

Written submission of Orsted Hornsea Project Three (UK) Limited for Deadline 8:

Following the issue specific hearing on 6 January 2022, the Applicant has provided comments and suggested amendments to Orsted Hornsea Project Three (UK) Limited on the draft protective provisions submitted at Deadline 4 [REP4-021].

A number of the amendments are acceptable to Orsted Hornsea Project Three (UK) Limited and have been included in an updated version of the protective provisions submitted by Orsted Hornsea Project Three (UK) Limited at Deadline 8.

However, some of the amendments requested by the Applicant are not acceptable to Orsted Hornsea Project Three (UK) Limited as they would have resulted in a risk to the deliverability of Hornsea Three, a consented nationally significant infrastructure project.

Orsted Hornsea Project Three (UK) Limited is keen to work collaboratively with the Applicant and discussions are ongoing in respect of the protective provisions and a separate collaboration agreement. However, in the absence of such an agreement, Orsted Hornsea Project Three (UK) Limited requires certain assurances and procedures to be included in the DCO so as to ensure that Hornsea Three can be constructed without impediment including minimising any construction programme delays or additional costs.

This includes requirements to:

â€¢ obtain consent from Orsted Hornsea Project Three (UK) Limited prior to exercising any powers in the DCO that may interfere or conflict with the powers already granted in the Hornsea Three Offshore Wind Farm Order 2020;

â€¢ obtain consent from Orsted Hornsea Project Three (UK) Limited prior to discharging any requirements relating to those parts of the authorised development that interact with, or are required for, Hornsea Three;

â€¢ ensure that any new rights that are granted to Orsted Hornsea Project Three (UK) Limited are no less favourable than its existing rights;

â€¢ obtain consent from and provide plans to Orsted Hornsea Project Three (UK) Limited for approval prior to undertaking works that may affect Hornsea Three; and

â€¢ compensate Orsted Hornsea Project Three (UK) Limited for reasonable costs and expenses incurred as a result of the authorised development including the approval of plans and obtaining new rights and/or consents.

In the absence of such provisions, there is a real risk that the authorised development will cause serious detriment to Hornsea Three.

It is noted that Part 1 of Schedule 9 to the draft DCO [REP7-004] already includes protective provisions for the benefit of licence holders under the Electricity Act 1989 in respect of existing apparatus. It also includes bespoke protective provisions for the benefit of National Grid Electricity Transmission plc in Part 3 of Schedule 9. These provisions include restrictions on the exercise of DCO powers without the consent of the licence holder or National Grid, obligations to provide new rights that are no less favourable, requirements to provide plans for approval prior to undertaking works and obligations to compensate for costs and expenses. However, the provisions in Part 1 only apply to apparatus that is already installed and in operation. Bespoke protective provisions for the benefit of Orsted Hornsea Project Three (UK) Limited are therefore required to ensure that the construction of new apparatus as part of Hornsea Three is not impeded, particularly in light of the temporal and physical overlap with the construction of the authorised development.

Orsted Hornsea Project Three (UK) Limited is the holder of a generation licence pursuant to the Electricity Act 1989 and Hornsea Three includes high voltage underground electricity cables that will connect to the national electricity transmission network operated by National Grid. Orsted Hornsea Project Three (UK) Limited is seeking similar protections to those already granted to other Electricity Act 1989 licence holders and National Grid in the draft DCO. Orsted Hornsea Project Three (UK) Limited therefore considers it necessary, reasonable and proportionate for protective provisions for its benefit, in the form submitted at Deadline 8, to be included in the DCO.