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[EN010080 - Hornsea Project Three - Deadline 7 Written representation\\_Final.pdf](#)

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Good afternoon,

Identification Number: 20010662

Please find attached the MMOs Deadline 7 submission for Hornsea Project 3.

Please let me know if you have any questions.

Kind regards,  
Laura

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Hornsea Project Three Case Team  
Planning Inspectorate  
(Email only)

MMO Reference: DCO/2016/00001  
Planning Inspectorate Reference: EN010080  
Identification Number: 20010662

14 March 2019

Dear Sir or Madam,

## **Planning Act 2008, Orsted Hornsea Project Three Limited, Proposed Hornsea Project Three Offshore Windfarm Order**

On 14<sup>th</sup> June 2018, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Orsted Hornsea Project Three Limited (the “Applicant”) for determination of a development consent order (the “DCO Application”) (MMO ref: DCO/2016/00001; PINS ref: EN010080 ).

The Development Consent Order Application includes a draft development consent order (the “DCO”) and an Environmental Statement (the “ES”). The draft DCO includes, at Schedule 11 and 12 a draft Deemed Consent under Part 4 (Marine Licensing) of the Marine and Coastal Access Act 2009 (the “Deemed Marine Licence” (DML)).

The DCO Application seeks authorisation for the construction, operation and maintenance of Hornsea Project Three (“Hornsea Three”) offshore wind farm, comprising of up to 300 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (“the “Project”).

This document comprises the MMO’s comments in respect of the DCO Application submitted in response to Deadline 7. This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without



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prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours faithfully

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## 1 The MMOs comments on the Report on the Implications for European Sites (RIES)

- 1.1 The MMO has reviewed the RIES that was submitted on the 21 February 2019. The MMO defer to the position of Natural England as the Statutory Nature Conservation Body (SNCB).

## 2 The MMOs comment of the Examining Authority's Schedule of Changes to the draft Development Consent Order (DCO)

- 2.1 The MMO has reviewed the Examining Authority's schedule of changes that was submitted on the 26 February 2019 and would like to make the following comments.

### 2.2 Article 37 (page 29) - Arbitration

The MMO welcomes the recommendation to make it explicit within the Article that any matter for which consent or approval of the MMO is required under any provision of this Order shall not be subject to arbitration.

The MMO would like to highlight that this recommendation is in line with the Tilbury 2 Application, which was determined by the Secretary of State (SoS) on the 20 February 2019. Within the decision of the SoS, the Examining Authority's recommendation regarding arbitration within the DCO/DMLs was accepted. For your information the recommendation is shown below:

*In the MMO's submission at Deadline 7 [REP7-033], the MMO stated that it strongly opposed the inclusion of such a provision, based on its statutory role in enforcing the DML. According to the MMO, the intention of the PA2008 was for DMLs granted as part of a DCO in effect to operate as a marine licence granted under the MCCA2009. There was nothing to suggest that after having obtained a licence it should be treated any differently from any other marine licence granted by the MMO (as the body delegated to do so by the SoS under the MCAA).*

*Having considered the arguments of the Applicant and the MMO, the Panel finds in favour of the MMO in this matter for the reasons stated in the paragraph above. Accordingly, the Panel recommends that paragraph 27 is deleted from the DML at Schedule 9 of the draft DCO.*

As such, the MMO feels that the recommendation made by the Examining Authority is consistent with the SoS decision.

### 2.3 Article 38 – Requirements, appeals, etc.

The MMO welcomes the recommendation to remove the proposed appeals process



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as included in the Applicant's draft DCO submitted at Deadline 6. As highlighted in the MMOs deadline 6 response, it is still unclear to the MMO why there is the requirement for the inclusion of this appeals process. For the MMOs detailed response to the proposed appeals process, please refer to our deadline 6 response [REP6-072].

#### 2.4 *Deemed Marine Licenses, Paragraph 10*

The MMO welcomes the recommendation to remove condition 10 from schedule 11 and Schedule 12. For the MMOs detailed position on arbitration and condition 10, please refer to the MMOs deadline 3 [REP3-092] and deadline 5 response [REP5 – 029].

#### 2.5 *Deemed Marine Licenses, Condition 14 (2)*

The MMO welcomes the changes that have been made here. However, would like to highlight that not only the Development Principles are vital to navigational safety, but there are other concerns such as environmental considerations (e.g. condition 13 (1) (a) (v)) that are required to be considered to ensure that the project lies within the scope of the Environmental Statement (ES). For example this condition contains requirements for micro-siting. The MMO would recommend for the wording to be amended to reflect this.

#### 2.6 *Deemed Marine Licenses, Condition 14 (4)*

The MMO welcomes the recommendation for the removal of this sub-condition. For further information on the MMOs position on arbitration, please see paragraphs 2.2-2.4.

#### 2.7 *Deemed Marine Licenses, Condition 14 (1)*

The MMO would like to express our disappointment that there was no recommendation to amend the pre-construction submission timescales, from 4 to 6 month as recommended by the MMO in our deadline 3 response. For more detail on the MMOs position on timescales, please refer to our deadline 3 and deadline 5 response [REP3 – 092] and [REP5 – 029].

#### 2.8 *Deemed Marine Licenses, Condition 18 (3) and (4)*

The MMO welcomes the recommendation to include the condition wording for the monitoring of the first four piles as proposed by the MMO and Natural England. Please refer to the MMOs deadline 5 response for the detailed reasoning behind this request [REP5 – 029].

## 2.9 Schedule 13 – Arbitration Rules (6)

Without prejudice to the MMOs position, the MMO supports the suggested changes recommended by the Examining Authority. For the MMOs detailed comments on Schedule 13 please refer to our deadline 6 response [Rep6 – 072].

