



Marine Management Organisation

Marine Licensing
Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

T +44 (0)300 123 1032
F +44 (0)191 376 2681
www.gov.uk/mmo

Norfolk Boreas Case Team
Planning Inspectorate
NorfolkBoreas@planninginspectorate.gov.uk
(Email only)

MMO Reference: DCO/2017/00002
Planning Inspectorate Reference: EN010087
Identification Number: 20022925

10 December 2019

Dear Sir or Madam,

Planning Act 2008, Norfolk Boreas Limited, Proposed Norfolk Boreas Offshore Wind Farm

Responses to the Examining Authority's (ExA) First Round of Written Questions

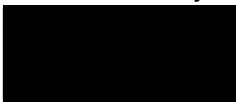
The Marine Management Organisation (MMO) is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the marine area. Should consent be granted for the project, the MMO will be responsible for monitoring, compliance and enforcement of Deemed Marine Licence (DML) conditions.

The MMO received a Rule 8 letter containing the ExA's first round of written questions on 19 November 2019 for the proposed Norfolk Boreas Offshore Wind Farm (Ref EN010087). Please find the MMO's response to the ExA's first round of questions below for your consideration.

In order to ensure clarity, who the question was directed to and the question to which the answer has been provided has been incorporated in this response.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours faithfully



Rebecca Reed
Marine Licensing Case Officer

D +44 (0)2080268854

E Rebecca.Reed@marinemanagement.org.uk



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Marine Management Organisation

EN010087 – Norfolk Boreas – The Examining Authority’s first written questions and requests for information
 Issued on 19 November 2019 for submission at Deadline 2.

Ref	Question to:	Question:	MMOs position
1	Archaeology and Heritage Assets		
1.0	Offshore and intertidal archaeology and cultural heritage		
1.0.1	<p>The Applicant, Historic England Norfolk County Council Marine Management Organisation North Norfolk District Council Interested Parties</p>	<p>Draft DCO and DML Archaeological WSI in intertidal zone</p> <ol style="list-style-type: none"> 1. Does the dDCO adequately cover archaeological requirements regarding the intertidal zone? (The onshore Archaeological WSI extending to Mean High Water is secured by dDCO Requirement 23.) 2. How is it proposed to secure mitigation measures for the intertidal zone included in the outline offshore Archaeological Written Scheme of Investigation? The DMLs [Schedules 10 and 12 Part 4 Condition 9(1)(h)] secure the offshore Archaeological WSI covering land seaward of Mean LOW Water which therefore excludes the intertidal zone. 3. IPs to confirm they are content with the intertidal zone being excluded from the responsibilities defined via outline Onshore and Offshore Archaeological 	<p>The MMO defer to Historic England in relation to the mitigation within the Outline Offshore Archaeological Written Scheme of Investigation.</p> <p>The MMO are content with the comments provided by the Applicant during the Issue Specific Hearing and in document REP1-041 and agree that the Outline WSI adequately covers all the necessary works areas.</p>



		WSIs; or make suggestions for amendments, additions or deletions as appropriate.	
2	Biodiversity, Biological Environment and Ecology		
2.1	Offshore benthic and marine mammals		
2.1.1	Marine Management Organisation, The Applicant	<p>Worst Case Scenarios</p> <p>MMO [RR-069] recommends a table that highlights the worst-case scenarios within each development consent option. The Applicant [AS-024] stated that it is in discussions with the MMO as to what further information it required.</p> <ol style="list-style-type: none"> 1. What is the additional information required? 2. Would the parties give an update regarding agreement of worst cases? 	<p>The MMO has discussed this further with the applicant and is satisfied that this table is no longer needed.</p> <p>However, the MMO are still in discussion with the Applicant as the MMO has concerns about the usability of the Environmental Statement (ES) at the end of examination. The MMO note that during examination additional information is supplied by the applicant. Such as clarification documents, additional modelling and addendums etc. These are not easily located alongside the ES and when it comes to reviewing the ES at a later stage this can be confusing for anyone who was not in the examination process. The MMO recommend that the ES is updated at the end of examination to include or highlight these documents.</p> <p>In addition to this the MMO would highlight that the EIA and DCO reconciliation document is a vital part of the application. If this document is needed as a referral document to be able to read or understand the complex scenarios or figures against the</p>

			conclusions in the EIA, the MMO recommend this becomes a certified document at the end of the examination.
4	Cumulative effects of other proposals		
4.0	General cumulative effects, including phasing		
4.0.1	The Applicant All Interested Parties	<p>Relevant projects for cumulative assessment</p> <p>1. A number of the ES aspect chapters explain that the projects identified for potential cumulative impacts were agreed as part of the PEIR consultation (November 2018). Taking into account the time that has elapsed since the PEIR consultation and the potential for developments that might have cumulative effects to have come forward since this date, IPs are asked to confirm that they are content that all the relevant projects have been included in the cumulative effects assessment. If not, list those projects which you think should be included.</p> <p>2. Specifically, the ExA notes that extensions to the existing Dudgeon and Sheringham Shoal have been received by the Planning Inspectorate for a scoping opinion. Comments in respect of these projects are specifically requested.</p> <p>3. The Applicant is invited to comment and to set out how the cumulative effects relating to the proposed extensions to the existing Dudgeon and Sheringham Shoal have been considered,</p>	2. The MMO agree that Dudgeon and Sheringham Shoal should be included within the cumulative assessments.

		4. With either proposed option, the Dudgeon and Sheringham Shoal onshore cable would cross the Norfolk Boreas onshore cable. How have these cumulative effects been considered?	
4.0.2	Interested Parties	Cumulative assessments and other infrastructure users Provide any comments on the Applicant's cumulative assessments offshore [APP-245] and onshore [APP-246] and/or comments on the assessment of infrastructure and other users [APP-231].	Document: The MMO has reviewed APP-245 and APP-231 have no comments to make on the conclusions.
5	Development Consent Order and Deemed Marine Licences		
5.0	General		
5.0.4	All discharging authorities	Discharging Requirements and Conditions All discharging authorities are requested to check Schedules in the dDCO for accuracy and provide the ExA with any suggested corrections and amendments.	The MMO reviewed the dDCO in detail at relevant representative stage. The MMO welcomed the changes provided by the applicant to date. Due to resource issues the MMO will review the latest dDCO for deadline 3.
5.5	SCHEDULES 9 to 13: Deemed Marine Licences		
5.5.2	The Applicant, Marine Management Organisation	Review Applicant responses [AS-024] to MMO relevant rep [RR-069]: 1. concurrent piling both within the project and between Norfolk Boreas and Norfolk Vanguard (underwater noise effects) with recommended consideration of inclusion of a cooperation condition between developers working in close proximity and recommendation of DCO/DML amendment for a worst-case scenario if more than one pile is to be installed within a 24-hour period [Schedules 9-13 Condition 21] expanding on [AS-024	The MMO and the Applicant have discussed the MMO's concerns relating to the DCO and DMLs during a meeting on the 27th November 2019. The Applicant has submitted an updated version of the SoCG at deadline 2 (ExA.SoCG-10.D0.V1) to reflect the most recent position regarding these concerns. Table 8 of the SoCG contains a position on each concern that the MMO have and a full response to each of the four points

		<p>Table 26 row 54];</p> <p>2. implication that new cable protection works are considered, by the Applicant, to be licenced for deployment at any time during the operation of the works; [RR-069 2.1.33 to 39]; and proposed requirement for new cable protection and foundation replacement during operations to be separately licenced [Schedules 9-13 Condition 22] expanding on [AS-024 Table 26 row 63];</p> <p>3. request for removal of the appeals process in [Schedules 9-13 Part 5 Procedure for Appeals];</p> <p>4. 6 instead of 4 month timescale for submission of discharge documents [Schedules 9-13 condition 15(5)]; and</p> <p>5. appeal process related to applications for discharge of conditions. [Schedules 9-13 Conditions 14 and 15].</p>	<p>raised in written question 5.5.2 can be found in that table.</p>
5.5.3	Marine Management Organisation	<p>Disposal of any offshore non-natural material:</p> <p>MMO to comment on Applicant's response [AS-024 Table 26 Row 11] to MMO's [RR-069]: <i>'The Applicant considers that all material dredged or drilled from the seabed would be of natural origin. Furthermore, all material would be disposed of within the vicinity of the dredge location and therefore would not be transported far from source. Therefore, the wording of the DCO should remain in keeping with the precedent set by previous DCO projects.'</i></p>	<p>The MMO note that this comments was from Natural England (NE) originally. The MMO understand this is in relation to the possibility of dredging and disposal of archaeological artefacts (classed as non-natural material) – the MMO support NE's position and will continue to discuss with the Applicant and NE.</p>

5.5.4	Marine Management Organisation	Individual structure volumes and areas: MMO to comment on Applicant's response [AS-024 Table 26 Row 49] to MMO [RR-069] recommendations that the volumes and areas should be included within the face of the DCO <i>'The Applicant's position is that as the DML conditions specifically require that the final plan must accord with the outline plan it is not necessary to include the level of detail sought by the MMO on the face of the DMLs...'</i>	After an internal review with other wind farm examinations, the MMO continues in the view that it is preferable to have these parameters stated explicitly on the DCO because of ongoing concerns regarding the clarity and enforceability of plans. We will however continue to discuss our concerns with the Applicant to explore if these concerns can be addressed in any other way.
5.7	SCHEDULE 16: PROCEDURE FOR DISCHARGE OF REQUIREMENTS		
5.7.1	Interested Parties	1. Views of interested parties are sought in relation to the discharge of requirements as set out in Schedule 16. 2. The Applicant to clarify which the post-consent approving bodies would be for Requirement 16.	The MMO understand that the MMO are not part of Schedule 16 as these refer to requirements only.
8	Habitats Regulation Assessment		
8.5	Haisborough, Hammond and Winterton SAC		
8.5.4	Marine Management Organisation and Eastern Inshore Fisheries and Conservation Authority	Fisheries Byelaws MMO and EIFCA to provide an update on the likely timeframes for implementation of the proposed fisheries byelaws?	The MMO defer to EIFCA.
8.11	Marine Mammals		
8.11.4	Marine Management Organisation	South North Sea SAC Can MMO advise whether there is likely to be any impediment to granting the licence for UXO clearance?	The MMO are preparing a response to this question and will provide an update at deadline 3.
8.11.6	Marine Management Organisation, The Applicant	Piling Provide an update on discussions between the Applicant and MMO regarding the need to prevent concurrent	The MMO are in agreement in principle that the noise management of the Southern North Sea Special area of conservation (SNS SAC) will be

		piling between Norfolk Boreas and Norfolk Vanguard and restrict the number of piles to be installed per 24 hour period [AS-027].	assessed adequately within the Site Integrity Plan (SIP) and the Marine Mammal Mitigation Plan (MMMP). If required, any issues relating to concurrent piling between Norfolk Boreas and Norfolk Vanguard and the number of piles being installed within a 24 hour period, can be assessed further to determine if any restrictions or mitigation is required. The MMO and the Applicant are continuing discussions to ensure all wording in relation to this commitment is covered within the SIP and MMMP.
8.12	Benthic Ecology		
8.12.3	Marine Management Organisation	Annex 1 reef The Applicant [AS-024] in response to MMO's concern that the IPMP only proposes monitoring of Annex I reef and not wider benthic impacts [RR-069], states that the findings of benthic ecology assessment do not warrant a full-scale programme. What is MMO's response?	The MMO is still in discussion with our scientific advisers and will continue to discuss this with the applicant through the SoCG. The MMO will provide a written response at deadline 3.
8.12.6	The Applicant, Natural England, Marine Management Organisation	Haisborough, Hammond and Winterton SAC (HWW SAC) NE [RR-099] and MMO [RR-069] advise that an AEOI cannot be ruled out for HWW SAC and that alternatives and/or compensation should be secured. However, it advises that it is unlikely agreement could be found for compensation for the permanent loss of Annex I reef. The Applicant [AS-024] considers that cable protection is a	The MMO are working with the Applicant and NE towards a position throughout the examination. This will be influenced by a cable protection joint position statement between the MMO and NE and further engagement between the three parties.

		suitable habitat for Annex I reef communities. Can the Applicant, NE and MMO agree a joint position on AEOI for HWW SAC?	
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