

Hornsea Project Three
Offshore Wind Farm



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Environmental Statement:
Volume 1, Chapter 2 - Policy and Legislation

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Hornsea 3
Offshore Wind Farm

**Orsted**

Environmental Impact Assessment

Environmental Statement

Volume 1

Chapter 2 – Policy and Legislation

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Glossary

Term	Definition
Appropriate Assessment (AA)	An assessment that is carried out by a competent authority in the context of a Habitats Regulations Assessment (HRA).
Department for Business, Energy and Industrial Strategy (BEIS)	UK government ministerial department with responsibilities for business, industrial strategy, science, innovation, energy, and climate change. The department replaced the Department for Energy and Climate Change, (DECC) in Quarter three of 2016.
Committee on Climate Change	An independent committee that offers evidence based advice to the UK and devolved governments and Parliaments on matters related to climate change.
Contracts for Difference (CFD)	A private law contract between a low carbon electricity generator and the Low Carbon Contracts Company. The Low Carbon Contracts Company is a government-owned company, introduced as part of the now implemented Electricity Market Reform (EMR) programme. CFDs have replaced Renewables Obligation Certificates (ROCs).
Department for Environment, Food and Rural Affairs (Defra)	UK government ministerial department with responsibilities for safeguarding the natural environment, supporting the food and farming industry, and sustaining the rural economy.
Department for Communities and Local Government (DCLG)	UK government ministerial department with responsibilities for the creation of policies for homes and workplaces, house building, planning management and reform and local communities.
Department of Energy and Climate Change (DECC)	Former UK ministerial department with responsibilities for the energy industry and climate change policy. Replaced in Quarter Three of 2016 by the Department for BEIS.
Electricity Market Reform (EMR)	The UK government's programme for response to the three key challenges facing the future of the electricity markets: 1) decarbonising electricity supply, 2) security of supply, and 3) minimising the cost of energy to consumers.
Exclusive Economic Zone (EEZ)	The UK EEZ is the zone prescribed by the United Nations Convention on the Law of the Sea over which the UK has sovereign rights regarding the exploration and use of marine resources, including energy production from water and wind.
Greenhouse Gas	A gas that contributes to the greenhouse effect by absorbing infrared radiation. Carbon dioxide (CO ₂) and chlorofluorocarbons (CFCs) are examples of greenhouse gases.
Infrastructure Planning Commission	Former non-departmental public body responsible for the examination and decision for proposed Nationally Significant Infrastructure Projects (NSIPs). The IPC closed in April 2012, when its functions were transferred to the Planning Inspectorate (PINS).
Low Carbon Contracts Company	A private limited company wholly owned by the Department for BEIS. The Low Carbon Contracts Company (LCCC) is the counterparty to a CFD.
Local Development Framework (LDF)	The spatial planning strategy introduced in England and Wales by the Planning and Compulsory Purchase Act 2004. Planning Policy Statement (PPS) 12 (Creating Strong, Safe and Prosperous Communities through Local Spatial Planning) gives the UK government's policy on the preparation of local development documents (for creation and execution by Local Authorities) which then comprise the LDF.
Marine and Coastal Access Act 2009 (MCAA)	The legal mechanism to help ensure clean, healthy, safe, productive and biologically diverse oceans and seas, by putting in place a system for improved management and protection of the marine and coastal environment. The MCAA formed a new organisation called the Marine Management Organisation (MMO) which holds the key responsibility for implementing the requirements of the MCAA.

Term	Definition
Marine Licence	A permit of consent to carry on/out a licensable activity within inshore and offshore areas. The MMO is responsible for marine licensing in English inshore and offshore areas and for Welsh and Northern Ireland offshore areas.
Marine Management Organisation (MMO)	Organisation with the responsibility for implementing the requirements of the MCAA 2009.
Marine Policy Statement (MPS)	The primary framework for UK marine policy, preparing Marine Plans and for making planning decisions affecting the UK marine environment.
National Planning Policy Framework (NPPF)	A set of national planning policies for England, providing guidance to Local Authorities and others in the assessment of planning applications for development.
Preliminary Environmental Information (PEI)	The 2009 EIA Regulations (as amended) require PEI to be provided for public consultation by those seeking a DCO for NSIPs. The Preliminary Environmental Information Report (PEIR) constituted the PEI for Hornsea Three.
Renewable Energy Strategy (RES)	Published in 2009 and sets out the path by which the UK can meet the legally-binding target of 15% energy consumption from renewable sources by 2020.
Renewable Energy Zone (REZ)	A zone established under the Energy Act 2004 which is beyond the limits of the UK territorial sea, but broadly matches the UK EEZ in which the UK can exercise rights over the production of energy from renewable technologies.
Regional Planning Policy (RPP)	RPP and associated RSS are documents produced at a regional level containing policies and strategic level plans that are used to inform local planning documents within that region.
Regional Spatial Strategy (RSS)	
Strategic Environmental Assessment (SEA)	The systematic decision support process, aiming to ensure that environmental and other sustainability aspects are considered effectively in policy, planning and programme making.
Statement of Community Consultation (SoCC)	A document describing how the project promoter intends to consult the local community about the project proposals.

Acronyms

Acronym	Description
AA	Appropriate Assessment
BEIS	Department for Business, Energy and Industrial Strategy
CFC	Chlorofluorocarbons
CFD	Contracts for Difference
CO ₂	Carbon dioxide
DCO	Development Consent Order
DCLG	Department for Communities and Local Government
DECC	Department of Energy and Climate Change
Defra	Department for Environment, Food and Rural Affairs
EEZ	Exclusive Economic Zone
EIA	Environmental Impact Assessment
EMR	Electricity Market Reform
EPS	European Protected Species
ETS	Emission Trading Scheme
EU	European Union
GHG	Greenhouse Gas
GOEE	Government Office for the East of England
GPSS	Government Pipeline and Storage System
HRA	Habitats Regulations Assessment
IPC	Infrastructure Planning Commission
LCCC	Low Carbon Contracts Company
LDF	Local Development Framework
MCAA	Marine and Coastal Access Act 2009
MCZ	Marine Conservation Zone
MFA	Marine and Fisheries Agency
MHWS	Mean High Water Springs
MMO	Marine Management Organisation
MPS	Marine Policy Statement
NPPF	National Planning Policy Framework

Acronym	Description
NPS	National Policy Statement
NPS EN-1	Overarching National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure
NRSWA	New Roads and Street Works Act
NSIP	Nationally Significant Infrastructure Project
PEI	Preliminary Environmental Information
PEIR	Preliminary Environmental Information Report
PINS	Planning Inspectorate
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
RES	Renewable Energy Strategy
REZ	Renewable Energy Zone
ROC	Renewables Obligation Certificates
RPP	Regional Planning Policy
RSS	Regional Spatial Strategy
SAC	Special Area of Conservation
SCI	Site of Community Importance
SEA	Strategic Environmental Assessment
SoCC	Statement of Community Consultation
SPA	Special Protection Area
TCPA	Town and Country Planning Act 1990
TSO	The Stationery Office
UK	United Kingdom

Units

Unit	Description
GW	Gigawatt
km	Kilometre
m	Metre
MW	Megawatt
nm	Nautical mile

2. Policy and Legislation

2.1 Introduction

2.1.1.1 This section of the Environmental Statement provides a summary of the policy and legislative context for the Hornsea Project Three offshore wind farm (hereafter referred to as Hornsea Three), with reference to the following:

- International obligations, including European legislation for climate change and reducing carbon emissions;
- National legislation and policy; and
- Local policy.

2.1.1.2 Where policy or legislation exists in respect of specific topics, particularly in respect of Environmental Impact Assessment (EIA), it is identified in the relevant topic chapters of the Environmental Statement.

2.1.1.3 A full assessment of Hornsea Three in terms of planning policies is provided in the Planning Statement, which accompanies the application for Development Consent.

2.2 Renewable energy policy and the role of renewable sources of energy

2.2.1.1 The 'Meeting the Energy Challenge white paper' (DTI, 2007) published by the former Department for Business, Enterprise and Regulatory Reform (BERR) – now the Department of Business, Energy and Industrial Strategy (BEIS), described two long-term challenges for the United Kingdom (UK):

- Tackling climate change by reducing carbon dioxide emissions both within the UK and abroad; and
- Ensuring secure, clean and affordable energy.

2.2.1.2 The central objective of Government energy policy is ensuring the security of energy supply whilst responding to the challenge of climate change by reducing carbon emissions. To meet these objectives, more energy infrastructure is required with an increased emphasis on energy generation from low carbon sources, including renewables.

2.2.1.3 The need for this renewable energy infrastructure is fully recognised in many areas of Government policy. The need to reduce carbon emissions is embedded within European law and international obligations and has been transposed into a range of UK legislation and is outlined further in sections 2.2.2 and 2.2.3 below.

2.2.2 International obligations and associated policy, on climate change and reducing carbon emissions

2020 targets and associated policy

2.2.2.1 At a European level, the European Parliament and Council agreed a climate and energy package known as the '20-20-20' targets in 2008. The targets to be achieved by 2020 include:

- A reduction in European Union (EU) greenhouse gas (GHG) emissions of at least 20% below 1990 levels;
- 20% of EU energy consumption to come from renewable energy sources; and
- A 20% reduction in primary energy use compared with projected levels, to be achieved by improvements in energy efficiency.

2.2.2.2 In order to meet these aggressive targets, the EU introduced Directive 2009/28/EC on the promotion of the use of energy from renewable sources (the Renewable Energy Directive). Article 3 and Annex I of this Directive set out the mandatory national targets for individual Member States to meet by 2020. As part of this, the UK is subject to a mandatory national target of deriving 15% of gross final energy consumption from renewable sources by 2020.

2.2.2.3 In response to the requirement in Article 4 of the Renewable Energy Directive, DECC published the National Renewable Energy Action Plan for the UK in July 2010 (DECC, 2010). This plan sets out a 'lead scenario' to achieve the 15% renewable energy target for 2020 (the UK target under the Renewable Energy Directive). The lead scenario suggests that the UK could see around 30% of electricity, 12% of heat and 10% of transport energy come from renewable sources by 2020.

2.2.2.4 Specific measures for renewables were set out in the UK Renewable Energy Strategy (RES) which was published alongside and in parallel with the UK Low Carbon Transition Plan in July 2009 (TSO, 2009a; TSO, 2009b). The RES sets out the path by which the UK can meet the legally-binding target of 15% energy consumption from renewable sources by 2020.

2030 targets

2.2.2.5 In October 2014, the EU Council agreed on a policy framework for climate and energy in the period from 2020 to 2030, which included targets and policy objectives for that period. The targets to be achieved by 2030 include:

- A 40% cut in greenhouse gas emissions compared to 1990 levels;
- At least a 27% share of renewable energy consumption; and
- At least 27% improvement in energy efficiency.

2.2.2.6 To meet the targets, the European Commission has proposed:

- A reformed EU emissions trading scheme (ETS);
- New indicators for the competitiveness and security of the energy system, such as price differences with major trading partners, diversification of supply, and diversification of interconnection capacity between EU countries; and
- New EU-wide and Member State governance systems based on national plans for competitive, secure, and sustainable energy. These plans will follow a common EU approach. They will ensure stronger investor certainty, greater transparency, enhanced policy coherence and improved coordination across the EU.

2.2.2.7 In order to meet these targets, the Commission published a proposal for a revised Renewable Energy Directive on 30 November 2016 (European Commission, 2016), which addressed the points in the Renewable Energy Directive's evaluation conducted between 2014 and 2016, stakeholder consultations, and expert independent studies commissioned by the Commission. This proposed revised Renewable Energy Directive seeks to build on the success of the Renewable Energy Directive.

The Renewable Energy Roadmap and the Carbon Plan

2.2.2.8 The Renewable Energy Roadmap (DECC, 2011a; 2012; 2013) updated some of the aims within the RES and identified eight technologies capable of providing 90% of the renewable energy required to meet the UK's 2020 target of 15% of energy consumption derived from renewable sources. It suggests that offshore wind is an ideal technology for the UK, where shallow seas and strong winds make it an important national asset that will play a key role in enabling the UK to meet its legally binding 2020 renewable energy targets. Offshore wind has the potential to be generating up to 16 GW by 2020. Beyond 2020, there is a very high potential for further deployment, with up to 39 GW possible by 2030 (DECC, 2013).

2.2.2.9 In December 2011, the Government published its Carbon Plan (DECC, 2011b). The Carbon Plan states that electricity demand may rise by between 30% and 60% by 2050, which may require today's electricity capacity to double in order to deal with peak time demands. It goes on to state that "*renewable energy, particularly onshore and offshore wind farms*" is likely to be one of the three main low carbon sources to produce electricity (paragraph 44; DECC, 2011b). The document further sets out the policies for meeting the commitment of an 80% reduction in GHG emissions made under the Climate Change Act 2008. It also describes the measures proposed to meet the first four carbon budgets.

2.2.3 UK climate change and energy legislation

The Climate Change Act 2008

2.2.3.1 The Climate Change Act 2008 commits the UK to a net reduction in GHG emissions of 80% against the 1990 baseline by 2050. This is implemented through a system of carbon budgets, which are set by the Government for a period of five years each. The UK Government has legislated for the first four carbon budgets¹ to cut emissions by 23% below 1990 levels by 2012 (Carbon Budgets Order 2009), 29% by 2017 (Climate Change Act 2008 (Credit Limit) Order 2011), 35% by 2022 (Climate Change Act 2008 (Credit Limit) Order 2016), 50% by 2027 (Carbon Budgets Order 2011) and 57% by 2032 (Carbon Budget Order 2016). The first carbon budget (The Carbon Budgets Order 2009), 23% below 1990 levels by 2012, was met by the UK. Currently the UK is on track to outperform the targets of the second (Climate Change Act 2008 (Credit Limit) Order 2011) and third (The Carbon Budgets Order 2016) carbon budgets (Committee on Climate Change, 2017).

2.2.3.2 The Climate Change Act 2008 also established the Committee on Climate Change. The Committee on Climate Change advises the Secretary of State on setting and meeting the carbon budgets, and on preparing for climate change. In May 2011, the Committee published the Renewable Energy Review, which sets out a detailed vision of the role of renewable energy in meeting longer term emissions targets. The Renewable Energy Review concludes that the development of renewable energy is a potentially significant contributor to delivering decarbonisation of the power sector by 2030 at reasonable cost. It also underlined that firm commitments of support for offshore wind and marine generation through to the 2020s should be made (Committee on Climate Change, 2011).

The Energy Act 2013

2.2.3.3 The Energy Act 2013 received Royal Assent on 18 December 2013. The Energy Act makes provisions to incentivise investment in low carbon electricity generation, ensure security of supply, and help the UK meet its emission reduction and renewables targets. In particular, the Energy Act contains provisions from the then Department of Energy and Climate Change (DECC) (now the Department for BEIS) for Electricity Market Reform (EMR).

2.2.3.4 The EMR sets out the framework for replacing Renewables Obligation Certificates (ROCs) with Contracts for Difference (CFD) to provide stable financial incentives to encourage investment in low carbon electricity generation. CFDs are private contracts between a low carbon electricity generator and the UK Government owned Low Carbon Contracts Company (LCCC). Under a CFD, the electricity generating party is paid the difference between the strike price (the price for electricity reflecting the cost of investment in low carbon technology) and the reference price (a measure of the average market price for electricity in the Great Britain market).

¹ Carbon Budgets Order 2009, Climate Change Act 2008 (Credit Limit) Order 2011, Climate Change Act 2008 (Credit Limit) Order 2016 and Carbon Budgets Order 2011

2.2.3.5 The aim of CFDs is to give greater certainty and stability of revenues to electricity generators by reducing exposure to volatile wholesale prices, whilst at the same time protecting the consumer from paying for higher generation support costs when electricity prices are high (BEIS, 2016). It is envisaged that CFDs will help to incentivise renewable energy development in the UK.

2.2.3.6 In April 2014, a total of eight projects were awarded contracts under the Final Investment Decision (FID) Enabling for Renewables process, thereby allocating the first CFDs that were introduced through the EMR programme. Of these eight projects, five were offshore wind farm projects (Beatrice, Burbo Bank Extension, Dudgeon, Hornsea Project One, Walney Extension). In February 2015, a further 27 projects were awarded CFDs in Allocation Round One, two of which were for offshore wind projects (East Anglia One and Nearth na Gaoithe) and in September 2017, a further 11 projects were awarded CFDs in Allocation Round Two, three of which were offshore wind projects (Triton Knoll, Hornsea Project Two and Moray Offshore (East)).

2.3 SEA process for offshore wind farm licencing and Directive 2001/42/EC

2.3.1.1 An SEA was carried out by DECC in 2008/2009 to identify the environmental effects of further rounds of offshore wind farm licencing in the UK REZ. This was undertaken in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004. These Regulations apply Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment (the SEA Directive). The SEA Post Consultation Report, published in June 2009 (DECC, 2009c), concluded that there were no significant impediments to the adoption of a plan/programme for an additional 25 GW of offshore wind farm generation capacity (currently UK offshore wind farms generate approximately 5.1 GW of operational capacity, with a further 4.5 GW under construction).

2.3.1.2 In March 2016, an SEA was undertaken to consider the environmental implications of DECC's (now BEIS) draft plan/programme to enable further licensing/leasing for offshore energy (oil and gas, hydrocarbon gas storage, carbon dioxide storage and marine renewables including wind, wave, tidal stream and tidal range) (DECC, 2016). For offshore wind, DECC's draft plan/programme included further offshore wind farm leasing in the relevant parts of the UK Exclusive Economic Zone (EEZ) and the territorial waters of England and Wales. The technologies included turbines of up to 15 MW capacity and floating turbines in waters up to 200 m. The SEA concluded that the most favourable option was to restrict the areas offered for leasing and licensing, through the exclusion of certain areas together with a number of mitigation measures to prevent, reduce and offset significant adverse impacts on the environment and other users of the sea, and would allow the objectives of the draft plan/programme to be achieved. This resulted in the identification of the Round 3 offshore wind farm zones, including the former Hornsea Zone, which are located outside of these restricted areas.

2.4 Legislation relevant to Hornsea Three

2.4.1 Marine legislation

The Marine and Coastal Access Act 2009

2.4.1.1 The MCAA 2009 introduced a new marine planning system for overseeing the marine environment and a requirement to obtain a Marine Licence for certain activities and works at sea. The geographical extent of the jurisdiction of the MCAA is shown in Figure 2.1 below.

2.4.1.2 The MCAA also created the Marine Management Organisation (MMO), an executive non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs (Defra). At the time of the MMO's creation, the organisation took on many of the responsibilities of the former Marine and Fisheries Agency (MFA). One of the driving forces behind the creation of the MMO was the streamlining of permitting for licensable activities within the marine environment.

2.4.1.3 The MCAA inserted a new section (Section 149A) into the Planning Act 2008 which enables an Applicant for a DCO to apply for Deemed Marine Licences as part of the DCO process. The MMO is the responsible authority and works with the Planning Inspectorate (PINS) to ensure that the Deemed Marine Licences are transposed properly into the DCO. The MMO remains the monitoring and enforcement body in respect of the conditions and restrictions set out within the Deemed Marine Licences.

2.4.1.4 The MCAA also enabled the designation of Marine Conservation Zones (MCZs). MCZs are a type of marine protected area, which seek to protect a range of nationally important marine wildlife, habitats, geology and geomorphology. MCZs can be designated anywhere in English and Welsh inshore and UK offshore waters. The designation of MCZs works towards fulfilling some of the UK's obligations under international agreements such as the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention).

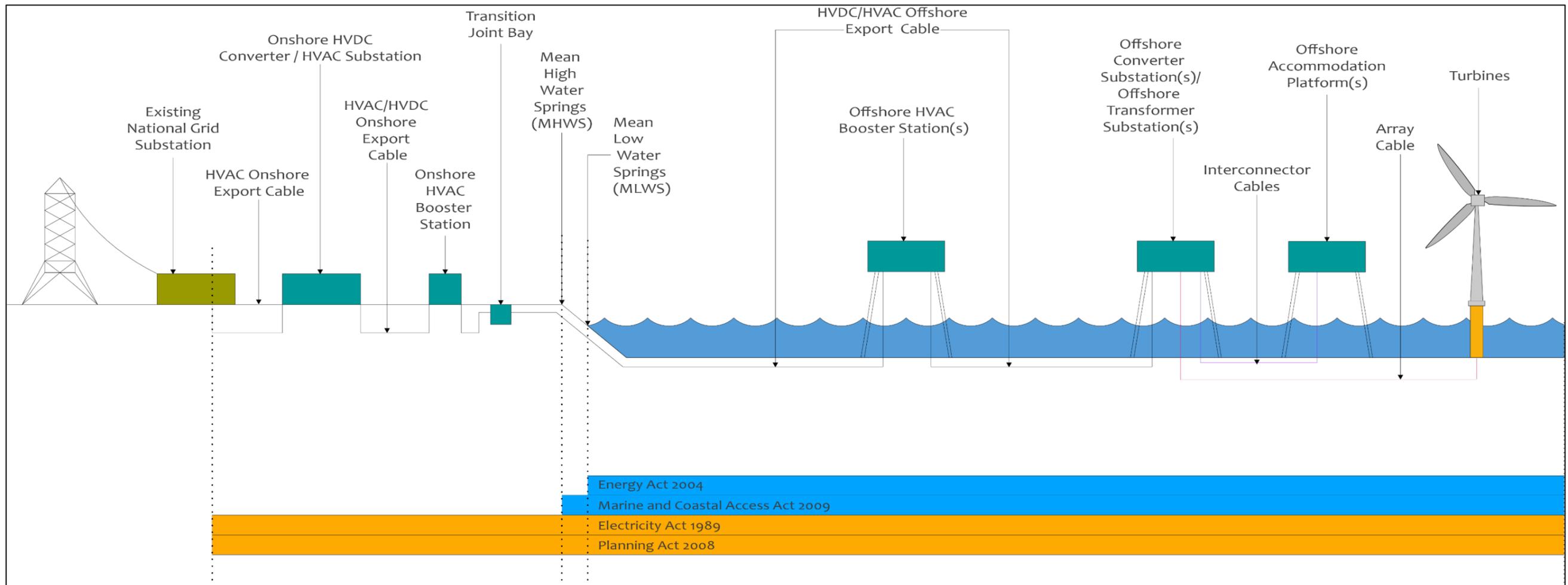


Figure 2.1: Geographical extent of principal legislation applicable to Hornsea Three.

2.4.2 Planning legislation

The Planning Act 2008

2.4.2.1 The Planning Act 2008, as amended, provides for national policy guidance to assist in the delivery of NSIPs. This led to the development of the National Policy Statements (NPSs, discussed in section 2.5.1 below) to guide the decision making process for NSIPs.

2.4.2.2 One of the objectives of the introduction of the Planning Act 2008 was to address the need for, and to speed up the delivery of, NSIPs. Further details on the consent application process for NSIPs (including Hornsea Three) under the Planning Act 2008, is provided in section 2.6 below. The geographical extent of the jurisdiction of Planning Act 2008 is shown in Figure 2.1 above.

2.4.2.3 A number of amendments have been made to the Planning Act 2008 following the enactment of the Localism Act 2011. The key change has been the abolition of the Infrastructure Planning Commission (IPC) on 1 April 2012. Following the abolition of the IPC, PINS became the agency responsible for operating the consenting process for NSIPs on behalf of the Secretary of State. The IPC's decision making functions were transferred to the Secretary of State for Energy and Climate Change (in the case of energy infrastructure) (now BEIS) and the examining functions are now administered by PINS.

2.4.2.4 The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 amended the Planning Act 2008 by providing procedures for the handling of non-material and material changes to DCOs. Broadly, changes are considered as material if the changes would require an updated Environmental Statement or Habitats Regulations Assessment (HRA). Even where the changes would only likely result in impacts that are entirely positive, an updated Environmental Statement would still be required and therefore such changes would be treated as material changes (DCLG, 2015).

2.5 Policy relevant to Hornsea Three

2.5.1 National Policy Statements

2.5.1.1 National Policy Statements (NPSs) were designated under the Planning Act 2008. They describe the national case and establish the need for certain types of infrastructure development including energy, as well as identifying potential key issues that should be considered by the examining body and decision maker when considering an application for a DCO.

2.5.1.2 The NPSs relevant to Hornsea Three are:

- Overarching National Policy Statement for Energy (EN-1; hereafter referred to as NPS EN-1) (DECC, 2011c);
- National Policy Statement for Renewable Energy Infrastructure (EN-3; hereafter referred to as NPS EN-3) (DECC, 2011d); and
- National Policy Statement for Electricity Networks Infrastructure (EN-5; hereafter referred to as NPS EN-5) (DECC, 2011e).

Overarching National Policy Statement for Energy

2.5.1.3 NPS EN-1 (DECC, 2011c) sets out the Government's policy for the delivery of major energy infrastructure and supports the requirements of the Renewable Energy Directive. The policy states that new projects are urgently required in order to ensure that the UK's renewable energy target of sourcing 15% of its energy from renewable sources is met by 2020 (NPS EN-1, paragraph 3.4.1). Offshore wind is expected to provide the largest single contribution towards the 2020 renewable energy generation targets (NPS EN-1, paragraph 3.4.3). In addition, NPS EN-1 identifies that approximately a quarter of the UK's generating capacity is due to close by 2018 and that new low-carbon generation is required which is reliable, secure and affordable (NPS EN-1, paragraph 2.2.16).

2.5.1.4 NPS EN-1 states that the Secretary of State should consider all applications for a DCO for energy infrastructure covered by NPS EN-1, on the basis that the Government has demonstrated there is a need for those types of projects (NPS EN-1, paragraph 3.1.3). NPS EN-1 establishes that, given the level of demand and urgency of the need for large scale energy infrastructure, the Secretary of State should start with a presumption in favour of granting a DCO for energy Nationally Significant Infrastructure Projects (NSIPs), unless any more specific and relevant policies set out within the NPSs clearly indicate that consent should be refused or that Section 104 of the Planning Act 2008 applies (NPS EN-1, paragraph 4.1.2).

2.5.1.5 Section 104 of the Planning Act 2008 states that an application for a DCO for energy infrastructure must be decided in accordance with the relevant NPSs, except to the extent doing so would:

- Lead to the UK being in breach of its international obligations;
- Be in breach of any statutory duty that applies to the Secretary of State;
- Be unlawful;
- Result in adverse impacts from the development outweighing the benefits; or
- Be contrary to regulations about how decisions are to be taken.

2.5.1.6 In considering DCO applications, and particularly when weighing up potential adverse impacts and benefits, the Secretary of State should take into account the development proposals:

- Potential benefits including its contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits; and
- Potential adverse impacts, including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts (NPS EN-1, paragraph 4.1.3).

National Policy Statement for Renewable Energy Infrastructure

2.5.1.7 NPS EN-3 (DECC, 2011d) recognises the need for 25 GW of new offshore wind-derived generating capacity in the UK Renewable Energy Zone (REZ) and the territorial waters of England and Wales, in addition to the 8 GW already planned (NPS EN-3, paragraph 2.6.15). It also refers to the Offshore Energy Strategic Environmental Assessment (SEA), which concludes that there are no overriding environmental considerations preventing the plans for 33 GW of offshore wind capacity, if mitigation measures are implemented (NPS EN-3, paragraph 2.6.15). As noted in paragraph 2.3.1.1 above, the UK currently generates approximately 5.1 GW of operational capacity, with a further 4.5 GW under construction.

2.5.1.8 NPS EN-3 confirms the role of the Secretary of State in the offshore consenting process, including the power of the Secretary of State to grant Deemed Marine Licences as part of a project's DCO (NPS EN-3, paragraph 2.6.9). It also calls for flexibility in the application process for offshore wind NSIPs to allow for situations where full details of the project specification may be unknown at the time of submission (NPS EN-3, paragraph 2.6.43). In such circumstances, NPS EN-3 highlights the use of the 'Rochdale Envelope' method (from here on referred to as the 'maximum design scenario'), which allows for the maximum adverse and positive scenario to be assessed in the EIA and a DCO granted on this basis (NPS EN-3, paragraph 2.6.43). The approach for the maximum design scenario is a key element of this Environmental Statement and is described further in volume 1, chapter 5: Environmental Impact Assessment methodology.

2.5.1.9 NPS EN-3 identifies certain environmental topic-specific policy considerations. Where appropriate, these are outlined within the relevant topic chapters of this Environmental Statement.

National Policy Statement for Electricity Networks Infrastructure

2.5.1.10 NPS EN-5 (DECC, 2011e) relates to applications for electricity networks infrastructure. NPS EN-3 sets out that the onshore element of a grid connection for an offshore wind farm, including electricity lines for transmission and substations, should be determined in accordance with NPS EN-5 (NPS EN-3, paragraph 2.6.41). NPS EN-5, together with NPS EN-1, provides the primary basis for decisions on applications for electricity networks infrastructure development.

2.5.1.11 NPS EN-5 identifies certain environmental topic specific policy considerations. Where appropriate, these are outlined within the relevant topic chapters of this Environmental Statement.

2.5.2 Planning policy

2.5.2.1 NPS EN-1 confirms that the energy NPSs have taken account of relevant planning policy held previously within Planning Policy Statements (PPSs) and Planning Policy Guidance Notes (PPGs) in England (paragraph 4.1.5; DECC, 2011c). Although reference to the NPS should be sufficient in principle for compliance purposes, Hornsea Three is adopting the approach set out in NPS EN-3, which states that Applicants and the Secretary of State should still have regard to extant planning policy guidance specifically related to renewable energy projects, although "*Whether an application conforms to the guidance or the targets will not, in itself, be a reason for approving or rejecting the application*" (paragraph 2.2.1; DECC, 2011d).

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)

2.5.2.2 The National Planning Policy Framework (NPPF) (DCLG, 2012) contains the national planning policies for England for Local Authorities and others to consider when assessing planning applications for development. In relation to renewable energy, to help increase the use and supply of renewable and low carbon energy, Local Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. Specifically they should:

- "*Have a positive strategy to promote energy from renewable and low carbon sources*";
- "*Design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts*";
- "*Consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources*";
- "*Support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning*"; and
- "*Identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers*". (Department for Communities and Local Government, 2012).

2.5.2.3 On 6 March 2014, the Department for Communities and Local Government (DCLG) launched the Planning Practice Guidance, which accompanies the NPPF, as a web-based resource. Of relevance to offshore wind energy is the guidance on "Renewable and Low Carbon Energy". Paragraph 001 states that:

"Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses." (DCLG, 2014).

2.5.2.4 Matters that the Secretary of State considers "important and relevant" when making decisions on NSIP applications may include the NPPF itself.

Regional Planning Policy

2.5.2.5 Regional Planning Policies (RPP) and associated Regional Spatial Strategies (RSS) are documents produced at a regional level containing policies and strategic level plans that are used to inform local planning documents within that region. The RSS was revoked in January 2013. However, the evidence base with respect to the need for renewable power generation may be important or relevant for the Secretary of State.

2.5.2.6 The RSS East of England Plan published in 2008 (GOEE, 2008) replaced the former Regional Planning Guidance Note 6 (RPG-6) for East Anglia (published in 2000). Section 9 of the RSS referred to carbon dioxide emissions and renewable energy and states that Local Authorities should:

“...encourage the supply of energy from decentralised, renewable and low carbon energy sources and through Development Plan Documents set ambitious but viable proportions of the energy supply of new development to be secured from such sources” (GOEE, 2008).

2.5.2.7 Further, and more specifically aimed at renewable energy development, the RSS stated that:

“The development of new facilities for renewable power generation should be supported, with the aim that by 2010 10% of the region’s energy and by 2020 17% of the region’s energy should come from renewable sources” (GOEE, 2008).

2.5.2.8 The RSS went on to say that the above targets should exclude energy from offshore wind (GOEE, 2008), in order to promote other forms of renewable energy although it is impossible to deny that offshore wind is able to contribute significantly to the overall pool of energy produced from renewable sources in the region.

The Statutory Development Plans

2.5.2.9 NPS EN-1 (paragraph 4.1.5) provides that the policies contained within Development Plan documents and other Local Development Framework (LDF) documents may be considered important and relevant in planning decision making. However, in the event of a conflict, the NPSs prevail for the purpose of the Secretary of State’s planning decision making (DECC, 2011c).

2.5.2.10 A full summary of the relevant Statutory Development Plan documents in all Local Authority areas affected by the proposed onshore infrastructure for Hornsea Three is provided in the Planning Statement which accompanies the application for Development Consent. Particular considerations relevant to the assessment of environmental and socio-economic effects are identified in the specific Environmental Statement topic chapters.

2.5.2.11 The current Local Plan for North Norfolk District (see Figure 2.2) comprises the adopted Core Strategy and Development Management Policies Development Plan Documents (DPDs), the proposals map, and Site Allocations plan DPD.

2.5.2.12 The adopted LDF Core Strategy for North Norfolk (see Figure 2.2) states that:

“Renewable energy proposals will be supported and considered in the context of sustainable development and climate change, taking account of the wide environmental, social and economic benefits of renewable energy gain and their contribution to overcoming energy supply problems in parts of the District” (North Norfolk District Council, 2008).

2.5.2.13 The emerging North Norfolk Local Plan is currently under preparation. The draft emerging Local Plan is anticipated to be published in late 2017, examination of the plan is anticipated to commence in spring 2018.

2.5.2.14 The Local Plan for Broadland District (see Figure 2.2) comprises the adopted Joint Core Strategy DPD (covering Broadland District, Norwich City and South Norfolk District), the Broadland District Development Management DPD, Site Allocations DPD and relevant Area Action Plans (AAPs).

2.5.2.15 The Joint Core Strategy for Broadland District, Norwich City and South Norfolk District (see Figure 2.2) (Greater Norwich Development Partnership, 2014) states that development in the area will where possible aim to:

“...maximise the use of decentralised and renewable or low-carbon energy sources and sustainable construction technologies” (Greater Norwich Development Partnership, 2014).

2.5.2.16 The Local Plan for South Norfolk District (see Figure 2.2) also comprises the adopted Joint Core Strategy (covering Broadland District, Norwich City and South Norfolk District), in addition to the South Norfolk Development Management Policies Document Site Specific Allocations and Policies Documents, and relevant AAPs.



Figure 2.2: Local Authority Districts in the vicinity of Hornsea Three.

2.5.3 Marine policy

Marine Policy Statement (MPS)

- 2.5.3.1 The UK-wide Marine Policy Statement (MPS) was published in March 2011, under the Marine and Coastal Access Act (MCAA) 2009, in order to provide a framework for marine spatial planning, specifically for the preparation of Marine Plans and taking decisions that affect the marine environment (Defra, 2011).
- 2.5.3.2 The MCAA requires all public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area to do so in accordance with the MPS and the relevant Marine Plans.
- 2.5.3.3 The MPS provides that the following issues should be taken into account by decision makers when examining and determining applications for energy infrastructure:
- *"The national level of need for energy infrastructure, as set out in the Overarching National Policy Statement for Energy (EN-1)";*
 - *"The positive wider environmental, societal and economic benefits of low carbon electricity generation and carbon capture and storage as key technologies for reducing carbon dioxide emissions"; and*
 - *"The potential impact of inward investment in offshore wind, wave, tidal stream and tidal range energy related manufacturing and deployment activity; as well as the impact of associated employment opportunities on the regeneration of local and national economies. All of these activities support the objective of developing the UK's low carbon manufacturing capability" (paragraph 3.3.4; Defra, 2011).*
- 2.5.3.4 The MPS does acknowledge that renewable energy developments can potentially have adverse impacts on fish, mammals and birds and that further research is required to better understand potential impacts, however it goes on to state that:
- "The UK has some of the best wind resources in the world and offshore wind will play an important and growing part in meeting our renewable energy and carbon emission targets and improving energy security by 2020, and afterwards towards 2050" (paragraph 3.3.19; Defra, 2011).*
- 2.5.3.5 In addition, the MPS states that offshore wind:
- "....has the potential to have the biggest impact in the medium-term on security of energy supply and carbon emission reductions through its commercial scale output" (paragraph 3.3.19; Defra, 2011).*
- 2.5.3.6 The MPS identifies certain environmental topic-specific policy considerations. Where appropriate, these are outlined within the relevant topic chapters of this Environmental Statement.

Marine plans

- 2.5.3.7 In 2011, Defra recommended a series of Marine Plan areas for the English inshore and offshore marine regions to the MMO. The East Inshore and East Offshore areas, which include the Hornsea Three proposed development area, were the first two areas in England to be selected for marine planning. The East Inshore and East Offshore Marine Plans were published on 2 April 2014. The plans do not establish new requirements or policies, but provide clarification on the intent of national policy to the plan areas, taking into account the characteristics of these two areas.
- 2.5.3.8 Objective 3 of the East Inshore and East Offshore marine plan is:
- "To realise sustainably the potential of renewable energy, particularly offshore wind farms, which is likely to be the most significant transformational economic activity over the next 20 years in the East marine plan areas, helping to achieve the United Kingdom's energy security and carbon reduction objectives." (page 26; MMO, 2014).*
- 2.5.3.9 In addition, the plan policies for offshore wind state that:
- "Proposals for offshore wind farms inside Round 3 zones, including relevant supporting projects and infrastructure, should be supported." (page 121; MMO, 2014).*
- 2.5.3.10 The relevant plan policies have been taken into account in preparing this Environmental Statement.

2.6 The consenting process

2.6.1 Introduction

- 2.6.1.1 The following section provides a summary of the consenting process which Hornsea Three will follow, as required by the Planning Act 2008.
- 2.6.1.2 The consenting process for Hornsea Three is summarised with reference to the following:
- Planning legislation and infrastructure planning regulations under which the DCO application will be submitted;
 - Overview of the DCO application process;
 - EIA;
 - Report to Inform Appropriate Assessment; and
 - Other consents and licences.

2.6.2 Planning legislation under which the Development Consent Order application will be submitted

2.6.2.1 Section 31 of the Planning Act 2008 provides that a DCO is required for development which is, or forms part of, a NSIP. In accordance with Section 15(3) of the Planning Act 2008, an offshore energy generating station with a generating capacity of greater than 100 MW constitutes a NSIP. The proposed Hornsea Three development has a maximum capacity of up to 2.4 GW and therefore satisfies this criterion.

2.6.2.2 Section 37 of the Planning Act 2008 requires that an application for an order granting Development Consent must be made to the Secretary of State. In accordance with Section 104(2) of the Planning Act 2008, in deciding applications the Secretary of State must have regard to:

- Any NPS, which has effect, in relation to the development to which the application relates (a relevant National Policy Statement);
- Any local impact report (within the meaning given by Section 60(3)) submitted to the Secretary of State before the deadline specified in a notice under Section 60(2);
- Any matters prescribed in relation to the development to which the application relates;
- Any other matters which the Secretary of State thinks are both important and relevant to the decision; and
- The appropriate marine policy documents (if any), determined in accordance with Section 59 of the MCAA 2009.

2.6.2.3 Section 104(3) of the Planning Act 2008 establishes the primacy of the NPSs in determining DCO applications. It requires applications to be decided "*in accordance with any relevant National Policy Statement, except to the extent that one or more of subsections (4) to (8) applies*". Subsection (4) concerns a breach of international obligations, (5) a breach of a statutory duty, (6) illegality by virtue of any enactment, (7) where the Secretary of State "*is satisfied that the adverse impact of the proposed development would outweigh its benefits*" and (8) where a "*condition prescribed for deciding an application otherwise than in accordance with a National Policy Statement is met*".

2.6.2.4 Section 106 of the Planning Act 2008 sets out matters that may be disregarded, including representations which "*relate to the merits of policy set out in a [NPS]*".

2.6.2.5 The Planning Act 2008, and corresponding secondary legislation, sets out a comprehensive statutory framework for the granting of all of the principal consents required to develop, operate and decommission NSIPs and their associated infrastructure.

2.6.2.6 The Planning Act 2008 provides that the grant of a DCO replaces the need for certain other consents to be obtained in England and Wales, including planning permission under the Town and Country Planning Act 1990, section 36 consent under the Electricity Act 1989 to construct and operate a generating station, listed building and conservation area consent under the Planning (Listed Buildings and Conservation Areas) Act 1990 and scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979. In addition, other consents can either be deemed to be granted by provision within the DCO (i.e. a Marine Licence under Section 149A of the Planning Act 2008), or the requirement for them removed.

2.6.2.7 The Consents Management Plan sets out the consents and licences that will be sought within the DCO and those consents and licences that, if required, will be progressed outside the DCO. This document accompanies the application for the DCO.

2.6.3 The Development Consent Order (DCO) application process

2.6.3.1 The DCO will provide statutory consent for the development of Hornsea Three. The process for obtaining a DCO is split into the following phases: pre-application; acceptance; pre-examination; examination; report and recommendation; and decision (see Figure 2.3).

2.6.3.2 The Hornsea Three application has been submitted to the Secretary of State with the prescribed forms and documents as required by the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Regulation 5(2)(a) requires that, where applicable, an application must be accompanied by "*the Environmental Statement required pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 and any scoping or screening opinions or directions*". A number of other supporting documents are also required to be submitted, including:

- A Consultation Report;
- A Draft DCO and Explanatory Memorandum; and
- A Report to Inform Appropriate Assessment.

Environmental Impact Assessment

Legislation

2.6.3.3 The EIA regime originated from European Council Directive 85/337/EEC, which was amended by Directive 97/11/EC, Directive 2003/35/EC and Directive 2009/31/EC. In 2011, the initial 1985 Directive and its three amendments were codified by Directive 2011/92/EU (the EIA Directive) on the assessment of the effects of certain public and private projects on the environment. The requirements of Directive 2011/92/EU were transposed into UK legislation through The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, as amended. These regulations are referred to in the Environmental Statement as ‘the 2009 EIA Regulations (as amended)’.

2.6.3.4 Directive 2014/52/EU, which amends Directive 2011/92/EU, entered into force on 15 May 2014 and required Member States to transpose its requirements into national law by 16 May 2017. On 16 May 2017, The Infrastructure Planning (Environmental Impact Assessment) 2017 Regulations (referred to as ‘the 2017 EIA Regulations’) entered into force. The transitional measures set out in these regulations provide that the provisions of the 2009 EIA Regulations (as amended) remain applicable to projects for which an application has been submitted or for which a Scoping Opinion has been sought before 16 May 2017. A Scoping Opinion was sought for Hornsea Three in October 2016. Therefore, for the purposes of Hornsea Three, the 2009 EIA Regulations (as amended) remain the relevant regulations. However, as a matter of good practice, the measures required by the 2017 EIA Regulations have been considered where appropriate in this Environmental Statement. Table 2.1 explains the additional requirements of the 2017 EIA Regulations and the extent to which they have been considered within the Environmental Statement.

2.6.3.5 The purpose of the EIA Directive is to ensure that when an authority giving consent for a particular project makes its decision, it does so in the knowledge of any likely significant effects on the environment. The EIA Directive and EIA Regulations set out a procedure that must be followed for certain types of project before they can be given a DCO. An EIA provides for the systematic assessment of a project’s likely significant environmental effects for consideration by both the public and the relevant competent authority before a planning consent decision is made.

2.6.3.6 Generic advice on EIA as relevant to Hornsea Three is provided by NPS EN-1, NPS EN-3 and NPS EN-5. As discussed in paragraphs 2.5.1.3 to 2.5.1.9 above, these NPSs provide the primary basis for decisions by the Secretary of State on applications for nationally significant renewable energy infrastructure (defined in Section 1.8 of NPS EN-3; DECC, 2011d).

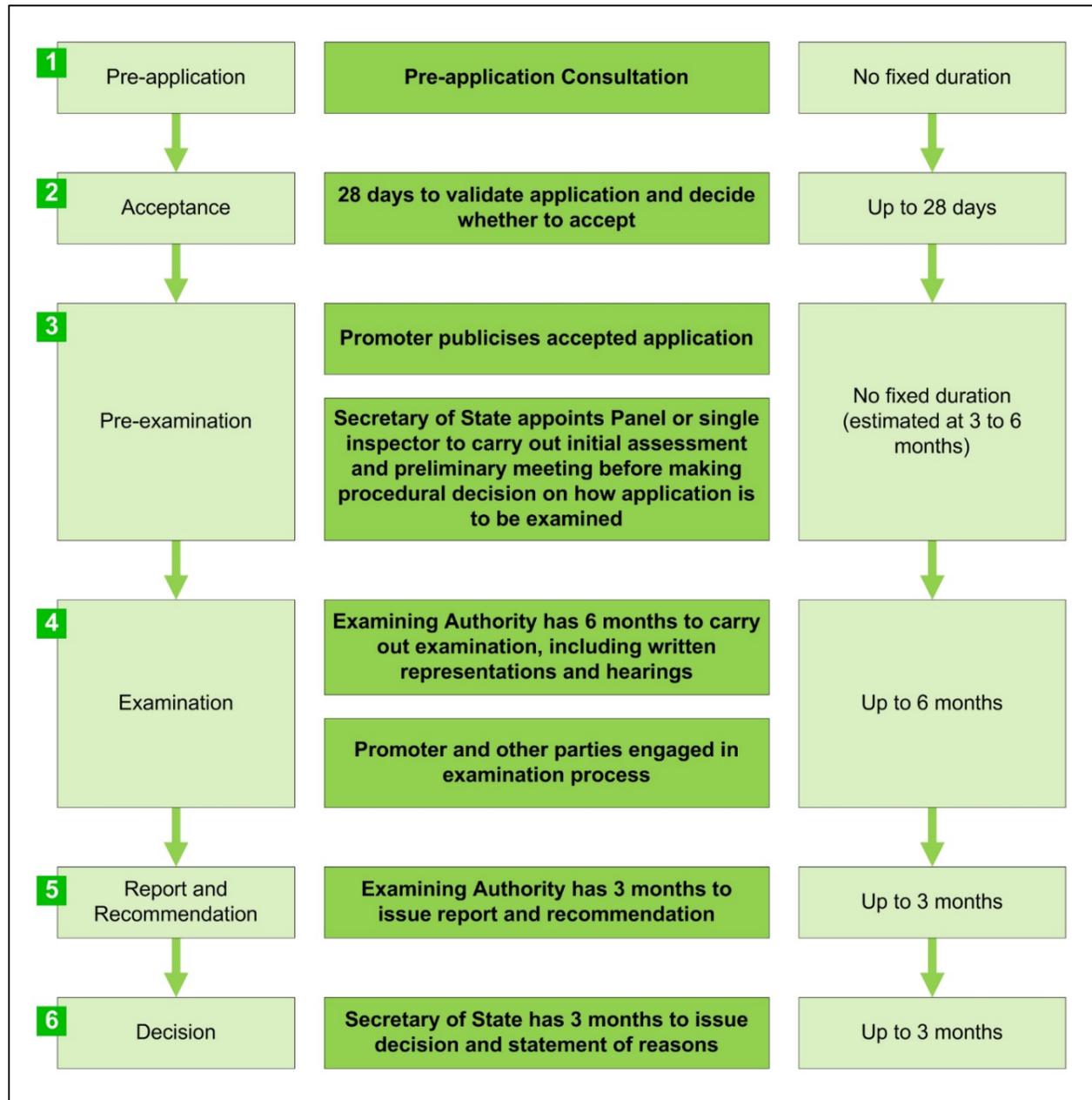


Figure 2.3: Flow diagram of the DCO application process.

Environmental Impact Assessment in the context of Hornsea Three

2.6.3.7 The main stages of the EIA process in respect of Hornsea Three are:

- Decision to undertake an EIA (screening);
- Scoping to determine the subject matter of the EIA and to identify potentially significant effects;
- Data review involving compiling and reviewing available baseline data and/or undertaking of baseline surveys to generate site-specific data;
- Assessment and design iterations, whereby the potential impacts of the development during the construction, operational and maintenance, and decommissioning stages of its life are assessed. Feedback is provided to the design and engineering team(s) to modify the design of the development where possible in order to avoid, prevent, reduce and/or offset any significant adverse effects on the environment;
- Identifying any further mitigation or compensation requirements;
- Identifying residual effects;
- Consultation with the consultation bodies, stakeholders and the community, in accordance with all relevant requirements (the Planning Act 2008, EIA Regulations and the associated regulations and guidance);
- Preparing the Preliminary Environmental Information Report (PEIR);
- Preparing the Environmental Statement (i.e. reporting on the EIA process, updating the information provided in the PEIR and continuing with design iteration and consultation); and
- Controlling and where necessary monitoring the effects of the project during construction, operation and maintenance, and decommissioning in accordance with the mitigation measures identified in the Environmental Statement and/or the requirements identified in the DCO and the related Deemed Marine Licence(s) which have been drawn from the findings of the Environmental Statement.

Screening

2.6.3.8 Only certain types of projects require an EIA to be carried out under the 2009 EIA Regulations (as amended). Schedule 1 to the 2009 EIA Regulations (as amended) sets out those developments that are required to undergo an EIA. Schedule 2 sets out the developments that may need an EIA subject to a screening opinion by the decision maker. Offshore wind farms are listed in Schedule 2 of the 2009 EIA Regulations (as amended) (3i) as “installations for the harnessing of wind power for energy production (wind farms)”.

2.6.3.9 A proposed development is ‘EIA development’ and therefore requires EIA to be undertaken if it is “likely to have significant effects on the environment by virtue of factors such as nature, size or location”. Criteria to be taken into account in determining whether or not Schedule 2 development is EIA development are set out in Schedule 3 of the 2009 EIA Regulations (as amended). The 2009 EIA Regulations (as amended) allow for the request of a formal ‘screening’ opinion as to whether or not EIA is required. Taking into account the nature and scale of the development proposed, an EIA has been undertaken for Hornsea Three without a formal screening opinion being requested.

Scoping

2.6.3.10 An applicant can request advice from the Secretary of State on the information to be included in the Environmental Statement. The request is known as a “Scoping Opinion Request”. The formal written advice from the Secretary of State in response to this is known as a “Scoping Opinion”. A Scoping Opinion is defined as a written statement by the Secretary of State as to the information to be provided in an Environmental Statement. A Scoping Opinion Request, supported by a Scoping Report, for Hornsea Three was submitted to PINS in October 2016 (DONG Energy (now Ørsted), 2016a) with a Scoping Opinion provided by PINS in December 2016 (PINS, 2016a).

Consultation

2.6.3.11 Under the Planning Act 2008, it is the responsibility of the Applicant to ensure that pre-application consultation fully accords with the requirements of the Planning Act 2008 and the associated regulations and guidance, including the 2009 EIA Regulations (as amended). Consultation with the consultation bodies, stakeholders and the community has been undertaken on a regular basis throughout the development of the project proposals for Hornsea Three. The Statement of Community Consultation (SoCC) (DONG Energy (now Ørsted), 2016b) identifies the approach taken by Hornsea Three to formal community consultation.

2.6.3.12 In addition, the Secretary of State has statutory obligations under the 2009 EIA Regulations (as amended), which impose procedural requirements in relation to notifying and consulting prescribed consultation bodies in relation to Hornsea Three and the DCO application.

Preliminary Environmental Information

2.6.3.13 The 2009 EIA Regulations (as amended) require Preliminary Environmental Information (PEI) to be produced for public consultation by those seeking a DCO for NSIPs. The level of detail required for PEI is not defined by the 2009 EIA Regulations (as amended); however, it must include the information specified in Part 1 of Schedule 4 to the 2009 EIA Regulations (as amended). Guidance on the detail of PEI is however provided in PINS Advice Note Seven (Environmental Impact Assessment: Preliminary Environmental Information, Screening and Scoping) (PINS, 2015).

2.6.3.14 The PEIR submitted to PINS in July 2017 and its associated annexes constituted the PEI for Hornsea Three. The PEIR was intended to allow those taking part in the consultation to understand the nature, scale, location and potential significant environmental effects of the proposed project Hornsea Three. This allowed individuals and organisations taking part in the consultation to build an informed opinion on the proposals and make an informed contribution to the pre-application process under the Planning Act 2008 and to the EIA process generally.

Environmental Statement

2.6.3.15 The aim of an Environmental Statement is to demonstrate that the potentially significant environmental effects have been adequately assessed. It is also intended to support the DCO application. As outlined in the 2009 EIA Regulations (as amended), an Environmental Statement should include the information as is reasonably required to assess the environmental effects of the development and of any associated development, and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile:

- A description of the proposed development, including:
 - A description of the physical characteristics of the development and the land-use requirements during the construction and operational phases;
 - A description of the main characteristics of the production processes; and
 - An estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation) resulting from the operation of the proposed development.
- An outline of the main alternatives studied and an indication of the main reasons for the Applicant's choice, taking into account the environmental effects;
- A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors;
- A description of the likely significant effects of the development on the environment, including the direct effects and any indirect, secondary, cumulative, short, medium and long term, permanent and temporary, positive and negative effects of the development, resulting from:
 - (a) the existence of the development;
 - (b) the use of natural resources; and
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste.
- A description of the forecasting methods used to assess the effects on the environment;
- A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment;
- A non-technical summary of the information provided in the Environmental Statement; and
- An indication of any difficulties (technical deficiencies or lack of know-how) encountered in compiling the required information.

2.6.3.16 The 2017 EIA Regulations amend the requirements outlined in the 2009 EIA Regulations (as amended) with respect to the information to be included in an Environmental Statement. Table 2.1 below provides a list of the Schedule 4(a) requirements of the 2017 EIA Regulations and the extent to which they have been considered within the Hornsea Three Environmental Statement.

Habitats Regulations Assessment (HRA)

Legislation

2.6.3.17 The Conservation of Habitats and Species Regulations 2017 (consolidates and updates the Conservation of Habitats and Species Regulations 2010) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (consolidates and updates the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) require the assessment of any potentially significant effects on internationally important nature conservation sites that are likely to arise as a result of a proposed project. These internationally important sites are often referred to as 'European sites' and include:

- Special Areas of Conservation (SACs), or candidate SACs;
- Special Protection Areas (SPAs), or potential SPAs;
- Sites of community importance (SCIs);
- Sites hosting priority habitats or species; and
- Ramsar sites.

2.6.3.18 These are often referred to as 'European sites'. The assessment required is known as a 'Habitats Regulations Assessment' (HRA) and is to be undertaken by the 'competent authority', which in the case of Hornsea Three is the Secretary of State.

Habitats Regulation Assessment in the context of Hornsea Three

2.6.3.19 In order to carry out the HRA the competent authority requires a report, namely a Report to Inform Appropriate Assessment, to be submitted by the Applicant alongside the Environmental Statement (as described in PINS Advice Note Ten: Habitats Regulations Assessment, paragraph 4.1) (PINS, 2016b). This is also required formally under Regulation 5(2)(g) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. As such, the Report to Inform Appropriate Assessment does not form part of the Environmental Statement, although the baseline presented in both the Environmental Statement and Report to Inform Appropriate Assessment contains some of the same information.

Table 2.1: New 2017 EIA Regulation requirements with respect to information to be included in an Environmental Statement and the extent to which they have been considered within the Hornsea Three Environmental Statement.

EIA Regulations	How and where considered in the Environmental Statement
Schedule 4(5)(a): The construction and existence of the development, including, where relevant, demolition works.	Construction, operation and maintenance, and decommissioning phases of Hornsea Three are outlined in the Project Description (volume 1, chapter 3) and have been assessed within each of the topic chapters of the Environmental Statement (volume 2 and volume 3 of this Environmental Statement).
Schedule 4(5)(b): The use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources.	The use of natural resources are outlined in the Project Description (volume 1, chapter 3) and have been assessed, where appropriate, within each of the topic chapters of the Environmental Statement (volume 2 and volume 3 of this Environmental Statement).
Schedule 4(5)(c): The emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste.	<p>The potential impacts associated with the emission of pollutants are assessed in:</p> <ul style="list-style-type: none"> Volume 2, chapter 2: Benthic Subtidal and Intertidal Ecology, chapter 3: Fish and Shellfish Ecology, chapter 4: Marine Mammals, and chapter 5: Ornithology; and Volume 3, chapter 1: Geology and Ground Conditions, chapter 2: Hydrology and Flood Risk, chapter 3: Ecology and Nature Conservation and chapter 9: Air Quality. <p>The potential impacts associated with the emission of noise and vibration are assessed in:</p> <ul style="list-style-type: none"> Volume 2, chapter 3: Fish and Shellfish Ecology, chapter 4: Marine Mammals, chapter 5: Ornithology, and chapter 11: Infrastructure and Other Users; and Volume 3, chapter 3: Ecology and Nature Conservation and chapter 8: Noise and Vibration. <p>The potential impacts associated with the emission of light are assessed in:</p> <ul style="list-style-type: none"> Volume 2, chapter 5: Ornithology, and chapter 10: Seascape and Visual Resources; and Volume 3, chapter 3: Ecology and Nature Conservation and chapter 4: Landscape and Visual Resources. <p>The potential impacts associated with emission of heat are assessed in:</p> <ul style="list-style-type: none"> Volume 3, chapter 1: Geology and Ground Conditions. <p>The emission of radiation is not applicable to Hornsea Three and is therefore not considered within the Environmental Statement. An Electro-magnetic Fields Compliance Statement is included in volume 4, annex 3.3 of this Environmental Statement.</p> <p>The potential impacts associated with the creation of nuisances are assessed in:</p> <ul style="list-style-type: none"> Volume 3, chapter 7: Traffic and Transport and chapter 8: Noise and Vibration and chapter 9: Air Quality. <p>The disposal and recovery of waste are considered in:</p> <ul style="list-style-type: none"> Volume 1, chapter 3: Project Description; Volume 3, chapter 7: Traffic and Transport; and Volume 4, annex 3.2: Site Waste Management Plan, and annex 3.6: Dredging and Disposal: Site Characterisation.

EIA Regulations	How and where considered in the Environmental Statement
Schedule 4(5)(d): The risks to human health, cultural heritage or the environment (for example due to accidents or disasters).	<p>A description of how the project has considered accidents or disasters in the design of the project is outlined in volume 1, chapter 3: Project Description.</p> <p>The risks to human health are assessed in volume 3, chapter 7: Traffic and Transport, chapter 8: Noise and Vibration, chapter 9: Air Quality, chapter 10: Socio-economics and volume 4, annex 3.3: EMF Compliance Statement.</p> <p>The risks to cultural heritage are assessed in:</p> <ul style="list-style-type: none"> Volume 2: chapter 9: Marine Archaeology; and Volume 3: chapter 5: Historic Environment. <p>The risks to the environment from accidents or disasters are assessed in:</p> <ul style="list-style-type: none"> Volume 2, chapter 2: Benthic Subtidal and Intertidal Ecology, chapter 3: Fish and Shellfish Ecology, chapter 4: Marine Mammals, and chapter 5: Offshore Ornithology; and Volume 3, chapter 1: Geology and Ground Conditions, chapter 2: Hydrology and Flood Risk, chapter 3: Ecology and Nature Conservation and chapter 5: Historic Environment.
Schedule 4(5)(e): The cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources.	Cumulative effects (i.e. those that result from incremental changes caused by other reasonably foreseeable actions alongside Hornsea Three) have been assessed within each of the topic chapters of the Environmental Statement (volume 2 and volume 3 of this Environmental Statement). Chapter 5: Environmental Impact Assessment Methodology describes the approach taken in the cumulative assessment in each of the topic chapters.
Schedule 4(5)(f): The impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change.	<p>The impact of the project on the climate has been assessed in volume 3: chapter 9: Air Quality.</p> <p>The impact of the project on the climate from offshore activities (such as vessel movements) has been screened out of the assessment (PINS, 2016).</p> <p>The vulnerability of the project to climate change is outlined in the Project Description (chapter 3). This has also been considered in volume 3, chapter 2: Hydrology and Flood Risk.</p>
Schedule 4(5)(g): The technologies and the substances used.	The technologies and the substances proposed to be used are outlined in the Project Description (chapter 3) and have been assessed within each of the topic chapters of the Environmental Statement as appropriate (volume 2 and volume 3 of this Environmental Statement).

2.6.3.20 PINS Advice Note Ten describes an HRA as a step-by-step process, which helps determine likely significant effects and, where appropriate, assesses adverse impacts on the integrity of European sites (PINS, 2016b: paragraphs 4.5 to 4.34). This advice note was recently updated to include some clarifications regarding how the assessment matrices (PINS, 2016b: appendices 1 and 2) should be prepared and how they will subsequently be used by the competent authority to inform the decision making process (PINS, 2016b). The assessment that is carried out by the competent authority in the context of HRA is often called an 'Appropriate Assessment' (AA). The Report to Inform Appropriate Assessment must contain all the relevant information for the competent authority to undertake the HRA for the proposed development.

2.6.3.21 The information intended to inform the competent authority in the HRA process for Hornsea Three is included in the Report to Inform Appropriate Assessment (document reference number A5.2) and has been submitted as a supporting document for the DCO application, together with the Environmental Statement.

2.6.3.22 For the purposes of assisting with the HRA, the Environmental Statement outlines the likely significant effects of Hornsea Three on nature conservation designations, in accordance with those set out in the Scoping Report, Scoping Opinion, PEIR and consultation with Statutory Nature Conservation Bodies. The major pieces of international and national policy, and legislation that form the framework for nature designation within the vicinity of Hornsea Three are set out in the relevant topic chapters of this Environmental Statement (volume 2, chapter 2: Benthic Subtidal and Intertidal Ecology, chapter 3: Fish and Shellfish Ecology, chapter 4: Marine Mammals; chapter 5: Offshore Ornithology and volume 3, chapter 3: Ecology and Nature Conservation).

Other consents and licences

2.6.3.23 This section describes some of the main additional consents and licences that will be required in addition to the DCO and associated Deemed Marine Licence(s). Further detail is presented in the Consents Management Plan submitted as part of the application.

European Protected Species licences

2.6.3.24 The Habitats Regulations and Offshore Habitats Regulations transpose Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (as amended) (the Habitats Directive) into domestic law and implement aspects of the MCAA. These Regulations provide protection for European Protected Species (EPS), which are those animal species listed in Schedule 2 and the plant species listed in Schedule 5 of the Habitats Regulations and those species listed in Schedule 1 of the Offshore Habitats Regulations. The Regulations make it an offence to:

- Deliberately capture, injure or kill any wild animal which is a EPS;
- Deliberately disturb wild animals of any such species;
- Deliberately take or destroy the eggs of such an animal; or
- Damage or destroy a breeding site or resting place of such an animal.

2.6.3.25 The Regulations provide that 'disturbance' of animals includes any disturbance likely to impair their ability to survive, breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, any disturbance likely to impair their ability to hibernate or migrate. Any disturbance likely to significantly affect the local distribution or abundance of the species to which they belong is also included in the definition.

2.6.3.26 With respect to both the onshore and offshore elements of Hornsea Three, the EPS present have been identified and the likely effects assessed within the relevant topic chapters of the Environmental Statement and Report to Inform Appropriate Assessment. Where possible, significant effects on protected species have been avoided or minimised. A draft EPS licence, both onshore and offshore, accompany the DCO application for Development Consent.

Energy Act 2004 – Safety Zones

2.6.3.27 Where an offshore renewable energy installation is proposed to be constructed, extended, decommissioned or operated, a notice declaring that specified areas of the sea are to be designated as safety zones may be issued by the Secretary of State under the provisions of the Energy Act 2004. Safety zones may exclude non-wind farm vessels from navigating through the designated area for the designated period.

2.6.3.28 Hornsea Three will make an application for standard safety zones of 500 m during construction and major maintenance activities, and of 500 m around all offshore platforms, including accommodation platforms and all offshore substations, during the operational and maintenance phase of Hornsea Three.

2.6.3.29 The application for safety zones around Hornsea Three offshore infrastructure will be made separately to the main DCO application. However, the potential implications of any such zone on other marine users are assessed as part of the navigational assessment (refer to volume 2, chapter 7: Shipping and Navigation) and as part of the commercial fisheries assessment (refer to volume 2, chapter 6: Commercial Fisheries). A 'safety zone statement' will be included with the DCO application as required by Regulation 6(1)(b)(ii) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009.

Energy Act 2004 – Decommissioning

2.6.3.30 Sections 105 to 114 of the Energy Act 2004 introduced a requirement for decommissioning schemes for offshore wind and marine energy installations to be approved by the Secretary of State.

2.6.3.31 This Environmental Statement assesses the potential impacts of decommissioning. However, final details of decommissioning will not be agreed until later in the project's life and decommissioning will be carried out in accordance with an approved decommissioning programme under the Energy Act 2004 process. In particular, Hornsea Three will consult on a decommissioning programme which is required to be approved by BEIS.

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