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To: The Applicant

Your Ref:

Our Ref: EN010120

By email only

Date: 10 October 2022

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Dear Sir/ Madam

## **The Planning Act (2008) (as amended)**

### **Application by Drax Power Limited for an Order Granting Development Consent for the Drax Bioenergy with Carbon Capture and Storage project**

#### **Proposed change requests and the Examination timetable, including timing of the Preliminary Meeting**

Thank you for your [letter dated 30 September 2022](#), responding to the Examining Authority's (ExA) [letter of the 23 September 2022](#) which contained questions in relation to the Applicant's proposed change requests. Both letters have been published on the [project webpage](#)<sup>1</sup> of the Planning Inspectorate's National Infrastructure Planning website.

#### **Timing of the Preliminary Meeting**

Following the ExA's request, your letter of 30 September 2022 states that it is the Applicant's intention to carry out non-statutory consultation on both the proposed changes beginning 21 October 2022 with the first notices/ letters being published/ sent on 13 October 2022. This consultation period would end on 20 November 2022. The change requests would then be submitted on 5 December 2022.

The (former) Department for Communities and Local Government's (DCLG) Examination Guidance<sup>2</sup> states that "*There is not a specified timeframe for when the preliminary meeting is to be held, however, the Secretary of State's expectation is that, in most cases, it should take place within a period from six weeks to two months from receipt of the relevant representations*" (paragraph 40).

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<sup>1</sup> Project webpage: <https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/drax-bioenergy-with-carbon-capture-and-storage-project/>

<sup>2</sup> [Planning Act 2008: Guidance for the examination of applications for development consent](#), March 2015 (publishing.service.gov.uk)

Following acceptance of the application for a Development Consent Order (DCO) for the proposed Drax Bioenergy with Carbon Capture and Storage project (the DCO Application) on 20 June 2022, the Relevant Representation period did not open until 5 August 2022. Subsequently, the Applicant had to re-send further notifications to parties who did not receive the original notification of the accepted application, and therefore the final deadline for receipt of Relevant Representations is not until 12 October 2022 for certain parties.

Having regard to the DCLG guidance, the final deadline of 12 October 2022 for receipt of Relevant Representations, and on the assumption that the change requests are submitted by 5 December 2022, the ExA proposes that the Preliminary Meeting should not be held until after this date. The date will be confirmed through the Rule 6 letter in due course which will be published at least 21 days prior to the meeting.

### **Materiality of the proposed changes**

In the Applicant's view the proposed changes are not material. It is ultimately for the ExA to decide whether a proposed change is material and the ExA does not at this stage have sufficient information to reach a view as to materiality. Before the ExA can make a Procedural Decision on whether or not to examine the changed application and how it should be examined, and also to provide clarity for participants in the process, the ExA will need to have the following information provided with the change request on 5 December 2022:

- the information identified in paragraphs (a) to (d) in Figure 3 of [the Planning Inspectorate's Advice Note 16](#)<sup>3</sup> (AN16);
- if landowner consent is not received and the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations) are engaged, the information prescribed by Regulation 5 of the CA Regulations and clarification that the procedural requirements of the CA Regulations can be met (see paragraph (e) of Figure 3 of AN16);
- evidence that any new or different environmental effects have been adequately assessed and subject to publicity and that any consultation bodies have been consulted (see paragraph (f) of Figure 3 of AN16); and
- a statement encompassing a non-statutory consultation report containing the information requested in the ExA's letter of 23 September 2022.

### **Next steps**

The Applicant is asked to ensure that the change requests that are intended to be submitted by 5 December 2022 respond fully to the points made above taking account of DCLG guidance and AN16.

If you have any questions about any of the matters raised in this correspondence, please contact the Case Team using the details provided in this letter.

Yours faithfully

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<sup>3</sup> Planning Inspectorate's Advice Note 16: <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-16/>

*Caroline Jones*

**Caroline Jones**  
**Lead Member of the Examining Authority**

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