

Hornsea Offshore Wind Farm

Project Two

Statement of Engagement

PINS Document Reference: 9.1

APFP Regulation 5(2)(f)

January 2015

smartwind.co.uk

**Hornsea Offshore Wind Farm
Project Two – Application for Development Consent**

Statement of Engagement

SMart Wind Limited
11th Floor
140 London Wall
London
EC2Y 5DN

Tel 02077765500

Email info@smartwind.co.uk

Copyright © 2015

All pre-existing rights reserved.

Liability

This document has been prepared by Shepherd and Wedderburn LLP, with reasonable skill and care, within the terms of their contracts with SMart Wind Limited or by a sub-contractor of Shepherd and Wedderburn LLP instructed in accordance with Shepherd and Wedderburn LLP's contracts with SMart Wind Limited, as the case may be.

Document release and authorisation record

Report number	UK06-060700-STM-0003
Date	January 2015
Company name	SMart Wind Limited

CONTENTS

Clause		Page No
1.	Introduction	1
2.	Statement of Engagement	2
3.	Noise	3
4.	Effect of Article 5 – Defence to proceedings in respect of statutory nuisance	5
5.	Conclusion	6

1. Introduction

- 1.1 SMart Wind Limited ('SMart Wind') on behalf of the joint applicants Optimus Wind Limited and Breesea Limited (together the 'Applicant') is promoting the development of the second project, comprising up to two offshore wind farms, within the Hornsea Round 3 Zone (the 'Hornsea Zone'), hereafter referred to as 'Project Two'. Project Two will be an offshore generating station with a capacity of more than 100 MW and will therefore be a Nationally Significant Infrastructure Project ('NSIP') as defined by the Planning Act 2008.
- 1.2 The Development Consent Order ('DCO') for Project Two would authorise, among other things, the construction and operation of up to 360 wind turbines, up to two offshore accommodation platforms, up to six offshore HVAC collector substations, up to two offshore HVDC converter substations, up to two offshore HVAC reactive compensation substations, subsea inter-array electrical circuits, subsea power electrical circuits, subsea interconnector electrical circuits, a marine connection to the shore, a foreshore connection and an onshore connection to an onshore substation comprising up to two electrical transmission stations, and the connection from there to National Grid's existing substation at North Killingholme. Project Two could have a total installed capacity of up to 1,800 megawatts ('MW'). This Statement of Engagement forms part of the suite of Application documents and is prepared in accordance with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009.
- 1.3 This Statement addresses section 79(1) of the Environmental Protection Act 1990 ('the 1990 Act') (Statutory nuisances and inspections therefor). It is not expected that the decommissioning of Project Two would engage that section, however the construction, operation and maintenance of Project Two may potentially engage section 79(1), therefore the DCO that accompanies the Application (Document Reference: 3.1) contains a provision at Article 5 that would provide a defence to proceedings for statutory nuisance under section 82 of the 1990 Act should they be initiated against the undertaker(s) under the terms of the DCO.
- 1.4 The Environmental Statement that accompanies the Application has considered the potential significant environmental effects of Project Two, including the matters provided for by section 79(1) and set out in section 2 to this Statement, and it addresses how the Applicant proposes to mitigate or limit them.

2. Statement of Engagement

- 2.1 Regulation 5(2)(f) requires the applicant for a DCO to state whether the proposal engages one or more of the matters set out in section 79(1) (Statutory nuisance and inspections therefor) of the Environmental Protection Act 1990 and if so how the applicant proposes to mitigate or limit them.
- 2.2 Section 79(1) deals with the following matters:
- a) any premises in such a state as to be prejudicial to health or a nuisance;
 - b) smoke emitted from premises so as to be prejudicial to health or a nuisance;
 - c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;
 - d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;
 - e) any accumulation or deposit which is prejudicial to health or a nuisance;
 - f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;
 - g) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;
 - h) artificial light emitted from premises so as to be prejudicial to health or a nuisance;
 - i) noise emitted from premises so as to be prejudicial to health or a nuisance;
 - j) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street; and
 - k) any other matter declared by any enactment to be a statutory nuisance.
- 2.3 It is considered that none of the matters specified in section 79(1) are engaged in relation to the decommissioning of Project Two. This is supported by the conclusions of the Environmental Statement.
- 2.4 It is worth noting that Project Two has been designed in such a way as to minimise the environmental effects of the scheme and a variety of measures to mitigate any remaining impacts still further are described in the Environmental Statement and are secured by the requirements contained in Part 3 of Schedule A to the DCO.
- 2.5 It is considered that the only matter in section 79(1) which may potentially be engaged in relation to the construction, operation and maintenance of Project Two is noise.

3. Noise

Potential Effects

- 3.1 As explained in Chapter 9: Noise and Vibration of Volume 3 of the Environmental Statement that accompanies the Application (Document Reference: 7.3.9), the significance of effects from the construction of Project Two are assessed as being negligible to moderate (see paragraph 9.10.3). In respect of operation and decommissioning, the significance of effects is assessed as being negligible to minor (see paragraphs 9.10.4 and 9.10.5). The mitigation to be implemented to achieve this is set out in section 9.6 of Chapter 9.
- 3.2 However, there remains the possibility that potential environmental effects may occur. These include those potential effects as identified in Table 9.8 of Chapter 9 which include the following:
- 3.2.1 Construction Phase: the following temporary impacts may affect receptors sensitive to noise or vibration:
- (i) The cable installation due to the primary method of cable installation being an 'open cut' method by a trenching machine supported by a tracked excavator. There will also be cable installation by trenchless technology methods including Horizontal Directional Drilling (HDD) which is proposed in several locations along the cable route requiring a HDD rig.
 - (ii) The construction of the cable route construction side accesses by a 360° tracked excavator and dump truck and thereafter the temporary impact of vehicles on the cable route construction side accesses.
 - (iii) The temporary impact of traffic generation on the local road network in association with the project during construction.
 - (iv) The construction of the onshore substation due to activities including site clearance, ground works, piling, foundation formation and equipment installation.
- 3.2.2 Operational Phase: the following permanent impacts may affect receptors sensitive to noise or vibration:
- (i) The operation of the onshore substation due to the tonality of noise immissions.

Mitigation

- 3.3 The mitigation to be put in place to ensure that a nuisance does not arise in the ordinary course of events is secured by:
- 3.3.1 The Outline Code of Construction Practice (Document Reference: 12.4);

- 3.3.2 Implementing best practicable means, such as the use of quieter alternative methods, plant and equipment where reasonably practicable, the use of site hoardings, enclosures, portable screens and/or screening noisier items of plant, where reasonably practicable and maintaining and operating all vehicles, plant and equipment in an appropriate manner to ensure that extraneous noise from mechanical vibration, creaking and squeaking is kept to a minimum. Acoustic barriers would be installed on the site boundary where required to further reduce noise from the compound; and
 - 3.3.3 A Written Scheme for Noise Management and Monitoring Measures will be agreed with the relevant local authorities prior to the start of construction.
- 3.4 In addition to these mitigation measures, construction works will be carried out in accordance with the measures contained in good practice guidelines.

4. Effect of Article 5 – Defence to proceedings in respect of statutory nuisance

- 4.1 The DCO contains, at Article 5, a provision based on a model provision which would provide the Applicant with immunity from claims against statutory nuisance under section 79(1)(g) of the 1990 Act where it can be shown that the nuisance is a consequence of the construction, operation or maintenance of the authorised project and that it cannot reasonably be avoided.
- 4.2 This is consistent with and extends the approach under s158 of the 2008 Act, which in itself provides a defence of statutory authority against actions for non statutory nuisance.
- 4.3 The effect of Article 5 would therefore be that although a statutory nuisance from noise may arise due to the construction, operation or maintenance of Project Two, any potential claim would not succeed because the provisions of Article 5 would provide the Applicant with a defence to such proceedings.

5. Conclusion

- 5.1 This statement identifies the matters set out in Section 79(1) of the Environmental Protection Act 1990 in respect of statutory nuisances and considers whether the proposed development would engage one or more of those matters.
- 5.2 It has been demonstrated that impacts from construction noise of Project Two, if unmitigated, could potentially cause a nuisance and whilst it is unlikely, it is possible that operational noise, if unmitigated, could potentially cause a nuisance. With mitigation it is concluded that it is unlikely that a statutory nuisance would occur as a result of construction or operational noise, but it is not possible to exclude the possibility that a nuisance may arise.
- 5.3 It is not expected that there will be a breach of Section 79(1) of the 1990 Act during the decommissioning phase.
- 5.4 In order to construct Project Two without the risk of claims of statutory nuisance, the Applicant should have a statutory defence to proceedings for statutory nuisance as set out in Article 5 of the DCO.