



# Hornsea Project Four

## Applicant's response to Deadline 6 draft DCO submissions

**Deadline 7, Date: 10 August 2022**

**Document Reference: G7.11**

**Revision: 01**

**Prepared** Pinsent Masons LLP, August 2022  
**Checked** Hannah Towner-Roethe, Orsted, August 2022  
**Accepted** Francesca De Vita, Orsted, August 2022  
**Approved** Julian Carolan, Orsted, August 2022

G7.11  
Ver. A

---

## Revision Summary

| <i>Rev</i> | <i>Date</i> | <i>Prepared by</i> | <i>Checked by</i>            | <i>Approved by</i>        |
|------------|-------------|--------------------|------------------------------|---------------------------|
| 01         | 10/08/2022  | Pinsent Masons     | Francesca De Vita,<br>Orsted | Julian Carolan,<br>Orsted |
|            |             |                    |                              |                           |
|            |             |                    |                              |                           |

---

## Revision Change Log

| <i>Rev</i> | <i>Page</i> | <i>Section</i> | <i>Description</i>      |
|------------|-------------|----------------|-------------------------|
| 01         | -           | -              | Submitted at Deadline 7 |
|            |             |                |                         |
|            |             |                |                         |
|            |             |                |                         |
|            |             |                |                         |
|            |             |                |                         |

## Table of Contents

|   |                                                                                                                     |   |
|---|---------------------------------------------------------------------------------------------------------------------|---|
| 1 | Introduction.....                                                                                                   | 4 |
| 2 | Applicant's response to The Schedule of the ExA's recommended amendments to the Applicant's draft DCO (PD-017)..... | 5 |
| 3 | Applicant's response to the Maritime and Coastguard Agency's comment on the DCO (REP6-051).....                     | 6 |
| 4 | Applicant's response to the MMO's comments on the DCO (REP6-050).....                                               | 6 |
| 5 | Applicant's response to the Natural England's comments on the DCO (REP6-057).....                                   | 7 |

## 1 Introduction

1.1.1.1 At Deadline 6 the Applicant received four submissions from three stakeholders and the Examining Authority in relation to the draft Development Consent Order and Deemed Marine Licenses. The submissions received included:

- The Schedule of the ExA's recommended amendments to the Applicant's draft SCO (PD-017)
- Maritime and Coastguard Agency – further information requested by the Examining Authority (ExA\_ under Rule 17 of the Examination Procedure Rules and the ExA's Further Written Questions (ExQ2) (REP6-052)
- Marine Management Organisation - Post-hearing submissions including written summaries of oral case put at hearings during week commencing 18 July 2022, comments on any other submissions received at Deadline 5a, progressed Statement of Common Ground (SoCG) and any further information requested by the Examining Authority (ExA) under Rule 17 of the Examination Procedure Rules (REP6-050)
- Natural England - Risk and Issues Log (REP6-057)

1.1.1.2 The Applicant has reviewed all of these comments in the above submissions and has incorporated the many of the recommended amendments in the Deadline 7 draft DCO. Responses are therefore provided below on an "exceptions basis" i.e. only to address those changes not incorporated.

1.1.1.3 Please see the Deadline 3 submission of [G1.1 Overarching Acronyms List \(REP3-014\)](#) and [G1.45 Overarching Glossary \(REP3-027\)](#) for overarching acronym and glossary lists.

| Reference                                               | Stakeholder's Written Representation                                                                                                                                                                                                                                                                                                                       | Applicant's Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| N/A                                                     | The ExA issued a schedule of recommended amendments to the Applicant's draft DCO.                                                                                                                                                                                                                                                                          | The Applicant has incorporated the vast majority of the ExA's recommended amendments. It has therefore provided a response below on an "exceptions basis" i.e. only to address those changes not incorporated.                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Article 2<br>Schedule 11, Part 1<br>Schedule 12, Part 1 | "SNCB" means statutory nature conservation body being the appropriate nature conservation body <b>as defined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017</b> ;                                                                                                                                                            | The Applicant has incorporated this change and added "or its equivalent in the Conservation of Offshore Marine Habitats and Species Regulations 2017" as those regulations apply beyond 12nm.                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Article 29(2)                                           | "Not less than <b>28</b> days before entering on and taking possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land."                                                                                                                                                         | The Applicant notes this is in fact a reference to Article 28(2).<br><br>The Applicant considers that the 14 day notice period is appropriate and reasonable given the nature of the land within the Order land (being predominantly agricultural land with no residential use). The 14 day notice period was considered appropriate by the Secretary of State in the equivalent provision in the Hornsea Three Offshore Wind Farm Order 2020 and also in the equivalent provisions in the two most recently made energy DCOs (the Sizewell C (Nuclear Generating Station) Order 2022 and the Thurrock Flexible Generation Plant Development Consent Order 2022). |
| Article 30(a)                                           | Acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to the statutory undertakers shown on the land plans with the Order land <b>and described in the book of reference</b> ;                                                                                                                              | The Applicant does not consider that the words " <i>and described in the book of reference</i> " are necessary as the definition of Order land already refers to it being the land " <i>described in the book of reference</i> ". It would not be appropriate to limit the scope of Article 30 to only those rights and restrictions listed in the book of reference (which is a snapshot of the land interests at a point in time). Article 30 and Schedule 9 must also apply to any new rights and restrictions granted after the making of the DCO.                                                                                                            |
| Article 43(2)                                           | Either delete or amend to read: Paragraph (1) does not apply to the exercise of any right under this Order for the Compulsory Acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown and the appropriate Crown authority has consented to the acquisition. | The Applicant does not agree that the current drafting would be a breach of s135(1) of the Planning Act 2008 and the current drafting is consistent with all recently made DCOs.<br><br>The Applicant's position is that the additional wording proposed would actually be inconsistent with s135(1) of the Planning Act 2008. This point was specifically considered by the Secretary of State in respect of the Hornsea Two Offshore Wind Farm. The Secretary of                                                                                                                                                                                                |

| Reference                                             | Stakeholder's Written Representation                                                                                                   | Applicant's Response                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                       |                                                                                                                                        | State decided that the provision of consent after the making of the DCO would not be consistent with the requirements of s135(1) of the Planning Act 2008.                                                                                                                                                                                                      |
| Schedule 12<br>Part 1, 1<br>"statutory historic body" | "statutory historic body" means <del>the</del> Historic England, <del>the relevant local authority</del> or its successor in function; | <p>The relevant local authority is the statutory historic body for the intertidal area. As Schedule 12 is the deemed marine licence for the transmission assets and in part relates to the intertidal area, the relevant local authority is appropriately referenced.</p> <p>The Applicant has corrected the typographical error and deleted the stray "t".</p> |

### 3 Applicant's response to the Maritime and Coastguard Agency's comment on the DCO (REP6-051)

| Reference          | Stakeholder's Written Representation                                                                                                                                                                                                                                                                                                                                                                                                                  | Applicant's Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Page 1<br>bullet 1 | Contrary to the applicant's response in REP5-074 and during ISH7, the minimum air draft for the bridge-linked platform is neither referenced nor secured in the Layout Principles, version 3, dated 15/6/22. The Layout Principles is not the appropriate document to secure the minimum air draft and therefore our opinion is that it should be specified in the draft DCO and/or draft DMLs in the same manner as for turbine blade air clearance. | <p>As noted in its summary of oral case for ISH7, during the ISH7 hearing the Applicant referred to the Layout Principles as controlling the minimum height of a bridge link, however on further review the Layout Principles define the minimum separation distance between a bridge link rather than the minimum height of a bridge link.</p> <p>The Applicant has clarified the definition of "bridge link" in the draft DCO for Deadline 7. It has also added a new requirement 3(15) at Part 3 of Schedule 1 to secure the minimum height of the bridge link. This minimum height is also secured in the deemed marine licences in condition 2(6) of Part 2 of Schedule 11 and condition 1(14) of Part 2 of Schedule 12.</p> |

### 4 Applicant's response to the MMO's comments on the DCO (REP6-050)

| Reference | Stakeholder's Written Representation                                                           | Applicant's Response                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------|------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.8       | At section 2.8 of its Deadline 6 response, the MMO provided various comments on the draft DCO. | <p>The Applicant notes that the majority of the MMO's comments are points previously responded to by the Applicant. The Applicant therefore defers to its deadline 5a submission G5.39 Applicant's comments DCO submissions received at Deadline 5 (REP5a-023).</p> <p>The Applicant thanks the MMO for its suggested clarifications to the following deemed marine licence conditions:</p> <p>a) Condition 7(9) and (10) of Part 2 of Schedules 11 and 12;</p> |

| Reference | Stakeholder's Written Representation | Applicant's Response                                                                                                                                                                 |
|-----------|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           |                                      | <p>b) Condition 18(1)(b) of Part 2 of Schedule 11; and</p> <p>c) Condition 18(4) of Part 2 of Schedule 12.</p> <p>These have been incorporated into the draft DCO at Deadline 7.</p> |

## 5 Applicant's response to the Natural England's comments on the DCO (REP6-057)

| Reference | Stakeholder's Written Representation                                                                                                                                                                                                                                                                                                                                        | Applicant's Response                                                                                                                                                                                                                                                                                                                                                              |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Tab I     | At Tab I of its Risk and Issues Log submitted at Deadline 6, Natural England provided various comments on the draft DCO.                                                                                                                                                                                                                                                    | <p>The Applicant notes the majority of Natural England's comments are points previously responded to by the Applicant. The Applicant therefore defers to its submission G6.5 Applicants Comments on Natural England's DCO Submissions received at Deadline 5a (AS-036).</p> <p>The Applicant has therefore responded only to certain new comments from Natural England below.</p> |
| I19       | Natural England notes the changes at Schedule 1 Part 3 requirement 3(13) and the similar changes in schedule 11 with regard to the increase in the number of gravity base structures. We would note we have responded with regard to this in relation to the benthic and coastal processes impacts and that position is that no gravity bases should be used.               | The Applicant wishes to clarify that the number of gravity base structures has decreased not increased. The maximum number of gravity base structures for wind turbine generators has reduced from 110 to 80.                                                                                                                                                                     |
| I20       | Natural England notes the removal of provisions related to maintenance not considered within the environmental assessment in schedule 11 and 12 Part 2 Condition 4. It is our interpretation that this means any maintenance not covered in the Environmental Statement would require a separate Marine Licence. However, clarification of this point would be appreciated. | The Applicant would direct Natural England to the definition of "maintain" in the DCO and deemed marine licences, which defines maintenance works only "to the extent assessed in the environmental statement".                                                                                                                                                                   |
| I22       | Natural England welcome the commitment to microsite around habitats of principal importance (as identified under NERC 2006) wherever possible during the construction phase, whilst highlighting that this commitment will only reduce the risk of impacts to these features rather than remove it                                                                          | The Applicant has added reference to "habitats of principal importance and any international and nationally designated sites, where relevant" to condition 13(c)(ix) of Part 2 of Schedules 11 and 12.                                                                                                                                                                            |

| Reference | Stakeholder's Written Representation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Applicant's Response                                                                                                                                                                                                                      |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           | <p>completely. In instances where micro-siting to avoid the impact cannot be achieved, Natural England would like to see commitment to explore further options to reduce or mitigate impacts and potentially monitoring as required. This could be secured by expanding condition 13 (1) (c) (ix) of Schedules 11 and 12 to include habitats of principal importance (as well as national sites i.e. MCZs, SSSIs and HPMAs).</p>                                                                                                                 |                                                                                                                                                                                                                                           |
| I28       | <p>The Applicant has requested further clarification on this comment.</p> <p>An earlier version (Deadline 1) of this condition read as 'the KIMP must include proposals for monitoring and reporting on the effectiveness of the measures, including x,y,z'. In more recent versions of the DCO the condition reads as 'the KIMP must include details for the proposed ongoing monitoring of the measure including x,y,z'. Natural England request that 'and reporting on the effectiveness of the measures' is reinstated in the condition.</p> | <p>The Applicant believes this wording is unnecessary. A process for adaptive management will be proposed within the relevant implementation plan, including details of the factors used to trigger any adaptive management measures.</p> |