

BY E-MAIL

Secretary of State for Energy Security and Net
Zero
Energy and Infrastructure Planning
1 Victoria Street
London
SW1H 0ET

06 February 2024

Dear Secretary of State

**THE HORNSEA FOUR OFFSHORE WIND FARM ORDER 2023
PROPOSED NON-MATERIAL CHANGE APPLICATION – REQUEST FOR REDUCTION IN
CONSULTEES UNDER REGULATION 7(3) OF THE INFRASTRUCTURE PLANNING
(CHANGES TO, AND REVOCATION OF, DEVELOPMENT CONSENT ORDERS)
REGULATIONS 2011**

1. INTRODUCTION

1.1 We act for Orsted Hornsea Project Four Limited (“**Orsted**”).

1.2 On 12 July 2023, the Secretary of State made the Hornsea Four Offshore Wind Farm Order 2023 (S.I. 2023 No. 800) (the “**Order**”) as corrected by the Hornsea Four Offshore Wind Farm (Correction) Order 2024 (S.I. 2024 No. 117) in respect of an offshore wind farm located approximately 69km from the East Riding of Yorkshire in the Southern North Sea.

2. NON-MATERIAL CHANGES TO THE HORNSEA FOUR DCO

2.1 The Order requires Orsted to construct an artificial nesting structure (“**ANS**”) for kittiwake along the English east coast, as a compensation measure for the potential impacts of the Hornsea Four Offshore Windfarm (“**Hornsea Four**”). Paragraph 3(d) of Part 2 of Schedule 16 of the Order requires the ANS to be in place four full breeding seasons before Hornsea Four becomes operational.

2.2 The focus of the proposed non-material change is to shorten the length of time the ANS needs to be in place before operation, to allow time for necessary rights for the construction of the ANS to be obtained without impacting the programme for the operation of Hornsea Four and its provision of renewable energy to the National Grid.

2.3 Discussions have been held with the Marine Management Organisation (“**MMO**”), Natural England (“**NE**”) and the Royal Society for the Protection of Birds (“**RSPB**”) at the Offshore Ornithological Engagement Group (“**OOEG**”) Steering Group meeting held

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on 24 November 2023 and no objections were raised with regards to the wording of the non-material change detailed at paragraph 2.5 below.

2.4 As a result of the above, some minor consequential changes are required to the Order. These changes are needed to ensure that the appropriate and agreed kittiwake compensation measures are reflected in the Order, in order that construction and implementation of the Order is in accordance with its conditions.

2.5 The changes that will comprise the non-material change application are as follows:

Delete the existing paragraph 3(d) of Part 2 of Schedule 16 of the Order and insert the following new text as a new paragraph 3(d):

“an implementation timetable for delivery of the artificial nesting structure such timetable to ensure that the structure is in place to allow for at least two full kittiwake breeding seasons prior to operation of any turbine forming part of the authorised development. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 April in each year and ended on 30 September.”

Delete the existing paragraph 4 of Part 2 of Schedule 16 of the Order and insert the following new text as a new paragraph 4:

“The undertaker must implement the measures set out in the KCIMP approved by the Secretary of State, unless otherwise agreed by the Secretary of State in consultation with the relevant SNCB, MMO and the relevant local planning authority. No operation of any turbine forming part of the authorised development may begin until the KCIMP has been approved by the Secretary of State and two full breeding seasons following the implementation of the measures set out in the KCIMP have taken place. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 April in each year and ended on 30 September.”

3. **CONSULTATION AND SUBMISSION OF THE NON-MATERIAL CHANGE APPLICATION**

3.1 Applications for non-material changes to development consent orders are governed by the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (“**the Regulations**”). Under regulation 7(3), the applicant can seek written consent to reduce the number of parties that need to be consulted on a non-material change application.

3.2 We consider that, taking a proportionate approach, only the MMO, NE, the RSPB, The Crown Estate and the Joint Nature Conservation Committee (“**JNCC**”) (the “**Consultees**”) should be consulted on this application, because the Consultees have played an active role in developing the ANS including its location, design, monitoring and adaptive management. The MMO, NE and the RSPB are active members of the OOEG, with whom Orsted has already liaised with and, as noted above, no objections have been raised to the proposed non-material change. In addition, Orsted has been in regular discussions with The Crown Estate, who have played an active role both from a strategic and project specific perspective in the site selection and have been kept informed of Orsted’s approach to the implementation of compensation – in particular, Orsted notes that it holds an agreement for lease with The Crown Estate in relation to the offshore ANS option, further explaining the ongoing discussions between the parties. The JNCC are the authority for offshore nature conservation, working closely with Natural England.

- 3.3 We would be grateful for the Secretary of State's confirmation that this approach to consultation is acceptable. Orsted intends to submit the non-material change application to the Order shortly.
- 3.4 If you would like to discuss this letter, please contact Amy Stirling or Alex Tresadern at [REDACTED]@pinsentmasons.com or [REDACTED]@pinsentmasons.com respectively.

Yours sincerely

Pinsent Masons LLP
(This letter has been sent electronically and so is unsigned)