



Weald Action Group response to the government consultation on draft supplementary guidance on assessing the effects of scope 3 emissions on climate from offshore oil and gas projects

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Introduction

We are a collaboration of community groups and campaigners against all forms of oil and gas extraction across the Weald and Southeast of England¹.

The Weald Action Group, with Sarah Finch as the claimant, initiated the Horse Hill Development onshore oil judicial review which ultimately led to the June 2024 Supreme Court judgment. As the consultation notes, it is this judgment which has led to the need for supplementary EIA guidance.

We are aware that the government will also soon consult on the implementation of its manifesto commitment to end new oil and gas licensing². We view this present consultation regarding supplementary guidance on assessing the effects of scope 3 emissions as a step along the path to deliver on the UK's climate commitments and it is this view that frames our response. There is no room for new oil and gas fields if we are to still have a chance of limiting global average temperature rise to 1.5°C above pre-industrial levels and avoid the very worst impacts of climate change³.

We understand the focus on the North Sea given the size of the offshore oil and gas sector and its significant contribution to greenhouse gas (GHG) emissions and hence climate change. However, the onshore environment must not be ignored. Under the existing regulatory environment civil society groups and local communities continue to face an uphill battle in stopping these developments. For example, the National Planning Policy Framework still unfortunately (and despite its recent review) encourages Mineral Planning Authorities to “*plan positively*”⁴ for onshore oil and gas developments which is entirely out of step with the overall thrust of the government's intention to transition away from fossil fuels.

In addition therefore, as well as providing guidance regarding scope 3 emissions from proposed offshore oil and gas projects it will also be important for the government to provide commensurate guidance regarding onshore fossil fuel projects. Clarity and consistency of approach by Mineral Planning Authorities in how scope 3 emissions are assessed going forward will be crucial. This is not a matter that can simply be left to local authorities, who may lack the necessary expertise.

Responses to consultation questions

Q1. Do you agree with the advice in the draft supplementary EIA guidance on how the baseline scenario should be set out in an ES?

We agree that a realistic baseline is essential to enable assessment of the impacts of a proposed project, by comparing it with what would happen if the project did not go ahead. However, in its

¹ [Weald Action Group – Communities fighting onshore oil and gas](#)

² <https://www.gov.uk/government/news/certainty-for-oil-and-gas-industry-in-light-of-landmark-ruling>

³ A 2022 report by IISD based on selected 1.5°C compatible energy scenarios found that global oil and gas production must decrease by at least 65% by 2050, <https://www.iisd.org/publications/report/navigating-energy-transitions>

⁴ Paragraph 228, <https://assets.publishing.service.gov.uk/media/675abd214cbda57cacd3476e/NPPF-December-2024.pdf>

current form the guidance regarding how the baseline scenario should be set out lacks clarity and is open to interpretation.

Q1a. If not, please outline what else should be considered or done differently?

The draft guidance states, “*The baseline scenario should be representative of the existing GHG emissions, which includes emissions from existing oil and gas projects within the selected extent of assessment*”. An approach based on existing emissions is problematic for several reasons:

- It fails to clarify whether the expectation is that the baseline emissions linked to existing oil and gas projects will remain static over time or whether they are expected to decline. For example, there is no acknowledgement within the guidance of the well documented long-term downward trend of oil and gas production in the North Sea. For example, 180 out of 283 active oil and gas fields (encompassing thousands of wells) are expected to have stopped production by 2030⁵.
- It masks the true climate impact of proposed new oil and gas projects if their emissions are compared against a baseline of ongoing emissions, and continues to normalize the continuation of high emission activities in the offshore environment.
- It lacks transparency and introduces variability between projects regarding how baselines are established e.g. different assumptions will be made regarding market behaviour and its impact on emissions etc.
- It is not transparent. The public and other stakeholders deserve clarity and honesty regarding the real climate impact of fossil fuel developments.

The Finch judgment clarified the purpose of EIA. Key to the Court’s finding was that for the EIA regime to function effectively, and for decisions to approve projects with likely significant environmental effects to be made lawfully, those decisions must be subject to “*public debate*” and made with “*full knowledge of the environmental cost*”⁶. **This can only be achieved by using as a baseline scenario the complete absence of the proposed project – a “do nothing” scenario. In most cases this will result in a baseline scenario of zero GHG emissions. This provides a clearer benchmark, demonstrating the emissions that would be avoided by not proceeding with the proposed project.**

The reference to “*alternative baseline scenarios*” adds another level of confusion. The baseline for comparing scope 3 GHG emissions from an oil and gas project must be the emissions in the absence of the project in its entirety, not a comparison with the GHG emissions from an alternative fossil fuel development.

The draft guidance states that substitution is not a relevant factor in determining whether scope 3 emissions need to be assessed. **This is welcome. However, the guidance should also state that substitution is not a relevant factor in determining the baseline scenario.**

5

https://www.upstreamonline.com/field-development/over-half-of-oil-and-gas-fields-in-uk-north-sea-to-cease-production-by-2030/2-1-1558699?zeph_sso_ott=3MMX1p

⁶ R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents) <https://www.supremecourt.uk/cases/uksc-2022-0064> Paragraph 3.

Q2. Do you agree with the approach to the selection of relevant scope 3 emissions from different downstream activities to be included in the assessment i.e. emissions borne from the refinery process, transport of the oil or gas and end-use combustion?

We agree that estimates of scope 3 emissions should use oil and gas production figures which “reflect a reasonable worst-case scenario”. We also agree, as per above, that substitution is not a relevant factor in determining whether scope 3 emissions need to be assessed.

However, the draft guidance needlessly overcomplicates the calculation of scope 3 emissions by allowing developers to decide how to break down these emissions for assessment. Furthermore, the draft guidance opens the door for the inclusion of emission calculations which do not assume that all hydrocarbons are combusted:

“Developers can choose to break down scope 3 emissions into the relevant downstream GHG Protocol categories; or break them down into downstream refining process, transportation of produced product and end use of the product; or assume that all produced hydrocarbons are combusted”.

This is out of step with the Finch judgment and its findings. The Supreme Court in Finch recognised that the extraction of oil from the site would result in its “inevitable combustion”⁷ and that “the resulting effects on climate are not merely likely but inevitable”⁸.

Q2a. If not, please outline what else should be considered or what else should be left out?

Combustion emissions (category 11 of the GHG protocols categories for scope 3 emissions) from oil and gas contribute the majority of the total emissions (scope 1, 2 and 3) from this sector. Calculating combustion emissions is straightforward and there are recognisable methodologies for doing so.

The Finch ruling requires that combustion emissions must be assessed. **The starting point for calculating scope 3 emissions should therefore be the assumption that all the oil and gas that is extracted will be combusted, unless the developer can prove otherwise for the specific project in question. This should be clearly stated within the guidance.**

For clarity, and regardless of the assessment of other scope 3 emission categories, category 11 of the GHG protocols (combustion emissions) should be reported separately within the Environmental Statement.

Q3. To what extent do you agree that the advice given in the draft supplementary EIA guidance for evaluating the likely significant effects of scope 3 emissions on climate is helpful when it comes to preparing an ES?

The advice given is too vague and also includes factors that are not relevant to the assessment of significant effects.

Q3a. Do you have any other suggestions that could be considered?

⁷ Finch, paragraph 103.

⁸ Finch, paragraph 79.

The draft guidance states that developers must predict the “*magnitude and significance*” of the likely effects of scope 3 emissions and indicate the criteria used to determine whether an impact is “*likely*” and whether it is “*significant*”.

However, combustion emissions are always both “*likely*” and “*significant*” effects of fossil fuel projects, as confirmed by the Finch ruling⁹. Therefore combustion emissions must always be assessed as part of the EIA for an oil and gas project.

The task for developers is not to determine whether there will be a significant impact or not, but to understand its effects. The Supreme Court ruling in Finch stressed the need for “*comprehensive and high-quality information about the likely significant environmental effects of a project*”¹⁰.

The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020, which transpose the EU Environmental Impact Directive into UK law, require the assessment of a project’s “*effects*” on factors including population, health, climate, land, air, biodiversity, water, etc. Therefore, the Regulations require an assessment not just of the volume of GHG emissions a development will give rise to, but also how that will affect the factors mentioned. **This should be clearly stated as a requirement within the supplementary guidance. The current statement that “*The ES will need to consider how the GHG emissions associated with a proposed project impact the climate*” is insufficient and lacks clarity about what is required from the developer.**

There is a linear relationship between GHG emissions and increased global average temperatures. The IPCC reports that 1,000 gigatonnes of CO₂ emissions causes a best estimate of 0.45°C of increased global surface temperature¹¹.

Using the scientific community's understanding of the attribution of climate impacts to rises in global average temperatures, the resulting environmental and social impacts from the scope 3 emissions of a project can and should be estimated. By describing impacts, the Environmental Statement will give a much clearer picture of the effects of the project.

For example, expert witnesses in the case Greenpeace Nordic Nature and Youth Norway v. The Norwegian Government (a case challenging approval of three new offshore oil and gas fields in Norway) concluded that the emissions from the three fields in question would lead to an increase in global temperatures of 0.00018°C, 0.00004°C and 0.00001°C, respectively¹². These estimates were then used to quantify the harmful effects from the three fields and included:

- a reduction of about 1400 km² of Arctic sea ice in September;

⁹ See Finch, paragraph 7: “*It is ... agreed that it is not merely likely, but inevitable, that the oil extracted will be sent to refineries and that the refined oil will eventually undergo combustion, which will produce GHG emissions. It is not disputed that these emissions, which can easily be quantified, will have a significant impact on climate. The only issue is whether the combustion emissions are effects of the project at all. It seems to me plain that they are.*”

¹⁰ Finch, paragraph 153.

¹¹ IPCC (2021), paragraph D.1.1 on page 28.

¹² Helge Drange, ‘Assessment of climate consequences for Norway from emissions from oil and gas resources in the Barents Sea South and Barents Sea South-East regions’, 12 August 2024, https://www.greenpeace.org/static/planet4-norway-stateless/2024/08/e2494d3c-exhibit-2-expert-opinion-helgedrange_aug2024-1.pdf

Additional written observations by Greenpeace Nordic, Nature and Youth and six individual applicants, 16 August 2024, <https://www.greenpeace.org/static/planet4-norway-stateless/2024/08/41520d22-2024-08-16-additional-written-observations-by-the-applicants-final-1.pdf>

- a reduction of snow cover in the northern hemisphere in May by 560 km²;
- over 2.5 million children born between 2010 and 2020 facing an additional heatwave over their lifetimes;
- over 100,000 additional heat-related deaths up to the year 2100;
- the exposure of over 83,000 children born between 2010 and 2020 to one additional extreme drought;
- the exposure of over 29,000 children born between 2010 and 2020 to one additional forest fire; and
- the exposure of over 19,000 children born between 2010 and 2020 to one additional flood.

Such real-world illustrations of impact will enable the public and decision-makers to be much more informed about the harmful effects of further fossil fuel developments than would be the case if they were simply provided with the estimated impact of the GHG on global average temperature rise.

This is also crucial to ensure what the Supreme Court identified as one of the key objectives of the EIA regime – public participation in environmental decision-making¹³. The assessment of scope 3 emissions must evaluate the total impact of the combustion emissions on a worst-case scenario, and must be presented in a way that reflects its real world impacts so that it is understandable by the public.

The guidance should clearly state that the following factors are NOT relevant to the assessment of significant effects:

1. ***The “substitution” effect:*** The draft guidance states that, *“The [Finch] judgment recognises that the production of hydrocarbons from a proposed project may in some cases lead to a corresponding decrease in production elsewhere (referred to as “substitution”).”* **We can find no evidence of this within the judgment and recommend that this sentence is removed.**

The judgment makes the opposite point regarding the impact that not extracting oil has on demand for this fuel. Paragraph 2 in the Introduction states, *“Leaving oil in the ground in one place does not result in a corresponding increase in production elsewhere: see UNEP’s 2019 Production Gap report, p 50, which reported, based on studies using elasticities of supply and demand from economic literature, that each barrel of oil left undeveloped in one region will lead to 0.2 to 0.6 barrels not consumed globally over the longer term”*.

We welcome the clarification in the draft guidance that, *“substitution is not considered to be a relevant factor in determining whether scope 3 emissions from a project’s downstream activities are an effect that needs to be assessed in the ES”*. However, the draft guidance goes on to state that, *“The ES should set out, so far as is possible, both an assessment of the effects of the project’s proposed scope 3 emissions and provide a robust justification of the proposed substitution and its extent”*. **Substitution is contested, speculative and there is no**

¹³ Finch, for example paragraph 19.

agreed methodology by which to calculate it¹⁴. We strongly advocate that substitution is explicitly not a requirement for inclusion within Environmental Statements. The substitution argument must not be considered part of the decision-making process regarding proposed new oil and gas projects.

2. ***“Whether the emissions are likely to occur in the UK or elsewhere”***: For the purposes of evaluating the effects of GHG emissions this statement (on page 8 of the draft guidance) is irrelevant and should be deleted. As the Supreme Court ruling on the Finch case clarified, *“Climate change is a global problem precisely because there is no correlation between where GHGs are released and where climate change is felt”*¹⁵.
3. ***Emission reductions***: With regards to evaluating the significance of the likely effect of emissions the draft guidance states, *“The ES will need to consider how the GHG emissions associated with a proposed project impact climate. The ES should also outline what steps will be taken towards reducing GHG emissions over the project lifetime”*. **This sentence should be removed from this section of the guidance as it is not relevant to assessing the significance of the scope 3 emissions (see also response to question 5a).**

Q4. To what extent does the overview provided for assessing cumulative effects help convey the expectation on what other relevant projects (existing or planned) should form part of an assessment?

As the consultation document notes, cumulative effects are an important consideration in the EIA process. That said, the guidance is too narrow and there is no clear information about what should be included in the assessment.

Q4a. Do you have any other suggestions that could be considered?

We strongly recommend that the guidance states that proposed projects should be considered within the context of all global cumulative GHG emissions. This requires considering the remaining global carbon budget aligned with keeping global average temperature rise below 1.5°C, minus the committed emissions from existing fossil fuel infrastructure.

The focus on “existing or known projects”, and the example of a tie-back to a nearby existing project, detract from the most important point about cumulative GHG emissions, which is that ALL global GHG emission sources are relevant to the effect on climate change, regardless of the sector or location they came from. This is because unlike many other pollutants, which accumulate locally, and whose primary impacts are local, GHG emissions accumulate globally. Therefore the potential downstream emissions of a proposed oil and/or gas field must be considered in the light of all global emissions.

¹⁴ For example, page 69 of UNEP’s Production Gap: 2023 report which states, *“The MPE commissioned Rystad Energy, an independent consultancy, to develop a methodology for determining the net GHG effects of additional Norwegian oil production. The resulting methodology and assessment concluded that new oil and gas production by Norway would result in a net emissions reduction globally due to substitution effects (Rystad Energy, 2023). However, the methods and assumptions diverge from similar analyses by other researchers, who come to the opposite conclusion (Fæhn et al., 2017; Prest et al., 2023; Riekeles, 2023)”*. https://productiongap.org/wp-content/uploads/2023/11/PGR2023_web_rev.pdf

¹⁵ Finch paragraph 97.

A 2023 study found that “committed emissions” from the oil, gas and coal to be extracted from existing fields and mines amounted to 915 GtCO₂¹⁶ more than four times the carbon budget for a 50% chance of limiting warming to 1.5°C, which is 200 GtCO₂¹⁷. This means almost 60% of the fossil fuels within already operating or under-construction extraction sites cannot be burned.

Given the cumulative effect of GHG emissions on the atmosphere the timing of reductions is crucial. The earlier we prevent emissions, the more years of cumulative heating are avoided.

Q5. To what extent does the draft supplementary EIA guidance provide clarity on how to approach identifying suitable mitigation measures and subsequently implementing those measures?

The draft guidance does not provide clarity and is misleading as it implies that mitigation measures for scope 3 oil and gas emissions, which are within the control of the developer, exist. They do not. See response to Q5a.

Q5a. Do you have any other suggestions that could be considered?

¹⁸As the Finch judgment states, “In the case of oil extraction, there are no measures **within the control of the developer [emphasis added]** which, if the project proceeds, would avoid or reduce the combustion emissions and their impact on climate”¹⁹ and “it follows from the agreed fact that it is inevitable that oil produced from the well site will be refined and will eventually undergo combustion, which will produce GHG emissions, **that the combustion emissions are unavoidable if the project proceeds and no pollution control regime could be relied on to prevent or reduce them [emphasis added].**” According to the latest statistics from the Department for Energy Security and Net Zero, 87% of crude oil from the UK coastal shelf is exported²⁰. It is impossible for developers or regulators to know where oil will end up.

The only way to effectively mitigate scope 3 emissions from an oil and gas project is for the project not to proceed.

Any “mitigation measures” that are included by a developer must not be used as justification to exclude the full climate impacts of a project from the Environmental Statement.

Developers must certainly not be allowed to rely on technologies such Carbon Capture, Usage and Storage (CCUS) as viable emission mitigation measures. Despite decades of investment and research CCUS technologies are still not commercially viable at scale. There is not yet any CCUS infrastructure operating at a commercial scale in the UK²¹. In addition, these technologies are designed to capture emissions from single or multiple point source emission facilities, not to capture the downstream

¹⁶ Trout, K. (2023). *Sky's Limit Data Update*, Oil Change International. <https://priceofoil.org/content/uploads/2023/08/skys-limit-data-update-2023-v3.pdf>; which updates the 2022 findings in Trout, K., Muttitt, G., Lafleur, D., Graaf, T. V. de, Mendelevitch, R., Mei, L., & Meinshausen, M. (2022). Existing fossil fuel extraction would warm the world beyond 1.5 °C. *Environmental Research Letters*, 17(6), Article 064010. <https://doi.org/10.1088/1748-9326/ac6228>

¹⁷ Forster, P. M., Smith, C. J., Walsh, T., Lamb, W. F., Lamboll, R., Hall, B et al. (2023). Indicators of Global Climate Change 2023: annual update of key indicators of the state of the climate system and human influence, *Earth System Science Data*, 15(6), 2295–2327. <https://doi.org/10.5194/essd-16-2625-2024>.

¹⁸ Finch paragraph 110.

¹⁹ Finch paragraph 105.

²⁰ Department for Energy Security and Net Zero, ‘Digest of UK Energy Statistics (DUKES) 2024, Annexes A–J and tables’, See Chart F.3.

²¹ National Audit Office, [Report: Carbon Capture, Usage and Storage programme](#), 4 July 2024.

emissions from oil and gas which may be used to power a car, heat a home, etc, anywhere in the world. CCUS is unsuitable to mitigate the vast scope 3 emissions from oil and gas production today.

Indeed, developers and industry have often relied upon the assertion that it is impossible for them to know when and where the emissions will occur. It is clear from the Finch ruling that scope 3, and combustion emissions in particular, can be easily quantified. But as developers have argued that they cannot know when and where exactly those emissions will occur, they cannot also claim to be able to meaningfully mitigate them.

The guidance also presents an opportunity to state clearly that combustion emissions cannot be offset. Many offsetting schemes are unable to sequester emissions effectively (due to for example issues over permanence, leakage etc.), and many have failed to deliver additional emissions reductions²². Using credits from unregulated voluntary carbon markets to claim offsets, for example, should be explicitly ruled out.

Q6. Are the expectations on environmental protection objectives clear?

No, the expectations on environmental protection objectives are not clear.

Q6a. Do you have any other suggestions that could be considered?

The Offshore EIA Regulations require that the assessment must “*take into account environmental protection objectives established in retained EU law or at national level*”. The assessment should also take into account global environmental protection objectives and principles, including the objectives of the Paris Agreement.

As the draft guidance notes, “*understanding a proposed project’s scope 3 emissions is important in understanding its potential contribution to global carbon emissions*”. As such it will be important to assess those emissions against key criteria including, but not limited to, the following:

- credible emissions scenarios with a 50% or higher chance of keeping global average temperature rise below 1.5°C, once committed emissions from existing fields are taken into account (on a precautionary basis, scenarios should be chosen with low levels of reliance on CDR or CCUS);
- the availability of space in the global carbon budget for 1.5°C once committed emissions are taken into account;
- the UK’s climate leadership role and the influence of oil and gas decisions taken in the UK on the decision-making in other countries;
- international equity and alignment with the principle of common but differentiated responsibilities and respective capabilities (which the UK is committed to under the Paris Agreement); and
- international treaties and customary rules on due diligence, the duty to cooperate and the prevention of transboundary harm.

²² Wilson et al (2023) [Why offsets are not a viable alternative to cutting emissions](#). Climate Analytics.