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20 August 2021

### **Norfolk Boreas Request for Further Information**

Dear Mr Leigh,

#### **Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010**

#### **Application by Norfolk Boreas Limited for development consent for Norfolk Boreas Offshore Wind Farm (Norfolk Boreas) Response to the Further Consultation Letter dated 9 July 2021 Norfolk Boreas Limited ("the Applicant")**

We refer to your letter dated 9 July 2021 which invites further comments from Interested Parties on the representations submitted by the Applicant on 25 June 2021 as well as the Applicant's comments on representations received from Interested Parties. The letter also requested further information from the Applicant in relation to a number of issues regarding the application for development consent.

The following documents are enclosed with the Applicant's submission:

1. Applicant's Response to the Request for Further Information
2. Extract of Schedule 19 to the DCO: Compensation to protect the coherence of the Natura 2000 Network
3. Updated Population Viability Analysis: Flamborough and Filey Coast SPA
4. Updated information on cumulative and in-combination effects with the Dudgeon and Sheringham Shoal Extension Projects
5. Offshore Transmission Network Review

#### **Applicant's comments on Interested Parties representations**

##### National Grid Plc

The Applicant welcomes the submission made by National Grid Plc (on behalf of National Grid Electricity Transmission Plc and National Grid Gas Plc) confirming that protective provisions have been agreed and included in the draft DCO (dDCO) submitted at Deadline 18.

### Network Rail Infrastructure Limited

The Applicant is also grateful for NRIL's confirmation that the Protective Provisions included in the final dDCO submitted at Deadline 18 are also agreed, and that NRIL has withdrawn its representations in respect of the Norfolk Boreas project.

### Environment Agency

The Applicant notes and welcomes the Environment Agency's confirmation that the protective provisions in the dDCO are agreed.

### RSPB

The Applicant notes that the RSPB's position remains unchanged from the position set out at Deadline 17, Confirmation on final Statement of Common Ground and Written Submission [REP17-012]. The Applicant responded in full to the RSPB's representations at Deadline 18 in the Applicant's comments on Deadline 17 Submissions [REP18-026]. The Applicant also notes that the RSPB intend to respond on the Applicant's additional information submitted on 25 June 2021, and the Applicant will comment on any further submissions made by the RSPB, where considered appropriate, in due course.

### Marine Management Organisation (MMO)

The Applicant notes the MMO's comments in relation to the proposed conditions to be included in the dDCO to secure compensation, should the Secretary of State conclude that adverse effects on integrity cannot be ruled out and therefore consider it necessary for the Applicant to deliver compensation. The Applicant has continued to engage with both the MMO and Natural England to seek to agree, as far as possible, these conditions for inclusion in the dDCO.

The Applicant acknowledges the MMO's request to be consulted on matters relating to compensation to be delivered offshore and this has been incorporated into the updated draft conditions (see below). However, the Applicant does not consider it appropriate for minimum timescales for consultation to be set within the dDCO given the compensation plans will be submitted to the SoS for approval, and the SoS will then conduct consultation with the MMO and Natural England as the SoS considers appropriate.

In addition, the Applicant does not propose to include any additional licensed activities in the DMLs for any compensation works which may be required.

### **Extract of Schedule 19 to the DCO: Compensation to protect the coherence of the Natura 2000 Network**

As explained above, the Applicant has engaged further with Natural England and the MMO in relation to the appropriate form of conditions to be included in the dDCO in the event that the SoS concludes that adverse effects on integrity cannot be ruled out and compensation must be delivered. An updated version of the draft conditions are attached to this submission.

Agreement in principle has been reached on many aspects of the conditions, save in relation to whether it is appropriate to set minimum periods for consultation with the MMO and Natural England (as explained above), and also whether it is appropriate for compensation to be delivered following construction, and potentially, during operation of the Project.

EC Guidance states that "*in principle, the result of implementing compensation has normally to be operational at the time when the damage is effective on the site concerned*". However, it also recognises that there will be certain circumstances and cases where this is not possible, and the Applicant considers the Norfolk Boreas project to be an example of such a case.

In relation to compensation for the predicted potential collision mortality of 14 kittiwakes from the Flamborough and Filey Coast SPA, the Applicant has developed proposals for constructing and installing artificial kittiwake breeding colonies which will deliver considerable over-compensation in terms of recruits to the North Sea population (and hence birds available to recruit to the SPA population). This means that even if there should be a short delay in providing the nesting structures, any shortfall in accrued mortality at the operational wind farm which could result will be rapidly repaid within a small number of years, following which the new breeding colonies will continue to over-compensate the impacts for the lifetime of the project.

With respect to the Haisborough Hammond and Winterton (HHW) Special Area of Conservation (SAC), the Applicant maintains that as it will not be known whether an effect on the HHW SAC will occur until export cable installation is complete, compensation should not be required prior to the effect. This is especially so given that the evidence presented demonstrates the very low likelihood that any cable protection (and therefore compensation) will, in fact, be required. To require advance delivery of compensation without knowing whether, in practice, any AEoI would in fact arise, or the precise amount of the impact for which compensation should be provided, would set an undesirable precedent for future projects and is likely to lead to unnecessary delay of the delivery of the project in the face of the urgent need for deployment of renewable energy to meet the Government's ambitions for net zero and 40GW by 2030. In addition, a requirement to deliver compensation in advance of understanding the scale of the impact (if indeed needed at all) would unnecessarily (and potentially significantly) increase the costs of the project's delivery and therefore ultimately the cost of energy for consumers..

### **Dudgeon and Sheringham Shoal Extension Projects**

Although the Dudgeon and Sheringham Shoal Extension Projects (DEP and SEP) were discussed during the Norfolk Boreas examination, sufficient information was not available at that time to draw meaningful conclusions regarding cumulative effects with those projects. The Preliminary Environmental Information Report (PEIR) and Draft Information for Habitats Regulations Assessment (HRA) for DEP and SEP were both published in April 2021 and these documents include a preliminary assessment of cumulative and in-combination impacts respectively with other projects including Norfolk Boreas. The Applicant has reviewed these documents and has given consideration to the potential for likely significant effects to arise as a result of DEP and SEP when considered cumulatively with Norfolk Boreas, as well as the potential for adverse effects on integrity to arise in respect of any European sites when DEP and SEP is considered in-combination with the Norfolk Boreas project.

### **Offshore Transmission Network Review:**

An integrated approach to connections for offshore wind farms was raised at Open Floor Hearing 2 (2 July 2020) and the Applicant's position and information regarding engagement in the Offshore Transmission Network Review (OTNR) process was set out in [REP13-014]. Since this time, the Applicant has continued to engage in the process and has been supportive of the Early Opportunities workstream. The Applicant has therefore provided an update on how the Applicant has sought to identify opportunities for a co-ordinated approach to the design and delivery of the transmission infrastructure for the Norfolk Vanguard and Norfolk Boreas projects, as well as with other projects in the same region.

We trust the enclosed documents deal fully with your request for further information. If however, any further clarification is required, please do not hesitate to contact us.

Yours faithfully



Jake Laws

For and on behalf of

Norfolk Boreas Limited