

Norfolk Boreas Offshore Wind Farm Written Summary of the Applicant's Oral Case at Issue Specific Hearing 1

Draft Development Consent Order

Applicant: Norfolk Boreas Limited
Document Reference: ExA.ISH1.D1.V1
Deadline 1

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Author: Womble Bond Dickinson

Photo: Ormonde Offshore Wind Farm

Glossary

AOD	Above Ordnance Datum
CoCP	Code of Construction Practice
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DML	Deemed Marine Licence
EMP	Environmental Management Plan
ES	Environmental Statement
ExA	Examining Authority
HDD	Horizontal Directional Drilling
HHW	Haisborough, Hammond and Winterton
HRA	Habitat Regulations Assessments
HVAC	High Voltage Alternating Current
HVDC	High Voltage Direct Current
ISH	Issue Specific Hearing
km	Kilometre
kV	Kilovolt
LMS	Landscaping Management Strategy
LPA	Local Planning Authority
m	Metres
MCAA	Marine and Coastal Access Act
MHWS	Mean High Water Springs
MLWS	Mean Low Water Springs
MMO	Marine Management Organisation
MW	MegaWatt
NCC	Norfolk County Council
NNDC	North Norfolk District Council
NSIP	Nationally Significant Infrastructure Project
OCoCP	Outline Code of Construction Practice
OLEMS	Outline Landscape and Ecological Management Strategy
OWF	Offshore Wind Farm
OWSI	Outline Written Scheme of Investigation
PA08	Planning Act 2008
SAC	Special Area of Conservation
SIP	Site Integrity Plan
SNS	Southern North Sea
SoCC	Statement of Community Consultation
TPO	Tree Protection Order
WSI	Written Scheme of Investigation

Written Summary of Oral Submissions: ISH 1 – draft Development Consent Order

1. Introduction

- 1.1 Issue Specific Hearing 1 (**ISH**) on the draft Development Consent Order for Norfolk Boreas took place on 13 November 2019 at 10:00am at The King’s Centre, King Street, Norwich, NR1 1PH.
- 1.2 A list of the Applicant's participants that engaged in the ISH can be located at Appendix 1 of this note.
- 1.3 The broad approach to the ISH followed the form of the agenda published by the Examining Authority (the **ExA**) on 1 November 2019 (the **Agenda**).
- 1.4 The ExA, the Applicant, and the stakeholders discussed the Agenda items which broadly covered the areas outlined below.

Item	ExA Question	Applicant's Response
<u>Agenda Item 2: Scenarios in the dDCO</u>		
N/A	The ExA asked the Applicant to explain how the scenarios are intended to work.	<p>The Applicant explained that Norfolk Vanguard and Norfolk Boreas had been designed strategically to maximise efficiencies and reduce environmental impacts, in that both projects followed the same cable route to connect at the existing National Grid substation near Necton. For this reason, Norfolk Vanguard had also sought to consent enabling development for Norfolk Boreas, such as the ducting for Norfolk Boreas. In this way, if Norfolk Vanguard is commenced, Norfolk Boreas can undertake a cable pull through operation as opposed to a duct installation and cable pull through operation. However, as it is not yet known whether Norfolk Vanguard will be commenced, the dDCO deals with two scenarios:</p> <ul style="list-style-type: none"> • Scenario 1 – a cable pull through operation where both Norfolk Vanguard and Norfolk Boreas are delivered; and • Scenario 2 – Norfolk Boreas as an independent project, where Norfolk Vanguard is not delivered. <p>The Applicant explained that the scenarios are dealt with in detail in a number of the application documents, principally:</p> <ul style="list-style-type: none"> • The dDCO (document reference 3.1), in particular: <ul style="list-style-type: none"> ○ The Works descriptions and definitions;

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		<ul style="list-style-type: none"> ○ The Articles, where all Articles are required for both scenarios, save for Article 4 which relates to limits of deviation for the overhead line and is therefore only required for Scenario 2; ○ The Requirements, which generally relate to both scenarios. In particular, Requirement 15 deals with the scenarios explicitly, requires notification of the Scenario to be taken forward and states that Scenario 1 must be taken forward in the event that Norfolk Vanguard is commenced. ○ The DMLs, which contain notification requirements for the scenarios at condition 8 of the Generation Licences (Schedules 9 and 10) and condition 3 of the Transmission Licences (Schedules 11 and 12); and ○ The compulsory acquisition schedules which contain separate parts relating to each scenario. <ul style="list-style-type: none"> ● The Explanatory Memorandum (document reference 3.2 / AS-022); ● The inter-relationship report (document reference 3.4 / APP-023), which focuses on the inter-relationship between Norfolk Vanguard and Scenario 1 of Norfolk Boreas in the event that both projects come forward; ● The Works Plans (document reference 2.4), where the key identifies the infrastructure required for Scenario 2 only along the cable route, and where additional plans are included for each scenario at the location of the onshore project substation/ National Grid substation, as well as a combined plan to show how the Order limits have been drawn to encompass the fullest extent of the land required for the project; ● The Land Plans (document reference 2.2), where additional plans are included for each scenario at the location of the onshore project substation/ National Grid substation as well as a combined plan to show how the limits of the land to be acquired/ used have been drawn to encompass the fullest extent of the land required for the project; and ● The outline plans securing the mitigation referred to in the Requirements and certified under Article 37 of the dDCO (document reference 3.1), which have been drafted to include mitigation for both Scenario 1 and Scenario 2 at this stage, but on the basis that the final plan to be submitted for approval to the relevant planning authority will refer only to the scenario to be taken forward. <p>In accordance with this, a decision as to which scenario will be taken forward will be made post consent but prior to commencement of the Norfolk Boreas project.</p> <p>The Applicant then described the works which would be undertaken for each scenario in detail.</p>

Item	ExA Question	Applicant's Response
		<p>Under Scenario 1 Norfolk Vanguard proceeds to construction and installs ducts and other shared enabling works for Norfolk Boreas. Norfolk Vanguard would undertake:</p> <ul style="list-style-type: none"> • Installation of ducts to house Norfolk Boreas cables along the entirety of the onshore cable route from the landfall zone to the onshore project substation; • A47 junction works for both projects and installation of a shared access road up to the Norfolk Vanguard substation; • Overhead line modifications at the Necton National Grid substation, which would accommodate both projects. <p>Under Scenario 1 Norfolk Boreas will undertake:</p> <ul style="list-style-type: none"> • At the landfall, a long Horizontal Directional Drill to install ducts, subsequent cable pulling operation and creation of transition pits to connect the onshore and offshore cables. • On the cable route only a cable pulling operation will be required, cables will be pulled through the pre-installed ducts (already installed by Norfolk Vanguard). This prevents the requirement to reopen the land across the entire cable route which minimises environmental impacts. • Creation of jointing pits (including accesses to jointing pits) and up to 12km of running track which will be retained or reinstalled to facilitate access to jointing pits. Other access routes for cable pulling will be the same as used for Norfolk Vanguard. • Norfolk Boreas will construct a new onshore project substation, extend the National Grid substation in an easterly direction (as Norfolk Vanguard has already extended to the west) and install 400kV cables to connect to the new extension. Norfolk Boreas will also install associated drainage and landscape mitigation. • Under Scenario 1 Norfolk Boreas will use the access road already installed by Norfolk Vanguard but will extend it by approximately 300m. <p>Under Scenario 2 Norfolk Vanguard does not proceed to construction and Norfolk Boreas proceeds alone. Norfolk Boreas undertakes all works required as an independent project.</p> <ul style="list-style-type: none"> • The landfall works are the same as Scenario 1, with installation of the long HDD. • On the onshore cable route additional works for installation of cable ducts including trenchless crossings will be undertaken. This also requires the establishment of mobilisation areas and the full length of the running track. This will be followed by the

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		<p data-bbox="936 244 1928 300">pulling of cables through the pre-installed ducts including creation of jointing pits (as required for Scenario 1).</p> <ul data-bbox="891 323 1977 491" style="list-style-type: none"> <li data-bbox="891 323 1977 411">• Norfolk Boreas will construct a new onshore project substation, extend the National Grid substation (in a westerly direction) and install 400kV cables to connect to the new extension. Norfolk Boreas will also install associated drainage and landscape mitigation. <li data-bbox="891 435 1977 491">• Norfolk Boreas would undertake A47 junction improvements and install the full length of access road as well as undertake the modification works to the existing overhead lines. <p data-bbox="824 515 1977 539">The Applicant then explained how this had been depicted on the relevant Works Plans as follows:</p> <p data-bbox="824 571 1697 595">Explanation of Onshore Work Plan Sheet 6 (document 2.4 / APP-010)</p> <p data-bbox="824 603 2007 874">The purple shading shows Work No 5a as defined in Schedule 1, Part 1 of the dDCO, and shows the main cable route which is the same for both scenarios. The orange shading shows the access routes required under both scenarios. The purple hatching shows the trenchless crossing zone which will be the location of the compounds for the trenchless crossings, these would only be required under Scenario 2. Black hatching shows the mobilisation zone where the mobilisation areas will be located and again would only be required for duct installation under Scenario 2. In summary, under Scenario 1 only the cable route (purple) and accesses (orange) would be required. The additional temporary works areas, depicted by the hatching, would only be required under scenario 2. The key identifies that the temporary works are only required under Scenario 2.</p> <p data-bbox="824 914 1697 938">Explanation of Onshore Land Plan Sheet 6 (document 2.2 / APP-008)</p> <p data-bbox="824 946 2007 1034">The land plans show the different land rights required over the different land parcels. Where there is a difference in the land rights required for a parcel then this includes a hatching, in this case the purple hatching identifies the areas of land not required under Scenario 1.</p> <p data-bbox="824 1074 1977 1249">The cable route has the yellow shading, which shows the acquisition of permanent new rights for cables/ducts and these rights are the same for both scenarios. The blue shows where temporary rights would be required in this case the footprints of the trenchless crossing zone and the mobilisation area, these would only be required under Scenario 2 so they also have the purple hatching to depict no rights under Scenario 1. The access routes are the green shading which are the permanent access rights for access only, required under both scenarios.</p> <p data-bbox="824 1289 1888 1313">Explanation of Onshore Land Plans Sheet 41, 41a and 41b (document 2.2 /APP-008)</p> <p data-bbox="824 1321 1977 1401">A series of plans showing the land rights for the different land parcels are included for the different locations of infrastructure at the onshore project substation and Necton National Grid substation. Sheet 41 shows all the rights required for both Scenarios, to depict how the Order limits have been</p>

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		<p>drawn to the fullest extent. The solid colours showing the different land rights required and the different hatching showing where the land rights are different under the scenarios. For example the National Grid substation area to the west (land parcel 41/19) under Scenario 1 requires permeant acquisition so has pink shading but is not required under Scenario 2 so also has the purple hatching. Sheet 41a just shows the land rights and land parcels which would be required under Scenario 1 only. Sheet 41b shows the land rights and land parcels under Scenario 2 only. These 'a' and 'b' plans have an additional shading in grey which shows the land which would not be required for that scenario. Once the scenario has been determined the 'a' and 'b' plans show the rights and land parcels required specific to that scenario.</p> <p>Offshore Land Plan (document 2.2 / APP-007)The Applicant confirmed that the interconnector search area would not be required under Scenario 2. The Applicant agreed to clarify this on the key to the land plan, to identify this area would not be required under Scenario 2.</p> <p>The Applicant explained that it considered one application for the two scenarios was appropriate. In short, the Applicant considers that Norfolk Boreas is a single project, and it is therefore not appropriate to submit two applications for the two different scenarios. The Applicant's approach was as follows:</p> <ul style="list-style-type: none"> • The offshore generating station (i.e. the NSIP) is the same under both scenarios; • The cable route is the same under both scenarios; • The Articles (save in relation to Article 4) and the Requirements apply to both scenarios; • The Works description is very similar for both scenarios; • Only one scenario will be taken forward, and therefore the scenarios are intrinsically linked and should be determined at the same time and examined by a single Examining Authority; • Consultation was undertaken on the basis that there would be one application for the two scenarios, and this approach was agreed with relevant planning authorities during preparation of the Statement of Community Consultation (SoCC) (document 5.1.22.1, APP-160). It was considered that this reduced consultation fatigue and enabled stakeholders to engage with and respond to a single application, which reflected stakeholder preference given the time implications of engagement in DCO applications;

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		<ul style="list-style-type: none"> • Relevant planning authorities were engaged at an early stage in the pre-application process on the preparation of the Land Plans and Works Plans and the drafting of the dDCO to ensure that they were comfortable with the approach taken and that the scenarios were sufficiently clear; • For ease of understanding, the project website contained a separate interactive map for each of Scenario 1 and Scenario 2 so that members of the public could consider both scenarios in isolation. <p>The Applicant noted and welcomed that North Norfolk District Council, Norfolk County Council, Broadland Council and Breckland Council supported the approach taken by the Applicant in relation to scenarios, and considered that the drafting of the dDCO and associated plans was sufficiently clear.</p> <p>The Applicant also summarised the points raised in the Applicant's response to the Rule 6 Letter (Document reference: ExA.CL.D0.V1 / AS-017) in relation to the ExA's assessment of initial issues in the event that the Secretary of State determines the Norfolk Vanguard application on 10 December 2019, as currently expected. The Applicant explained that if consent was granted for Norfolk Vanguard, this could have implications for the Norfolk Boreas examination because it would give a clear view from the Secretary of State on a number of matters where Norfolk Vanguard and Norfolk Boreas overlap. In particular, it would involve acceptance by the Secretary of State of key matters relating to:</p> <ul style="list-style-type: none"> • The route of the offshore export cable; • The landfall at Happisburgh; • The route of the onshore cable; • The location and site selection of the onshore project substation at Necton, and its access; • The approach to drafting of the DCO and accompanying plans and certified documents. • The Applicant then identified the separate aspects of Norfolk Boreas which would not necessarily be influenced by the Secretary of State's decision on Norfolk Vanguard, particularly: The Norfolk Boreas offshore array;

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		<ul style="list-style-type: none"> • The construction of the 'spur'; • The project interconnector; • The separate Norfolk Boreas landfall compound; • The cumulative effects of Norfolk Boreas, including related HRA implications; • Landscape mitigation planting for the Norfolk Boreas onshore project substation; • Construction and operation of the Norfolk Boreas onshore project substation; and • The easterly extension of the National Grid substation near Necton. <p>If the Secretary of State were to grant consent for Norfolk Vanguard the Applicant therefore considered that it may be appropriate, depending on the precise nature of any such decision, to focus examination on the areas exclusive to Norfolk Boreas which may not be influenced by the Secretary of State's decision rather than to revisit issues which had already been the subject of detailed examination and a decision by the Secretary of State.</p>
Agenda Item 3 – Articles in the dDCO		
Article 2: Interpretation		
Definition of commence:		
2.	The ExA understands that this definition follows the East Anglia 3 DCO. What are the implications of the included exclusions?	<p>In the Order 'commence' is defined as follows:</p> <p><i>(a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for pre-construction surveys and monitoring approved under the deemed marine licences or</i></p> <p><i>(b) in respect of any other works comprised in the authorised project, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than operations consisting of site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions,</i></p>

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		<p><i>diversion and laying of services, erection of any temporary means of enclosure, temporary hard standing, and the temporary display of site notices or advertisements.</i></p> <p>The drafting of this definition follows made DCO precedents from East Anglia ONE (2014), Rampion (2014) and East Anglia Three (2017), as well as recent drafting included in the dDCO for Norfolk Vanguard. The only notable difference is the addition of 'temporary hard standing' which is also excluded from the definition in the dDCO for Norfolk Vanguard. Other DCOs follow similar drafting in the exclusion of minor works from the definition of commencement (see, for example, Hornsea One (2014) and Hornsea Two (2016)). This is a standard approach allowing minor works to be progressed in advance of the main plans to be approved, which is essential to the programming of construction works. The excluded activities are also based on the implementation experience of consultant and engineering teams. The exclusions are specific works that must be undertaken prior to any commencement date in order to facilitate a safe working environment and ensure practicable construction. Clearance works of relevance to ecological receptors are often required well in advance of construction to ensure that sensitive receptors are not present within the construction area at the time that construction works commence.</p> <p>Whilst certain works are excluded from the definition of 'commence', such that the excluded works can be undertaken before the approval of certain plans (i.e. the LMS, EMP, WSI and the CoCP), the effect of the Requirements is to ensure that the excluded works are only undertaken in accordance with the relevant principles for pre-commencement works contained in the relevant outline plans (i.e. OLEMS, OWSI and OCoCP). An example of this is Requirement 20(4) which states that pre-commencement screening, fencing and site security works must only take place in accordance with a specific plan for those works approved by the relevant planning authority, in accordance with the relevant details in the outline CoCP. Similar requirements are included for accesses required for pre-commencement works to be carried out in accordance with the outline Access Management Plan (see Requirement 21(3)), archaeological investigations to be carried out in accordance with the WSI (see Requirement 23(4)) and site clearance works to be carried out in accordance with the OLEM S (see Requirement 24(3)).</p> <p>Therefore the exclusions do not have any impact on the effectiveness of the Requirements from a perspective of environmental protection.</p>
3.	<p>Whether 'tree protection measures' should be added to the operations which can be carried out before commencement. (Also see comments on Requirements 18 and 24). Whether the erection of temporary amphibian</p>	<p>The list of activities that can be carried out without triggering "commencement" include "temporary means of enclosure". The Applicant considers that "temporary means of enclosure" would cover any measures necessary for the temporary protection of trees and/or temporary amphibian or reptile fencing.</p>

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	or reptile fencing should be added – or if this is covered.	<p>As set out above, Requirement 20(4), 21(3), 23(4), and 24(3) of the dDCO stipulates that certain pre-commencement works must be carried out in accordance with a plan or scheme previously approved by the relevant planning authority. This includes pre-commencement screening, fencing, and site security works (Requirement 20(4)), pre-commencement accesses (Requirement 21(3), pre-commencement surveys, site preparation works and archaeological investigations (Requirement 23(4)), and pre-commencement site clearance works (Requirement 24(3)).</p> <p>The relevant principles within the OCoCP (Requirement 20) (including tree protection measures), the Outline Access Management Plan (Requirement 21), the Outline Archaeological Written Scheme of Investigation (Requirement 23), and the Outline Landscape and Ecological Management Strategy (Requirement 24) (including amphibian or reptile fencing) will be included within the plan/scheme submitted for approval prior to the pre-commencement works.</p> <p>It should be noted that the outline plans/schemes are defined in the dDCO as those certified under Article 37 of the dDCO.</p>
4.	What is the definition of 'remedial work'?	<p>Remedial works is the term used to describe the removal of contaminated materials to ensure the site does not pose a risk to human health or the environment. Remedial works are often required prior to the commencement of construction to minimise any risks from contamination or adverse ground conditions.</p> <p>An exhaustive list of remedial works cannot be defined given that the remedial measures will flow from, and be relevant to, the precise contamination or adverse ground conditions in question and this will only be established post consent.</p> <p>The Applicant has indicated in the Environmental Statement Chapter 19 (document 6.2.19, APP-232) where initial desk-based review has identified areas where potential contamination may be present and therefore may require remediation. An example of the remedial measures that might be relevant for contamination includes, for example, removal of soils; capping; and treatment of soils. An explanation of this has been included in the updated version of the OCoCP to be submitted at Deadline 1 (document reference: 8.1 / APP-692) to address Action Point 4 from ISH1.</p>
5.	Is the flexibility afforded by the 'carve outs' for exempted works such as site clearance, demolition etc. justified? The Applicant is requested to clarify any impacts for these works so the ExA can consider whether they	<p>As set out above, the excluded activities will be undertaken prior to commencement of construction in order to facilitate a safe working environment and to ensure that construction activities can progress in a timely manner. For example, archaeological investigations are required to be conducted pre-commencement to minimise the impact to those features during construction and allow construction to progress in a timely manner without archaeological delays,</p>

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	are justified and/or need to be controlled by requirements.	so far as possible. Similarly, site clearance and ecological surveys need to be undertaken at specific times of year and tree protection fencing may need to be installed during such work to protect root zones. The flexibility for the carve outs is already limited by the Requirements as set out above. These require specific plans for the excluded activities to be approved by the relevant planning authority, and those plans must accord with the relevant principles of the outline plans certified under the DCO(for example the archaeological Written Scheme of Investigation). Therefore, the Applicant considers that the Requirements already control any impacts which may arise from the excluded works.
Definition of maintain		
1.	How this accords with 'maintenance of landscape' used in Requirements 18 and 19. Whether 'landscape maintenance' needs a separate definition.	<p>The Applicant considers that "maintenance of landscaping" in Requirement 18(2)(h) should be given its plain and ordinary meaning in this context.</p> <p>As Requirement 18 makes clear, the landscaping maintenance activities and associated measures will be detailed in the final Landscape Management Scheme submitted for approval by the relevant planning authority in consultation with the relevant statutory nature conservation body, prior to commencement (Requirement 18 of the dDCO).</p> <p>Requirement 19 also makes clear that landscaping works must be carried out in accordance with the approved Landscape Management Scheme and the relevant recommendations of appropriate British Standards; and that any tree or shrub that is removed, dies or becomes damaged or diseased, within five years after planting, must be replaced in the first available planting season.</p>
2.	Part. Whether the interpretations should include a meaning of part – whether part refers to a geographical part or whether 'part' could be replaced with alternative phrasing such as 'work no. xxx may not commence until..'. See also Requirement 17.	<p>The Applicant does not consider it necessary to define 'Part' within the Interpretations at Article 2. Part should be given its plain and ordinary meaning relevant for the context in which it is used. For example, "part of the authorised development" should be taken to mean any constituent element of the Schedule 1 works description and/or any other element of the associated development in Schedule 1 of the dDCO (i.e. the wider project).</p> <p>Notwithstanding this, the Applicant agrees that the use of the word 'part' in Requirement 17 could be considered superfluous. The Applicant therefore proposes to update the dDCO to remove reference to '<i>No part of</i>' in Requirement 17(1) in the next version of the dDCO (submitted at Deadline 1), which would read as follows:</p> <p><i>"17. (1) No part of Works No. 4A, 4B or 4C may must not commence until a method statement for the construction of Works No. 4A, 4B and 4C has been submitted to and approved in writing by North Norfolk District Council in consultation with the relevant statutory nature conservation body."</i></p>

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		<p>The Applicant can also confirm that it has reviewed reference to the word 'Part' in the context of referring to a part of the dDCO or a part of the Schedule. In this instance, reference to part should be capitalised and the Applicant has updated the dDCO submitted at Deadline 1 accordingly (document reference: 3.1). This also responds to Action Point 5 from the DCO hearing.</p>
3.	<p>Phase: Whether the interpretations should include a meaning of phase – whether phase refers to temporal, geographical or both. See also Requirement 15 ...</p>	<p>The Applicant does not consider it necessary to define 'Phase' within the Interpretations at Article 2. Phase should be given its plain and ordinary meaning relevant for the context.</p> <p>Phase relates to a temporal element of the project and Requirement 15 stipulates that the Applicant must not commence the onshore transmission works until notification has been submitted to the relevant planning authority detailing whether the onshore transmission works will be constructed in a single onshore phase or in two onshore phases.</p> <p>This is facilitated by the definition at Article 2, which provides that:</p> <p><i>“two onshore phases” means a single duct laying operation (where relevant under scenario 2), two separate operations to pull the cables through the ducts and two separate operations to fit out the onshore project substation;</i></p> <p>Equally, in the context of offshore phases, the DML definitions provide that:</p> <p><i>“two offshore phases” means carrying out the offshore works as two separate construction operations.</i></p> <p>Appropriate conditions are included in the DMLs under Condition 8 of the Generation DMLs (Schedule 9-10) and Condition 3 of the Transmission DMLs (Schedule 11-12) in relation to notifying the MMO of the number of phases – whether construction works will be carried out in a single offshore phase or in two offshore phases.</p> <p>The Applicant therefore considers that the above definitions are clear in their meaning and, in any event, the relevant planning authorities and/or the MMO have the opportunity to raise any questions or clarifications at the time of receiving notification under Requirement 15 and/or Condition 8 (Schedules 9-10) or Condition 3 (Schedules 11-12) of the DMLs.</p>
4.	<p>Stage: Whether the interpretations should include a meaning of stage – whether stage refers to temporal or geographical distinctions; or both. Relevant for Requirements 15, 18, 20, 21, 23, 24, 25, 28, and the Outline Code of</p>	<p>A 'stage' of works is to be defined pursuant to Requirement 15(4), which provides that:</p> <p><i>“(4) The onshore transmission works may not be commenced until a written scheme setting out the stages of the onshore transmission works for the relevant onshore phase has been submitted to the relevant planning authority.”</i></p> <p>Stage in this context will be geographical. As an example, the Applicant anticipates that it may be appropriate to divide the onshore transmission works into a minimum of three stages to align with</p>

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	Construction Practice (OCoCP) and elsewhere.	<p>each respective local planning authority boundary. The onshore project substation may also be dealt with as a separate stage, distinct from the cable route due to the different type of works required. The exact detail and number of stages can, however, only be finalised once contractors have been appointed and determined the detailed construction process.</p> <p>It is not considered necessary to include a definition of stage given that the stages proposed will be detailed pursuant to the scheme submitted to the relevant planning authority. As it is a matter for the undertaker and its contractors to determine the most appropriate way to construct the project, no approval process as to the number or extent of stages should be required, and rather this is a matter which the undertaker will determine and notify to the relevant local planning authority.</p>
5.	Whether the various plans secured by different requirements should be defined here (such as archaeological written scheme of investigation, code of construction practice, ecological management plan, landfall method statement, landscaping management scheme and others)	<p>The Applicant has defined each outline plan within Article 2 (Interpretations). They appear under their draft or outline name – for instance, "outline code of construction practice", and mirror the list of plans to be certified under Article 37 of the dDCO.</p> <p>The final plans are secured through the Requirements and will be in accordance with the outline plans, pursuant to the wording of the Requirement(s).</p> <p>The Applicant therefore considers that it is not necessary to define the final plans within Article 2.</p>
Article 6: Benefit of the Order		
	Transfer of Benefit concerns from MMO regarding mechanisms for two potential OWF developers working in close proximity; especially with regard to in-combination effects.	<p>The Applicant has responded to the MMO's concerns at row 24 of the Applicant's Comments on Relevant Reps (document reference: AS-024/ExA.RR.D0.V1).</p> <p>First, in relation to any transfer of benefit pursuant to Article 6, the general position is the same as that which would apply under any other offshore wind scheme. As with previous offshore wind schemes of this nature, the cooperation between a transferee and transferor following any transfer of benefit will be governed through a private commercial agreement between the relevant parties. This will apportion obligations and liabilities between each respective party, and deal with how the parties would co-operate with specific reference to the particular requirements and circumstances given the stage at which the transfer takes place. This will include arrangements in relation to compliance with DML conditions and any arrangements to observe commitments to minimise in-combination impacts as necessary. This provides a more comprehensive and flexible approach to govern the relationship and co-operation between the parties than any requirement or condition could hope to achieve. In addition, Article 6(14) requires the undertaker to give the MMO advance notification of any transfer of benefit which affects their area, including the provision of details such as the name and address of the transferee, the date the transfer takes effect, the provisions</p>

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		<p>transferred, and how restrictions, liabilities and obligations have been apportioned as well as a plan showing the affected area and a copy of the relevant transfer documentation.</p> <p>In addition, the Applicant has included a mechanism to govern co-operation between Norfolk Vanguard and Norfolk Boreas in respect of the offshore areas where the respective Order limits overlap (see Condition 18 (Schedule 11-12) and Condition 15 (Schedule 13) of the DMLs). This provides that Norfolk Boreas must send relevant schemes, plans, documents, and/or protocols to the Norfolk Vanguard offshore undertaker prior to submitting them to the MMO for approval, in order to allow Norfolk Vanguard the opportunity to comment on the documents. Norfolk Boreas must also participate in liaison meetings with the undertaker of the offshore element of the Norfolk Vanguard Offshore Wind Farm as requested from time to time by the MMO. These meetings may consider such matters as are determined by the MMO relating to the efficient operation of the offshore element of both of the authorised projects. This ensures co-operation between different undertakers of different schemes, where Order limits overlap.</p> <p>Accordingly, the MMO will be provided with sufficient documentation to enable the MMO to comply with its statutory duties in relation to monitoring and enforcement under Article 6(14) as drafted. The Applicant's approach is not materially different from previously consented schemes. Accordingly, the Applicant does not consider it necessary to change the DCO in this respect.</p> <p>The Applicant also welcomes the confirmation from the MMO at ISH1 that they are content with the clarifications provided by the Applicant; and the Applicant will discuss any minor drafting changes with the MMO accordingly.</p>
<p>Article 11: Stopping up of streets</p>		

Item	ExA Question	Applicant's Response
1.	Whether the powers are too widely drawn in 11(1) in terms of 'any street' and in terms of 'any other street' in 11(5)(b).	<p>This Article broadly follows the approach taken in the Model Provisions, but more closely follows the approach taken in East Anglia THREE (2017) and Hornsea Two (2016).</p> <p>The broad power under Article 11(1) is limited by Article 11(5)(b). Where the street is specified in Schedule 4 (Streets to be temporarily stopped up), the stopping up will have been the subject of consideration and assessment throughout the DCO application process, and therefore the Applicant is obliged only to consult the relevant street authority, rather than seek its approval.</p> <p>However, where the power is being used in connection with a street not referred to in Schedule 4 (i.e. any other street), the Applicant must first obtain the consent of the street authority. The street authority may attach reasonable conditions to any such consent and this is provided for by the wording in Article 11(5(b)) which reads as follows:</p> <p><i>"(5) The undertaker must not temporarily stop up, divert, alter or use as a temporary working site—</i></p> <p><i>(a) any street referred to in paragraph (4) without first consulting the street authority; and</i></p> <p><i>(b) any other street without the consent of the street authority, which may attach reasonable conditions to the consent."</i></p> <p>In addition, the wording at Article 11(1) makes clear that the temporary stopping up must be <i>"for the purposes of carrying out the authorised project"</i>. Therefore, it would not simply be a case of "any street"; the street would require a qualifying connection to the authorised project.</p> <p>For these reasons, and following the precedent stated above, the Applicant does not consider that the powers are too widely drawn.</p>
2.	What the meaning is of 'temporary' in this context.	<p>The Applicant considers that temporary should be given its plain and ordinary meaning (i.e. not permanent). The ability to divert traffic and prevent persons from passing along the street is qualified by the notion of 'reasonableness' pursuant to the wording in Article 11(1):</p> <p><i>11. (1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, divert and alter any street and may for any reasonable time—</i></p> <p><i>(a) divert the traffic or a class of traffic from the street; and</i></p> <p><i>(b) subject to paragraph (3), prevent all persons from passing along the street.</i></p> <p>For the purposes of the project, paragraph 5.7.2.3.3 of chapter 5 of the ES (document 6.1.5, APP-218) explains the proposed construction process for the installation of ducts using workfronts and crossing roads, tracks and public rights of way. Approximately 150m of ducting would be installed</p>

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		per week in order to limit the time that streets are stopped up. Where possible, temporary traffic measures, such as single lane closures, will be employed to allow traffic to continue to flow during the works. In practice any temporary stopping up will therefore be in the order of 1 to 2 weeks.
3.	Whether there is a need for an article to include the power to alter the layout of streets.	<p>Access to works are dealt with under Article 12, with access management measures included in the Access Management Plan submitted pursuant to Requirement 21 and 22. This must contain details of the siting, design, layout and access management measures for any new (permanent or temporary) means of access.</p> <p>Aside from the accesses which are dealt with in the application, the Applicant does not know the precise details of the streets that will require layout alterations. In the event that any alteration to the layout of a street is required (other than in relation to the accesses referred to above) the Applicant will apply to the local highway authority, outside of the DCO process, to put in a place temporary Traffic Regulation Orders or enter into Highways Agreements to secure the alterations as necessary.</p>
Article 12: Access to works		
	12(2) confers deemed consent for means of access to works if the relevant planning authority does not notify the undertaker of its decision within 28 days. Whether local planning authorities and other Interested Parties who may be subject to this deemed consent time limit wish to comment.	The Applicant notes that this wording closely follows the approach accepted in a number of made orders, including East Anglia THREE (2017) and Hornsea Two (2016). The Applicant considers that 28 days provides a reasonable opportunity for the relevant planning authority, in consultation with the highways authority, to respond to any proposal to form and lay out or improve means of access within the Order limits. It should be noted that for the Norfolk Vanguard application, Norfolk County Council confirmed, in a response to the ExA's first written questions on the deeming provisions contained in Article 12, that 28 days was considered to be an acceptable timescale.
Article 16: Authority to survey and investigate the land onshore		
	Whether it is likely that entry to land might be for purposes other than trial holes e.g. excavation and/ or bore-holes, and if this should be stated in the article.	<p>The Applicant considers that the powers within Article 16 in relation to surveying and investigating land include powers for certain excavation works and to make bore-holes. In particular, bore-holes are encompassed within trial holes to investigate the subsoil, which is referred to in Article 16(1)(b):</p> <p><i>"..make trial holes in such positions on the land as the undertake thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples"</i></p> <p>Archaeological excavations fall within archaeological investigations under Article 16(1)(c):</p>

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		<p><i>"...carry out ecological or archaeological investigations on such land".</i></p> <p>Article 16 follows precedents from other offshore wind farm DCOs including East Anglia Three (2017) and Hornsea Project Two (2016).</p> <p>Where voluntary agreements are negotiated with landowners, rights of access to survey and investigate land would be exercised under those agreements.</p> <p>In the event that works are required which do not fall within Article 16 and are not on land where voluntary agreements have been completed, the Applicant would rely on temporary possession powers under Article 26 of the dDCO to carry out those works.</p>
<p>Article 35: Felling or lopping trees and removal of hedgerows</p>		
1.	<p>Whether reference to Part 3 of the 1990 Act for the purposes of regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012(b) is required.</p>	<p>Article 35 relates to trees which are not subject to Tree Preservation Orders. Article 36 deals with trees subject to Tree Preservation Orders. Article 36(3) states that the authority in Article 36(1) constitutes deemed consent under the relevant Tree Preservation Order. Accordingly, it is not considered necessary to refer to Regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, because the authorisation is not a new exclusion to which a Tree Preservation Order does not apply under Regulation 14, but rather a consent under Regulation 17. This approach follows the precedent contained in Hornsea One (2014) and Hornsea Two (2016), as well as the drafting approach used in the Model Provisions.</p>
2.	<p>Whether it is necessary to confirm that the powers for lopping or felling trees or shrubs are limited to trees or shrubs within the Order Limits (as is stated for the hedgerows in 35(4)).</p>	<p>The drafting of the Article follows precedents contained in East Anglia One (2014), Hornsea One (2014), Hornsea Two (2016) and East Anglia Three (2017), as well as the Model Provisions. It is considered appropriate to deal with trees and shrubs in a different way to hedgerows given that trees and shrubs may be outside of the Order limits but still have a material impact on the construction or operation/ maintenance of the authorised development, principally as a result of their ability to overhang the authorised development, or for their roots to encroach upon the development.</p> <p>The power to fell or lop trees and shrubs is still limited. Under Article 35(1) it must be 'near any part of the authorised project' and the undertaker must 'reasonably [believe] it to be necessary to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project'. In addition, further controls on the power are included at Article 35(2) which requires the undertaker to 'do no unnecessary damage to any tree or shrub' and to 'pay compensation to any person for any loss or damage arising from such activity'. Therefore, the Applicant considers that it is reasonable for the power to extend beyond the Order limits (in the context of overhanging</p>

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		<p>branches or encroaching roots), given that the power is already suitably limited, and that it follows previous precedents and the Model Provisions.</p> <p>The Applicant also welcomes the confirmation from the relevant planning authorities during ISH1 that they are content with the drafting and implications of Article 35.</p>
3.	<p>Whether there should be a mechanism for notifying landowners of the intention to lop or fell trees or shrubs.</p>	<p>The drafting of the Article follows precedents contained in East Anglia One (2014), Hornsea One (2014), Hornsea Two (2016) and East Anglia Three (2017), as well as the Model Provisions, none of which contain any mechanism for notifying landowners. The Applicant therefore considers this to be unnecessary, and notes that a provision is included for the payment of compensation for any loss or damage arising from the activity.</p> <p>In any event, where voluntary agreements are negotiated with landowners, the undertaker must give notice of access/entry on to the landowner's property in order to carry out any survey rights or exercise any other rights which would include rights of felling or lopping of trees/shrubs. Therefore, where landowners have entered into voluntary agreements with the undertaker, notice will be given in accordance with those agreements.</p>
4.	<p>Whether this power over-rides (and whether it should over-ride) the mitigation set out in the OLEMS [APP-698] and elsewhere to reduce the working width of the cable corridor where hedgerows are crossed to 13m or 16.5m (for crossings at an angle).</p>	<p>The Applicant considers that all powers and authorisations in the dDCO to construct and maintain the authorised development are subject to the Requirements contained in the dDCO (and also any limiting provisions in the powers/authorisations themselves), and therefore the powers do not override the mitigation contained in the outline plans. Article 3(1) of the dDCO states (our underlining):</p> <p><i><u>"3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—</u></i></p> <p><i>(a) Development consent for the authorised development; and</i></p> <p><i>(b) Consent for the ancillary works,</i></p> <p><i>to be carried out within the Order limits.</i></p> <p>The Explanatory Memorandum (document reference 3.2 / AS-022), at paragraph 8, further explains that: <i>"All the authorised development must be carried out in accordance with the requirements set out in Part 3 of Schedule 1 (Requirements)."</i></p> <p>The Applicant confirms that the mitigation in the OLEMS, as secured through Requirement 24 of the dDCO, will be the determining measure in this respect.</p>
<p><u>Article 36: Trees subject to preservation orders.</u></p>		

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	<p>Whether the inclusion of the date 28 February 2017 and the absence of a removal of trees subject to tree preservation orders (TPO) Schedule means that there were no trees subject to TPOs that would need removing, when assessment work was undertaken.</p>	<p>The Applicant can confirm that this is correct. The date of 28 February 2017 was the date the assessment was undertaken and the results revealed that no Tree Preservation Orders existed for trees within the Order limits at this date.</p>
<p><u>Article 37: Certification of plans</u></p>		
	<p>To note the need to ensure the final version refers to updated documents.</p>	<p>The Applicant notes this. However, the Applicant considers that the references as currently stated will capture the final version of the documents in any event given that version numbers are not included.</p> <p>The Applicant intends to track the version numbers of each plan through the Guide to the Application (document reference 1.4) and the Applicant will also submit an update to the Note on Requirements (document reference 3.3.) at the end of the examination to capture the latest (and final draft) version of each relevant plan or document. The Applicant considers that these documents are a better and more flexible way to track the versions, rather than through the dDCO itself.</p>
<p><u>Article 38: Arbitration [and Schedule 15]</u></p>		
	<p>Consideration of concerns raised in relation to arbitration.</p>	<p>The Applicant has outlined its response to the concerns in respect of arbitration at RR-069 (row 21) (document reference ExA.RR.D0.V1 / AS-024).</p> <p>This topic was also discussed in detail during the Norfolk Vanguard examination and Norfolk Vanguard agreed a Joint Position Paper with the MMO. This has been submitted to the Norfolk Boreas examination as Appendix 3 to the Applicant's Comments on RRs (document reference ExA.RR.D0.V1 / AS-024).</p> <p>In summary:</p> <p>Following Article 42 of the Model Provisions, previous DCOs have applied the concept of arbitration to the MMO and relevant consultees. However, arbitration mechanisms based on the Model Provisions did not contain any structure, timings or outcomes so as to provide the detail of how the arbitration process would operate. Norfolk Vanguard therefore proposed more detail on the timeframes and steps associated with the arbitration process. Similar approaches were proposed by Hornsea Project Three and Thanet Extension (which applications have yet to be determined). To</p>

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		<p>this end, the MMO (and its consultees including Trinity House) made submissions that the arbitration Article (and related schedule) should not apply to the MMO (or its consultees), and to determination of any matter under the DMLs. In this respect, it should be noted that Article 38(1) of the dDCO is subject to the savings provision for Trinity House (at Article 41) and Article 38(2) makes clear that any matter for which the consent of the Secretary of State or the MMO is required is not subject to arbitration.</p> <p>However, Article 38 was amended in this way only on the basis that a pragmatic alternative for resolving disputes and/or non-determinations under the DMLs could be agreed and included within the dDCO. Judicial review is, in the Applicant's view, not a suitable avenue for determining a dispute or non-determination under a DML related to a Nationally Significant (offshore wind) Infrastructure Project. The Applicant proposes (as did Norfolk Vanguard) that the MMO should instead be subject to an appeal process similar to the Marine Licensing (Licence Application Appeals) Regulations 2011, which would apply to any refusal or non-determination under the DMLs in Schedule 9-13. The Applicant notes that the appeals process under the 2011 Regulations does not apply to any non-determination or refusal to approve conditions under a Marine Licence and therefore the Applicant's proposal would modify the current appeals framework under which the MMO operate. However, the Applicant's position is that Section 120 of the PA08 allows the Applicant to modify statutory provisions, and the case for progressing the construction of offshore renewable wind projects in a timely manner is of particular importance in the national interest. Thus, requiring an efficient, transparent, and streamlined process to the discharge of conditions under the DML.</p> <p>The Applicant has therefore proposed Part 5 of the DMLs as a bespoke drafting measure building on the themes set out in legislation under the MCAA and providing a practical solution for both parties. This approach was also endorsed in the comments on the dDCO issued by the ExA during the Norfolk Vanguard examination.</p>
<p><u>Article 39: Procedure in relation to certain approvals etc</u></p>		

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1.	Whether this article should also refer to Requirements 12, 19, 31 and 32.	<p>As a general principle, the Applicant has only included Requirements within the list at Article 39 where consent, approval or formal discharge is needed (i.e. following submission of a plan or scheme) pursuant to the wording of the Requirement.</p> <p>No approval or formal discharge is required under Requirement 12, 19, and 31. These Requirements relate to conditions to be complied with or procedures to be followed when, for example, exhibiting lights for aviation safety (Requirement 12), planting trees or shrubs (Requirement 19), and making amendments or variations to approved details (Requirement 31).</p> <p>The Applicant, however, recognises that Requirement 32 (operational drainage) has been omitted from the list at Article 39 as has Requirement 35 (reuse of temporary works). The Applicant therefore proposes to update this in the next version of the dDCO.</p>
2.	Whether the list of organisations in 39(1) should also include government departments and other organisations specified in the Requirements.	<p>The Applicant considers that it is appropriate that the procedure at Schedule 16 applies to the ultimate discharging body. Other government departments or organisations (such as Natural England) operate in the context of consultee and will not therefore be the discharging authority.</p> <p>The Applicant does, however, consider that it might be prudent to insert the term "relevant discharging authority" within the wording at Article 39(1) in order to cover any potential discharging bodies that are not covered by the list. The MMO would not be considered 'relevant' in view of the separate standalone provisions governing the discharge of DML conditions under Part 5 of the respective DMLs.</p> <p>The Applicant proposes to amend the next draft of the DCO as follows:</p> <p><i>"39. (1) Where an application is made to or request is made of the relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain, <u>or any other relevant discharging authority</u>, for any agreement or approval required or contemplated by any of the provisions of the Order, such agreement or approval must, if given, be given in writing and may not be unreasonably withheld."</i></p>
<u>Agenda Item 4 - Schedules of the dDCO</u>		
<u>Schedule 1 – Part 1 – Authorised Development</u>		
1.	How dDCO drafting could be improved to provide clarity in relation to the works that apply to the different scenarios, for example in relation to Associated Development.	The Applicant has attempted to keep the drafting as clear and concise as possible and the Applicant has arrived at this wording following a review of previous offshore wind DCOs and following consultation with the Planning Inspectorate and local planning authorities.

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		<p>Notwithstanding this, the Applicant will keep under review the drafting in relation to scenarios as the examination progresses.</p> <p>The Applicant can also confirm that whilst mobilisation areas along the cable route will not be required for Scenario 1, the mobilisation area at the onshore project substation used for Norfolk Vanguard will be re-used for Norfolk Boreas. Therefore it is also appropriate to refer to mobilisation areas as associated development for Scenario 1 and Scenario 2.</p> <p>The only associated development which relates solely to Scenario 2 is in respect of the associated development for the overhead line works, and this is already expressly separated in the list of associated development.</p>
2.	<p>Whether transition pits should be included within the 'Authorised development' as described in Schedule 1 of the dDCO?</p>	<p>Transition jointing pits are only required where the offshore export cables are jointed to the onshore cables at the landfall, and are therefore only referred to within Work No. 4C. In contrast, jointing pits will be situated at intervals along the cable route where separate lengths of the cable are jointed together. It is not yet known precisely where the jointing pits will be located as this is subject to post consent design. For this reason, jointing pits are not referred to under a specific Works No, and are instead included in the list of further associated development at paragraph (f).</p> <p>The definitions at Article 2 also provide further clarity for the context in which each respective term is used:</p> <p><i>“transition jointing pit” means an excavation formed to enable the jointing of the offshore export cables and fibre optic cables comprised in Work No. 4B to the onshore transmission works;</i></p> <p><i>“jointing pit” means an excavation formed to enable the jointing of high voltage power cables and fibre optic cables.</i></p> <p>The Applicant does not therefore consider it necessary to change the wording in the dDCO.</p>
<p><u>Work No. 12B (in connection with Work Nos. 4C to 12B (c))</u></p>		
1.	<p>Whether maximum heights for temporary office and welfare facilities should be given in the description of 'further associated development'</p>	<p>The Applicant does not consider that it is necessary to stipulate the height of temporary office and/or welfare facilities. In view of their nature, they will be temporary to coincide with the relevant stage of construction activities and they are restricted, as is all associated development, to:</p>

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		<p><i>"..works necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by environmental statement".</i></p> <p>Temporary office and welfare facilities will primarily be limited to the mobilisation areas (Scenario 2 only) and cable logistics area (Scenario 1 and Scenario 2) for a period of up to 2 years, as outlined in Section 5.7.2.5 of Chapter 5 of the ES (document 6.1.5, APP-218). Welfare facilities may also be required on trenchless crossing compounds (Scenario 2 only) for the duration of the trenchless crossing installation, notionally 5 weeks per crossing but dependant on the method and length of crossing.</p>
2.	Whether associated development only required under scenario 2 should be cited as such.	<p>The Applicant can confirm that all of the associated development under Schedule 1 may be required in the event of scenario 1 or scenario 2. For example:</p> <ul style="list-style-type: none"> • The running track alongside Work Nos. 5, 6, 7 and 9 will be needed in its entirety for scenario 2 to facilitate duct installation and cable pulling and will be needed for a distance of 12km in scenario 1 to facilitate cable pulling; • Bunds and embankments will be needed for landscaping at the onshore project substation and National Grid extension in scenario 1 and in scenario 2; • Ramps and temporary bridges used for carrying out Work Nos. 5, 6, 7, and 9 will be needed for installation of a temporary running track across watercourses in scenario 1 for cable pulling and in scenario 2 for duct installation and cable pulling. <p>The Applicant can also confirm that whilst mobilisation areas along the cable route will not be required for Scenario 1, the mobilisation area at the onshore project substation used for Norfolk Vanguard will be re-used for Norfolk Boreas. Therefore it is also appropriate to refer to mobilisation areas as associated development for Scenario 1 and Scenario 2. The only associated development which relates solely to Scenario 2 is in respect of the associated development for the overhead line works, and this is already expressly separated in the list of associated development.</p> <p>It should also be noted that the associated development must fall within the scope of the work assessed by the environmental statement. The Applicant will therefore be restricted by the ES assessments together with the controls for each scenario stipulated in the Requirements (for instance Requirement 16), and secured by the control plans (for instance, the Works Plans (document reference 2.4 / APP-010), the outline Code of Construction Practice (document</p>

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		reference 8.1 / APP-692), and the outline Traffic Management Plan (document reference 8.8 / APP-699).
Part 3: Requirements		
<u>Requirement 15: Scenarios and stages of authorised development onshore</u>		
1.	Whether the title should include the word 'phase'.	The Applicant is content to change the title to include reference to 'phase' within the next version of the dDCO, submitted at Deadline 1.
2.	How parties can be certain of the meaning of 'commence' in the Norfolk Vanguard DCO, when currently only the final draft dDCO is in the public domain.	The relevant planning authorities are the discharge and monitoring authorities for the purpose of the onshore transmission works for both the Norfolk Vanguard and Norfolk Boreas projects. They will therefore be aware if Norfolk Vanguard has 'commenced' at the point at which Norfolk Boreas proposes to commence.
3.	Whether this cross reference should be considered at a later stage during examination.	Notwithstanding this, the Applicant agrees that it will be appropriate to revisit this cross-reference once a decision has been made on the Norfolk Vanguard DCO. If necessary, a stand-alone definition for Norfolk Vanguard commencement can be included in the dDCO, rather than a reference to the definition contained in the Norfolk Vanguard DCO.
4.	Whether para (2) needs rewording to avoid use of the word commence (as defined in article 2 of this dDCO) when referring to scenarios 1 and 2. As proposed, those other operations specified in article 2's definition of commence could be started for scenario 2.	The pre-commencement works required along the cable route for Norfolk Vanguard and for Scenario 2 of Norfolk Boreas are the same works. If pre-commencement works are undertaken for Norfolk Vanguard, but Norfolk Vanguard is ultimately not commenced and instead Scenario 2 of Norfolk Boreas is commenced, the pre-commencement works undertaken for Norfolk Vanguard would benefit Scenario 2 of Norfolk Boreas. It would not be necessary to undertake pre-commencement works again, save at the onshore project substation location where Scenario 2 is in a different location to the Scenario 1 onshore project substation.
5.	Whether para (4) should refer to planning authorities in the plural and whether it should require the written scheme's approval by the relevant planning authorities. If so, should there be inclusion of a definition for 'relevant planning authorities'.	<p>The definition of relevant planning authority under Article 2 of the dDCO is:</p> <p><i>... " the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated; "</i></p> <p>The relevant planning authority is therefore specific to the land or 'stage' (as defined pursuant to the scheme submitted under Requirement 15(4)) in question. In the event that a plan, scheme, or protocol spans more than one relevant planning authority area then the Applicant will need to submit a plan to each of the relevant planning authorities for approval / discharge.</p>

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		Therefore the definition already includes relevant planning authorities in the plural (in the event that more than one authority's land is affected) and the Applicant does not therefore consider it necessary to amend the dDCO to include a separate definition.
<u>Requirement 16: Detailed design parameters</u>		
1.	Whether this requirement contains enough detail on which the future approvals can be based.	<p>The Applicant considers that the details and parameters within Requirement 16 are clear and precise. These parameters provide a reference point for discharging authorities to assess against plans as well as monitor compliance for enforcement purposes. It should be noted that the dDCO has been drafted to separate the Rochdale parameters used, as specified in Requirement 16, from the mitigation secured through the outline plans, as referred to in the other Requirements.</p> <p>This approach follows the precedent set by other offshore wind farms including East Anglia Three (2017); Hornsea Project Two (2016) and the draft Norfolk Vanguard Order.</p> <p>Notwithstanding the above, the Applicant has agreed to discuss this matter further with Breckland Council in accordance with Action Point 12 of ISH 1.</p>
2.	Whether more detail on the design approach for the buildings and surroundings than that contained in the Design and Access Statement [APP-694, section 5.3.3] should be secured in the dDCO.	<p>It is not considered necessary to include more design detail for the onshore project substation in the Design and Access Statement (or the Requirements) than that which is already included at section 5.3.3. The environmental impact assessments have been conducted on the basis of a 'Rochdale Envelope' series of maximum extents for the project within which the significant effects are established. These maximum extents which define the significant effects are secured in the dDCO under Requirement 16, namely the total number of buildings housing the principal electrical equipment, height, width and length of such buildings, maximum height of external electrical equipment and maximum fenced compound areas. This is in accordance with the approach set out in paragraph 4.2.8 of NPS EN1.</p> <p>For comparison, the only other offshore wind related committed HVDC projects in the UK at this time are Dogger Bank Creyke Beck and Dogger Bank Teeside A / Sofia. It should be noted that, in comparison to HVAC technology, the HVDC technology is new and evolving; as a result it is more difficult to fix the detailed design pre-consent. In relation to the HVDC onshore converter stations, the Dogger Bank Teeside A / Sofia as made DCO states under Requirement 20(2) that <i>"No building forming part of Work No.7 (onshore HVDC substation) may exceed 20 metres in height above the floor level for that location, excluding lightning protection."</i> Dogger Bank Creyke Beck as made DCO states under Requirement 12(3) that <i>"No building (excluding lightning protection) forming part of Work No. 7 (onshore HVDC substation) must exceed 20 metres in</i></p>

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		<p><i>height above the existing ground level. Ground level is defined for this purpose as 14.5 metres above ordnance datum (AOD).” It is the Applicant's view that the Norfolk Boreas dDCO provides greater detail on which future approvals can be based than these existing made DCOs.</i></p> <p>The made DCO for Hinkley Point C Connection Project takes a different approach as follows under Requirement 3:</p> <p><i>“The authorised development must be carried out in general accordance with the design drawings. The authorised development will not be in general accordance with the design drawings to the extent that any departure from the design drawings gives rise to any materially new or different environmental effects from those assessed in the Environmental Statement”.</i></p> <p>Although the approach taken is different in the Hinkley Point C Connection Project DCO, the Requirement still secures the design against the significant effects of the Rochdale Envelope and not a specific design. The layout of the onshore project substation will be dictated by technical requirements, as will the appearance of the electrical equipment.</p> <p>The design approach for the buildings housing the principal electrical equipment will be limited by the function the buildings must perform such as the selection of HVDC transmission technology which requires buildings of up to the assessed height and footprint to house the high voltage HVDC to HVAC converter equipment. As stated in the Design and Access Statement, these buildings will be of an 'agricultural style'.</p> <p>Requirement 16(2) provides that the relevant planning authority must approve layout, scale and external appearance, so these matters will be discussed and agreed with the relevant planning authority once contractors have been appointed and more detail as to the proposed design is available. Further design detail is not available at this time as the Applicant considers the most appropriate and efficient HVDC specification within the Rochdale Envelope with multiple suppliers.</p> <p>The Applicant considers that this response addresses, in part, Action Point 12 from ISH1. The Applicant will, however, work with Breckland Council to provide a complete response to Action Point 12 for Deadline 2.</p>
3.	Whether the details of the substation required by the Outline Landscape and Ecological Management Strategy (OLEMS) [APP-698, paras 65 to 67, secured in Requirement 18,	The Applicant considers that the respective measures should remain as they are; the parameters secured in Requirement 16 are in relation to design measurements (i.e. height parameters), whereas the OLEMS provides more detail linked to the landscaping measures such as, in this context, colour and materials. Given that the landscaping matters set out in the OLEMS are secured by Requirement 18, it is not considered necessary to repeat them within Requirement 16.

Item	ExA Question	Applicant's Response
	should be consolidated in one place with those set out in Requirement 16.	
4.	How the discrepancies in para (4), between the Design and Access Statement [APP-694] and the dDCO and the ES need to be rectified.	The Applicant is not aware of any discrepancies. Up to two buildings (as referred to in Requirement 16(1)) have been assessed in the ES. Requirement 16(2) states that the details of layout, scale and external appearance of those buildings must be approved by the relevant planning authority. Finally, any details approved must accord with the Design and Access Statement.
5.	Explain the different 'existing ground levels' in para (8) and the reference to paragraph (8) in para (10); or whether the reference is to para (9).	<p>In Scenario 2, the onshore project substation is sited further to the West which has an existing ground level of 72m compared to Scenario 1 where the onshore project substation is sited to the East and has an existing ground level of 73m.</p> <p>The Applicant agrees that the cross-reference to paragraph (8) in Requirement 16(10) is a typographical error and should refer to paragraph (9). The Applicant will make this update in the next version of the dDCO.</p>
6.	Whether limits should be contained in this requirement to restrict all but the converter halls to a maximum height of 13m, based on the description of the substation in the ES [APP-218, para 346]. The Design and Access Statement [APP-694, Table 4.3] should also accord with the ES.	<p>The Rochdale envelope used to assess the landscape and visual impact in the ES is based on the elements at the onshore project substation which will have a landscape and visual impact. This includes the highest element of external equipment (which is secured in Requirement 16(5)) and the footprint and height of the converter halls (which is secured in Requirement 16(5) and 16(6)). Therefore the parameters used in the ES for the Rochdale envelope are secured in Requirement 16, and the Applicant does not consider it necessary to secure additional assumptions referred to in the ES which are not parameters of the Rochdale envelope.</p> <p>As set out above, the Applicant has reviewed other DCOs including Dogger Bank Creyke Beck and Dogger Bank Teeside A / Sofia and the Applicant does not consider that these DCOs provide any further detail above and beyond that within the Applicant's dDCO.</p>
7.	Whether any design parameters for link boxes should be set in this requirement.	<p>Typical details of the link boxes are presented in section 5.6.2.3 of the ES Chapter 5 Project Description (document 6.1.5, APP-218). This states that the link boxes, with dimensions 1.5m x 1.5m, per circuit, would be buried to ground level within an excavated pit, providing access via a secured access panel. Alternatively, above ground link box cabinets (1.2m x 0.8m x 1.8m) may be utilised which are typically sited on a 0.15m deep concrete slab. An example photograph of a below ground link box is shown.</p> <p>Link boxes would not be required at all jointing locations. Separate link boxes are required for each cable circuit and will typically be placed at 5km intervals.</p>

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		<p>The number and placement of the link boxes would be determined as part of the detailed design. However, where possible, the links will be located close to field boundaries and in accessible locations. Given that link boxes would generally be buried, that any above ground link boxes would be small scale and placed close to field boundaries, and that the typical design of link boxes is clearly stated in the ES, it is not considered necessary to specify their design parameters in the Requirements.</p>
8.	<p>Whether the maximum sizes of temporary compounds (mobilisation areas and their compounds and the cable logistics area) which are set out in the ES should be secured in this Requirement.</p>	<p>The Applicant considers that the extent of the cable logistics area is defined and secured by the Order limits (see sheet 18 of the Works Plans), and has been assessed in this way in the ES.</p> <p>Generally, the approach taken by the Applicant is to define the permanent areas of infrastructure as opposed to the temporary areas. However, the Applicant agrees that the total area of the temporary compounds (as opposed to specific dimensions) could be secured in the dDCO as assessed in the ES. The Applicant will update the next version of the dDCO accordingly.</p>
<p><u>Requirement 17: Landfall method statement</u></p>		
	<p>Whether there should be a requirement in the dDCO for sea defences around the cabling at landfall in response to various Relevant Representations, in particular Norfolk County Council's [RR-037], and concerns regarding cliff erosion in Happisburgh.</p>	<p>The Coastal Erosion Study (document 6.3.4.5 / APP-541) takes account of various available data and information sources, including local knowledge and the Shoreline Management Plan; modelling of the longshore interactions; consideration of a range of coastal management scenarios, including a scenario that matches current intentions, both locally and in neighbouring frontages; and the most recent upper end estimate of sea level rise from the Environment Agency's Guidance (Environment Agency, 2011).</p> <p>Future erosion rates at Happisburgh are predicted to be between 50m to 110m by 2065 (ES Appendix 4.3 (document 6.3.4.3 / APP-539). The Horizontal Directional Drilling (HDD) entry point will be set back from the existing cliff-line by at least 125m to ensure natural coastal erosion will not affect the drilled cable or transition pits within the conceivable lifetime of the project (approx. 30 years).</p> <p>Furthermore, the landfall compound zone extends a further 200m inland, to allow further flexibility in the siting of the landfall post consent, using the most up to date information and forecasts. This is considered embedded mitigation by design to ensure that the landfall cable ducts do not become exposed under a worst case scenario during the project lifetime. In addition, the Applicant has committed to a long HDD to avoid any interaction with intertidal areas.</p> <p>A SoCG has been prepared with Norfolk County Council, Natural England and North Norfolk District Council which includes matters of agreement relating to coastal erosion.</p>

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		<p>Working on the beach has been specifically excluded from the assessment following stakeholder feedback, resulting in the commitment to a long HDD method. The creation of any sea defences is not assessed nor is it deemed to be required based on project design commitments, methodologies and assessments.</p> <p>Natural England is also content with the wording of the requirement and they will be consulted on the final plan before North Norfolk District Council are in a position to sign-off the Requirement.</p>
Requirement 18: Provision of landscaping		
1.	<p>How to resolve the timing of approvals and implementation with the article 2 definition of 'commence', in connection with sub para (2)(d) details of trees to be removed, details of trees and hedgerows to be retained and their protection measures – which might be required prior to 'commencement'.</p>	<p>The Applicant considers that this is adequately secured through Requirement 24(3). Requirement 24(3) relates to pre-commencement site clearance works, which would include removal of trees and hedgerows.</p>
2.	<p>Whether the intention is to submit the Landscaping Management Strategy (LMS) as one complete document for approval or in parts.</p>	<p>The wording of the Requirement provides that no stage of the onshore transmission works may commence until for that stage a written landscaping management scheme has been submitted to and approved by the relevant planning authority in consultation with the relevant statutory nature conservation body.</p> <p>As the Applicant outlines in response to above on the definition of "maintain", a 'stage' of works is to be defined pursuant to Requirement 15(4). The Applicant considers that it might be appropriate to undertake the onshore transmission works in a minimum of three stages in accordance with each respective relevant planning authority boundary. An additional stage may be defined for the onshore project substation in isolation. The exact detail can, however, only be finalised once the procurement process for the contractors is complete.</p> <p>The Applicant therefore considers that the LMS may be submitted for approval in parts to each relevant planning authority responsible for that stage of the works. The principles will, however, be similar across each respective part of the LMS as required through the OLEMS.</p>
3.	<p>Whether para (1) should refer to approval by the relevant planning authorities (in the plural) as the OLEMS refers to agreeing standards</p>	<p>As set out above, the definition of relevant planning authority under Article 2 of the dDCO is: <i>..." the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated;"</i></p>

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	with Breckland District Council and Norfolk County Council.	<p>The relevant planning authority is therefore specific to the land or 'stage' (as defined pursuant to the scheme submitted under Requirement 15(4)) in question. In the event that a plan, scheme, or protocol spans more than one relevant planning authority area then the Applicant will need to submit a plan to each of the relevant planning authorities for approval / discharge.</p> <p>Therefore the definition already includes relevant planning authorities in the plural (in the event that more than one authority's land is affected) and the Applicant does not therefore consider it necessary to amend the dDCO to include a separate definition.</p>
4.	Whether sub para (2)(a) should set out more planting types than trees, such that it is clear that grass and ground flora areas are also covered.	<p>The wording within Requirement 18(2)(a) provides that:</p> <p><i>"(2) The landscaping management scheme must include details of proposed hard and soft landscaping works appropriate for the relevant stage, including—</i></p> <p><i>(a) location, number, species, size and planting density of any proposed planting, including any trees;"</i></p> <p>Reference to trees has been included as an example and to make clear that trees will be covered as part of this element of the LMS. This, however, is not an exhaustive list and the general planting of grass and ground flora will be covered as part of the soft landscaping measures in the final LMS, as referred to in section 6.4 (paragraph 50) of the OLEMS and shown on the landscaping figures contained in chapter 29 of the ES.</p>
5.	Whether sub para (2)(d) should also secure an auditable system for compliance with approved protection measures.	<p>The final plan will include the exact details of which trees are to be removed, and which trees and hedgerows are to be retained. This is secured through Requirement 18(2)(d) and the LMS must be implemented as approved, as secured by Requirement 18(3).</p> <p>The final LMS will therefore provide a detailed 'auditable' measure for enforcement purposes.</p>
6.	Is it correct that under scenario 1, the existing trees to be removed surveys would have been undertaken by Norfolk Vanguard [APP-698 para 141]? Or does this refer only to areas of woodland?	<p>The Applicant can confirm that this is correct – in the event of scenario 1, the existing trees to be removed surveys would have been undertaken by Norfolk Vanguard.</p>
7.	How are hedgerow trees considered? Under R18 or under R24? How does this relate to article 35 (Felling or lopping of trees and removal of hedgerows) and Schedule 14?	<p>Hedgerows and trees (including hedgerow trees) are considered under Requirement 18, in their landscaping function, and under Requirement 24, in respect of their ecological function. Trees to be removed will be outlined in the Landscape Management Strategy, and any trees removed as part of site clearance works will be identified under the plan secured in Requirement 24(3).</p>

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		Article 35 provides the authorisation to remove trees and hedgerows, subject to the restrictions contained in the Requirements.
8.	Whether sub para (2)(f) should also refer to opportunities for advance planting. If so whether a definition of 'advance planting' should be provided in article 2.	<p>The opportunities for advanced planting, including mitigation planting areas associated with the onshore project substation, are currently being explored as part of discussions with landowners and will be carried out where practicably possible once detailed design is finalised post-consent.</p> <p>The possibility of advanced planting is noted within the Outline Landscape Ecological Management Strategy (OLEMS) (document reference: 8.7 / APP-698) and where possible, would be proposed to be implemented at the start of the construction phase, allowing approximately three years of growth prior to completion of construction and commencement of operation. However, the Applicant is not reliant on advanced planting to deliver the mitigation taken into account in the conclusions on significance contained in the ES. It is therefore not the Applicant's intention, or necessary, to specifically secure advance planting in the Requirements beyond the reference already contained on the OLEMS as set out above.</p> <p>The detail of any advanced planting will be presented in the final Landscape Management Scheme to be produced in line with Requirement 18 of the DCO and in accordance with the Outline Landscape and Ecological Management Strategy.</p>
9.	Whether sub para (2)(h) gives enough detail about the maintenance operations and duration to be included for approval by the relevant local planning authority. And whether it should refer to an aftercare period as set out in the OLEMS.	<p>The details of the maintenance and operation activities, including any aftercare, is set out at paragraph 6.8.3 of the OLEMS (document reference 8.7 / APP-698) and it is not therefore considered necessary to include further detail in the Requirements.</p> <p>The OLEMS provides the most appropriate place for this level of detail and it would not be practicable to insert full details on the face of the DCO.</p> <p>In any event, the details are secured through Requirement 18 as the final LMS must be in accordance with the OLEMS.</p>
10.	How to resolve discrepancies between the description of what the landscape management scheme (LMS) would include as set out in R18 and that in the OLEMS, which includes sustainable drainage design and guidance on materials and colour of the substations [APP-698, para 65]. (Refer to comments under R16)	The Applicant considers that the Requirement as currently drafted is sufficient to secure the measures in the OLEMS given that the LMS must be in accordance with the OLEMS (Requirement 18(1)). However, the Applicant is content to add the further detail to Requirement 18(2) in the next version of the dDCO.

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11.	Whether the agreed procedure for joint annual inspection of all planting areas set out in the OLEMS should be included as a sub para of R18 (2).	The details for a joint annual inspection of all planting areas are set out in the OLEMS at paragraph 6.8.3. The Applicant does not consider it necessary to include this additional wording in Requirement 18(2) given that it is contained in the OLEMS, which is already secured and is specifically covered by Requirement 18(2)(h).
12.	Whether reference should be made to the adoption of all Norfolk Vanguard mitigation planting as set out in the OLEMS [APP-698, para 141] for scenario 1.	The reference in Paragraph 141 of the OLEMS relates to the adoption of the mitigation identified in the arboriculture survey, such as tree protection measures rather than the adoption of mitigation planting. In the event of Scenario 1 the Applicant would benefit from the mitigation planting that Norfolk Vanguard has implemented. The final Landscape Management Strategy will reflect the mitigation relevant to the scenario implemented. The Applicant does not consider it necessary to include this level of detail in the Requirement given that it is included within the OLEMS which itself is a certified document and secured through the Requirements.
<u>Requirement 19: Implementation and maintenance of landscaping</u>		
	To explain why para (2) needs to be 'agreed in writing' rather than approved by the relevant planning authority in the context of Requirement 30?	This paragraph is based on the draft Norfolk Vanguard DCO and is designed to allow flexibility for the Applicant and relevant planning authority to be able to select a new species by agreement in the event that the previous species selected was not appropriate for the area. In any event, in view of the effect of Requirement 30, the Applicant does not consider that there is any difference in principle between 'agreed in writing' or 'approved by' the relevant planning authority.
<u>Requirement 20: Code of Construction Practice</u>		
1.	Whether contact details of the Agricultural Liaison Officer [APP-692, Appendix B] should be added to the list of details to be submitted prior to commencement.	The Applicant will update the next version of the OCoCP to require that the contact details of the ALO are included in the final Code of Construction Practice submitted pursuant to Requirement 20 of the DCO. With this amendment to the OCoCP, the Applicant does not consider it necessary to update Requirement 20.
2.	Whether relevant local authority should approve pre-commencement site work and preparation and if so, how.	The site preparation work included in the OCoCP relates to works that will be undertaken post commencement, save for screening, fencing and site security for which a plan must be approved through Requirement 20(4).
3.	Whether the OCoCP should include details on controlling dust during construction	The OCoCP does include measures for controlling dust and the Applicant refers the Examining Authority to Section 10.1.1 (Dust Management) (document reference 8.1 / APP-692).

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	(particularly on parts of the route that are in close proximity to homes and businesses)	
4.	Whether the effect on private water supply needs to be given further consideration in this requirement.	The location of private water supplies within the construction area will be identified through discussions with landowners and during the pre-construction land survey, as detailed in Appendix B of the OCoCP. Suitable measures to mitigate impacts or compensate landowners will be identified at this stage. As this is secured in the OCoCP it does not need to be secured through Requirement 20.
Requirement 23: Archaeological written scheme of investigation		
1.	To consider the National Trust's request in its RR [RR-084] to be named in connection with the Blickling Estate as a consultee along with Norfolk County Council and Historic England in Requirement 23.	<p>As the Applicant outlines in response to RR-084, row 83 of Table 26 (document reference ExA.RR.D0.V1 / AS-024), commitments are included in the Outline Written Scheme of Investigation (Onshore) (document 8.5, APP-696) with respect to the National Trust and their archaeologist's involvement in the planning of the archaeological works across the relevant parts of the Blickling Estate. Requirement 23 of the dDCO (document 3.1, APP-020) secures the commitments as outlined in the Outline Written Scheme of Investigation (Onshore) (document 8.5, APP-696), specifically Section 6.8 which directly addresses the National Trust Blickling Estate.</p> <p>The outline Written Scheme of Investigation (Onshore) must be submitted to the Secretary of State after the making of the Order, as required by Article 37. This procedure ensures that the outline plans are certified and secured within the DCO. Pursuant to the wording of Requirement 23, the final plan must be in accordance with the outline plan. This, therefore, secures the commitments (including those made for the National Trust) from the outline plan into the final plan.</p> <p>It is not therefore necessary to list the National Trust on the face of the dDCO. In any event, as a general principle, the Applicant considers that it is only appropriate to include discharging authorities and relevant statutory consultees within the dDCO.</p>
2.	How Ørsted's suggestion [RR-102] to manage archaeological impacts, if required where the cable corridors cross with Hornsea Three by adopting a consistent approach to targeted geophysical survey and trial trenching through a consistent approach to (Archaeological) Written Schemes of Investigation (WSI) being	<p>The Applicant has included protective provisions for the benefit of Hornsea Project Three Limited at Schedule 17, Part 8 which govern the interaction with Hornsea Project Three's apparatus and rights in relation to the areas in which the cables cross.</p> <p>The Applicant is progressing a Co-operation Agreement with Orsted Hornsea Project Three (UK) Limited, Ørsted Wind Power A/S, Cerulea Limited, Norfolk Vanguard Limited and Vattenfall Wind Power Limited. The purpose of the agreement is to ensure that there is cooperation between the projects and to ensure both projects continue to work together and exchange information. The</p>

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	<p>agreed with the relevant authorities prior to commencement of the consented works where the cables cross could be secured in the dDCO? Would the Requirement need to add a Hornsea Three party to those consulted in para (1)?</p>	<p>agreement is intended to cover matters pertinent to construction management and implementation extending to the sharing of survey data; co-operation on programme, milestones, and communication with stakeholders; engineering methods at the crossing point to complement the other scheme; and rights of access.</p> <p>Given the above mechanisms, it is not considered necessary to amend Requirement 23 to refer to Hornsea Three.</p>
3.	<p>Whether the dDCO adequately cover requirements for WSI regarding the intertidal zone, including needs for consultation with MMO?</p>	<p>The Applicant has committed to using a long horizontal directional drill for the intertidal area and this is secured by the provision of a Landfall Method Statement at Requirement 17 and, in particular, Requirement 17(2) which stipulates that:</p> <p><i>"(2) The method statement referred to in sub-paragraph (1) must include measures for long horizontal directional drilling below the coastal shore platform and cliff base at the landfall as well as measures for ongoing inspection of Work No. 4C and reporting of results to North Norfolk District Council during the operation of the authorised project."</i></p> <p>For the purposes of the dDCO, the definition of HDD does not preclude other trenchless methods which do not require vertical shafts given it is defined as:</p> <p><i>"horizontal directional drilling" means a trenchless technique for installing an underground duct between two points without the need to excavate vertical shafts;</i></p> <p>Therefore ducting at the landfall will not impact on the intertidal area in so far as an archaeological written scheme of investigation (WSI) is required.</p> <p>Requirement 23 provides that the final (onshore) WSI – for works landward of MHWS - must accord with the outline written scheme of investigation (onshore) and must be approved by the relevant planning authority, in consultation with Norfolk County Council and Historic England, prior to each stage of the onshore transmission works.</p> <p>The offshore WSI for works seaward of MLWS is secured within each DML (Conditions 14(h) and 14(2) in Schedules 9 and 10, Conditions 9(h) and 9(2) in Schedules 11 and 12 and Conditions 7(g) and 7(2) in Schedule 13).</p> <p>The Applicant therefore considers that the WSI adequately covers all the necessary works areas.</p>
4.	<p>How is it proposed within the dDCO to secure all mitigation measures included in the outline</p>	<p>The outline WSI (offshore) is secured within each respective DML – at Conditions 14 (h) and 14(2) of Schedules 9 and 10; at Conditions 9(h) and 9(2) of Schedules 11 and 12; and Conditions 7(g) and 7(2) of Schedule 13).</p>

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	Archaeological Written Schemes of Investigations (offshore)?	These conditions list the mitigation that must be included in the offshore WSI and expressly stipulate that the final WSI must accord with the outline WSI (offshore).
<u>Requirement 24: Ecological management plan</u>		
	Whether para (3) should also refer to previously un-surveyed areas and surveyed areas for which existing surveys have time expired.	The Applicant will amend the dDCO to refer to "post-consent ecological surveying" in order to encompass previously un-surveyed areas and surveyed areas which require re-survey, as set out in Section 5 of the OLEMS.
<u>Requirement 25: Watercourse crossings</u>		
1.	The EA's RR-095 notes that Norfolk Vanguard (NV) committed to site-specific water crossing plans, but the Boreas OCoCP does not. The ExA notes that dDCO requirement 25 'Watercourse crossings' does commit to a 'scheme and programme for any such crossing, diversion and reinstatement'.	As the Applicant outlines in response to RR-099 and RR-095 at row 2 of Table 15 on the Comments on Relevant Representations (document reference ExA.RR.D0.V1 / AS-024), as agreed during the Norfolk Vanguard examination, the Applicant will develop a scheme and programme for each watercourse crossing, diversion and reinstatement, which will include site specific details regarding sediment management and pollution, to be submitted to and approved by the relevant planning authority in consultation with the relevant statutory nature conservation body (Natural England). This is secured through Requirement 25 (Watercourse Crossings) of the dDCO and this commitment will be captured within an update to the OCoCP which the Applicant intends to submit at Deadline 1.
2.	Whether site-specific watercourse crossing plans need to be required in the Norfolk Boreas OCoCP as well as in Requirement 25.	As set out above, the OCoCP will be updated at Deadline 1.
<u>Requirement 26: Construction hours</u>		
	Further explanation of the approach to determining construction hours and the implications of altering these in locations near to sensitive receptors.	<p>The determination of suitable construction hours (as defined as 0700-19:00 Monday to Friday and 07:00-13:00 Saturday with no activity on Sundays or bank holidays) have been considered and assessed based on various factors including:</p> <ul style="list-style-type: none"> a) Consideration to minimising overlap with periods of high traffic such as for commuters and schools by allowing deliveries prior to and post these periods;

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		<p>b) Allowing the overall duration of works and period of interruption to be as short as possible. Limiting working hours further, including at sensitive areas, will extend programme time and impact length;</p> <p>c) Consideration of daytime hours with respect to noise and associated assessments, as defined in BS5228; and</p> <p>d) The ES has included enhanced mitigation where necessary to limit impacts to sensitive areas without affecting working hours, such as through the use of temporary noise barriers or quieter equipment.</p> <p>Some essential works require the potential to extend beyond the aforementioned working hours due to the activity involved, examples and reasoning include:</p> <p>a) Continuous periods of operation that are required as assessed in the ES such as concrete pouring, drilling and pulling cables through ducts. Once concrete pouring, such as that required at the onshore project substation, has begun for the basis of foundations or other related works, it will be necessary to complete those works in a continuous period as dictated by aspects such as concrete curing requirements. Equally, once the process of cable pulling has commenced and a cable has begun to be pulled into a duct, it is necessary to complete the installation in a single operation which may extend beyond the working hours if unforeseen issues occur. Once drilling has begun, it may not be suitable to stop the drilling process until the installation is complete – for instance, the drill head (and/or other technical elements) may need to be maintained at a certain level or pressure for a successful drill completion.</p> <p>b) Abnormal loads, such as transformers, will typically be required to be delivered outside of working hours to minimise impacts on the road network.</p> <p>c) Closure of roads may be conducted outside of normal working hours to minimise impact to road users.</p> <p>d) The same principle applies for the trenchless installation techniques as for drilling outlined in (a) above.</p>

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		<p>e) The same principle applies for the onshore transmission works as for drilling outlined in (a) above.</p> <p>f) Outages of the National Grid substation will be required to allow for the extension to the National Grid substation (Work No. 10A). This outage may be conducted outside of working hours to minimise risk to National Grid's ability to supply electricity.</p> <p>g) Similarly, outages of the National Grid overhead lines may be required outside of normal working hours to allow the overhead line modification works (Work No. 11A and 11B) to be completed with less risk of interference to National Grid's ability to supply electricity (Scenario 2 only).</p> <p>h) Once underway, aspects such as the filling of transformers with insulation mediums and other time critical electrical installation requirements will need to continue. This may extend outside of working hours.</p> <p>i) Emergency works should be conducted at the time of the emergency, which may be outside of working hours.</p> <p>Outside the specified working hours, non-intrusive work may be conducted. The following provides examples and reasoning:</p> <p>a) The onshore project substation is a critical piece of infrastructure and fitting out of the onshore project substation may be required outside of working hours to maintain programme and coincide with the National Grid connection dates.</p> <p>b) Access to the onshore transmission works site may be required outside of working hours to ensure maximum and efficient periods of work (daily start up and shut down) can be completed within the prescribed working hours</p>
<u>Requirement 31: Amendments to approved details</u>		
	Whether the provisions in this requirement for amendments and variations are justified.	This principle follows that in the Model Provisions, yet the current dDCO inserts further detail to the drafting and also makes clear that any amendments to or deviations from the approved details must be in accordance with the principles set out in the Environmental Statement; and the

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		<p>relevant planning authority must be satisfied that the amendment will not give rise to any new or materially different environmental effects.</p> <p>The Applicant considers that the flexibility provided for by this Requirement is necessary in order to help streamline the discharge of requirements related to nationally significant infrastructure projects.</p> <p>There is also precedent for this approach in other offshore wind DCOs including East Anglia Three (2017), Hornsea Two (2016), the draft Norfolk Vanguard Order, and the draft Hornsea Project Three Order.</p>
Requirement 32: Operational drainage plan		
	<p>How have allowances for climate change been considered and does the flood risk assessment take account of UK Climate Projections 2018 (UKCP18)?</p>	<p>The Applicant has accounted for climate change within the Flood Risk Assessment in accordance with the current published Environment Agency Guidance (Environment Agency 2016, amended February 2017 'Flood risk assessments: climate change allowances') and included an increased allowance for surface water as part of the drainage design. The Environment Agency has not yet provided guidance around the use of the UKCP18 so these projections were not considered. Further information is detailed in section 5 of the Flood Risk Assessment, ES Appendix 20.1 (document reference 6.3.20.1).</p>
Other requirements		
1.	<p>Whether there should be a requirement covering reinstatement, for areas used temporarily during construction.</p>	<p>The OCoCP contains sections dealing with reinstatement (see Section 3.8 and Appendix A). However, the Applicant will review the detail provided in light of the ExA's comments and update the section to refer to reinstatement of areas used temporarily during construction. The updated OCoCP will be submitted at D1. To the extent that reinstatement is dealt with in the OCoCP the Applicant considers that it is not necessary to include a separate Requirement on this point.</p>
2.	<p>Applicant's response to Norfolk County Council RR-037 request to work with National Grid to feed electricity into local transmission; whether there is precedence; whether such an arrangement should be secured in the dDCO.</p>	<p>As the Applicant outlines in response to RR-037 at row 2 of Table 28 on the Comments on Relevant Representations (document reference: ExA.RR.D0.V1 / AS-024), the onshore connection point was determined through a statutorily mandated process involving both the Applicant and National Grid, to identify a direct connection to the 400kV national transmission system. This mechanism is described in document 6.3.4.3 'Appendix 4.3 Strategic approach to selecting a grid connection point' of the Application (document 6.3.4.3, APP-539). There are no planning or regulatory mechanisms through which the Applicant could identify direct 'in-feeds' into the regional distribution network in Norfolk. Accordingly there are no precedents for this and it cannot be secured in the dDCO.</p>

Item	ExA Question	Applicant's Response
<u>Schedule 15 – Arbitration Rules</u>		
1.	Is there a definition in the dDCO for 'the Arbitrator' and if so, where?	<p>Article 38 refers to a <i>"single arbitrator to be agreed upon by the parties"</i>. If the parties cannot agree an arbitrator, they can request the Secretary of State to appoint an arbitrator and if the Secretary of State does not do so, an arbitrator can be appointed on referral by the Centre for Effective Dispute Resolution (see Article 38(2)); Schedule 15, paragraph 1(1) explains that the arbitrator will be the arbitrator appointed under Article 38.</p> <p>It is not therefore necessary to define 'Arbitrator' in Schedule 15, as it will be a person to be agreed by the parties through the mechanism in Article 38.</p>
2.	MMO concerns highlighted in Section 2.1 of RR-069 relating to timescales for discharge document submission; and to an appeal process related to applications for discharge of conditions.	<p>As the Applicant outlines in the Applicant's response to RR-069 at row 22 of Table 26 (document reference ExA.RR.D0.V1 / AS-024), four months is a well-established time frame which is appropriate and proportionate to allow the MMO, in consultation with statutory bodies, sufficient time for stakeholder consultation and the provision of comments, whilst ensuring no unnecessary delay to the commencement of development and completion of construction works.</p> <p>This time period is contained on a number of other Offshore Wind Farm (OWF) DCOs (including East Anglia Three (2017), Hornsea Two (2016), the draft Norfolk Vanguard Offshore Wind Farm Order, and the draft Hornsea Project Three Offshore Order.</p> <p>The Applicant acknowledges that it has, in some recent cases, taken much longer than 4 months for the MMO to discharge certain DML conditions on other OWF projects and it should be recognised that with no longstop mechanism to encourage the MMO to determine applications within a reasonable period (such as arbitration or appeal) the developer is then left in a position which is wholly unsatisfactory. With such highly competitive and fixed Contracts for Difference milestones, and where offshore construction can only be undertaken in safe and optimal weather conditions, wind farm developers need the certainty and confidence of a reliable and consistent approval process. This is also one of the reasons why the Applicant sought to insert an appeal provision within the dDCO (as the Applicant outlines in response on Arbitration above). In this context, the Applicant refers the MMO to its response below and the Norfolk Vanguard Ltd and MMO Joint Position Statement (Appendix 3 of the Applicant's Comments on Relevant Representations document).</p> <p>Accordingly, there is a strong public interest argument in favour of timely approvals in order to ensure that Nationally Significant (renewable energy) Infrastructure Projects are not unduly delayed. The Applicant considers that the dDCO strikes the balance between allowing the MMO</p>

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		<p>(and its advisers) to properly discharge their statutory duties whilst ensuring renewable energy development is unlocked in a timely manner.</p> <p>The Applicant also envisages that discussions will be held with the MMO, and its stakeholders (where relevant), once the final Project design has been agreed and in advance of seeking formal discharge of conditions. This dialogue, which is also in the Applicant's own interest, would reduce the need for multiple rounds of consultation post-plan-submission. The In Principle SIP (document reference 8.17, APP-708), for example, contains an indicative timeline for consultation and agreement of the SIP post-consent; this includes several rounds of consultation with the MMO prior to the formal submission of the final SIP. By extension, the standard and level of detail within the final plan is expected to be of a high-quality.</p> <p>The Applicant agrees that any delays in document sign-off could lead to project delays and significant cost implications. Accordingly, in view of the tight construction programmes coupled with the time and investment that the Applicant will have committed to pre-submission consultation, the Applicant considers that there needs to be a consistent time frame (set at four months) for discharge in accordance with previous projects - including other Round 3 projects of a similar scale, together with a transparent appeals process in the event of refusal or non-determination.</p> <p>In view of the above, the Applicant does not consider it necessary or appropriate to adjust the time periods for discharge within the DML conditions.</p>
3.	<p>Schedule 16 – Procedure for discharge of Requirements</p>	<p>Schedule 16 sets out the procedure for the discharge of requirements and an appeal process in the event that a discharging authority refuses an application or fails to give notice of a decision. It follows the wording contained in the dDCO for Norfolk Vanguard, which was agreed with NNDC, and no comments were raised by the other LPAs. The LPAs have generally welcomed the approach of including a clear process as set out in Schedule 16.</p> <p>A similar approach was also followed on the Hinkley Point C (Nuclear Generating Station) Order 2013.</p>
<p>Schedules 9-13</p>		
1.	<p>NE raises a number of concerns in its relevant rep [RR-099]. These concerns will be reviewed in the light of comments on relevant representations submitted by the Applicant</p>	<p>The Applicant notes that this question will be raised in writing or during subsequent hearings, as appropriate.</p>

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	<p>and other Interested Parties on 4th November at the ISH on 14th November.</p> <p>The MMO raises a number of concerns in its relevant rep [RR-069]. These concerns will be reviewed in the light of comments on relevant representations submitted by the Applicant and other Interested Parties on 4th November including:</p>	
2.	<p>Concurrent piling both within the project and between Norfolk Boreas and Norfolk Vanguard (underwater noise effects) with consideration [for the] inclusion of a cooperation condition between potential Offshore Windfarm developers working in close proximity especially with regard to in-combination effects; recommendation of DCO/DML amendment for a worst-case scenario if more than one pile is to be installed within a 24-hour period [Schedules 9-13 Condition 21];</p>	<p>The Applicant has included a mechanism to govern co-operation between Norfolk Vanguard and Norfolk Boreas in respect of the offshore areas of overlap. This is included at Condition 18 of the Transmission DMLs (Schedule 11-12) and Condition 15 of the Project Interconnector DML (Schedule 13)). This co-operation condition provides that Norfolk Boreas must send relevant schemes, plans, documents, and/or protocols to the Norfolk Vanguard offshore undertaker prior to submitting them to the MMO for approval, in order to allow Norfolk Vanguard the opportunity to comment on the documents. Norfolk Boreas must also participate in liaison meetings with the undertaker of the offshore element of the Norfolk Vanguard Offshore Wind Farm as requested from time to time by the MMO. These meetings may consider such matters as are determined by the MMO relating to the efficient operation of the offshore element of both of the authorised projects, including any matters arising with regards to in-combination effects of working in close proximity.</p> <p>The Applicant has assessed for up to two concurrent piling events within the Norfolk Boreas project and therefore the DCO application is for up to two piling events to occur concurrently. The commitment to the SNS SIP will ensure that adequate mitigation will be put in place. Developing the SNS SIP prior to construction will ensure that the protocols within the plan are based on the latest scientific evidence, information and requirements at the time. Within the current In Principle SNS SIP (document reference 8.17 / APP-708), the Applicant considers scheduling of pile driving with other projects as a potential mitigation measure and as required under Condition 14(1)(m) of Schedules 9 and 10 of the dDCO the MMO are required to be satisfied that the SNS SIP provides adequate mitigation as is necessary to avoid adversely affecting the integrity of the Southern North Sea SAC. If required, and to the extent that the MMO did not consider the mitigation measures in the SNS SIP to be sufficient, an agreement not to pile drive at the same time as Norfolk Vanguard could be included in the final SNS SIP, to be agreed with (and approved by) the MMO.</p> <p>The responsibility to define the management framework and potential methodologies for management of multiple projects piling at the same time is largely outside of the Applicant's</p>

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		control; this responsibility lies with the regulator (MMO) to ensure no adverse effect on the integrity of the Southern North Sea SAC and must therefore be dealt with through the SNS SIP.
3.	The implication that new cable protection works are considered, by the Applicant, to be licensed for deployment at any time during the operation of the works; and [RR-069 2.1.33 to 39] requirement for new cable protection and foundation replacement during operations to be separately licensed [Schedules 9-13 Condition 22];	<p>The Applicant can confirm that any additional cable protection placed during operation which is outside of the areas of cable protection placed during construction would be subject to a separate marine licence which would be applied for when required.</p> <p>The MMO had advised Norfolk Vanguard that the wording in the dDCO for that project would not allow for new areas of cable protection to be placed and as Norfolk Boreas have used the same wording in those conditions the same would apply.</p> <p>The wording within the OOOMP (document reference: 8.11 / APP-702) will be updated to make this clear. In the updated version to be submitted at Deadline 1 the Table in the Appendix will show that:</p> <p>For “Placement of cable protection in new areas” an additional licence would be required. And consultation with the MMO would be required.</p> <p>But</p> <p>“Replacement cable protection in the same area as cable protection installed during construction” will not require a separate marine licence.</p>
4.	Request for removal of the process in [Schedules 9-13 Part 5 Procedure for Appeals];	As set out above, the Applicant considers the appeals process is necessary and entirely reasonable in the event that the MMO is excluded from arbitration. The Applicant's position is more fully set out in the joint position statement between Norfolk Vanguard Limited and the MMO (document reference (ExA.RR.D0.V1 / AS-025).
Consents, Licenses and Other Agreements		
1.	Consideration of Norfolk County Council proposal that funds could be made available for the benefit of the resident and business communities affected by construction activities [RR-037].	<p>As the Applicant outlines in response to it is Relevant Representations, at row 4 of Table 28 (document reference ExA.RR.D0.V1), wider benefits associated with the Project include opportunities for the local population across Norfolk in areas such as jobs, skills and employment. The Applicant has committed to producing a Skills and Employment Strategy which is secured through Requirement 33 of the dDCO and an outline Skills and Employment Strategy (document 8.22, APP-713) has been produced and submitted as part of the DCO application.</p> <p>From January 2017, extensive work has been undertaken by the Applicant to understand and contribute, where appropriate, to existing skills, training and education initiatives. The Applicant is working with education skills providers in the area (including the local authorities, NALEP,</p>

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		<p>EEEEGR) to develop an appropriate skills strategy, which will facilitate direct employment in the offshore wind industry and in its supply chain. The Applicant has been engaging with the potential local supply chain since Spring 2018. In September 2018, the Applicant held a successful stakeholder event which brought together stakeholders from the local authorities, business support organisations and skills providers to discuss how Vattenfall could promote the local supply chain capitalising on the opportunities that offshore wind will present in the East Anglia NALEP area. Work is ongoing to support the local supply chain to maximise the benefits that offshore wind will bring to the area.</p> <p>Only mitigation which addresses impacts directly associated with the Project should be considered in the planning and DCO process. The Applicant is and continues to address wider community benefit, however this will be undertaken separately and outside of the DCO process.</p> <p>Specific landowner compensation amounts will be addressed as part of the commercial agreements that the Applicant will negotiate with landowners. All claims in relation to reduction in value to property will be assessed in line with the Compensation Code. A useful set of Government guidance booklets set out the basics of the Code https://www.gov.uk/government/collections/compulsory-purchase-system-guidance</p>
2.	Progress in agreeing Protective Provisions including Cadent Gas Limited; National Grid and EA.	<p>The Applicant can confirm that matters are progressing with National Grid, Cadent Gas and Network Rail.</p> <p>The Norfolk Vanguard applicant reached agreement with the statutory undertakers with respect to the protective provisions and associated agreements, and all objections were withdrawn from the Norfolk Vanguard application. The statutory undertakers have agreed to use the same principles for the Norfolk Boreas scheme. The parties are therefore confident of concluding matters by the close of the Examination.</p> <p>The Environment Agency and drainage authorities also have the benefit of protective provisions at Part 7 as a result of the disaplication of certain legislative provisions (Article 7 - Application and modification of legislative provisions) in relation to works within watercourses. The wording within Part 7 of Schedule 17 has precedent from The Triton Knoll Electrical System Order 2016. The Applicant, however, understands that the Environment Agency wish to make some amendments to the protective provisions and the Applicant is liaising with the Environment Agency accordingly.</p>

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3.	How the Informative Note requested by The Coal Authority [RR-005] should be addressed in the dDCO.	<p>The Applicant will include the Informative Note from The Coal Authority in the OCoCP (document reference 8.1 / APP-92), which is secured pursuant to Requirement 20 of the dDCO.</p> <p>The Applicant will submit a revised draft OCoCP at Deadline 1.</p> <p>The Applicant has since liaised with the Coal Authority and can confirm that the Coal Authority is also content for the wording to be included in the OCoCP. The Applicant understands that the Coal Authority has written to the Planning Inspectorate to confirm their agreement to this separately.</p>

APPENDIX 1 - LIST OF APPEARANCES

1. **John Houghton**, Senior Counsel, **Womble Bond Dickinson**; and **Victoria Redman**, Partner, **Womble Bond Dickinson**

Speaking on behalf of Norfolk Boreas Limited:

- In response to the Examining Authority's questions and for general advocacy

Onshore

2. **Claire Davies**, Senior Environmental Consultant, Royal HaskoningDHV (**RHDHV**)

Speaking on behalf of Norfolk Boreas Limited on:

- Onshore environmental matters

3. **Andrew Hardcastle**, Senior Power Engineering Consultant, **GHD**

Speaking on behalf of Norfolk Boreas Limited on:

- Onshore construction

Offshore

4. **David Tarrant**, Senior Environmental Consultant, **RHDHV**

Speaking on behalf of Norfolk Boreas Limited on:

- Issues and impacts on Benthic ecology
- HRA implications

Various

5. **Catrin Jones**, Stakeholder Engagement Manager, **Vattenfall**

Speaking on behalf of Norfolk Boreas Limited on:

- Socio-economic considerations and community consultation (where relevant)

6. **Graham Davey**, Senior Development Manager, **Vattenfall**; and **Jake Laws**, Consents Manager, **Vattenfall**

Speaking on behalf of Norfolk Boreas Limited on:

- Any other matters including project updates (if necessary).