

# Norfolk Vanguard Offshore Wind Farm Applicant's Responses to Comments on the Examining Authority's draft DCO Schedule of Changes



Applicant: Norfolk Vanguard Limited  
Document Reference: ExA; SoC Comments; 10.D9.3

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*Photo: Kentish Flats Offshore Wind Farm*

THE APPLICANT'S RESPONSES TO COMMENTS ON THE EXAMINING AUTHORITY'S  
SCHEDULE OF CHANGES TO THE DRAFT DEVELOPMENT CONSENT ORDER

Ref	Examining Authority's (ExA's) suggested changes	ExA's Comments	Stakeholder comments at Deadline 8	Applicant's response
<b>Articles</b>				
2	<p>—(1) In this Order... “the 2009 Act” means the Marine and Coastal Access Act 2009(n); “the 2011 Regulations” means the Marine Licensing (Licence Application Appeals) Regulations 2011(a);</p> <hr/> <p>(a) S.I. 2011/934</p>	<p>Amendment consequential to Part 5 in each of Schedules 9, 10, 11 and 12</p>	<p><b>Marine Management Organisation (MMO)</b></p> <p>The MMO does not agree with the inclusion of an appeals procedure. This has been discussed further in section 5.5 of this document [the MMO Deadline 8 response].</p>	<p>Noted. For the reasons previously outlined, and summarised in the Applicant's Comments at Deadline 8 (ExA; SoC; 10.D8.6), the Applicant agrees with the ExA that there should be an appeal process connected to the DMLs. The Applicant sets this out in more detail in the position statement with the MMO submitted at Deadline 9 (document reference: ExA; AS; 10.D9.4).</p>
<b>Requirements</b>				
2	<p>2.- (1) ... (e) subject to sub-paragraph (2) have a draught height of less than 22 metres from MHWS;.</p> <p>(2) (a) the number of wind turbine generators</p>	<p>To reflect suggestions made by NE and RSPB if required following application of further collision risk model(s)</p>	<p><b>Marine Management Organisation (MMO)</b></p> <p>The MMO supports this amendment.</p> <p><b>Natural England</b></p> <p>Natural England welcomes this change, noting additional</p>	<p>The Applicant welcomes this confirmation. The revised draught height of 27 metres has been included in the dDCO submitted at Deadline 8 (document reference 3.1).</p>

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	<p>[in Norfolk Vanguard East] with a draught height of less than [ ]m from MHWS comprised in the authorised project must not exceed [ ].</p> <p>(b) the number of wind turbine generators [in Norfolk Vanguard West] with a draught height of less than [ ]m from MHWS comprised in the authorised project must not exceed [ ].</p> <p><i>Subsequent sub-paragraphs renumbered accordingly</i></p>		<p>amendments will be required following application of collision risk modelling.</p>	
2	<p><del>(3) The total number of wind turbine generators must be apportioned between Norfolk Vanguard East and Norfolk Vanguard West (rounded to the nearest whole number) in accordance with the following formula —</del></p>	<p>To allow for flexibility between the minimum and maximum parameters</p>	<p><b>Marine Management Organisation (MMO)</b></p> <p>The MMO supports this amendment.</p>	<p>The Applicant welcomes this confirmation. The revised drafting on the turbine layout between Norfolk Vanguard East and Norfolk Vanguard West has been included in the dDCO submitted at Deadline 8 (document reference 3.1).</p>

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	<p><del>(a) two thirds of the total number of wind turbine generators in Norfolk Vanguard West and one third of the total number of wind turbine generators in Norfolk Vanguard East; or</del>  <b>(b) half of the total number of wind turbine generators in Norfolk Vanguard West and half of the total number of wind turbine generators in Norfolk Vanguard East.</b></p> <p>3.—(1) The total number of wind turbine generators forming part of the authorised project must not exceed 180 <b>and shall be configured such that at any time:</b></p> <p style="padding-left: 40px;"><b>(a) No more than two-thirds of the total number of wind turbine</b></p>			

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	<p>generators (rounded to the nearest whole number) must be located in Norfolk Vanguard West; and</p> <p>(b) No more than one half of the total number of wind turbine generators (rounded to the nearest whole number) must be located in Norfolk Vanguard East.</p>			
18	(2) The landscaping management scheme must include details of proposed hard and soft landscaping works appropriate for the relevant stage,	To ensure better understanding of tree removal proposed and consequent replanting considered necessary under this Requirement	<p><b>North Norfolk District Council (NNDC)</b></p> <p>NNDC welcomes the proposed inclusion of Requirement 18 (d) requiring 'details of existing trees to be removed' which will ensure better</p>	The Applicant welcomes this confirmation and the dDCO, submitted at Deadline 8, has been updated to include this wording.

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	<p>including— ... <b>(d) details of existing trees to be removed</b> <del>(d-e)</del> details of existing trees and hedgerows to be retained with measures for their protection during the construction period; <del>(e-f)</del> retained historic landscape features and proposals for restoration, where relevant; (f g) implementation timetables for all landscaping works; <del>(g-h)</del> proposed finished heights, form and gradient of earthworks; and <del>(h-i)</del> maintenance of the landscaping;</p>		<p>understanding of tree removal proposed and consequent replanting considered necessary under this Requirement and addresses concerns raised by NNDC at Deadline 7.</p>	
20(2)	<p>(2) The code of construction practice must accord with the outline code of construction practice and include details, as appropriate to the relevant stage, on—</p>	<p>To reflect concerns of NNDC</p>	<p><b>North Norfolk District Council (NNDC)</b> NNDC welcome the amendments to Requirements 20(2) and 26.</p>	<p>Noted. As the Applicant explains in its Comments at Deadline 8 (document reference ExA; SoC; 10.D8.6), the Applicant agrees with the principle of this change but the Applicant considers that the detail is better placed in the OCoCP, which has been</p>

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	<p>...            (d) construction noise and vibration (including the use of low noise reversing warnings on vehicles and temporary acoustic barriers);</p>			<p>updated at Deadline 9 accordingly (document reference 8.1).</p>
26	<p>(2) Outside the hours specified in paragraph (1), construction work may be undertaken for essential activities including but not limited to—  <del>(a) continuous periods of operation that are required as assessed in the environmental statement, such as concrete pouring, drilling, and pulling cables (including fibre optic cables) through ducts;</del>  <del>(b) delivery to the onshore transmission works of abnormal loads</del></p>	<p>The ES does not consider continuous periods of operation as referred to in sub-paragraph (a) other than at landfill, nor does it consider the impact of onshore transmission works requiring trenchless installation outside of the normal working hours.</p>	<p><b>North Norfolk District Council (NNDC)</b>            NNDC welcome the amendments to Requirements 20(2) and 26.</p>	<p>The Applicant refers NNDC to the Applicant's Comments at Deadline 8 (document reference: ExA; SoC; 10.D8.6) and the document ExA;AS;10.D8.11 which considers the potential impacts of continuous periods of operation and trenchless installation techniques and concludes that potential noise impacts at the nearest noise sensitive receptors can be mitigated such that residual impacts would be negligible. This mitigation is secured in the Outline Code of Construction Practice (document reference 8.1) and secured through Requirement 20(2)(e) of the dDCO. Accordingly, Requirement 26(2)(a) and (d) can be retained as originally drafted.</p> <p>The Applicant has no objection to including new paragraph (5) of Requirement 26 (restricting crushing and screening works at mobilisation areas), and this has been included in the updated dDCO submitted at</p>

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	<p>that may otherwise cause congestion on the local road network;</p> <p>(e) works required that may necessitate the temporary closure of roads;</p> <p><del>(d) onshore transmission works requiring trenchless installation techniques;</del></p> <p>(e) onshore transmission works at the landfall;</p> <p>(f) commissioning or outage works associated with the extension to the Necton National Grid substation comprised within Work No. 10A;</p> <p>(g) commissioning</p>			<p>Deadline 8. and appropriate mitigation is captured within the</p>



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	<p>or outage works associated with the overhead line modification works comprised within Work No. 11 and Work No. 11A;  <del>(h)</del> electrical installation; and  <del>(i)</del> emergency works.  <i>[re-number sub-paragraphs accordingly]</i>  (5) No crushing or screening works must take place at any time on any of the mobilisation areas, without the prior written consent of the relevant local authority.</p>			
34	<p>(1) No part of Works No. 4C or Work No. 5 within the District of North Norfolk may commence until such time as a tourism and associated business impact mitigation strategy has been</p>	<p>Amendment reflects suggestion made by NNDC</p>	<p><b>North Norfolk District Council (NNDC)</b>  NNDC welcomes the proposed inclusion of new Requirement 34 (tourism and associated business impact mitigation strategy) which address concerns raised by NNDC at Deadline 7.</p>	<p>The Applicant strongly opposes this amendment and refers NNDC to the Applicant's Comments at Deadline 8 (document reference: ExA; SoC; 10.D8.6) and the position statement in support of the Applicant's position that a tourism mitigation strategy is not necessary, appropriate or reasonable for this project (document reference: ExA; AS; 10.D8.12).</p>

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	<p>submitted to and approved in writing by North Norfolk District Council.</p> <p>(2) The tourism and associated business impact mitigation strategy referred to in sub-paragraph (1) must include:</p> <p>(a) Details of a contribution to be paid by the undertaker to Tourism Information Centres, Visit North Norfolk, Visit Norfolk and any other relevant organisations supporting and promoting tourism in North Norfolk;</p> <p>(b) Details of a method by which the contribution by the undertaker in (a) will be apportioned to the above</p>			

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	<p>organisations;</p> <p>(c) Details of who will administer the strategy;</p> <p>Details of how the strategy will be funded including the cost of administration;</p>			
<b>Deemed Marine Licences</b>				
<i>The following paragraph and condition numbers refer to Schedule 9. Where there are equivalent provisions in Schedules 10, 11 and 12 the same amendments would apply.</i>				
Part 1	<p><del>“the appeal parties” means the MMO, the relevant consultee and the undertaker;</del></p> <p><del>“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971;</del></p>	Amendment reflects changes proposed to appeal procedure in Part 5	<p><b>Marine Management Organisation (MMO)</b></p> <p>The MMO supports this removal, however would highlight that overall does not support the inclusion of any appeals procedure. This has been discussed further in section 5.5 of this document.</p>	Noted. For the reasons previously outlined, and summarised in the Applicant's Comments at Deadline 8 (ExA; SoC; 10.D8.6), the Applicant agrees with the ExA that there should be an appeal process connected to the DMLs. The Applicant sets this out in more detail in the position statement with the MMO submitted at Deadline 9 (document reference: ExA; AS; 10.D9.4).
Part 4 Condition 9(11)	(11) In case of damage to, or destruction or decay of, the authorised project seaward of MHWS	Amendment seeks to mitigate safety risks to fishing operations.	<b>Marine Management Organisation (MMO)</b>	As the Applicant explains in its Comments at Deadline 8 (ExA; SoC; 10.D8.6), at the request of the MMO, Trinity House and the MCA, the

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	<p>or any part thereof including the exposure of cables the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.</p>		<p>The MMO supports this amendment.</p>	<p>Applicant includes requirements relating to cable exposure in Condition 9(12), and it is not appropriate to repeat this in Condition 9(11) which would then conflict with 9(12). The Applicant has, however, included reference to the Kingfisher Information Service of Seafish within the dDCO submitted at Deadline 8 (document reference 3.1).</p>
<p>Condition 9(12)</p>	<p>(12) In case of exposure of cables on or above the seabed, the undertaker must within <del>five</del> <b>three</b> days following the receipt by the undertaker of the final survey report from the periodic burial survey, notify mariners by issuing a notice to mariners, the <b>MMO</b> and by informing Kingfisher Information Service of the location and extent of exposure.</p>	<p>Amendment reflects suggestion made by MCA</p>	<p><b>Marine Management Organisation (MMO)</b> The MMO supports this amendment.</p>	<p>As the Applicant explains in its Comments at Deadline 8 (ExA; SoC; 10.D8.6), there is no precedent or justification for a three day notice period and the Applicant does not agree with this amendment. The Applicant does, however, agree with sending notices to mariners to the MMO (and the MCA), and this Condition was amended in the dDCO submitted at Deadline 8 to clarify that copies of all notices must be provided to the MMO and the MCA within five days.</p>
<p>Condition 14(1)</p>	<p>(n) a lighting and marking plan (o) an operation and maintenance programme</p>	<p>Amendment reflects suggestion made by MCA</p>	<p><b>Marine Management Organisation (MMO)</b></p>	<p>As the Applicant explains in its Comments at Deadline 8 (ExA; SoC; 10.D8.6), the Applicant does not consider that this change is necessary</p>

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			The MMO supports this amendment.	because there are adequate provisions already included in the DMLs to cover both lighting and marking (Condition 10, 11, 14(1)(k) and 15(8) of Schedule 9-10 and Condition 5, 6, 9(1)(k) and 10(8) of Schedule 11-12), as well as an operation and maintenance plan (Condition 9(1)(j) of Schedule 9-10 and Condition 14(1)(j) of Schedule 11-12).
Condition 14(1)(e)	<p>(ee) For the avoidance of doubt “distribution” in sub-paragraph (e) of this paragraph must include quantities in respect of each structure comprised in the offshore works and intended to be subject to scour and cable protection</p> <p>[Condition 9 in each of Schedules 11 and 12 to be amended accordingly]</p>	To provide for certainty in the Scour Protection and Cable Protection Plan	<p><b>Marine Management Organisation (MMO)</b></p> <p>The MMO agrees to the inclusion of this sub condition. The MMO would suggest for consistency it is stated as a new paragraph as Condition 14 (1) (e) (i) rather than (ee) as suggested by the ExA. The MMO are satisfied with this amendment and the updated Table 1 within the Outline Scour Protection and Cable Protection Plan [elevates] the concerns and require no further action from the applicant.</p>	<p>The Applicant has included the suggested wording within Condition 14(1)(e) (Schedule 9-10) and Condition 9(1)(e) (Schedule 11-12) of the DMLs submitted at Deadline 8. The Applicant welcomes the confirmation from the MMO that the additional wording, together with Table 1 in the outline scour protection and cable protection plan, alleviates the MMO's concern and that no further amendments are required.</p>
Condition 15(1)	—(1) Any archaeological reports produced in accordance with condition 14(h)(iii) <del>are to</del> <b>must</b> be agreed with the statutory historic body.	Amendment reflects drafting protocol	<p><b>Marine Management Organisation (MMO)</b></p> <p>The MMO supports this amendment.</p>	Following discussions with the MMO prior to Deadline 8, the Applicant amended this wording (in the dDCO submitted at Deadline 8) to make clear that the archaeological reports must be agreed with the MMO in consultation with the statutory historic body.

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Condition 15(5)	<p>5) Unless otherwise agreed in writing with the undertaker, the MMO must use reasonable endeavours to determine an application for approval made under condition 14 as soon as practicable and in any event within a period of <del>six</del> <b>four</b> months commencing on the date the application is received by the MMO. <del>or if the MMO reasonably requests further information to determine the application for approval, within a period of four months commencing on the date that the further information is received by the MMO. For the purposes of this paragraph (5), the MMO may only request further information from the undertaker within a period of two months from receipt of the application for approval.</del></p>	<p>To reflect concerns of TH and provide certainty and consistency whilst preserving the possibility of extension of time by agreement</p>	<p><b>Marine Management Organisation (MMO)</b></p> <p>The MMO welcomes the removal of the regulators ability to ask for additional information at any time throughout the determination period as this was a major concern to the MMO decision process as regulators. This is summarised within Section 5 of this document. 2.10.2. The MMO does not agree with the amendment from the 6 month to 4 month timescale for determination and believes this should still be 6 months with the ability for agreement in writing with the applicant shorter timescales as required. The MMO has included further comments on timescales within section 5 of this document along with previous responses summarised in REP7-071 Appendix 1.</p> <p>The MMO notes the ExA changed condition 15(5) from a 6 month timescale to a 4 month timescale. The MMO has concerns over the inconsistencies of the amendments proposed by the ExA in the schedule of changes. Condition 15(4) timescales has been changed to 4 months however condition 15(3) still advises the applicant must submit the documents for approval at least 6</p>	<p>It is the Applicant's understanding that the ExA's intention was to revert to the 4 month period throughout all the discharge timeframes within Condition 15 (of Schedule 9-10) and Condition 10 (of Schedule 11-12). The Applicant has adopted the four month timeframe within the dDCO submitted at Deadline 8.</p> <p>For the reasons previously outlined, in particular in response to ExA WQ 6.8 at Deadline 1 (document reference ExA; WQ; 10.D1.3) and ExA WQ 20.135 and 20.139 at Deadline 4 (document reference: ExA; FurtherWQ; 10.D4.6), the Applicant strongly contends that four months is well-established as an appropriate timeframe for offshore wind farm schemes and one that ensures a balance is struck between the expedient discharge of the relevant conditions attached to the DML whilst allowing a reasonable period of time for consideration by the MMO and relevant consultees.</p> <p>This four month time period is contained on a number of other offshore wind farm DCOs (including The East Anglia Three Offshore Wind Farm Order 2017, Hornsea Two Offshore Wind Farm Order 2016, and the final draft of the Hornsea Project Three Order), and a swift decision making process is vital in order to minimise delays and allow the</p>

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			<p>months prior to the intended commencement of licensed activities.</p> <p>The MMO has two interpretations for the reason of this inconsistency: The first interpretation is that condition 15(2) should be changed to 6 months to ensure consistency. The second interpretation is that condition 15(2) remains at 6 months and the MMO has 4 month to make the determination then it would go to the appeal process as currently worded.</p> <p>The MMO maintains that it requires 6 months to review and consult upon all discharge documentation, but will always endeavour to process documentation in a short a time period as possible to assist the applicant.</p> <p><b>Natural England</b></p> <p>Natural England notes that this condition has been amended to remove the automatic extension to the deadline for pre-construction documentation sign off, in the event that further information is provided. Natural England does not agree with this amendment as it means the Applicant gets to decide if an extension is granted upon submission of additional information. It is the opinion of Natural England that the</p>	<p>Applicant to meet key Contracts for Difference milestones (as explained further in response to WQ 20.135 (ExA; FurtherWQ; 10.D4.6).</p> <p>The Applicant does not agree with Natural England's interpretation of the effect of the change. The drafting that has been removed was previously introduced by the Applicant to provide a clear process for the MMO to request further information in order to try to limit delays or late requests for further information. However, if the principle of appeal against non-determination (and refusal) is accepted, such that there is a clear and certain timeframe within which decisions must be made, the Applicant acknowledges that it is not essential to restrict this request for further information and, accordingly, the Applicant has reinserted the original drafting which has precedent in other offshore wind farm schemes including East Anglia Three and the final draft of Hornsea Project Three.</p> <p>In any event, the Applicant will endeavour to submit high-quality plans, programmes, protocols, schemes and/or statements to the MMO in good time and in advance of the four month minimum period. It should also be noted that Condition 15(5) (Generation DMLs) and Condition 10(5) (Transmission DMLs)</p>

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			<p>decision on any extension due to additional information should rest with the regulator and not the Applicant. The condition should be amended to reflect this as it is not appropriate for the applicant to set extensions, given they clearly have a biased position.</p>	<p>allows for the determination period to be extended if agreed between the parties.</p>
Condition 15(8)	<p><del>(8) No part of the authorised scheme may commence until the MMO, in consultation with (8) the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which includes full details of the plan for emergency, response and co-operation for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN543 "Offshore Renewable Energy Installations (OREIs) – Guidance on UK</del></p>	<p>Amendment reflects suggestion made by MCA</p>	<p><b>Marine Management Organisation (MMO)</b> The MMO supports this amendment.</p>	<p>As the Applicant explains in its Comments at Deadline 8, the Applicant did not consider that there was any justification to warrant a departure from previous precedent and the Applicant put forward a suggested compromise at Deadline 8. Notwithstanding this, the Applicant has since discussed the matter with the MCA and agreement has been reached on the wording to be included in the DCO. The Applicant has updated the DCO, submitted at Deadline 9, accordingly.</p>



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	<p>           Navigational Practice, Safety and Emergency Response Issues” and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed MCA recommendations contained within MGN543“Offshore Renewable Energy Installations (OREIs)— Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes. The ERCoP and associated guidance and requirements must be implemented as approved, unless otherwise agreed in writing by the MMO in consultation with the MCA. The document must be reviewed at least annually or whenever changes are identified, whichever is sooner, and         </p>			

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	<p><del>any proposed changes must be submitted to the MMO in writing for approval, in consultation with MCA.</del></p> <p>(8) No part of the authorised project may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN543 "Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues" and its annexes.</p>			
Condition 18	(2)(b) “a <b>high-resolution</b> full sea floor coverage swath-bathymetry survey <b>to include a 100% coverage</b> that meets the	To reflect HE requirements to the extent they surpass IHO(b) S44ed5 Order 1a and provide	<b>Marine Management Organisation (MMO)</b> The MMO supports this amendment.	As the Applicant explains in its Comments at Deadline 8 (ExA; SoC; 10.D8.6), the Applicant does not consider that this change is necessary as there is sufficient detail already

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	requirements of IHO(b) S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works and disposal activities under this licence;”			provided in the Outline Written Scheme of Investigation (offshore) (document 8.6). It is also the Applicant's understanding that Historic England accept the Applicant's position.
Condition 20	2(e) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones identified to have been potentially impacted by construction works. The data shall be analysed by an accredited archaeologist as defined in the offshore written scheme of investigation required under condition 14(h).	Amendment reflects suggestion by HE	<b>Marine Management Organisation (MMO)</b> The MMO supports this amendment.	The Applicant maintains that this requirement is already suitably secured in the DMLs by virtue of the In Principle Monitoring Plan (document 8.12 and Condition 14(1)(b) of Schedule 9-10 and Condition 9(1)(b) of Schedule 11-12 of the DCO), and it is not necessary to note this on the face of the DMLs. It is also the Applicant's understanding that Historic England accept the Applicant's position.

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<b>Schedules 9-12, Part 5 Appeal Procedure</b>				
Part 5 Procedure for appeals	<p><del>23. The undertaker must submit to the Secretary of State, a copy of the application submitted to the MMO and any supporting documentation which the undertaker may wish to provide (“the appeal documentation”).</del></p> <p><del>24. The undertaker must on the same day provide copies of the appeal documentation to the MMO and any relevant consultee.</del></p> <p><del>25. As soon as is practicable after receiving the appeal documentation, but in any event within 20 business days of receiving the appeal documentation, the Secretary of State must appoint a person and forthwith notify the appeal parties of the identity of the appointed person and the address to which all</del></p>		<p><b>Marine Management Organisation (MMO)</b></p> <p>The MMO does not support the amendment made by the ExA and has fundamental concerns regarding any procedure of appeals. This has been discussed further in section 5.5 of this document [the MMO's response at Deadline 8].</p>	<p>For the reasons previously outlined during the course of the Examination, the Applicant maintains that it is essential to have an external and independent appeals process connected to a refusal or non-determination under the DMLs. Judicial Review is not an appropriate mechanism for challenging a decision (or non-determination) under a DML. The Applicant has explained this in more detail in a position statement with the MMO at Deadline 9 (document reference ExA; AS; 10.D9.4).</p>

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	<p>correspondence for that person's attention should be sent.</p> <p>26. The MMO and any relevant consultee must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph 25 and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person.</p> <p>27. The appeal parties must make any counter-submissions to the appointed person within 20 business days of receipt of written representations pursuant to paragraph 26 above.</p> <p>28. The appointed</p>			

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	<p>person must make his decision and notify it to the appeal parties, with<del>28.</del> reasons, as soon as reasonably practicable. If the appointed person considers that further information is necessary to enable him to consider the appeal he must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.</p> <p><del>29.</del> Any further information required pursuant to paragraph <del>28</del> must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations</p>			

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	<p>concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 20 business days of that date. 30. O</p> <p>(b) reverse or vary any part of the decision of the MMO (whether the appeal relates to (2) that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance. 31. The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under this paragraph. 32. The appointed person may proceed to a decision even though no written</p>			

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	<p>representations have been made within those time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.</p> <p>33. The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.</p> <p>34. If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval for the purpose of Part 4 of Schedule 9 as if it had been given by the MMO. The MMO may confirm any determination given by the appointed person in identical form in</p>			



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	<p>writing but a failure to give such confirmation (or a failure to give it in identical form) may not be taken to affect or invalidate the effect of the appointed person's determination.</p> <p>35. Save where a direction is given pursuant to paragraph 36 requiring the costs of the appointed person to be paid by the MMO, the reasonable costs of the appointed person must be met by the undertaker.</p> <p>36. On application by the MMO or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the</p>			

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	<p><del>terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance on the award of costs or any guidance which may from time to time replace it.</del></p> <p>(1) Where the MMO refuses an application for approval under condition 14 [condition 9 in Schedules 11 and 12] and notifies the undertaker accordingly, or fails to determine the application for approval in accordance with condition 15 [condition 10 in Schedules 11 and 12] the undertaker may by notice appeal against such a refusal or non-determination and the 2011 Regulations shall apply subject to the modifications set out in paragraph (2)</p> <p>The 2011 Regulations are modified so as to read for the purposes of this Order only as</p>			

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	<p>follows—</p> <p>In regulation 6(1) (time limit for the notice of appeal) for the words “6 months” there is substituted the words “4 months”.</p> <p>For regulation 4(1) (appeal against marine licensing decisions) substitute—</p> <p>“A person who has applied for approval under condition 15 of Part 4 of Schedule 9; condition 15 of Part 4 of Schedule 10; condition 10 of Part 4 of Schedule 11; or condition 10 of Part 4 of Schedule 12 to the Norfolk Vanguard Offshore Wind Farm Order 201[ ] may by notice appeal against a decision to refuse such an application or a failure to determine such an application.”</p> <p>For regulation 7(2)(a) (contents of the notice of appeal) substitute—</p> <p>“a copy of the decision to which the appeal relates or, in the case</p>			

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	<p>of non-determination, the date by which the application should have been determined; and”</p> <p>In regulation 8(1) (decision as to appeal procedure and start date) for the words “as soon as practicable after” there is substituted the words “within the period of [2] weeks beginning on the date of”.</p> <p>In regulation 10(3) (representations and further comments) after the words “the Secretary of State must” insert the words “within the period of [1] week”</p> <p>In regulation 10(5) (representations and further comments) for the words “as soon as practicable after” there is substituted the words “within the period of [1] week of the end of”.</p> <p>In regulation 12(1) (establishing the hearing or inquiry) after the words “(“the relevant date”)” insert</p>			

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	<p>the words “which must be within [14] weeks of the start date”.</p> <p>For regulation 18(4) substitute— “Subject to paragraphs (1) and (3), each party should bear its own costs of a hearing or inquiry held under these Regulations.”</p> <p>or regulation 22(1)(b) and (c) (determining the appeal—general) substitute— “(b) allow the appeal and, if applicable, quash the decision in whole or in part;</p> <p>(c) where the appointed person quashes a decision under sub-paragraph (b) or allows the appeal in the case of non-determination, direct the Authority to approve the application for approval made under condition 15 of Part 4 of Schedule 9; condition 15 of Part 4 of Schedule 10; condition 10 of Part 4 of Schedule 11; or</p>			

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	<p>condition 10 of Part 4 of Schedule 12 to the Norfolk Vanguard Offshore Wind Farm Order 201[.]”</p> <p>(j) In regulation 22(2) (determining the appeal—general) after the words “in writing of the determination” insert the words “within the period of [12] weeks beginning on the start date where the appeal is to be determined by written representations or within the period of [12] weeks beginning on the day after the close of the hearing or inquiry where the appeal is to be determined by way of hearing or inquiry”</p>			