

Norfolk Boreas Offshore Wind Farm Statutory Undertaker Update

Applicant: Norfolk Boreas Limited
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Deadline 2

Photo: Ormonde Offshore Wind Farm

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1 Introduction

1. Norfolk Boreas Limited ('the Applicant', an affiliate company of Vattenfall Wind Power Ltd) is seeking a Development Consent Order (DCO) for the Norfolk Boreas offshore wind farm in the southern North Sea (the Application).
2. This note has been produced in response to the Examining Authority's (ExA) Written Question 3.0.2 issued on 19 November 2019, which requested a progress report on negotiations with each of the Statutory Undertakers listed in the Book of Reference.
3. Table 1.1. includes Statutory Undertakers defined by Section 127 of the Planning Act 2008 and Section 138 of the Planning Act 2008.
4. The information contained in this document can be updated throughout the examination and the Applicant also refers the ExA to the Compulsory Acquisition Objections Schedule (document reference: ExA.CA.D2.V1) for an up to date summary of the progress made in relation to agreement with landowners.

1.1 Status of negotiations regarding protective provisions

5. The Applicant has engaged with relevant statutory undertakers and will continue to do so with a view to agreeing the protective measures or, where appropriate, to agreeing terms for such provisions outside of the DCO. The general approach is that the protective provisions (PPs) at Part 1 of Schedule 17 of the dDCO are for the benefit of gas, electricity, water and sewerage undertakers affected by the authorised development who do not benefit from the bespoke PPs contained in Schedule 17. The PPs at Schedule 17 of the dDCO are structured as follows:
 - Part 1 – For the benefit of general gas, electricity, water and sewerage undertakers affected by the authorised development;
 - Part 2 – for the benefit of National Grid;
 - Part 3 – for the benefit of Cadent Gas;
 - Part 4 – For the benefit of Operators of Electronic Communications Code Networks;
 - Part 5 – for the benefit of Network Rail;
 - Part 6 – for the benefit of Anglian Water;
 - Part 7 – for the benefit of the Environment Agency and drainage authorities, as a result of the disapplication of certain legislative provisions (see Article 7 -

Application and modification of legislative provisions) in relation to works within watercourses;

- Part 8 – for the benefit of Ørsted Hornsea Project Three (UK) Ltd; and
- Part 9 – for the benefit of Norfolk Vanguard Limited.

6. At the DCO hearing held on the 13 November 2019, and as outlined in Action Point 18 published on 14 November 2019, the ExA questioned what the implications would be in relation to Protective Provisions if Hornsea Project Three and Norfolk Vanguard were consented, and if subsequently the Benefit of the Order were transferred to another undertaker. The Applicant can confirm that the protective provisions for the benefit of Ørsted Hornsea Project Three (UK) Ltd (Part 8) and Norfolk Vanguard Limited (Part 9) operate for the protection of the entity who owns and/or operates the relevant asset. This is provided for by the following definitions:

Part 8 – Hornsea Project Three protective provisions

- *“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by Orsted or its successor in title within the Hornsea 3 Order Land;*
- *“Orsted” means an undertaker with the benefit of all or part of the Hornsea 3 Order for the time being (paragraph 81, Part 8, Schedule 17 of the dDCO).*

Part 9 – Norfolk Vanguard Limited protective provisions

- *“statutory undertaker” means, for the area of the authorised development, and in relation to any apparatus, the statutory undertaker who owns and/or operates the transmission assets under the Norfolk Vanguard DCO (paragraph 97, Part 9, Schedule 17 of the dDCO).*

7. This means that the protective provisions will continue to apply to successors in title following any transfer of the benefit of the respective Hornsea Project Three and/or Norfolk Vanguard Development Consent Orders (if made).

Table 1.1 Status of negotiations regarding protective provisions

| Statutory Undertaker | Relevant Representation | Status of discussions |
|----------------------------------|-------------------------|---|
| BT Group plc | No | BT have the benefit of the protective provisions at Part 4 of Schedule 17 of the dDCO. |
| Anglian Water Services Limited | Yes - RR-090 | Protective provisions have been agreed and are incorporated at Part 6 of the dDCO. |
| UK Power Networks Limited (UKPN) | No | UKPN are covered by the general protective provisions at Part 1 of Schedule 17 of the dDCO. The Applicant is in the process of engaging with UKPN to reach agreement on the terms to govern |

| Statutory Undertaker | Relevant Representation | Status of discussions |
|--|-------------------------|---|
| | | the interaction between the Applicant's and UKPN's apparatus. Initial engagement commenced in November 2017. The Applicant expects agreement to be reached before the end of the examination. |
| Cadent Gas Limited (Cadent) | Yes – RR-024 | Cadent have the benefit of protective provisions at Part 3 of Schedule 17 of the dDCO. The Applicant is in the process of finalising terms with Cadent to govern the interaction with Cadent's apparatus. The Applicant expects agreement to be reached and for Cadent's representation to be withdrawn before the end of the examination. |
| National Grid Gas plc & National Grid Electricity Transmission | RR-052 | National Grid have the benefit of protective provisions at Part 2 of Schedule 17 of the dDCO. The Applicant is in the process of finalising terms with National Grid to govern the interaction with National Grid's apparatus. The Applicant expects agreement to be reached and for National Grid's representation to be withdrawn before the end of the examination. |
| British Pipeline Agency Limited (BPA) / Shell UK Limited | No | The Applicant is engaging with BPA, who manage assets on behalf of Shell. |
| Eastern Power Networks plc (EPN) | No | EPN are covered by the general protective provisions at Part 1 of Schedule 17 of the dDCO. The Applicant is in the process of engaging with EPN to reach agreement on the terms to govern the interaction between the Applicant's and EPN's apparatus. The Applicant expects agreement to be reached before the end of the examination. |
| Vodafone Limited | No | Vodafone have the benefit of protective provisions at Part 4 of Schedule 17 of the dDCO. |
| Transmission Capital Partners GP Limited (TCP) | No | TCP are a landowner at the Necton National Grid substation site and are also the OFTO for the Dudgeon Offshore Wind Farm. Negotiations are currently ongoing with TCP in attempts to acquire the land and rights in land required by agreement. To the extent necessary, TCP's OFTO undertaking also has the benefit of general protective provisions at Part 1 of Schedule 17 of the dDCO. |
| Blue Transmission Sheringham Shoal Limited (BTSS) | No | BTSS have the benefit of the general protective provisions at Part 1 of Schedule 17 of the dDCO. The Applicant is in the process of engaging with BTSS to reach agreement on the terms to govern the interaction between the Applicant's and BTSS' apparatus. |
| The Water Management Alliance (WMA) & Norfolk Rivers Internal Drainage Board WMA (Eastern) Depot | Yes – RR-104 | These parties have the benefit of protective provisions at Schedule 17, Part 7 of the dDCO, and the Applicant understands that there is no objection in principle to the mechanism governing the interaction with the drainage authorities. |

| Statutory Undertaker | Relevant Representation | Status of discussions |
|---------------------------------------|-------------------------|--|
| Environment Agency (EA) | Yes – RR-095 | The EA have the benefit of protective provisions at Schedule 17, Part 7 of the dDCO. These are consistent with those included in the Norfolk Vanguard draft DCO and for other similar projects such as the as made Triton Knoll Electrical System Order 2016. The Applicant understands that the principles are agreed and the Applicant is engaging with the EA to finalise drafting points connected with the PPs. |
| Ørsted Hornsea Project Three (UK) Ltd | Yes – RR-102 | Protective provisions are agreed as included in Part 8 of the dDCO. The Applicant is also progressing a Co-operation Agreement between Orsted Hornsea Project Three (UK) Limited, Ørsted Wind Power A/S, Cerulea Limited, Norfolk Vanguard Limited and Vattenfall Wind Power Limited. |
| Norfolk Vanguard Limited | No | Protective provisions are agreed as included in Part 9 of the dDCO. The Applicant will also enter into a Co-operation Agreement with Norfolk Vanguard Limited prior to construction. |