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To: All Interested Parties and Statutory Parties

Your Ref:

Our Ref: EN010120

Date: 14 October 2022

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Dear Sir/ Madam

## **The Planning Act (2008) (as amended) – section 89(3)**

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

#### **Procedural Decision in respect of draft submissions**

I write to you following my appointment by the Secretary of State as the lead member of the Examining Authority (ExA) to carry out an examination of the above application. I am Caroline Jones and the other member of the ExA is Ben Northover. A copy of the [appointment notice](#) can be viewed under the '[Documents](#)' tab on the [project webpage](#)<sup>1</sup> of the National Infrastructure Planning website.

#### **Procedural Decision**

In order to support the ExA's preparation for the Examination, and to assist the general preparation of all parties, the ExA has made a Procedural Decision requesting, where possible and available, the early submission by all Interested Parties (IP) of comments on Relevant Representations (RR) and the early submission by the Applicant of initial draft Statements of Common Ground (SoCG) by **5pm on Friday 11 November 2022**.

#### **Background to Procedural Decision**

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*

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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)

*take place within a period from six weeks to two months from receipt of the relevant representations” (paragraph 40).*

Following acceptance of the application for a Development Consent Order for the proposed Drax Bioenergy with Carbon Capture and Storage project on 20 June 2022, the RR 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 RRs was not until 12 October 2022 for certain parties.

Additionally, in a [letter dated 12 September 2022](#), the Applicant gave notice of its intention to submit a change request consisting of two components. The ExA provided the Applicant with advice on how to progress the change request in its [letter of 23 September 2022](#). The Applicant [responded on 30 September 2022](#) stating that it intended to carry out non-statutory consultation on the change request beginning 21 October 2022 with the formal change request being submitted on 5 December 2022.

Having regard to the DCLG Examination Guidance, the final deadline of 12 October 2022 for receipt of RRs, and on the assumption that the change request is submitted by 5 December 2022, the ExA confirmed in its [letter to the Applicant of 10 October 2022](#) that the Preliminary Meeting (PM) will not be held until after 5 December 2022. The date of the PM will be confirmed through the Rule 6 letter sent in due course to all IPs, Statutory Parties and Other Persons invited to the PM, and which will be published at least 21 days prior to the PM.

In light of the above, this Procedural Decision has been made to front-load preparation and to ensure that once the Examination commences, there has been, where possible, clarification/ further progress of any common ground between certain IPs together with responses to RRs.

## **Making a submission**

If you wish to make a submission as a result of this Procedural Decision, please contact the Case Team using the details provided at the top of this letter.

In accordance with Rule 8 of the Infrastructure Planning (Examination Procedure) Rules 2010, a deadline will be set within the Rule 8 letter issued following the PM enabling equivalent responses to be made. However, there will be no need to amend any responses submitted as a result of this Procedural Decision, unless circumstances have changed.

Where a detailed or tabular representation has been submitted, it would assist the ExA if responses were presented in a comparable manner to ensure that all points are responded to in similar terms.

All comments on RRs and draft SoCGs received by the deadline of 5pm on Friday 11 November 2022 will be published on the project webpage of the National Infrastructure Planning website as soon as practicable after that date.

If you have any questions about any of the matters raised in this correspondence,

please contact the Case Team.

Yours faithfully

*Caroline Jones*

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

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