

Norfolk Boreas Offshore Wind Farm

Statement of Common Ground

Whale and Dolphin Conservation

Applicant: Norfolk Boreas Limited
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Photo: Ormonde Offshore Wind Farm

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Glossary of Acronyms

CIA	Cumulative Impact Assessment
DCO	Development Consent Order
DML	Deemed Marine Licence
ES	Environmental Statement
HRA	Habitats Regulations Assessment
LiDAR	Light Detection and Ranging
LSE	Likely Significant Effect
MMMP	Marine Mammal Mitigation Protocol
MMO	Marine Management Organisation
PEIR	Preliminary Environmental Information Report
SCI	Site of Community Importance
SIP	Site Integrity Plan
SoCG	Statement of Common Ground
UXO	Unexploded Ordnance
WDC	Whale and Dolphin Conservation

Glossary of Terminology

Array cables	Cables which link wind turbine to wind turbine, and wind turbine to offshore electrical platforms.
Landfall	Where the offshore cables come ashore at Happisburgh South.
Norfolk Boreas site	The Norfolk Boreas wind farm boundary. Located offshore, this will contain all the wind farm array.
Offshore cable corridor	The corridor of seabed from the Norfolk Boreas site to the landfall site within which the offshore export cables will be located.
Offshore electrical platform	A fixed structure located within the Norfolk Boreas site, containing electrical equipment to aggregate the power from the wind turbines and convert it into a suitable form for export to shore.
Offshore export cables	The cables which transmit power from the offshore electrical platform to the landfall.
Offshore service platform	A fixed structure (if required) providing accommodation for offshore personnel. An accommodation vessel may be used instead.
Project interconnector search area	The area within which project interconnector cables would be installed.
The Applicant	Norfolk Boreas Limited has made an application for development consent for the Norfolk Boreas Offshore Wind Farm. Therefore, Norfolk Boreas Limited is the Applicant.
The Project	The Norfolk Boreas Offshore Wind Farm.

1 INTRODUCTION

1. This Statement of Common Ground (SoCG) has been prepared between Whale and Dolphin Conservation (WDC) and Norfolk Boreas Limited (hereafter the Applicant) to set out the areas of agreement and areas for ongoing discussion in relation to the Development Consent Order (DCO) application for the Norfolk Boreas Offshore Wind Farm (hereafter 'the project'). A full description of the project can be found in Chapter 5 of the Environmental Statement. Document reference 6.1.5 of the Application, APP-218.
2. This SoCG comprises an agreement log which has been structured to reflect the topics of interest to the WDC with regard to the Norfolk Boreas DCO application (hereafter 'the Application'). The agreement logs (Section 2) outline all topic specific matters agreed and matters that are not agreed at this stage will be the subject of ongoing discussion wherever possible to resolve or refine the extent of disagreement between the WDC and the Applicant.
3. The Applicant has had regard to the Guidance for the examination of applications for development consent (Department for Communities and Local Government, 2015) when compiling this SoCG.

1.1 Consultation with WDC

4. This section briefly summarises the consultation that the Applicant has undertaken with WDC. For further information on the consultation process please see the Consultation Report (document reference 5.1 of the Application, APP-027).
5. The Applicant has engaged with WDC concerning the project on multiple occasions during the pre-Application process, both in terms of informal non-statutory engagement and formal consultation carried out pursuant to Section 42 of the Planning Act 2008. Due to similarities between the Norfolk Boreas project and its 'sister' project Norfolk Vanguard, which is being developed one year ahead of Norfolk Boreas, early consultation with stakeholders was conducted for both projects concurrently. Although latterly, consultation has been undertaken separately for the two projects Norfolk Boreas has had regard to the Norfolk Vanguard consultation and many of the agreements achieved for the Norfolk Vanguard project also apply to the Norfolk Boreas project.
6. During Norfolk Boreas formal (Section 42) consultation, WDC provided comments on the Preliminary Environmental Information Report (PEIR) by way of a letter dated 28th November 2018.
7. Further to the statutory Section 42 consultation, meetings were held with WDC through the Evidence Plan Process. These are referred to throughout the SoCG and minutes of the meetings are provided in Appendices 9.43 and 9.45 (pre-Section 42) and Appendices

28.1 (post-Section 42) of the Consultation Report (document reference 5.1 of the Application, APP-027).

8. As part of the pre-examination process, WDC submitted a Relevant Representation to the Planning Inspectorate on the 28th of August 2019. This SoCG includes topic issues raised by WDC in their Relevant Representation.
9. Table 1 provides an overview of meetings and correspondence undertaken with WDC; full detail of relevant pre-application consultation is provided in the marine mammal ES chapter (document reference 6.1.12 of the Application APP-225) and the Consultation Report (document reference 5.1 of the Application, APP-027).
10. The key consultation from both the pre and post application phases are shown in Table 1.

Table 1 Summary of Consultation with Whale and Dolphin Conservation in relation to Marine Mammals

Date	Contact Type	Topic
Pre-Application		
15 th September 2016	Meeting	Introduction to Norfolk Vanguard and Norfolk Boreas projects including marine mammal data collection, impacts of piling; and the Southern North Sea candidate Special Area of Conservation (cSAC)/Site of Community Importance (SCI)*.
10 th to the 24 th November 2016	Workshops, meetings, calls and email correspondence	Explanation and agreement on the methods used for data collection within the Norfolk Boreas and Norfolk Vanguard wind farm sites.
5 th February 2018	Email from the Applicant	Provision of the Norfolk Boreas Marine Mammals Method Statement (Appendix 9.26 of the Consultation Report).
12 th March 2018	Marine Mammals Pre-PEIR Expert Topic Group Meeting	Agreement on the methods used to conduct the assessment.
17 th October 2018	Email from the Applicant.	Early provision of the Marine Mammals PEIR Chapter.
28 th November 2018	Letter from WDC	PEIR feedback on Marine mammals' chapter and Habitats regulations Assessment (HRA) screening.
21 st February 2019	Marine Mammals Expert Topic Group meeting	Comments on PEIR and approach to HRA.
22 nd March 2019	Email from the Applicant	Provision of draft Norfolk Boreas Information to Support Habitats Regulations Assessment (HRA) (document reference 5.3 of the Application, APP-201).

Date	Contact Type	Topic
13 th June 2019	Email from the Applicant	Provision of early access to relevant documents from the DCO application.
Post-Application		
28 th August 2019	Relevant Representation	Initial feedback on the DCO application
September/ October 2019	Emails	Correspondence agreeing initial draft and second draft of the SOCG

* The site has since been designated SAC

2 STATEMENT OF COMMON GROUND

11. The project has the potential to impact upon Marine Mammals. Chapter 12 of the Norfolk Boreas ES (document reference 6.1.12 of the Application, APP-225) provides an assessment of the significance of these impacts.
12. Table 2 provides areas of agreement (common ground) and areas of ongoing discussion. Within the table below, the different topics and areas of agreement (marked as green) and areas for ongoing discussion (marked as orange) between WDC and the Applicant are set out. Areas where agreement cannot be reached will be marked as red.
13. Minutes of Evidence Plan meetings can be found in Appendix 9.45 and Appendix 28.1 of the Consultation Report (document reference 5.1 of the Application, APP-027).

Table 2 Agreement Log - Marine Mammal Ecology

Topic	Norfolk Boreas Limited position	WDC position	Final position
Renewable Energy			
Renewable Energy	The principle of offshore wind is important and Norfolk Boreas accords with national renewable energy targets and objectives.	Agreed. Due to the impacts of climate change on cetaceans, WDC supports the development of well-considered marine renewable energy.	It is agreed by both parties that renewable energy is important.
Environmental Impact Assessment			
Existing Environment	Survey data collected for Norfolk Boreas for the characterisation of marine mammals are suitable for the assessment as agreed in the Expert Topic Group meeting on the 12 th March 2018.	WDC agrees that aerial surveys are appropriate for collecting marine mammal data. However, WDC would prefer to see a larger buffer than 4km due to the wide ranging impacts of pile driving on harbour porpoises.	Both parties agree that aerial surveys are appropriate, however WDC would prefer a larger buffer around the site to have been used.
	The ES adequately characterises the baseline environment in terms of marine mammals.	Agreed, with the exception of the note above regarding the survey buffer area.	Both parties agree, although WDC would have preferred a larger buffer to have been used.
Assessment methodology	Appropriate legislation, planning policy and guidance relevant to marine mammals has been used.	Agreed	Both parties agree.
	The potential impacts on marine mammals assessed is appropriate as agreed in the Expert Topic Group meeting on the 12 th March 2018.	Agreed	Both parties agree.
	Harbour porpoise, grey seal and harbour seal are the only relevant species of marine mammal required to be considered further in the full impact assessment. As agreed in the Expert Topic Group meeting on the 12 th March 2018 consideration has been given to white-beaked dolphin and minke whale and baseline information has been included in Appendix 12.2 of the ES, however, given the low numbers and infrequent sightings of these species in and around the Norfolk Boreas site, it has been concluded that there is a very low risk of any significant impacts and therefore it was not	Agreed, however WDC is commenting on issues relating to cetaceans only.	Both parties agree on the cetacean species that were included in the assessment.

Topic	Norfolk Boreas Limited position	WDC position	Final position
	deemed necessary for these species to be subject to a full assessment.		
	The reference populations as defined in the ES are appropriate as agreed in the Expert Topic Group meeting on the 12 th March 2018.	Agreed	Both parties agree.
	The approach to assessment of impacts from pile driving noise for marine mammals follows current best practice and is therefore appropriate for this assessment as agreed with during the Expert Topic Group meeting on 12 th March 2018.	Agreed	Both parties agree.
	The impact assessment methodology is appropriate as agreed in the Expert Topic Group meeting on the 12 th March 2018.	Agreed	Both parties agree.
	The worst case scenarios used in the assessment for marine mammals is appropriate.	Agreed	Both parties agree.
Assessment findings	The characterisation of receptor sensitivity is appropriate.	Agreed	Both parties agree.
	The magnitude of effect is correctly identified, following the agreed methodology for the assessment on impacts, and taking into consideration the mitigation methods that will be implemented.	WDC does not agree with the magnitude of effect for some impacts, in particular noise from piling activities.	Not agreed. However, it should be noted that, as there is no current guidance for determining the magnitude of effect of underwater noise, the approach is based on the best available information.
	The impact significance conclusions of negligible or minor adverse for Norfolk Boreas alone are appropriate, taking into consideration the mitigation methods that will be undertaken.	WDC does not agree that the conclusions of negligible or minor are appropriate for noise from piling activities.	Not agreed. However, it should be noted that, as outlined above, there is no current guidance for determining the impact significance for underwater noise, the approach is based on the best available information.
Cumulative Impact Assessment	The plans and projects considered within the CIA are appropriate. Oil and gas activities, marine aggregates and dredging projects, navigation and shipping, sub-sea cables and	We agree with the other offshore wind farms that have been included in the CIA, however other activities do not seem to	Agreed

Topic	Norfolk Boreas Limited position	WDC position	Final position
	pipelines and marine disposal sites were considered as part of the CIA screening, but subsequently screened out of further assessment.	be included e.g. oil and gas, marine aggregates, shipping etc.	
	The CIA methodology is appropriate.	Agreed	Both parties agree.
	The cumulative impact conclusions of negligible or minor significance are appropriate. As noted above, the potential for cumulative impacts from other industries including oil and gas activities, marine aggregates and dredging projects, navigation and shipping, sub-sea cables and pipelines and marine disposal sites, including the vessels used for all activities, were considered, but ultimately screened out of further assessment.	WDC do not agree as the numbers of harbour porpoise predicted to be impacted seem to be high. Additionally, the cumulative assessment does not include noise from vessels associated with other, non-wind farm, plans or projects such as oil and gas, aggregates and commercial fisheries.	As above.
Habitats Regulations Assessment (HRA)			
Screening of Likely Significant Effects (LSE)	The Approach to HRA Screening is appropriate. The only site screened in for further assessment for cetaceans is the Southern North Sea SAC.	Agreed	Both parties agree.
Assessment of Adverse Effect on Integrity	The approach to the assessment of adverse effect on site integrity is appropriate. The approach follows the Conservation Objectives (JNCC and Natural England, 2019 ¹). That is: Displacement of harbour porpoise should not exceed 20% of the seasonal component of the SAC area at any one time and / or on average exceed 10% of the seasonal component of the SAC area over the duration of that season.	Not agreed. WDC has serious concerns with the current SNCB approach on underwater noise management, and does not agree with the current threshold approach laid out by JNCC and NE.	WDC concerns are acknowledged, however, the assessments are based on the current SNCBs guidance.

¹ JNCC and Natural England (2019). Harbour Porpoise (*Phocoena phocoena*) Special Area of Conservation: Southern North Sea Conservation Objectives and Advice on Operations. March 2019. Advice under Regulation 21 of The Conservation of Offshore Marine Habitats and Species Regulation 2017 and Regulation 37(3) of The Conservation of Habitats and Species Regulations 2017.

Topic	Norfolk Boreas Limited position	WDC position	Final position
	The reference populations, as defined in the Information to Support HRA report, are appropriate and in accordance with the Conservation Objectives (JNCC and Natural England, 2019 ¹).	Agreed	Both parties agree.
	The conclusions of the Information to Support HRA report are appropriate for Norfolk Boreas alone.	Not agreed. WDC do not agree with the current SNCB advice on undertaking the HRA, therefore we cannot agree with the conclusions.	WDC concerns are acknowledged, however, the assessments are based on the current SNCBs guidance.
	The conclusions of the in-combination assessment provided in the Information to Support HRA report are appropriate. The Applicant believes the method of managing underwater noise through SIPs for the Southern North Sea SAC lies with the Regulator.	Not agreed. WDC is concerned that the thresholds will be breached particularly for piling activity. However, no AEoI is concluded due to the Site Integrity Plan (SIP). The SIP does not contain enough information to give certainty of no adverse effect/beyond reasonable scientific doubt (see below).	WDC position is acknowledged, although it should be noted that: <ul style="list-style-type: none"> The commitment to the SIP will ensure that adequate mitigation will be put in place and developing the SIP pre-construction will ensure that this is based on the latest scientific evidence and requirements. The responsibility to define the management framework and potential methodologies for management lies with the regulator (MMO) to ensure no adverse effect on the Southern North Sea SAC.

Topic	Norfolk Boreas Limited position	WDC position	Final position
Mitigation and Management			
Mitigation and Management	<p>The Site Integrity Plan (SIP), in accordance with the In Principle SIP (document reference 8.17 of the Application, APP-708) provides an appropriate framework for management of effects on the Southern North Sea SAC. The final SIP would be produced pre-construction taking account of the final design of the project and best scientific evidence at that time.</p> <p>The final SIP would provide the detail on the mitigation proposed in relation to the final design, including detail on the effectiveness of the mitigation proposed. The SIP will deliver the required mitigation to conclude no AEOL, as secured through condition 14(m) of the Generation Deemed Marine Licence (DML)s and 9(l) of the Transmission DMLs. Construction cannot commence until the Regulator is satisfied that there will be no AEOL beyond reasonable scientific doubt.</p> <p>Unexploded Ordnance (UXO) clearance is not included within the draft DCO as it would be licenced separately once the nature and extent of UXO clearance is known, following preconstruction surveys. A UXO Marine Mammal Mitigation Protocol (MMMP) would be a condition of the UXO clearance Marine Licence. This is the approach that has been taken on other offshore wind farms to date.</p> <p>The Applicant believes the method of managing underwater noise through the SIPs for the Southern North Sea SAC, lies with the Regulator.</p>	<p>Not agreed. WDC agrees with the SIP in principle, however there are no guidelines from SNCBs on what to include, and as a result the SIP contains very little detail on mitigation to be used, or assessment of the effectiveness these methodologies, so are little more than a commitment to use mitigation methods. We recognise that the methodologies will be determined post-consent to make use of the latest studies scientific research. However, until the detail of the SIP is decided it is inaccurate to claim there will be no AEOL, as currently cannot remove all reasonable scientific doubt as to the effects of the project on the SNS SCI. WDC request to be consultees on the SIP.</p>	<p>WDC position is acknowledged, although it should be noted, as outlined above, that:</p> <ul style="list-style-type: none"> • The commitment to the SIP will ensure that adequate mitigation will be put in place and developing the SIP pre-construction will ensure that this is based on the latest scientific evidence and requirements. • The responsibility to define the management framework and potential methodologies for management lies with the regulator (MMO) to ensure no adverse effect on the Southern North Sea SAC. • WDC will be consulted during the development of the SIP post-consent.
	<p>The MMMP, in accordance with the draft MMMP (document reference 8.13 of the Application, APP-704), provides an appropriate framework for the securing marine mammal mitigation measures.</p>	<p>Agreed. WDC requests to be named as a consultee for the MMMP.</p>	<p>Both parties agree.</p> <ul style="list-style-type: none"> • WDC will be provided with a draft of the MMMP during its development post-consent.

Topic	Norfolk Boreas Limited position	WDC position	Final position
	The MMMP for piling will follow the latest guidance where appropriate, which is currently the JNCC (2010) Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise.	Not agreed WDC has concerns with the current SNCB guidelines. Recommend that a robust MMMP should include: shut-down when marine mammals approach within a specified distance of operations (mitigation zone), and commitment to using proven mitigation methods.	WDC concerns are acknowledged, however, the assessments are based on the current SNCBs guidance. As previously outlined, the MMMP will be finalised during the pre-construction phase, and will consider the latest guidance, requirements and scientific reports on the efficiency of mitigation methods.
Monitoring	<p>The In Principle Monitoring Plan (IPMP; document reference 8.12 of the Application, APP-703) provides an appropriate framework to agree monitoring requirements with the Marine Management Organisation (MMO) prior to construction.</p> <p>Section 4.5.2 of the IPMP acknowledges that there may be little purpose or advantage in site specific monitoring and a strategic approach may be more appropriate in providing answers to specific questions where significant environmental impacts have been identified at a cumulative/in-combination level.</p>	Agreed. The monitoring strategy should be appropriate to consider cumulative impacts of all developments in the region.	<p>Agreed.</p> <p>The monitoring requirements will be determined post-consent, including consideration of cumulative impacts.</p>
Post consent engagement	WDC will be provided with the draft and final SIP.	Agreed	Both parties agree.
Draft Development Consent Order			
Wording of Requirement(s)	Part 4 of Schedules 9, 10, 11 and 12 of the DCO appropriately reflects the commitments made in the ES.	Agreed	Both parties agree.

The names inserted below are to confirm that these are the current positions of the two parties contributing to this SOCG

Name of organisation	Whale and Dolphin Conservation
Position	Policy Officer
On behalf of	Whale and Dolphin Conservation
Date	07/10/2019

Printed Name	Jake Laws
Position	Norfolk Boreas Consents Manager
On behalf of	Norfolk Boreas Limited (the Applicant)
Date	15/10/2019