

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

HORNSEA PROJECT FOUR OFFSHORE WIND FARM

**RESPONSE TO REQUEST FOR INFORMATION ON BEHALF OF NEO ENERGY
PETROLEUM LIMITED**

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RESPONSE TO REQUEST FOR INFORMATION ON BEHALF OF NEO ENERGY PETROLEUM LIMITED

1. INTRODUCTION

- 1.1 NEO Energy Petroleum Limited (Company Number 03288689 and having its registered office at 30 St. Mary Axe, London, England, EC3A 8BF) (“**NEO**”) owns and operates oil and gas assets located in the UK Continental Shelf, including the Southern North Sea. NEO owns and operates the producing Babbage Field (the “**Babbage Field**”), which is located 4.3km from the site which is the subject of an application by Orsted (the “**Applicant**” or “**Orsted**”) for a development consent order (“**DCO**”) for the Hornsea Project Four Offshore Wind Farm (the “**Development**”).
- 1.2 An affiliated company, NEO Energy (SNS) Limited (Company Number SC291165 and having its registered office at The Silver Fin Building (9th Floor), 455 Union Street, Aberdeen, United Kingdom, AB11 6DB) made relevant representations in this matter on 15 December 2021 (document [RR-004](#)), 29 March 2022 (documents [REP2-065](#) and [REP2-066](#)) and 10 August 2022 (documents [REP7-106](#) and [REP7-107](#)) in order to protect the Babbage Field.
- 1.3 NEO now holds the seaward production licence (no. P.456) under the Petroleum Act 1988 in respect of the Babbage Field, following an inter-affiliate transfer of the licence from NEO Energy (SNS) Limited. NEO, and its joint venture partner Dana Petroleum (E&P) Limited, in collaboration with Offshore Design Engineering Limited (“**ODE**”), as Duty Holder, Installation and Pipeline Operator, must ensure that its activities and assets continue to operate safely.
- 1.4 The Secretary of State for Business, Energy & Industrial Strategy (the “**Secretary of State**”) issued a Request for Information on 16 December 2022 (the “**RfI**”). As outlined at paragraph 11 of the RfI, at the close of the Examination, there remained disagreement between the Applicant and NEO as to the protective provisions proposed by the Applicant in the draft DCO for the benefit of NEO.
- 1.5 Paragraph 12 of the RfI states that “*NEO and the Applicant are asked to provide an update as to whether protective provisions are now agreed or what matters remain outstanding. In particular, the Applicant and NEO are asked to confirm whether protective provisions have been agreed regarding the use of helicopters and compensation for any additional associated costs, thereby potentially enabling the radius of any “restricted area” proposed by NEO to be reduced*”.
- 1.6 This submission is made jointly on behalf of both NEO Energy Petroleum Limited and NEO Energy (SNS) Limited in response to the RfI.

2. UPDATE ON OUTSTANDING MATTERS AND PROTECTIVE PROVISIONS

- 2.1 NEO’s position remains as set out in its Deadline 7 submissions (documents [REP7-106](#) and [REP7-107](#)).
- 2.2 Both during and after the close of Examination, NEO has sought to engage with the Applicant to reach agreement on protective provisions, the use of helicopters and compensation for any additional associated costs. The Applicant has failed to engage in any meaningful way, with no substantial contact since 24 October 2022.
- 2.3 A timeline of recent discussions is as follows:
 - 2.3.1 A draft Cooperation and Coexistence Agreement was circulated by the Applicant on 13 June 2022 following repeated requests made by NEO throughout Examination.

- 2.3.2 Discussions were held between NEO and the Applicant from June to August 2022 relating to the differing Buffer Zones (i.e. the 3.14nm limit proposed by NEO and the 2.7nm limit proposed by the Applicant) and to potential compensation in respect of reduced payloads.
 - 2.3.3 Following those discussions, and after the close of Examination, NEO returned the draft Cooperation and Coexistence Agreement to the Applicant with comments and changes on 24 August 2022.
 - 2.3.4 The Applicant did not engage on that draft, or on matters in dispute generally, for a further two months despite repeated requests by NEO.
 - 2.3.5 On 24 October 2022, the Applicant responded to confirm that it would not enter into any agreement for a greater distance than 2.7nm and would not consider compensation beyond that distance.
 - 2.3.6 The Applicant has not engaged since then and appears unwilling to participate in any further negotiations around the proposed Cooperation and Coexistence Agreement, protective provisions, and compensation.
- 2.4 Following regular discussions with other oil and gas undertakers affected by the dDCO, NEO understands that Harbour Energy have experienced a similar lack of desire from the Applicant to reach agreement on matters relating to helicopter safety, an appropriate buffer zone and suitable compensation.
- 2.5 In light of this failure to engage, NEO's position remains that the protective provisions included in the dDCO are insufficient to appropriately mitigate the adverse impacts caused by the Development on the operation of the Babbage Field. It is NEO's position that the protective provisions included at Appendix A of NEO's Deadline 7 Submission ("**NEO's Draft Protective Provisions**") should be preferred by the Secretary of State over those included in the dDCO to avoid serious detriment to NEO's undertaking.
- 2.6 The Applicant's Draft Protective Provisions, with the proposed Restricted Area of 2.7nm and no provision for navigation aids, will result in serious detriment to NEO's undertaking and on NEO's ability to operate the Babbage Field in a safe and efficient manner, as they:
- 2.6.1 Reduce the helicopter payload, leading to an increase in annual flights to the Babbage platform (which increases risks to personnel, extends the duration of offshore trips, and increases NEO's costs and liabilities); and
 - 2.6.2 Make no provision for procuring, obtaining, installing and maintaining any navigation aids needed at the Babbage platform as a direct result of the Development.
- 2.7 It is NEO's submission that its Draft Protective Provisions should be preferred because they avoid serious detriment to its undertaking by:
- 2.7.1 allowing for helicopter payload to be maintained by establishing a 3.14nm Restricted Area (with suitable provision for agreement to be reached between the parties in future, should technology evolve or suitable compensatory mechanisms be agreed);
 - 2.7.2 making provision for the procurement, installation and maintenance for navigation aids at the Babbage platform required in connection with or as a direct result of the Development; and
 - 2.7.3 including a mechanism by which NEO can seek compensation for costs, losses and expenses incurred in remedying issues caused by the Development.

- 2.8 NEO's position remains that while it does not object in principle to the Development, it does object to the Development being carried out in close proximity to the Babbage Field in the absence of adequate protective provisions and related agreements regulating the position.
- 2.9 For the reasons set out in this note, it is NEO's submission that its Draft Protective Provisions should be preferred in order to avoid serious detriment to its undertaking.

CMS Cameron McKenna Nabarro Olswang LLP

13 January 2023