure would be outside the scope of a DCO for this Proposed Development.	Applicant	D6	The Applicant notified the MCA on 25 July 2022 that any offshore artificial nesting structure is subject to a separate marine licence.