



# **Hornsea Project Four**

**Net Zero Teesside Development Consent Order**

**Summary of Written Representation of Orsted  
Hornsea Project Four Limited**

**Deadline: 2, Date: 9th June 2022**

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## 1 Introduction

- 1.1 Orsted Hornsea Project Four Limited ("Hornsea Four") is proposing to develop an offshore wind farm comprising up to 180 wind turbine generators together with associated offshore and onshore infrastructure and all associated development ("Hornsea Four Offshore Wind Farm").
- 1.2 The Applicant's Proposed Development forms the onshore part of the wider Net Zero Teesside Project ("NZT Project"). The NZT Project provides for an offshore transportation and geological storage facility in the Southern North Sea region. The applications (which are yet to be submitted) for the offshore elements of the project are being progressed by the Northern Endurance Partnership. BP Exploration Operating Company Limited ("bp") is the proposed operator of the CO<sub>2</sub> store.
- 1.3 There is an area of seabed which both the Hornsea Four Offshore Wind Farm and the NZT Project have identified as required for part of their respective proposals ("the Overlap Zone").
- 1.4 Hornsea Four's position is that the Applicant's Environmental Statement and the consideration of the Development Consent Order ("DCO") must assess the impacts of the NZT Project as a whole on Hornsea Four Offshore Wind Farm, and that the DCO must include protective provisions for the benefit of Hornsea Four Offshore Wind Farm, in order to ensure the NZT Project comes forward in an acceptable way.

## 2 Interface Agreement

- 2.1 The commercial relationship between Hornsea Four and bp is governed by an Interface Agreement. Full details of the parties to and history of the Interface agreement is provided in Section 3 of the Written Representation.
- 2.2 The parties agreed to enter into the Interface Agreement to regulate and co-ordinate their activities with a view to managing potential and resolving actual conflicts in the Overlap Zone.

## 3 The Scenarios

- 3.1 The Hornsea Four Offshore Wind Farm DCO application is currently in Examination.
- 3.2 There are three potential scenarios for the Hornsea Four Offshore Wind Farm DCO application that are relevant to the NZT Project: the Hornsea Four Offshore Wind Farm DCO is refused; the Hornsea Four Offshore Wind Farm DCO is approved subject to bp's proposed Protective Provisions {which would exclude any Hornsea Offshore Wind Farm infrastructure from the Overlap Zone); or the Hornsea Four Offshore Wind Farm DCO is approved subject to Hornsea Four's proposed Protective Provisions (which would limit development in the Overlap Zone until an informed view is reached on co-existence).
- 3.3 The impacts on Hornsea Four of each scenario are set out in detail in Section 4 of the Written Representation.

## 4 Acceptability of the scheme as a whole

- 4.1 The Applicant's Environmental Statement, when reporting on the effects of the offshore scheme, fails to identify the potential effects on Hornsea Four Offshore Windfarm. Hornsea Four submits that this is a deficiency in the Environmental Statement.
- 4.2 In order for the Secretary of State to be in a position to determine whether to grant consent for the Proposed Development, and in what terms, it is imperative that the impacts of the entire NZT Project

as a whole have been assessed and are reported on, including the effects of the offshore elements of the NZT Project on Hornsea Four Offshore Wind Farm.

- 4.3 The key EIA and policy justifications for assessing the impact of the NZT Project on Hornsea Four are set out in Section 5 of the Written Representation.
- 4.4 The Applicant has undertaken to provide an assessment of the impacts on the offshore elements of the Project on Hornsea 4 Offshore Wind Farm by Deadline 4 (7<sup>th</sup> July).
- 4.5 Hornsea Four respectfully asks that the ExA requests that the Applicant submits the assessment by Deadline 3 (23<sup>rd</sup> June 2022) in order that Hornsea Four may have an opportunity to review the assessment and if necessary respond in writing at Deadline 4 prior to the Issue Specific Hearings scheduled for 12<sup>th</sup> and 14<sup>th</sup> July 2022.

## 5 The Need for Protective Provisions in the NZT DCO

- 5.1 The Applicant has not provided any protective provisions for the benefit of Hornsea Four Offshore Wind Farm in its draft DCO.
- 5.2 The application of appropriate protective provisions for the benefit of Hornsea Four is an appropriate and necessary step to ensure the acceptability of the scheme overall at the point of DCO decision. The DCO process offers the best opportunity to fully consider the relevant issues and to apply appropriate mitigations and protections.

## 6 Hornsea Four Proposed Protective Provisions for NZT DCO

- 6.1 Hornsea Four's proposed draft protective provisions for inclusion in the NZT DCO are set out in full in Appendix 1 of the Written Representation.
- 6.2 They are largely reciprocal to those provisions proposed for the benefit of bp in the Hornsea Four DCO.
- 6.3 The effect of the proposed protective provisions is that, with limited exceptions, the Applicant is required to refrain from any development unless and until an appropriate solution is agreed or determined in relation to the Overlap Zone. They have been designed to allow additional time for the NEP Project (and the novel carbon capture storage technology) to mature to resolve any outstanding bp concerns in this regard. A full summary of the protective provisions is set out in Section 7 of the Written Representation.

## 7 The Applicant's Proposed New Article in the Net Zero Teesside DCO

- 7.1 The Applicant has stated its intention to include a new article in the draft DCO which would disapply the Interface Agreement and remove the ability of Hornsea Four to make a claim for an antecedent breach under the Interface Agreement.
- 7.2 Hornsea Four considers this to be a material change to the application and one which is prejudicial to its interests and potentially the interests of The Crown Estate. The Interface Agreement was entered into in respect of Hornsea Four's interest in the seabed. If this is removed, then it prevents Hornsea Four from taking enjoyment of the land interest it has been given and also denies Hornsea Four any rights it would have to compensation from bp under the Interface Agreement.
- 7.3 The powers conferred on the Secretary of State under the Planning Act 2008 should not be interpreted so broadly as to permit an interference with a party's private contractual rights and in

any event even if the power does exist it would not be appropriate to apply it in the current circumstances.

- 7.4 In addition, the Crown Estate would need to consent to the inclusion of the power in the NZT DCO pursuant to section 135(2) of the Planning Act 2008.
- 7.5 The Applicant's reasoning for inclusion of this new article, and Hornsea Four's rebuttal thereto, are set out in full in Section 8 of the Written Representation.
- 7.6 Hornsea Four strongly disagree with the Applicant's request that the scrutiny of/advocacy for the disapplication of the Interface Agreement is limited to the Hornsea Four DCO examination.

## 8 UK Policy Support for Hornsea Four and the Carbon Storage Project

- 8.1 To assist the Examination of the Proposed Development, Hornsea Four has provided a summary of some of the current UK Policy Support for offshore wind and carbon capture and storage projects at Appendix 2 of the Written Representation.

## 9 Conclusions

- 9.1 The NZT Project consists of onshore and offshore elements which are intrinsically linked, with the onshore elements being unable to progress without the offshore elements being consented. It is therefore necessary that the acceptability of the NZT Project as a whole is assessed as part of this examination, including the impacts on Hornsea Four Offshore Wind Farm.
- 9.2 There is a need within the NZT DCO to ensure that the NZT Project can come forward in an acceptable way, which is not inconsistent with the Hornsea Four DCO and which will not result in the unjustified exclusion of offshore wind development in the Overlap Zone.
- 9.3 In the absence of acceptance by the Applicant of appropriate protective provisions it is Hornsea Four's position that the ExA will need to understand the respective policy merits of the projects; the different ways in which they could be delivered; the impacts of each scenario on the respective projects; and on that basis reach a decision on whether and how the NZT scheme can come forward in an acceptable way.