

THE YORK POTASH HARBOUR FACILITIES ORDER 201X

Funding Statement



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The York Potash Harbour Facilities Order 201X

FUNDING STATEMENT

Pursuant to Regulation 5(2)(h)
Document 5.2

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1.0 INTRODUCTION

1.1 This funding statement is prepared in compliance with the requirements of Regulation 5(2)(h) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the “Regulations”) and in accordance with the following Department for Communities and Local Government Guidance:

1.1.1 “Planning Act 2008: Application Form Guidance”; and

1.1.2 “Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land”.

1.2 This statement is submitted in support of an application by York Potash Limited (Company No. 07251600) (referred to as “YPL”) under the Planning Act 2008 for The York Potash Harbour Facilities Order 201X (the “Order”).

1.3 This statement has been specifically prepared to detail the funding position of YPL in the event that compulsory purchase powers are required. This funding statement covers the matters required by the Regulations and should be read alongside the Statement of Reasons (Document 5.1).

2.0 PROJECT DESCRIPTION

2.1 The application site comprises approximately 92 hectares and the Order, if granted, will provide development consent for the following elements which shall be referred to in this funding statement as the “Works”:

2.2.1 The construction and operation of a quay structure on the River Tees at Bran Sands to facilitate the mooring of vessels in the estuary directly adjacent to the onshore harbour facility and allow shiploader access;

2.2.2 Dredging of the approach channel and berth area;

2.2.3 The construction of shiploaders on the quay structure to load the polyhalite product onto ships for onward transmission;

2.2.4 The erection of surge bins for the ship loading flow management of the polyhalite;

2.2.5 A conveyor system to transport the polyhalite connecting the harbour with the MHF within the Wilson International complex;

2.2.6 Ancillary infrastructure.

All as more particularly described in Schedule 1 of the draft DCO and the application documentation.

2.2 The proposed Works form part of the York Potash Project which involves the creation of a mine for the winning and working of polyhalite together with the necessary infrastructure required for the subsequent distribution of the mineral. The project principally comprises the following:

a) The mine (with minehead to be located at Doves Nest Farm near Whitby).

b) A mineral transport system (“MTS”), being a tunnel (approx.36.7km in length) with conveyor to transport the polyhalite from the mine to the materials handling facility at Wilton.

- c) A materials handling facility (“MHF”) at Wilton
- d) A harbour facility at Bran Sands, Teesside linked to the materials handling facility by a conveyor system.

2.3 The land required for the Works is not currently owned by YPL. YPL has an agreement in place with the major freehold landowner and is at an advanced stage of discussion with the other principal freeholder. YPL is not proposing to compulsorily acquire any freehold land. Additional detail explaining the situation is contained in section 4 and the Statement of Reasons (Document 5.1).

2.4 The industrial nature and history of the application site means that there are numerous third party rights over the land. Negotiations with landowners and beneficiaries of third party rights are continuing. The latest position is detailed in the Statement of Reasons (Document 5.1, para 3.5 to 3.7) and the Book of Reference (Document 5.3).

2.5 YPL has adopted a cautious approach and included powers of compulsory purchase within the Order to ensure that the Works can be delivered in a timely fashion and will not delay the wider project. This funding statement addresses how funds for the acquisition of the land and interests required, and the construction of the Works, will be secured.

3.0 COMPANY BACKGROUND

Company Background

- 3.1 YPL is the Applicant for the Order. YPL is a wholly owned subsidiary of Sirius Minerals Plc (Company No. 04948435) (“Sirius”). YPL has been, and continues to be, funded by way of equity subscriptions and intra-group loans from Sirius or its other subsidiary companies. The Annual Report of Sirius is attached at Appendix 1 to this statement. To avoid any concerns regarding the relationship between the two companies. It is intended that both Sirius and YPL will be the undertakers defined in the DCO.
- 3.2 Sirius is a leading potash development company listed on the London Stock Exchange. It aims to be a globally diversified potash development company. Sirius’ primary focus is to bring on stream major potash mining facilities through the acquisition and development of projects overlying recognised potash deposits. It currently owns the York Potash Project in North Yorkshire and exploration rights in North Dakota in the United States of America. At the moment the focus of the company is upon developing the project in North Yorkshire.
- 3.3 Through the York Potash Project, Sirius would be developing the world’s largest and highest grade deposit of polyhalite, utilising the ore’s unique multi-nutrient and multi-product potential to supply balanced fertilization throughout the world.

4.0 COMPULSORY ACQUISITION OF LAND

- 4.1 The current position regarding negotiations with landowners and those with interests in the Order Land is summarised in paragraphs 3.5 to 3.7 of the Statement of Reasons.
- 4.2 Negotiations with landowners and beneficiaries of third party rights are continuing and where possible land/interests will be acquired by agreement.
- 4.3 Given that there are numerous parcels of unknown ownership or interests YPL seeks powers of compulsory acquisition in the Order to provide certainty that any interests which may be required or could otherwise prejudice the delivery of the scheme are capable of acquisition. No compulsory acquisition is sought in respect of any freehold interests. This is fully explained in the Statement of Reasons
- 4.4 The total estimated costs to acquire land and rights within the application site have been estimated by YPL to be in the region of £15m. This is based upon the estimates of value for the purchase of rights derived from a number of agreements already reached with adjacent landowners in connection with the York Potash project for both leasehold and freehold purchases. These have been open market negotiations that provide direct comparables for similar property to that over which the rights are required. YPL has been advised at all times by suitably qualified members of the RICS. Given the current state of negotiations with various parties this figure is not broken down further in this statement.

5.0 BLIGHT

5.1 It is not anticipated that claims for statutory blight will arise as a result of the promotion of the Order.

5.2 The concept of blight derives from the provisions of section 149 to 171 of the Town and Country Planning Act 1990 (“TCPA 1990”). The blight provisions operate as a form of reverse compulsory acquisition, where a person owning the land within certain limited categories of landowner, is able to require the acquisition of his land by an acquiring authority, which if the Order is confirmed will be YPL and Sirius. That ability arises where the land is or may be subject to powers of compulsory acquisition, as provided under paragraph 24 of Schedule 13 to the TCPA 1990. That paragraph applies the blight provisions to land which is subject to an application for development consent which seeks authority to compulsory acquire the land in question.

5.3 A blight notice can be served under the TCPA 1990 by owners of certain types of land. These are:

5.3.1 where the land is or is part of a hereditament under Section 64 of the Local Government Finance Act 1988, which has an annual rateable value less than that specified by the Secretary of State in an order, which is £34,800 and the whole or a substantial part of the land is occupied by the owner. This predominantly applies to small businesses, There is one business to whom this may apply, being M&G Fuels (plot 60 on the Land Plans (Documents 2.1A – N) who lease land from Sembcorp however M & G fuels occupied the site relatively recently and in full knowledge of the proposal and in addition there are provisions within their lease which reserve rights for the scheme.

- 5.3.2 where the land is a hereditament occupied by an individual who occupies the whole or a substantial part of the hereditament as a private residence. In this case there are no private residences subject to compulsory acquisition; and
- 5.3.3 where the land is an agricultural unit or part of such a unit. The term “agricultural unit” in this context means land which is occupied for agricultural purposes including any dwelling house or any other building occupied by the same person for the purpose of farming the land. Given the nature of the site, this category does not apply to any part of the land that is to be subject of compulsory acquisition.
- 5.4 YPL has concluded that there is no land in relation to which a blight claim could be made.
- 5.5 For a blight notice to be accepted, and compensation to be payable, it must be supported by evidence that the claimant has made reasonable endeavours to sell the land in question and that he has been unable to do so or could do so only at a price substantially lower than that for which it might reasonably have been expected to sell. Notwithstanding YPL’s considered view that the blight provisions do not apply here, there is no current evidence that potentially qualifying owners of land have sought to, or are seeking to, dispose of their land, thereby qualifying for a blight payment.

6.0 ESTIMATED PROJECT COSTS

6.1 The table below presents an illustrative breakdown of the total capital expenditure provided by the York Potash Project Pre-Feasibility Study (“PFS”), as amended for the inclusion of the mineral transport system (MTS) rather than the pipeline:

No.	Works	Estimate (£m)
Initial Development		
1.	Mining and shafts	607
2.	Mineral transport system	438
3.	Material handling facility	191
4.	Harbour facility	75
5.	Power and utilities	82
6.	TOTAL AT 6.5Mtpa	1,392
Expansion		
7.	Mining	136
8.	Infrastructure	169
9.	PROJECT COSTS TOTAL AT 13Mtpa	1,697

6.2 The capital cost estimate for the construction of the project summarised in 6.1, has been prepared by a number of contributing consultants using accepted industry cost estimating practices for an infrastructure development. The estimate is informed by contractor budget quotations where available. The estimate does not include for contingency, escalation, the cost of interest and other costs of debt servicing.

6.3 The capital cost estimate was prepared for YPL by GBM Minerals Engineering Consultants Ltd and reflected in the PFS. The PFS was informed by contributions from a variety of sources including those identified below:

- Experience of similar projects
- Historical costs information sourced from in house and commercial databases
- Budget Quotations from service providers
- Budget Quotations from equipment suppliers
- Budget Quotations from contractors

6.4 Section 24 of the PFS deals with the basis for cost estimation and states:

“The capital costs of the project have been calculated by multiple contributors and assembled here. Estimating methodologies from each contributor are detailed in this section. The capital costs for each area and the total project capital costs are reported in Section 25. Although differing estimating methodologies have been used in some instances, all are industry standard compliant and all include both direct and indirect costs”

6.5 Updated cost estimates for the current scheme that incorporate construction contractor tender information will be produced for the ongoing York Potash Project Definitive Feasibility Study (“DFS”), prior to commencement of construction.

7.0 PROJECT FUNDING

- 7.1 Sirius is funded primarily by raising capital through the equity capital markets. This comprises a mixture of issuing ordinary shares, warrants, convertible securities and options over Sirius' ordinary shares by way of share placings, warrant issues and other equity facilities. Sirius has benefited from over £130,000,000 of capital raised through the issue of shares and equity based facilities. This demonstrates the confidence of funders in the scheme. Sirius has also benefitted from the receipt of borrowings secured over its proposed minehead site from institutional lenders. YPL is likely to continue to be funded by intra-company arrangements with Sirius or other members of the Sirius Group.
- 7.2 Sirius are pursuing the usual sources of funding for a project of this nature, including debt facilities or securities, strategic investors, equity issues or issues of instruments which have equity traits. The likely future funding structures would combine a number of elements including debt, equity and more bespoke funding sources.
- 7.3 The table below presents a summary of financing options for the York Potash Project, which are currently being progressed:

Source of funding	Status
Strategic partners/ customer placement	Discussions are ongoing with various potential strategic equity investors.
Financial investors/ equity issuance	Multiple options for equity or structured investment are being considered, in conjunction with their brokers and advisors, to finance early stage construction works.
Senior Debt instruments	After early construction works have been progressed, funding for a significant proportion of the total capital expenditure will be raised through the debt markets. This could include high yield bonds or senior debt raised from commercial banks or multilateral agencies.

	Sirius has appointed an advisor in relation to the senior debt financing of the Project.
Equipment financing	The capital structure may include operating or finance leasing of equipment including for example mining equipment and mineral transport conveyors.
Vendor financing	The tender process for the critical path construction packages is currently underway and discussions are in progress with suppliers to identify opportunities to embed finance into construction/ supply contracts, which may include support from Export Credit Agencies (ECAs).

7.4 The funding options detailed above are all conventional forms of financing which are commonly utilised for the funding of large infrastructure projects.

7.5 The exact nature of the financing plan for the York Potash Project (the “Financing Plan”) is being developed by Sirius/YPL along with its advisors, in parallel to ongoing approvals processes and completion of further feasibility work for the Project. It is currently anticipated that the proportions of funding for the York Potash Project (in total) will be approximately:

7.5.1 30-40% equity and mezzanine finance

7.5.2 60-70% senior debt

7.6 The Company Directors of Sirius, whose biographies can be found on page 42 to 44 of the 2014 Sirius Annual Report have previous experience of developing and financing large-scale resources and infrastructure development projects elsewhere. In particular, the Sirius Managing Director and CEO, Christopher Fraser, has over 20 years experience in the banking industry with a particular focus on raising capital for mining and resources projects, including as Head of the Metals and Mining team for Citigroup. In addition, Christopher Fraser and the Chairman and Deputy Chairman of Sirius

led the \$2.5billion initial capital raising for development of Fortescue Metals Group Ltd's successful greenfield iron ore project in Western Australia.

- 7.7 Sirius will raise debt financing and equity capital to meet construction costs for the York Potash Project, once planning approvals have been granted for the mine and mineral transport system providing the leverage for such financing.
- 7.8 Construction of the harbour itself is likely to be funded substantially by senior debt instruments since equity and/ or mezzanine finance will already have been raised to fund early construction works such as site preparation works for and construction of the mine shafts and mineral transport system.
- 7.9 It is expected that mezzanine finance will be secured from various institutional sources, including banks, as would the senior debt. All of the potential investors will carry out due diligence of their own to establish that the York Potash Project is suitable for investment purposes.
- 7.10 The business case for the York Potash Project is already well understood by investors, which is evidenced by the significant investment which has already been made by investors through the issue of shares and equity based facilities since 2011. These investors include large recognised institutional investors, such as Capital Research and Management Company, one of the largest global fund managers, with over approximately 9.6% of Sirius' shares at February 2015. They also include Jupiter Asset Management Limited another leading equity investment institution, with approximately 4.5% of Sirius' shares at February 2015. Both of these shareholders are significant shareholders whose shareholding Sirius are required to disclose at any point of time on its website
- 7.11 Sirius and its advisors have carried out financial modelling and scenario planning, based on pre-feasibility studies and subsequent engineering work, to test the various cost and revenue assumptions. This has also looked at discounted cash-flow analysis to determine the returns of various tranches of debt and equity holders. Based on cost estimates from pre-feasibility studies

and engineering design work the Project is expected to generate unlevered pre-tax returns to investors in excess of the benchmark returns for other similar resource and infrastructure development projects (please refer to the February 2015 Sirius Minerals investor presentation for more details in Appendix 2).

- 7.12 The project returns are robust to changes in key input assumptions due to the high expected cash operating margins of the business once the mine is operating. These potential returns and robust business case for investment in the Project are well understood by investors which is evidenced by the significant capital investment to date made through the issue of shares and equity based facilities.
- 7.13 It is considered that the above demonstrates that adequate funding for any compulsory acquisition is likely to be available, as required by the guidance.
- 7.14 As protection for any interests which are to be compulsorily acquired the applicant has included security in respect of payment of compensation in its draft DCO (Article 23). That article will ensure that no compulsory acquisition can be pursued until appropriate security for the liabilities of the undertaker to pay compensation has been provided. The article states:

Guarantees in respect of payment of compensation

23—(1) The undertaker must not begin to exercise the powers in articles 24 to 30 of this Order in relation to any land unless it has first put in place either—

(a) a guarantee in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or

(b) an alternative form of security for that purpose which has been approved by the Secretary of State.

(2) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under the Order is to be treated as enforceable against the guarantor by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(3) The guarantee or alternative form of security is to be in place for a maximum of 20 years from the date on which relevant power is exercised.

- 7.15 The article is based on Article 14 of The Hornsea One Off Shore Wind Farm Order 2014. The drafting of this article was specifically considered by the

Examining Authority during the Hornsea Project One Examination. Such consideration included whether the local planning authority or Secretary of State should approve the form of security and the drafting of the article to ensure that it was enforceable by persons to whom the compensation is enforceable¹.

- 7.16 The conclusions reached in respect of Article 14 are equally relevant to this application and accordingly an article in the same form has been included.

¹ See Examining Authority's Report Paragraphs 8.16 to 8.20, pp 147 & 148

8.0 Conclusion

- 8.1 Due to the industrial nature and history of the application site and the presence of unknown owner interests it is necessary to include powers of compulsory purchase to ensure there that all land and interests can be acquired and that there will be no impediments to delivery.
- 8.2 The directors of YPL are experienced in the financing and development of major mining projects. YPL, with the backing of its parent company, is confident that it will have sufficient financial resources to deliver the scheme and meet any blight or other compensation obligations as they fall due. Notwithstanding that high degree of confidence, YPL are prepared to put security in place to secure the position in advance of any compulsory acquisition.