

Hinkley Point C Update, August 2019

1. Hinkley Point Decision-Making Process Overview

D&S IFCA has now submitted a final response to the Environment Agency (EA) consultation on EDF Energy's application for a Material Change to the Development Consent Order (DCO). This change would remove the requirement to install acoustic fish deterrents (AFD). The final version of the D&S IFCA's response included extra information on essential fish habitat/ nursery areas and Bridgwater Bay that was requested by the EA. The main technical and process concerns were outlined in the last report to the Authority, and these have not changed. The final D&S IFCA's response is available online, [here](#). As previously noted, D&S IFCA responded to the EDF DCO pre-application consultation prior to the 4th June 2019 deadline. This update will focus on the next steps in the planning, permitting and licensing process.

The permissions for the Hinkley Point C water abstraction are split across three pathways: Environmental permits, issued by the EA, the DCO issued by the Planning Inspectorate (PINS) and the Marine Licence, issued by the Marine Management Organisation (MMO). Therefore, the application by EDF for a 'material change' to the DCO also requires changes to permissions for all these components.

2. Next Steps in the Process

2.1 Environmental Permit Determination – Environment Agency

The consultation is now closed. The current forecasted timeline for a draft decision is November at the earliest but, the EA has advised that this is more likely to be December due to the complexity of the technical assessments.

The EA will consider all the information and any comments they have received to inform their draft decision on whether to issue the permit variation. They will only issue a permit variation if the operator can demonstrate they will have appropriate management systems in place to conduct their operations without causing unacceptable harm to the environment.

Once the EA has reached a draft decision, if this position involves issuing a variation to the permit in some sense, then they will *run a further public consultation* on these proposals and on the reasons for their draft decision, before they make a final decision. The length of that consultation period will now start to be considered in light of the application consultation responses received and a final decision will be made closer to the time considering when that period falls (e.g. across holiday periods).

The EA will be sending out further briefing notes to all stakeholders registered on their database to keep them informed of these plans.

2.2 Development Consent Order (Material Change) – Planning Inspectorate

The pre-application consultation run by EDF energy is now closed (Step 3 in the process outline below). EDF will now compile all the comments on the DCO pre-application consultation (as they received them) in a consultation report (including

EDF's responses) and this will be submitted to PINS as part of the DCO application. EDF has indicated that it will be looking to engage through the Marine Technical Forum (MTF) with the MTF members who responded to the consultation on how we plan to address the comments. It is thought that EDF will submit the DCO variation in November or December 2019 (Step 4), however D&S IFCA has been advised that the company are currently reviewing their programme.

Step 1. Applicant decides to request a material change and informs the Examining Authority in writing (*complete for HPC*).

Step 2. The Examining Authority provides advice to the Applicant about the procedural implications, and need, scale and nature of the consultation that the Applicant may need to undertake (*complete for HPC*).

Step 3. Applicant carries out non-statutory consultation (*complete for HPC*).

Step 4. Applicant makes a written material change request asking the Examining Authority to examine the changed application by providing the information required.

Step 5. Examining Authority makes a Procedural Decision on whether to examine the changed application and how it should be examined.

Step 6. Where the Examining Authority has decided that the changed application can be examined, the Examination proceeds in consideration of the changed application. Where the Examining Authority has decided that the changed application cannot be examined, the Applicant will need to decide whether to proceed with Examination on the basis of the submitted application, withdraw the application or proceed with a lesser change request.

Although D&S IFCA has been included in the PINS consultation for Hinkley Point C, it has come to light that IFCA's are neither prescribed nor non-prescribed consultee for PINS processes (see PINS Advice Note Three: EIA Notification and Consultation, Annex 1, Tables 1-3, link in Section 5). D&S IFCA has been informed that usual practice is to have a 'deem Marine Licence' as part of the DCO. As a statutory consultee for marine licence applications, D&S IFCA would therefore be included via that process. However, HPC is unusual in that it has a separate DCO and Marine Licence. At the time of writing, D&S IFCA is awaiting a response from PINS to a query raised about whether IFCA's should be considered for inclusion as a prescribed consultee and more detailed information on the Examination phase.

2.3 Marine Licence - MMO

It is thought that the application to change to the Marine Licence will follow the submission of the DCO variation to PINS. At the time of writing, D&S IFCA is awaiting more information from the MMO regarding the Marine Licence consultation process.

3. Beyond Hinkley Point C

In previous discussions, both with the D&S IFCA Nuclear Working Group, and the full Authority it has been agreed that D&S IFCA is concerned about the potential cumulative impact of new nuclear sites with direct cooling more widely than Hinkley Point C. This ties in with D&S IFCA's work on the Ecosystem Approach to marine & fisheries management.

Informal discussions have taken place with Eastern IFCA who are concerned about Sizewell C new nuclear site, which is planned for the Suffolk coast.

D&S IFCA will raise the issue of the direct cooling with the IFCA Technical Advisory Group (TAG) to gauge interest in developing a joint IFCA position.

Furthermore, many of the issues raised with regard to Hinkley Point C apply equally to the consideration of other types of marine development. D&S IFCA is therefore using the consultation response as the basis for the development of a document aimed at streamlining D&S IFCA responses to consultations for marine licenses and input into marine planning processes, as well as highlighting the need for further research on cumulative impacts on fish.

4. Summary

- Detailed technical responses now submitted; consultations closed.
- Likely to be another round of Marine Technical Forums in Autumn 2019.
- Possibly need to input into further consultations on the EAs draft decision (late 2019/ early 2020).
- D&S IFCA will input into Marine Licence consultation, likely to be 2020.
- Likely to have further input into PINS process if there is a public examination – IFCA is seeking greater clarity on what their role would be (and raising the issue of not being a prescribed consultee). Have also requested information on opportunities for other stakeholders to input into this stage.

5. Useful Information

PINS Advice Note Three: EIA Notification and Consultation, Annex 1, Tables 1-3:

https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2013/07/advice_note_3_v5.pdf

PINS Advice Note Eight: Overview of the nationally significant infrastructure planning process for members of the public and others:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2013/04/Advice-note-8.0.pdf>

PINS Advice Note Sixteen: How to request a change which may be material

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/07/Advice-note-16.pdf>

Advice notes on other aspects of the PINS procedure, can be found here:

<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>