



# Marine Management Organisation

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MMO Reference: DCO/2017/00002  
Planning Inspectorate Reference: EN010087  
Identification Number: 20022925

10 December 2019

Dear Ms Fernandes,

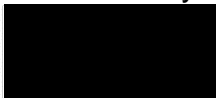
## **Planning Act 2008, Norfolk Boreas Limited, Proposed Norfolk Boreas Offshore Wind Farm**

### **Deadline 2 response - Summary of Relevant Representations**

In its Rule 8 letter dated 19 November 2019, the Planning Inspectorate (PINS) requested that interested parties submit a summary of Relevant Representations not exceeding 1500 words. Please find the Marine Management Organisation's (MMO's) summary below.

The MMO is an interested party in the examination of Norfolk Boreas offshore wind farm (OWF) because the Development Consent Order (DCO) application includes four deemed Marine Licences (DMLs) under Section 65 of the Marine and Coastal Access Act 2009 ('the 2009 act'). Should consent be granted for the project, the MMO will be responsible for monitoring, compliance and enforcement of DML conditions.

Yours faithfully



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## **1. Summary of the MMO's Relevant Representation**

### **Summary of Issues raised in the DCO and DMLs**

This document provides a summary reflecting the MMO's position set out in its Relevant Representation submitted to the ExA on 30 August 2019.

#### **Arbitration/Appeal Process**

- 1.1 The MMO note the applicant has removed the MMO from arbitration and Schedule 15, and replaced this with an appeals process. The MMO does not consider it necessary to introduce such an appeals mechanism into the DMLs. It is the MMO's position that if an appeals procedure is required this should be considered by Parliament and introduced by way of statutory instrument. This will allow all stakeholders to have their views known and the wider impacts considered. It should be noted that when introducing the 2011 Regulations Parliament decided not to extend the appeal provisions to the discharge of conditions. The MMO also raise that introducing an appeals process out with that intended under the Marine and Coastal Access Act 2009 will open up the possibility of further Judicial Reviews from our other stakeholders. These stakeholders have a legitimate expectation that our decision making will be transparent, fair and use a consistent process for all applicants. The MMO requested that this appeals process should be removed from the DCO.

#### **Timescales**

- 1.2 The proposed timescales conditioned in the DMLs required a response period of four months following receipt of all post-consent documentation and all pre-construction documentation and plans to be submitted for approval 4 months prior to the commencement of any licensed activity. Considering the increased size and complexity of the newer OWFs, the MMO considered that a timeframe of 6 months would be more appropriate to address such issues. The MMO also recommended removal of the requirement that any failure to provide a decision may be referred to an appeal process.

#### **Cooperation**

- 1.3 The DCO consists of four deemed marine licences: two for the generation assets and two for the transmission assets. Presumably this is to facilitate a phased development however it also opens the possibility of a transfer of benefit, meaning the licensed activities could be carried out by multiple undertakers. If a transfer of benefit were to happen, it is unclear what mechanisms would be in place to ensure two different windfarm developers working in the same area could work in cooperation especially with regard to in-combination effects.

#### **DCO/DML minor comments**

- 1.4 The MMO questioned the wording within the DCO/DMLs and consistency across the DMLs. The MMO requested that these were addressed.

#### **Benthic Monitoring**

- 1.5 The MMO recommended that conditions for pre – and/or post construction monitoring for features of all ecological importance should be included in the DMLs, and post construction surveys should be conducted for a period of 3 non-consecutive years to assess any long term effects. The MMO suggested conditions for pre-/post-construction monitoring surveys to determine the location/extent of any benthic communities/benthos not just constituting Annex 1 reef habitats of principal importance should be included.

## **Outline Offshore Operations and Maintenance Plan (OOOMP) and Cable protection**

1.6 The MMO have major concerns on the placement of new rock protection after the construction phase. The MMO requested the OOOMP made clear that any new rock protection would need a separate marine licence.

## **Haisborough, Hammond and Winterton Special Area of Conservation Site Integrity Plan (HHW SAC SIP)**

1.7 The MMO does not believe the mechanism set out by the Applicant for using the SIP is appropriate. The MMO believes it is possible to present a worst case scenario informed with updated data to undertake a Habitats Regulations Assessment (HRA) to conclude if there is adverse effect on integrity (AEol) due to the cable protection and sandbanks within the HHW SAC. This impact should be assessed alone, and with any in-combination aspects allowing a decision to be made. The MMO requested this was dealt with during the consenting process rather than post consent.

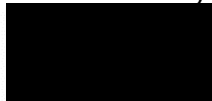
## **Summary of issues raised in the ES**

1.8 The MMO raised concerns relating to the following chapters in the ES:

- Marine Processes
- Water Quality and Sediment Quality
- Benthic Ecology
- Fish Ecology
- Underwater Noise

In general, further clarification of statements made in the ES and/or further evidence to support the predictions made in the ES were required. In particular, concerns around the fish ecology conclusions, the use of conceptual modelling, along with highlighting the underwater noise mitigation for marine mammals.

Yours faithfully



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