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PINS Reference: EN010053

Our Reference: 10031149

9<sup>th</sup> May 2016

Dear Giles,

**Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 - Application by SMart Wind Limited for an Order Granting Development Consent for the Hornsea Offshore Wind Farm (Zone 4) – Project Two**

**REQUEST FOR COMMENTS ON THE APPLICATION FOR THE PROPOSED HORNSEA PROJECT TWO OFFSHORE WIND FARM- EN010053**

We are responding to your request for comments on the Applicant's further information for the purposes of an HRA of the likely effects of the Project on the harbour porpoise Southern North Sea proposed Special Area of Conservation (pSAC).

Our main concerns are highlighted below. However, we draw your attention to The Wildlife Trusts response which covers our concerns in detail, and whose response we fully agree with and support.

Together with The Wildlife Trusts (TWTs) and WWF, we are currently in the process of seeking independent legal advice on a number of matters surrounding the implications of the harbour porpoise pSAC designations. This includes consideration in HRAs/ AAs and subsequent NSIP consent decisions.

We are pleased that the Applicant is moving away from undertaking the assessment against the Management Unit population and instead is moving towards a site based assessment. This is appropriate as site based protection can only be met by assessing the impacts for the number of individuals that are supported by the site (see Rees *et al.*, 2013).

We are very concerned that the HRA only considers the area of the pSAC from which harbour porpoise would be excluded. It must also take into account the numbers of animals affected, the long-term impacts and cumulative impacts from the project and other developments within and adjacent to the site with the potential to disturb the harbour porpoise supported by the pSAC.

We dispute the conclusion that the harbour porpoise is in Favourable Conservation Status in the North Sea. We are unaware of robust evidence to support these figures, and therefore we strongly disagree with any decisions based upon this conclusion including that a 'significant

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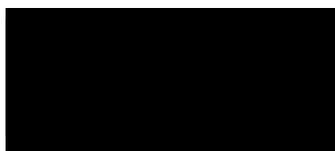
portion' would be 20% and 'significant period of time' would be 6 years.

The Applicant has acknowledged what is already widely accepted, that there are high levels of uncertainty as to whether harbour porpoises would return to the area after piling, that they are unlikely to return until all piling activity has completed and there is doubt as to whether it would be the same animals returning to the area. We refer to you the latest evidence of impacts associated with pile driving in the North Sea (Heinis and de Jong, 2015). Therefore when assessing the impact from piling it should be accepted that harbour porpoise would be excluded from the area for the full 5 years of the piling activity.

We are concerned that there is very little detail regarding the cumulative effects. The Applicant has not considered the area of overlap of the pSAC of multiple offshore wind farm projects in any given year, especially where there is predicted to be an overlap in construction time. We believe there should be greater consideration to what the cumulative impacts will be, until then we strongly disagree with the conclusion that there will be no adverse effect on integrity.

**We strongly disagree with the suggestion that the provision for ensuring no adverse effect on integrity is deferred to an additional condition in the Deemed Marine Licence. This would then only be enacted after consent had been given; we believe that a decision on consent should not be made until no adverse effect on integrity can be concluded.**

Yours sincerely,



Vicki James  
Science Officer

### References

Heinis, F., C.A.F.de Jong and Rijkswaterstaat Underwater Sound Working Group. 2015. Cumulative effects of impulsive underwater sound on marine mammals. A TNO report.

Rees, S.E., Sheehan, E.V., Jackson, E.L. Gall, S.C., Cousens, S.L., Solandt, J-L., Bover, M. and Attrill, M.J. 2013. A legal and ecological perspective of 'site integrity' to inform policy development and management of Special Areas of Conservation in Europe. Marine Pollution Bulletin, 72 (2013), pp. 32–41

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