

# **RWE Renewables UK Dogger Bank South (West) Limited**

# **RWE Renewables UK Dogger Bank South (East) Limited**

# **Dogger Bank South Offshore Wind Farms**

**Statutory Nuisance Statement  
Volume 8**

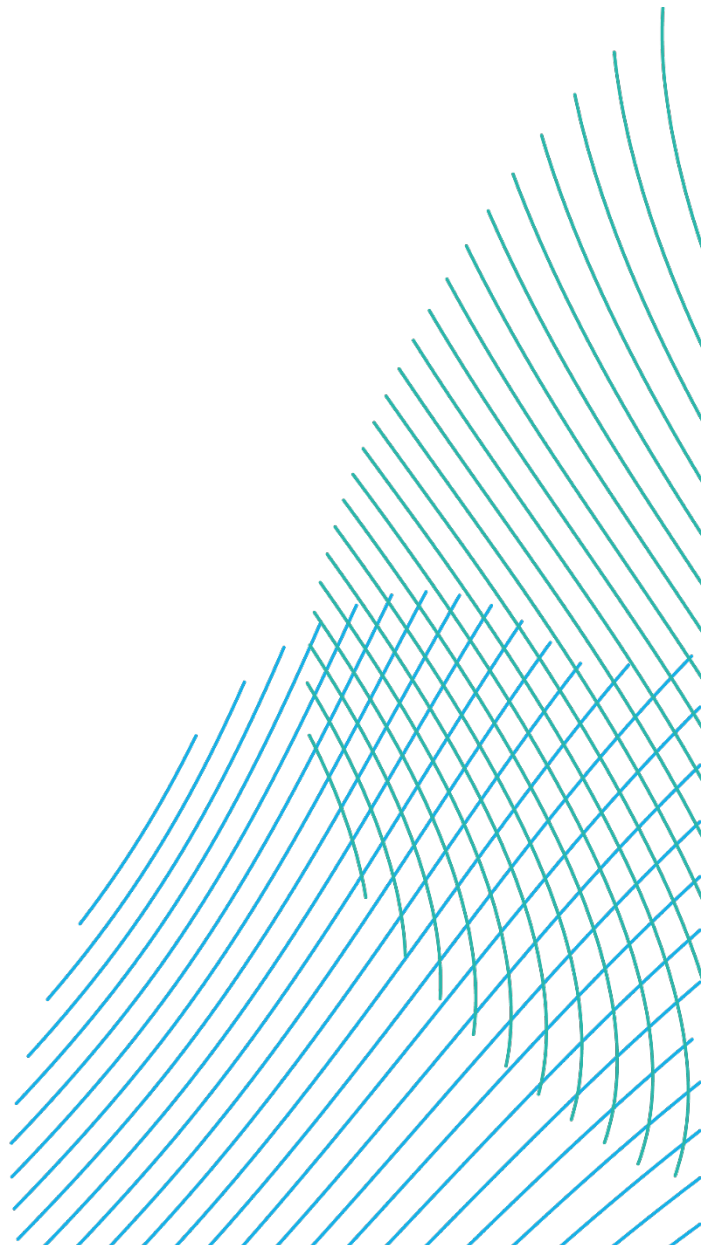
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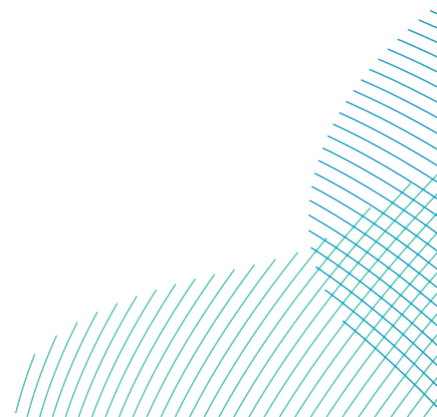
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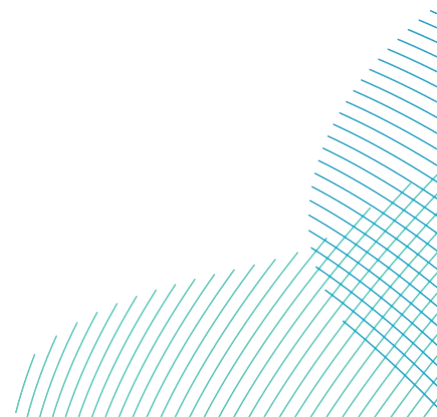


Company:	<b>RWE Renewables UK Dogger Bank South (West) Limited and RWE Renewables UK Dogger Bank South (East) Limited</b>	Asset:	<b>Development</b>		
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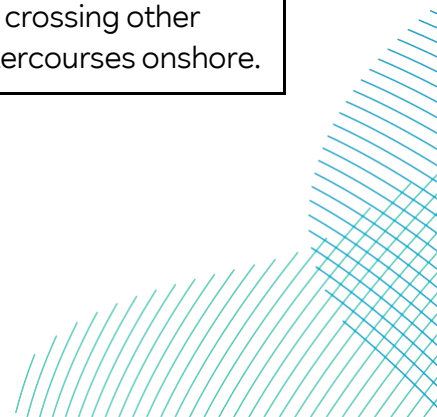
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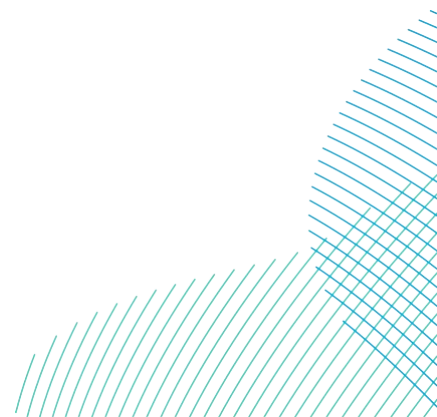


## Glossary

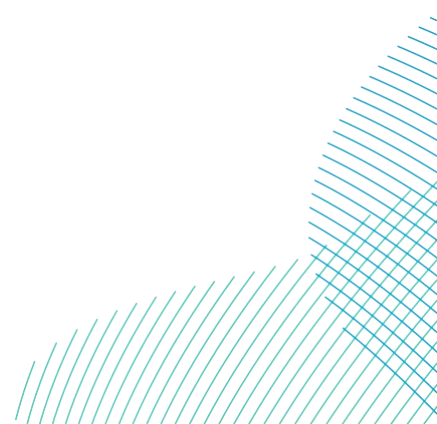
Term	Definition
Array Areas	The DBS East and DBS West offshore Array Areas, where the wind turbines, offshore platforms and array cables would be located. The Array Areas do not include the Offshore Export Cable Corridor or the Inter-Platform Cable Corridor within which no wind turbines are proposed. Each area is referred to separately as an Array Area.
Concurrent Scenario	A potential construction scenario for the Projects where DBS East and DBS West are both constructed at the same time.
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for one or more Nationally Significant Infrastructure Project (NSIP).
Development Scenario	Description of how the DBS East and/or DBS West Projects would be constructed either in isolation, sequentially or concurrently.
Dogger Bank South (DBS) Offshore Wind Farms	The collective name for the two Projects, DBS East and DBS West.
Environmental Impact Assessment	A statutory process by which certain planned projects must be assessed before a formal decision to proceed can be made. It involves the collection and consideration of environmental information, which fulfils the assessment requirements of the EIA Directive and EIA Regulations, including the publication of an Environmental Statement (ES).
Environmental Statement (ES)	A document reporting the findings of the EIA and produced in accordance with the EIA Directive as transposed into UK law by the EIA Regulations.
Horizontal Directional Drill (HDD)	HDD is a trenchless technique to bring the offshore cables ashore at the landfall and can be used for crossing other obstacles such as roads, railways and watercourses onshore.



Term	Definition
In Isolation Scenario	A potential construction scenario for one Project which includes either the DBS East or DBS West array, associated offshore and onshore cabling and only the eastern Onshore Converter Station within the Onshore Substation Zone and only the northern route of the onward cable route to the proposed Birkhill Wood National Grid Substation.
Landfall	The point on the coastline at which the Offshore Export Cables are brought onshore, connecting to the onshore cables at the Transition Joint Bay (TJB) above mean high water.
Onshore Converter Stations	A compound containing electrical equipment required to transform HVDC and stabilise electricity generated by the Projects so that it can be connected to the electricity transmission network as HVAC. There will be one Onshore Converter Station for each Project.
Onshore Development Area	The Onshore Development Area for ES is the boundary within which all onshore infrastructure required for the Projects would be located including Landfall Zone, Onshore Export Cable Corridor, accesses, Temporary Construction Compounds and Onshore Converter Stations.
Onshore Export Cable Corridor	This is the area which includes cable trenches, haul roads, spoil storage areas, and limits of deviation for micro-siting. For assessment purposes, the cable corridor does not include the Onshore Converter Stations, Transition Joint Bays or temporary access routes; but includes Temporary Construction Compounds (purely for the cable route).
Onshore Substation Zone	Parcel of land within the Onshore Development Area where the Onshore Converter Station infrastructure (including the haul roads, Temporary Construction Compounds and associated cable routeing) would be located.

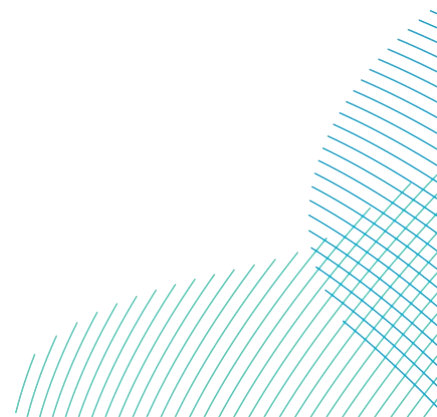


Term	Definition
Sequential Scenario	A potential construction scenario for the Projects where DBS East and DBS West are constructed with a lag between the commencement of construction activities. Either Project could be built first.
Temporary Construction Compound	An area set aside to facilitate construction of the Projects. These will be located adjacent to the Onshore Export Cable Corridor and within the Onshore Substation Zone, with access to the highway.
The Applicants	The Applicants for the Projects are RWE Renewables UK Dogger Bank South (East) Limited and RWE Renewables UK Dogger Bank South (West) Limited. The Applicants are themselves jointly owned by the RWE Group of companies (51% stake) and Masdar (49% stake).
The Projects	DBS East and DBS West (collectively referred to as the Dogger Bank South Offshore Wind Farms).
Transition Joint Bay (TJB)	The Transition Joint Bay (TJB) is an underground structure at the landfall that houses the joints between the Offshore Export Cables and the Onshore Export Cables.



## Acronyms

Term	Definition
APFP	Applications: Prescribed Forms and Procedure
COCP	Code of Construction Practice
CTMP	Construction Traffic Management Plan
DBS	Dogger Bank South
DCO	Development Consent Order
EPA	Environmental Protection Act
ES	Environmental Statement
GW	Gigawatts
HDD	Horizontal Directional Drilling
NRMM	Non Road Mobile Machinery
OCOCP	Outline Code of Construction Practice
OCTMP	Outline Construction Traffic Management Plan
TJB	Transition Joint Bays



## 1 Statutory Nuisance Statement

### 1.1 Introduction

#### 1.1.1 Background

1. The Applicants, RWE Renewables UK Dogger Bank South (West) Limited and RWE Renewables UK Dogger Bank South (East) Limited, are proposing to develop the Dogger Bank South (DBS) East and DBS West Offshore Wind Farms, collectively known as DBS Offshore Wind Farms (herein 'the Projects'). The DBS West and DBS East Array Areas are situated at a minimum of 100km and 122km from shore respectively, and each cover approximately 350km<sup>2</sup>. Based on an estimated capacity of 3 gigawatts (GW) once fully operational, the Projects could be capable of generating enough electricity to meet the average annual domestic energy needs of around 3 million typical UK homes<sup>1</sup>.
2. The Projects will include both offshore and onshore infrastructure including wind turbines, export cables to landfall, and connection to the electricity transmission network.

#### 1.1.2 Project Infrastructure Overview

3. The Projects would have a combined maximum number of 200 turbines.
4. The proposed onshore construction works consist of installation of buried Onshore Export Cables, from a landfall on the East Riding of Yorkshire coastline near Skipsea to (up to) two newly constructed Onshore Converter Stations before Onward Cable Connection to a proposed new National Grid substation known as Birkhill Wood close to the existing Creyke Beck substation, to the south of Beverley.
5. Further details of the offshore and onshore works can be found in **Volume 7, Chapter 5 Project Description (application ref: 7.5)**.

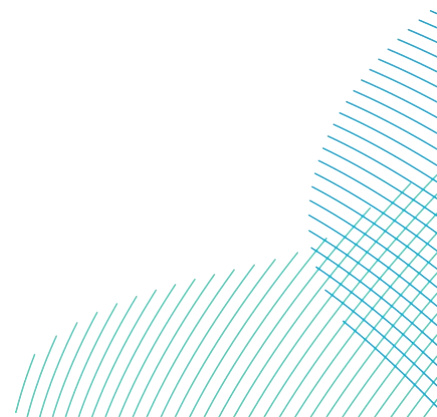
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<sup>1</sup> Calculation based on 2021 generation, and assuming average (mean) annual household consumption of 3,509kWh, based on latest statistics from Department of Energy Security and Net Zero (Subnational Electricity and Gas Consumption Statistics Regional and Local Authority, Great Britain, 2021, Mean domestic electricity consumption (kWh per meter) by country/region, Great Britain, 2021



## 1.1.3 The Purpose and Structure of this Statement

6. This Statement has been prepared to comply with Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations), which provides that any application for a Development Consent Order (DCO) should be accompanied by a statement setting out whether the proposal could cause a statutory nuisance pursuant to section 79(1) of the Environmental Protection Act 1990 (EPA), and with the policy requirements set out in EN-1. If such a nuisance could occur, the statement must set out how the applicant proposes to mitigate or limit the effects.
7. This Statement provides an explanation of matters set out in section 79(1) of the EPA in respect of statutory nuisances, the potential implications of the Projects, and proposals for mitigating or limiting any such potential statutory nuisances identified.
8. This Statutory Nuisance Statement is informed by the findings of the topic specific environmental assessments as reported in the Environmental Statement (ES). It should be noted that the offshore elements of the Projects do not have the potential to cause a statutory nuisance and are not considered further here. This document should be read in conjunction with the ES Chapters listed below.
  - **Volume 7, Chapter 23 Landscape and Visual Impact Assessment (application ref: 7.23);**
  - **Volume 7, Chapter 25 Noise (application ref: 7.25);** and
  - **Volume 7, Chapter 26 Air Quality (application ref: 7.26).**
9. This Statutory Nuisance Statement interacts with the following documents which support the Application for development consent. This document should be read in conjunction with:
  - **Volume 8, Outline Code of Construction Practice (application ref: 8.9);**
  - **Volume 8, Commitments Register (application ref: 8.6);**
  - **Volume 8, Design and Access Statement (application ref: 8.8);** and
  - **Volume 3, Draft Development Consent Order (application ref: 3.1).**



10. Paragraph 4.14.1-4.14.4 of the ‘Overarching National Policy Statement for Energy EN-1’ (Department for Energy and Climate Change, 2023) states: *“Section 158 of the Planning Act 2008 confers statutory authority for carrying out development consented to by, or doing anything else authorised by, a development consent order. Such authority is conferred only for the purpose of providing a defence in any civil or criminal proceedings for nuisance. This would include a defence for proceedings for nuisance under Part III of the Environmental Protection Act 1990 (EPA) (statutory nuisance) but only to the extent that the nuisance is the inevitable consequence of what has been authorised. The defence does not extinguish the local authority’s duties under Part III of the EPA 1990 to inspect its area and take reasonable steps to investigate complaints of statutory nuisance and to serve an abatement notice where satisfied of its existence, likely occurrence or recurrence. The defence is not intended to extend to proceedings where the matter is “prejudicial to health” and not a nuisance.”*
11. Paragraph 4.14.5 goes on to state that it is very important that at the application stage, the Secretary of State considers sources of nuisance under section 79(1) of the EPA 1990 and how these may be mitigated or limited, so that appropriate ‘requirements’ can be included in any DCO that is granted.
12. Whilst it is not expected that the construction, operation and maintenance or decommissioning of the Projects would cause a statutory nuisance (as set out in the following sections), the **Draft DCO (Volume 3, application ref: 3.1)** accompanying the application contains a provision in Article 7 that would provide a defence to proceedings in respect of statutory nuisance (in respect of section 79(1) of the EPA. This provision is further detailed within the Projects’ **Explanatory Memorandum (Volume 3, application ref: 3.2)**.
13. The Environmental Statement (ES), which forms part of the DCO application, addresses the likelihood of significant effects arising from matters which could constitute a statutory nuisance, and where any matters may potentially arise, sets out proposals for mitigation. Therefore, although the statutory test in The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) regarding the finding of significance is different to the statutory nuisance test in the EPA, a summary of the findings of the ES for those matters which could constitute a statutory nuisance are reported where relevant within this Statutory Nuisance Statement.

14. This Statement first describes the legislative context for the identification of matters which constitute statutory nuisance and the methodology for the assessment of these. This is followed by a summary of the assessment of the statutory nuisances, using information from the ES (including any relevant mitigation measures and residual effects, whether embedded within the design of the Projects or secured through requirements within the DCO).

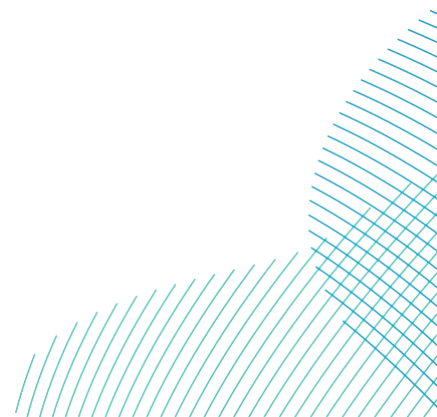
## 1.2 Identification and Assessment of Statutory Nuisance

### 1.2.1 Legislative Framework

#### 1.2.1.1 Statutory Context

15. Section 79(1) of the EPA (as it applies in England) provides that the following matters constitute statutory nuisances:
- *“(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;*
  - *(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;*
  - *(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;*
  - *(g) noise emitted from premises so as to be prejudicial to health or a nuisance;*
  - *(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road; and*
  - *(h) any other matter declared by any enactment to be statutory nuisance”.*

16. As set out above, paragraph (h) of section 79(1) of the EPA incorporates any statutory nuisances contained in other legislation. No such legislation is relevant to the Projects.
17. Section 79 of the EPA contains other exceptions and definitions in respect of statutory nuisance. The particular exceptions of relevance to the Projects are:
  - Subsection 79(1)(c) (fumes or gases emitted from premises) does not apply in relation to premises other than private dwellings (s.79(4)); and
  - Subsection 79(1)(ga) above does not apply to noise made by traffic (s.79(6A)(a)).
18. Definitions are set out in section 79(7) of the EPA, and include the following relevant terms:
  - ‘Dust’ does not include dust emitted from a chimney as an ingredient of smoke;
  - ‘Fumes’ means any airborne solid matter smaller than dust;
  - ‘Gas’ includes vapour and moisture precipitated from vapour;
  - ‘Industrial, trade or business premises’ means premises used for any industrial, trade or business purposes or premises not so used on which matter is burnt in connection with any industrial, trade or business process, and premises are used for industrial purposes where they are used for the purposes of any treatment or process as well as where they are used for the purposes of manufacturing;
  - ‘Noise’ includes vibration;
  - ‘Prejudicial to health’ means injurious, or likely to cause injury, to health;
  - ‘Premises’ includes land;
  - ‘Private dwelling’ means any building, or part of a building, used or intended to be used, as a dwelling; and
  - ‘Street’ means a highway and any other road, footway, square or court that is for the time being open to the public.



## 1.2.2 Assessment of Statutory Nuisance (Significance)

19. This section considers the types of impacts associated with the Projects that could potentially engage one or more of the matters set out in section 79(1) of the EPA.
  20. The provisions of section 79(1) of EPA that could potentially be engaged are:
    - *“(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;*
    - *(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;*
    - *(g) noise emitted from premises so as to be prejudicial to health or a nuisance; and*
    - *(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street”.*
  21. In the following sections, this statement deals with those matters which could potentially become a statutory nuisance in the absence of mitigation, and then describes the proposed mitigation which relates to these topics.
  22. The ES for the Projects addresses the likelihood of significant effects arising that could constitute a statutory nuisance, as identified in section 79(1) of the EPA.
  23. The ES provides an assessment of the potential effects on receptors as negligible, minor, moderate or major. Moderate and major effects are considered to be significant for the purposes of the EIA.
  24. The only matters addressed by the EPA which have been assessed as being potentially significant for the Projects are noise impacts during construction works (prior to implementation of additional mitigation measures as outlined in **Volume 7, Chapter 25 Noise (application ref: 7.25)**). However, it is demonstrated in section 1.3 of this document that the Projects would have no significant construction noise effects following the implementation of the identified mitigation measures.
- 1.2.2.1 Matters Not Taken Forward for Further Assessment
- 1.2.2.1.1 *S79 (1) (a) Any Premises in such a State as to be Prejudicial to Health or a Nuisance*
25. No premises are expected to be left in a state to be prejudicial to health or a nuisance as a result of the Projects, therefore this matter is not considered further within this statement.

*1.2.2.1.2 S79(1)(b) Smoke Emitted from Premises so as to be Prejudicial to Health or a Nuisance*

26. No smoke will be generated during normal operation of the Projects, therefore this matter is not considered further within this Statement.

*1.2.2.1.3 S79(1) (e) Any Accumulation or Deposit which is Prejudicial to Health or a Nuisance*

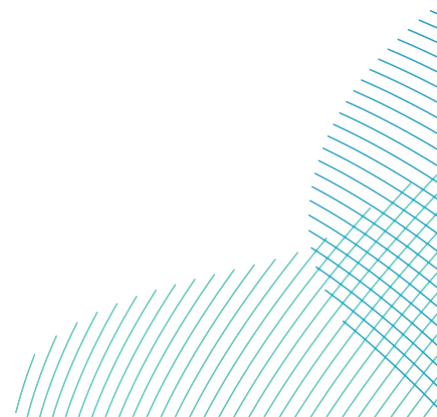
27. The Geology and Land Quality assessment (as detailed in **Volume 7, Chapter 19 Geology and Land Quality (application ref: 7.19)**) did not identify any likely significant effects for human receptors arising from the Projects, therefore this matter is not considered further within this Statement.

*1.2.2.1.4 S79(1) (f) Any Animal Kept in such a Place or Manner as to be Prejudicial to Health or a Nuisance*

28. No animals will be kept as part of the Projects, therefore this matter is therefore not considered further in this Statement.

*1.2.2.1.5 S79(1) fa) Any Insects Emanating from Relevant Industrial, Trade or Business Premises and Being Prejudicial to Health or a Nuisance*

29. The Projects are not anticipated to have any cause for insects to be attracted to it, or otherwise emanate from its premises. This matter is therefore not considered further in this Statement.



## 1.3 Potential Statutory Nuisances under Section 79(1) of the EPA

### 1.3.1 Section 79(1)(G) and (GA) – Relating to Noise and Vibration

30. Section 79(1) of the EPA 1990, subsections (g) and (ga) state that the following matters constitute ‘statutory nuisances’: *“noise emitted from premises so as to be prejudicial to health or a nuisance; and noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street”*.
31. The potential impacts and mitigation for this nuisance have been discussed as part of the noise impact assessment, which is presented in **Volume 7, Chapter 25 Noise (application ref: 7.25)**.
32. The assessment of likely significant effects during the construction phase includes noise and vibration from the works at the Landfall Zone, Temporary Construction Compounds, trenchless crossings (such as Horizontal Directional Drills (HDD) which may be used to cross obstacles such as roads, railways and watercourses) and Onshore Converter Station(s), as well as noise from off-site construction road traffic.
33. The assessment of likely significant effects during the operational phase includes noise from the Onshore Converter Station(s).
34. With regard to potential noise and vibration impacts during the construction phase, the ES concludes:
  - Prior to the commencement of construction activity, a Code of Construction Practice (COCP) will be prepared detailing site-specific noise control measures to be adopted throughout construction. Following the implementation of the noise control measures agreed through the **Outline COCP (Volume 8, application ref: 8.9)**, the residual effect from landfall construction activities, for all Development Scenarios, is considered to be minor adverse.
  - After implementation of standard mitigation, and specific targeted noise control measures for on-site construction noise at Temporary Construction Compounds (TCCs) and HDD locations the residual effects are considered to be minor adverse.
  - The effect of on-site construction noise at the Onshore Converter Stations is considered to be a minor adverse effect for all Development Scenarios.
  - Following the implementation of agreed traffic measures within the **Outline Construction Traffic Management Plan (Volume 8,**

**application ref: 8.13**), noise from off-site construction traffic is considered minor adverse for all Development Scenarios.

- Vibration impacts for all Development Scenarios are predicted to be no greater than minor adverse effect.

35. With regard to potential noise and vibration impacts during the operational phase, the ES concludes that:

- During night-time (23.00 – 07.00) operational impacts due to Onshore Converter Station(s) noise are assessed as no greater than minor adverse (not significant).
- During daytime hours (07.00 – 23.00) operational impacts due to Onshore Converter Station(s) noise are assessed as no greater than negligible (not significant).

36. With regard to potential noise and vibration impacts during the decommissioning phase, the ES concludes that whilst details regarding the decommissioning are currently unknown, it is anticipated that the impacts would be similar or less than those during construction. This is because decommissioning works are unlikely to involve as extensive scope as construction activities, and night-time working is less likely to be necessary.

### 1.3.1.1 Noise Mitigation – Construction Phase

#### 1.3.1.1.1 Embedded Mitigation

37. Section 25.3.4 of **Volume 7, Chapter 25 Noise (application ref: 7.25)** details the embedded mitigation relevant to the noise and vibration assessment, which has been incorporated into the design of the Projects or constitutes standard mitigation measures for this topic. This includes:

- Trenchless Crossings (e.g. HDDs): Localised screening will be employed, where required and practicable, via acoustic enclosures for stationary plant and noise barriers around works areas for mobile plant.
- Implementation of COCP (in accordance with **Outline COCP (Volume 8, application ref: 8.9)**) detailing site-specific best practicable means (BPM) noise control measures to be adopted throughout construction.
- Implementation of a Construction Traffic Management Plan (CTMP) (**Outline CTMP** provided in (**Volume 8, application ref: 8.13**)) outlining methods to manage peak construction traffic flows and minimise significant traffic and transport impacts. The CTMP will also serve to reduce the associated construction traffic noise and the relative noise change.



## 1.3.1.1.2 Additional Mitigation

38. Section 25.6 of **Volume 7, Chapter 25 Noise (application ref: 7.25)** details the additional mitigation required to mitigate construction noise impacts associated with on-site construction noise associated with potential HDD works at night. Additional mitigation is proposed for three receptors; to include:

- **Further screening of noise:** Localised screening around specific equipment is included within the numerical noise predictions used in this assessment. Where practicable, further screening in the form of noise barriers at the site boundary or in proximity to the affected properties will be used.
- **Programming of works:** The effect of night-time construction will be minimised by ensuring that HDD at crossings ID-00003 (R3) and ID-00131 (R43, R66) are programmed to avoid times of the year when the climate is warmer (e.g. summer) and residents may open windows at night to avoid overheating. When windows are closed, noise levels inside dwellings will be significantly reduced. The noise receptors are shown on **Volume 7, Figure 25-1 (application ref: 7.25.1)**.

## 1.3.1.2 Noise Mitigation – Operational Phase

39. As **Volume 7, Chapter 25 Noise (application ref: 7.25)** concludes that no significant noise and vibration effects are anticipated during the operational phase, no mitigation is proposed.

40. Requirement 21 (Control of noise during the operational phase) of **Draft DCO (Volume 3, application ref: 3.1)** provides a noise rating level for the standard operation of the Onshore Converter Station(s) which must not be exceeded.

## 1.3.1.3 Conclusion – Noise and Vibration

41. **Volume 7, Chapter 25: Noise (application ref: 7.25)** concludes that through the implementation of mitigation measures proposed with respect to noise and vibration, there will not be any significant noise and vibration emissions. On that basis it is not expected that the Projects would give rise to a statutory nuisance under section 79(1)(g) and (ga).

## 1.3.2 Section 79(1)(D) – Relating to Dust, Steam, Smell or Other Effluvia

42. Section 79(1) of the EPA 1990, subsection (d) states that the following matter constitutes a ‘statutory nuisance’: *“any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance”*.
43. The potential impacts and mitigation for this nuisance have been discussed as part of the air quality assessment which is presented in **Volume 7, Chapter 26 Air Quality (application ref: 7.26)**.
44. The assessment considers the likely significant effects of the Projects on local air quality during the construction phase of the Projects. Impacts of the Projects on air quality during the operational phase have been deemed to be insignificant and have been ‘scoped out’ of the assessment.
45. During construction, the onshore elements of the Projects may give rise to construction phase dust and fine particulate matter, Non-Road Mobile Machinery (NRMM) emissions and road traffic emissions which have the potential to impact on human and ecological receptors.
46. Embedded mitigation incorporated into the design of the Projects is taken into account during the assessment, such as best practice dust mitigation measures set out in the **Outline COCP (Volume 8, application ref: 8.9)** submitted with the DCO application.
47. Whilst details of the decommissioning are currently unknown, the assessment concludes that the magnitude of impacts of the Projects on air quality during the decommissioning phase would be comparable or less than those identified for the construction phase.
48. The effect of all potential impacts on human and ecological receptors was assessed as **negligible** and not significant, with the implementation of best practice management measures. As such, no additional mitigation measures were proposed.

### 1.3.2.1 Air Quality Mitigation

#### 1.3.2.1.1 Embedded Mitigation

49. **Volume 7, Chapter 26: Air Quality (application ref: 7.26)** details the embedded mitigation relevant to the air quality assessment, which has been incorporated into the design of the Projects or constitutes standard mitigation measures for this topic. This includes the implementation of a Code of Construction Practice, in accordance with the **Outline COCP (Volume 8, application ref: 8.9)**. The Outline COCP includes:

- Best practice dust management mitigation measures. The Projects will commit to the implementation of best practice dust mitigation measures as per the **Outline COCP (Volume 8, application ref: 8.9)** submitted with the DCO.
- Non-Road Mobile Machinery measures: Mitigation measures specific to NRMM are outlined within section 6.7 of the Projects' **Outline COCP (Volume 8, application ref: 8.9)**, which will form the basis of the final COCP which will be secured as a DCO Requirement.
  - NRMM and plant should be well maintained. If any emissions of dark smoke occur, then the relevant machinery should cease operation immediately, and any problem rectified. In addition, the following controls should apply to NRMM:
    - All NRMM should use fuel equivalent to ultralow sulphur diesel (fuel meeting the specification within EN590:2004) where practicable;
    - All NRMM should comply with the appropriate NRMM regulations;
    - All NRMM would be fitted with Diesel Particulate Filters (DPF) conforming to defined and demonstrated filtration efficiency (load/duty cycle permitting);
    - The ongoing conformity of plant retrofitted with DPF, to a defined performance standard, should be ensured through a programme of onsite checks; and
    - Fuel conservation measures should be implemented, including instructions to (i) throttle down or switch off idle construction equipment; (ii) switch off the engines of trucks while they are waiting to access the site and while they are being loaded or unloaded and (iii) ensure equipment is properly maintained to ensure efficient fuel consumption.
  - Consideration would also be given to the siting of NRMM within the working area. Where practicable, locating generators and plant at the greatest distance from receptors will reduce the potential for air quality effects.

### 1.3.2.2 Conclusion – Air Quality

50. **Volume 7, Chapter 26 Air Quality (application ref: 7.26)** concludes that through the implementation of mitigation measures proposed with respect to air quality, there will not be any significant effects. On that basis it is not expected that the Projects would give rise to a statutory nuisance under section 79(1)(d).

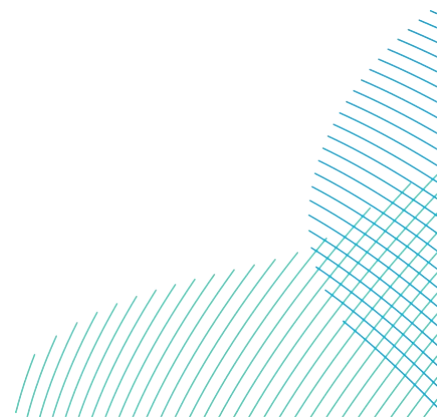
## 1.3.3 Section 79(1)(FB) – Relating to Artificial Light

51. Section 79(1) of the EPA 1990, subsection (fb) states that the following matter constitutes a ‘statutory nuisance’: “(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance”.
52. The potential impacts and mitigation in respect of this category of statutory nuisance have been assessed as part of the landscape and visual impact assessment which is presented in **Volume 7, Chapter 23 Landscape and Visual Impact Assessment (application ref: 7.23)**.
53. The landscape and visual impact assessment considers the impacts that could lead to potential significant artificial lighting effects arising from:
  - Temporary artificial lighting of construction works, at the landfall, Onshore Export Cable Corridor and Substation Zone; and
  - Operational artificial lighting of Onshore Converter Stations.
54. With respect to construction lighting, the assessment concludes that through the implementation of the artificial lighting mitigation measures proposed in the Projects’ **Outline COCP (Volume 8, application ref: 8.9)**, the Projects are not expected to give rise to any significant effects.
55. The assessment considers lighting within the overall envelope of landscape and visual assessment. With the implementation of the embedded mitigation measures outlined below, it is considered that impacts of lighting in isolation will be controlled so as not to constitute a statutory nuisance.
56. Whilst details of the decommissioning are currently unknown, the assessment concludes that the magnitude of impacts resulting from artificial lighting during the decommissioning phase of the Projects would be comparable or less than those identified for the construction phase.

### 1.3.3.1 Lighting Mitigation

#### 1.3.3.1.1 Embedded Mitigation

57. **Volume 7, Chapter 23 Landscape and Visual Impact Assessment (application ref: 7.23)** details the embedded mitigation relevant to the artificial lighting which has been incorporated into the design of the Projects or constitutes standard mitigation measures for this topic. This includes:



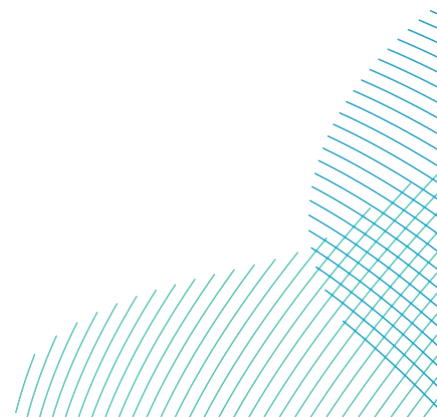
- Implementation of artificial lighting measures within the **Outline COCP (Volume 8, application ref: 8.9)**: The Outline COCP would include measures to ensure construction site lighting is positioned and directed to avoid unnecessary illumination to residential properties, biodiversity, footpath and minimise glare to road users. Construction lighting would be designed in accordance with available guidance and legislation and the details of the location, height, design and luminance of lighting to be used would be detailed within the final COCP.
- Operational lighting at the Onshore Converter Stations would be designed in accordance with latest guidance and legislation. The details of the location, height, design and luminance of lighting to be used would be provided as part of detailed design for the Onshore Converter Stations. No permanent night-time lighting would be required. Security lighting will be installed as agreed in the written scheme for the management and mitigation of artificial light emissions during the operation, which would be developed at the detailed design as set out in Requirement 22 of the **Draft DCO (Volume 3, application ref: 3.1)**. Further information on the operational lighting principles for the Onshore Converter Stations can be found in the **Design and Access Statement (Volume 8, application ref: 8.8)**.

#### 1.3.3.2 Conclusion – Artificial Light

58. **Volume 7, Chapter 23 Landscape and Visual Impact Assessment (application ref: 7.23)** does not identify significant effects arising solely as a result of operational lighting. Following the implementation of the lighting mitigation measures outlined in the ES, the operational lighting principles outlined in the **Design and Access Statement (Volume 8, application ref: 8.8)** and the controls provided by Requirement 22 of the **Draft DCO (Volume 3, application ref: 3.1)** it is not expected that the Project would give rise to a statutory nuisance under section 79(1)(fb).

#### 1.3.4 Other Matters

59. No other matters are considered to be a potential statutory nuisance associated with the construction and operation of the Projects.

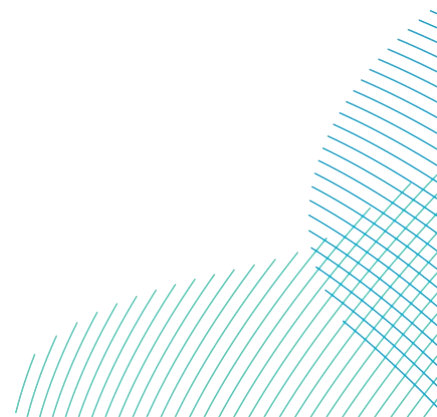


## 1.4 Draft Development Consent Order

60. Article 7 of the **Draft DCO (Volume 3, application ref: 3.1)** provides a defence to proceedings in respect of statutory nuisance brought under s82 of the EPA only. The defence applies to statutory nuisance that falls under subsections (1)(d), (fb), (g) and (ga) of section 79(1) of the EPA.
61. The defence will apply if the defendant can show that one of the following scenarios applies:
- If the nuisance relates to premises used by the Applicants for the purposes of or in connection with the construction or maintenance of the Project(s) and the nuisance is attributable to the carrying out of the Project(s) in accordance with a notice served under section 60 of the Control of Pollution Act 1974 or consent given under section 61 of the Control of Pollution Act 1974.
  - The nuisance is a consequence of the construction or maintenance of the Project(s) and it cannot reasonably be avoided.
  - The nuisance relates to premises used by the Applicants for the purposes of or in connection with the use of the Projects and that the nuisance is attributable to the use of the Projects which is being used in compliance with Requirement 21 (Control of noise during the operational stage) of the **Draft DCO (Volume 3, application ref: 3.1)**.
  - The nuisance is a consequence of the use or operation of the Projects, and it cannot reasonably be avoided.
62. Under article 7(2) of the **Draft DCO (Volume 3, application ref: 3.1)**, compliance with the controls and measures relating to noise, vibration, dust or artificial lighting in the **Outline COCP (Volume 8, application ref: 8.9)** will be sufficient (but not necessary) to show that any alleged nuisance could not reasonably be avoided.

## 1.5 Conclusion

63. This Statutory Nuisance Statement identifies the matters set out in section 79(1) of the Environmental Protection Act 1990 in respect of statutory nuisance and considers whether the Projects could cause a statutory nuisance.
64. With the proposed mitigation in place, as described above, it is not expected that there would be a breach of section 79(1) of the EPA 1990 during construction, operation and maintenance or decommissioning of the Projects.
65. In addition, the **Draft DCO (Volume 3, application ref: 3.1)** accompanying the application contains provisions that would provide a defence to proceedings for statutory nuisance should they be brought against the Applicants (or its successors as undertakers under the relevant provisions of the DCO).



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