

Norfolk Boreas Offshore Wind Farm

Explanatory

Memorandum

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Norfolk Boreas Limited

Norfolk Boreas Offshore Wind Farm

Explanatory Memorandum

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THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS AND PROCEDURE) REGULATIONS 2009 REGULATION 5(2)(c)

THE PROPOSED NORFOLK BOREAS OFFSHORE WIND FARM ORDER

EXPLANATORY MEMORANDUM

1 Introduction

- 1.1 This memorandum accompanies an application for development consent (the **Application**) by Norfolk Boreas Limited (the **Applicant**) to construct and operate the Norfolk Boreas Offshore Wind Farm (the **Project**). The memorandum explains the purpose and effect of each article of, and Schedule to, the draft Norfolk Boreas Offshore Wind Farm Order (the **Order**), as required by Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
- 1.2 In the majority of cases, the draft Order draws from the drafting used in Orders for similar developments made under the Planning Act 2008 (the **2008 Act**). A table has been included at Schedule 1 to summarise the basis of the drafting used in the case of each Article of the draft Order. The table at Schedule 1 also includes a column which compares the draft Order provisions for offshore wind farm applications which are currently awaiting determination by the Secretary of State (including Norfolk Vanguard, Hornsea Project Three, and Thanet Extension). Whilst the Applicant recognises that these Orders are not as made Orders, the Applicant considers that it is helpful to show the current trend and approach to drafting recent offshore wind farm development consent orders (**DCOs**). These draft Orders have been the subject of public consultation and scrutiny throughout their respective examination processes and the draft Orders are currently with the Secretary of State for determination on or before 1 June 2020. Should the Secretary of State therefore decide to grant consent for these Orders, they would be the most recent precedent for offshore wind DCOs.
- 1.3 A detailed explanation of the authorised development is set out in the Project Description chapter (chapter 5) of the Environmental Statement (Document 6.1) which accompanies the Application.
- 1.4 As the Order seeks to apply and modify statutory provisions, including concerning the compulsory acquisition of land and the treatment of certain requirements as planning conditions, in accordance with sections 117(4) and 120(5) of the Planning Act 2008 (**2008 Act**), it has been drafted as a statutory instrument.

2 The purpose of the Order

- 2.1 In overview, the purpose of the Order is to grant the Applicant development consent for a Nationally Significant Infrastructure Project (**NSIP**), namely:
- 2.1.1 An offshore generating station with an electrical export capacity of up to 1,800 MW at the point of connection to the offshore electrical platform(s) to be located more

than 73 km from the coast of Norfolk, occupying an offshore array site of approximately 725 km² in the southern North Sea;

- 2.1.2 Up to one offshore service platform;
 - 2.1.3 Up to two meteorological masts;
 - 2.1.4 Up to two LIDAR buoys and up to two wave buoys; and
 - 2.1.5 A network of subsea cables.
- 2.2 The Order also includes associated development linked to the NSIP, namely:
- 2.2.1 Up to two offshore electrical platforms;
 - 2.2.2 In the event of Scenario 1 (see paragraph 4 below), the option of a project interconnector link to the offshore electrical platform(s) within the Norfolk Vanguard Offshore Wind Farm sites;
 - 2.2.3 A subsea electrical connection and associated fibre optic cables between the offshore electrical platforms, and from those electrical platforms to a landfall at Happisburgh South, North Norfolk;
 - 2.2.4 Landfall transmission works consisting of up to two transition jointing pits and up to four cables to be laid in ducts underground and associated fibre optic cables laid within cable ducts underground;
 - 2.2.5 An onshore underground electrical connection comprising:
 - 2.2.5.1 in the event of Scenario 1 (see paragraph 4 below), up to four cables and associated fibre optic cables to be pulled through existing ducts laid underground;
 - 2.2.5.2 in the event of Scenario 2 (see paragraph 4 below), up to four cables and associated fibre optic cables installed in ducts.
 - 2.2.6 A new onshore project substation housing the principal electrical equipment, located near to the Necton National Grid substation;
 - 2.2.7 An underground electrical connection and associated fibre optic cables between the new onshore project substation and the Necton National Grid substation;
 - 2.2.8 An extension to the existing National Grid substation comprising:
 - 2.2.8.1 in the event of Scenario 1, an extension in an easterly direction;
 - 2.2.8.2 in the event of Scenario 2, an extension in a westerly direction.;
 - 2.2.9 In the event of Scenario 2, overhead line replacement works including the removal of one existing pylon and construction of two new permanent pylons, the repositioning of the overhead electric line from the existing pylons to the new permanent pylons and the installation of conductors, insulators and fittings on to the pylons; and
 - 2.2.10 Access to the new onshore project substation comprising:
 - 2.2.10.1 in the event of Scenario 1, an extension from the existing access connecting the A47 to the Norfolk Vanguard onshore project substation;
 - 2.2.10.2 in the event of Scenario 2, new permanent accesses connecting the A47 to the new onshore project substation and the National Grid substation, including highway widening works on the A47 to create a new junction.
- 2.3 In addition, the Order contains powers to acquire land, or rights over land, compulsorily for the construction and operation of the Project as well as temporary powers in respect of affected land.

2.4 The Order also contains five deemed marine licences under section 66(1) of the Marine and Coastal Access Act 2009 (the **2009 Act**).

3 Nationally Significant Infrastructure Project – offshore generating station

3.1 Pursuant to sections 14(1)(a) and 15(3) of the 2008 Act, an offshore generating station in England or Wales having a capacity of more than 100 MW is an NSIP.

3.2 Section 31 of the 2008 Act provides that development consent is required under that Act to the extent that a development is or forms part of an NSIP. As the proposed generating station is proposed to have an electrical export capacity of up to 1,800 MW it qualifies as an NSIP in its own right.

3.3 The detailed elements which comprise the generating station, and its associated development, are considered separately below.

4 Scenarios, relationship with Norfolk Vanguard, and phasing

4.1 Norfolk Boreas is the second offshore wind farm proposed by Vattenfall in this part of the southern North Sea. The Norfolk Vanguard Offshore Wind Farm project, also classified as a NSIP, submitted an application for development consent to the Planning Inspectorate in June 2018 and a decision from the Secretary of State is expected in June 2020 (**Norfolk Vanguard**). Norfolk Vanguard has the same proposed export capacity of up to 1,800MW. In order to optimise synergies between the projects, both projects follow the same general export cable route (offshore and onshore) and both projects will connect to the transmission network at the Necton National Grid substation.

4.2 The Norfolk Vanguard application sought development consent for some enabling works for Norfolk Boreas. This includes, for example, the installation of additional onshore ducts for Norfolk Boreas which, if installed by Norfolk Vanguard, would enable Norfolk Boreas to consent and implement a cable pull through operation, rather than an independent duct installation with a subsequent cable pull through operation.

4.3 However, as it is not yet known whether Norfolk Vanguard will obtain development consent or whether Norfolk Vanguard will proceed to construction, the Norfolk Boreas application also seeks consent to implement Norfolk Boreas as an independent project. Therefore, the Applicant has included two scenarios in the development consent application as follows:

4.3.1 Scenario 1: Norfolk Vanguard and Norfolk Boreas are both delivered (with associated synergies), and Norfolk Vanguard installs ducts and carries out other shared enabling works to benefit Norfolk Boreas (**Scenario 1**).

4.3.2 Scenario 2: only Norfolk Boreas is delivered; Norfolk Vanguard does not proceed to construction and Norfolk Boreas proceeds alone. Norfolk Boreas undertakes all works required as an independent project (**Scenario 2**).

4.4 The scenarios are described in more detail in Table 1.1 below. Where there is a difference between the works or parameters under each scenario this is described beneath each respective Scenario 1 and Scenario 2 column; where the works or parameters are the same under each scenario, this is shown within a merged row:

Table 1.1. Comparison of works under Scenario 1 and Scenario 2

| | Scenario 1 Works | Scenario 2 Works |
|------------------------|---|---|
| | Norfolk Vanguard proceeds to construction and carries out shared enabling works for Norfolk Boreas including the installation of ducts | Norfolk Vanguard does not proceed to construction and Norfolk Boreas commences as an independent project |
| Offshore | | |
| Project Interconnector | Up to 3 project interconnector cables to connect Norfolk Vanguard and Norfolk | No project interconnector cables to Norfolk Vanguard. |

| | | |
|---|---|---|
| | Boreas | |
| Landfall | | |
| Landfall | Install landfall compounds, transition pits and ducts for export cables at the landfall using long horizontal directional drilling. | |
| Number of cable ducts at landfall | 2 | |
| Number of transition pits at landfall | 2 | |
| Onshore Cable Route | | |
| Onshore cable route – pre-construction works | Majority of pre-construction works completed by Norfolk Vanguard, however limited works may be undertaken by Norfolk Boreas such as ecological preparations. | Pre-construction works would be required, including: Road modifications; Hedge and tree netting / removal; Ecological preparations; Archaeological preparations; and Pre-construction drainage. |
| Onshore cable route – duct installation | Not required (installed by Norfolk Vanguard). | Install ducts along onshore cable route, from landfall transition pit to onshore substation, involving fencing, topsoil stripping and storage, trenches for ducts, a running track to deliver equipment to the installation site from mobilisation areas and storage areas for topsoil and subsoil. |
| Mobilisation areas | No mobilisation areas required for the onshore cable route. | Mobilisation areas to store equipment and provide welfare facilities during duct installation. |
| Cable crossings | Not required (installed by Norfolk Vanguard). | Crossing some features could require an alternative or amended duct installation approach i.e. hedgerows, underground services, roads or tracks, watercourses (temporary dams, culverting) and trenchless crossings. |
| Trenchless crossings and associated compounds | None required | Trenchless drill activities would be required at crossings with associated temporary crossing compounds either side. |
| Onshore cable route – cable pulling | Deliver, pull and joint cables along onshore cable route in up to two phases. Use same access points as were used for Norfolk Vanguard cable installation phases. Up to 20% of running track required to be reinstated to facilitate cable pulling. | Deliver, pull and joint cables along onshore cable route in up to two phases. Use same access points as for the duct installation. Up to 20% of running track required to be retained or reinstated following duct installation to facilitate cable pulling. |
| Cable pulling method | Pulled through installed ducts in a staged approach. Does not require trenches to be re-opened, however access to and from jointing pits would be required. | |
| Cable installation HVDC | Installed in up to 2 phases | |
| Link boxes | Approximately every 5km, on each circuit | |
| Jointing pits | Approximately every 800m, on each circuit | |
| Cable Logistics Area | During cable installation a cable logistics area (area of existing hardstanding at Oulton) will allow storage of cable drums, associated materials and may accommodate site offices, welfare facilities and other associated infrastructure. | |
| Site side access | To facilitate safe ingress and egress | To facilitate safe ingress and egress |

| | | |
|---|---|--|
| | from public highways to the cable route for cable pulling and maintenance purposes. | from public highways to the cable route or mobilisation areas through temporary slip roads. Expected at each mobilisation area and intersections between public highway and cable route. Certain locations also used for cable pulling and maintenance purposes. |
| Operation and maintenance | Annual access to link boxes (would not require excavation as accessible from ground level) and emergency repairs along the easement if required. | |
| Decommissioning | No decision – would be in line with relevant policy at the time. Likely cables removed from ducts and recycled, and transition pits and ducts sealed and left in situ. | |
| Onshore Project Substation | | |
| Onshore project substation | 1 required, with temporary construction compound. Access would be shared with Norfolk Vanguard and extended by approximately 300m. | 1 required, with temporary construction compound. New junction and access from the A47 would be constructed. |
| Onshore project substation parameters | Length 300m Width 250m Tallest equipment 19m (reactor hall) and tallest structure (lightening protection) up to 25m | |
| Onshore project substation control buildings and converter hall | Control buildings and converter hall will typically be constructed from a steel frame with cladding panels. | |
| Onshore project substation pre-construction | Pre-construction works would be required, including: Hedge and tree netting / removal; Ecological preparations; Archaeological preparations; and Pre-construction drainage. | Pre-construction works would be required, including: A47 junction improvement and installation of access road; Hedge and tree netting / removal; Ecological preparations; Archaeological preparations; and Pre-construction drainage. |
| Temporary construction compound and mobilisation area (MA1a) | Establish temporary construction compound close to onshore project substation site and use mobilisation area MA1a at Spicer's Corner. | |
| Onshore project substation construction | Extend access road already installed by Norfolk Vanguard, construct temporary construction compound and a mobilisation area at Spicers Corner, construct onshore substation and install electrical equipment. | Construct access road, construct temporary construction compound and a mobilisation area at Spicers Corner and construct onshore substation and install electrical equipment. |
| Onshore substation Operation and maintenance | Periodic maintenance visits (1 per week). | |
| Onshore substation Decommissioning | Would comply with relevant policy at the time. | |
| Onshore 400kV cables from onshore project substation to | Excavation of trenches and laying of cables between the onshore project substation and Necton National Grid substation. Allowance for cables to be directly buried or ducted underground. | |

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|---|---|---|
| Necton National Grid substation | | |
| National Grid Substation Extension and Modifications | | |
| National Grid substation extension | Extend Necton National Grid substation in an easterly direction to provide 5 new Air Insulated Switchgear (AIS) bays (135m x 150m) | Extend Necton National Grid substation in a westerly direction to provide 7 new AIS bays (200m by 150m) |
| Busbar extension | 135m busbar extension required. | 200m busbar extension required. |
| 400kV interconnection works | Install 400kV switchgear in user bays at Necton National Grid substation. | |
| National Grid substation extension pre-construction | Pre-construction works would be required, including: Hedge and tree netting / removal; Ecological preparations; Archaeological preparations; and Pre-construction drainage. | |
| National Grid substation extension construction | Construct temporary construction compound, install temporary access road from existing access, construct extension and install electrical equipment. | |
| Overhead line modification works | Not required (completed by Norfolk Vanguard) | Removal of one existing pylon and construction of two new permanent pylons, so the net gain in pylon towers is one. |
| Overhead line modifications Operation & Maintenance | Periodic maintenance visits (1 per week). | |
| Overhead line modifications decommissioning | Would comply with relevant policy at the time. | |

- 4.5 For the purposes of the Order, Scenario 2 (Norfolk Boreas delivered as an independent project) will need to utilise a greater extent of the Order limits than that needed for Scenario 1 (Norfolk Boreas delivered as a pull through operation). This is because Scenario 2 involves the consent of additional infrastructure that would not be required if enabling works are carried out for Norfolk Boreas by Norfolk Vanguard. For example, the modification to the overhead line at the National Grid substation near Necton is required for Scenario 2 but is not required for Scenario 1 because under Scenario 1 these works will be undertaken by Norfolk Vanguard.
- 4.6 Some of the infrastructure within the Order limits will be located in different locations and will therefore optimise different elements of the Order limits depending on which Scenario is taken forward. For example, under Scenario 1 an extension to the National Grid substation is required to the east whereas an extension is required to the west under Scenario 2. This is because Norfolk Vanguard will extend the National Grid substation to the west in Scenario 1 so Norfolk Boreas will need to extend it to the east. However, if only one extension is undertaken to the National Grid substation (as in Scenario 2), this will be carried out in the westerly location.
- 4.7 For the purposes of the Works Plans and the Land Plans, the fullest extent of the Order limits has been shown which combines the Order limits for Scenario 1 and Scenario 2. The widest extent of the Order limits is also shown in the figures for the ES and the other plans to be submitted with the application. This is necessary in order to show the fullest extent of the possible land in question. However, as only one scenario will be implemented an additional sub set of Works Plans and Land Plans are shown for both Scenario 1 and Scenario 2 of the onshore project substation and National Grid extension works. These can be seen at Sheet

40a and 40b, Sheet 41a and 41b, and Sheet 42a and 42b. In this way, there is clarity as to the extent of the Order limits in this location, together with the works descriptions and the nature of interests sought in whichever scenario is commenced. A sub set of plans for the cable route is not considered necessary, because the cable corridor follows the same Order limits and any differences between Scenario 1 and Scenario 2 are identified in the key. The differences between the works for each Scenario is also clarified in the Works description in the draft Order, which identifies and describes any change to the nature of the Works for Scenario 1 and Scenario 2. Where the nature of the works will not change as a result of the Scenarios, no reference to the Scenarios is made. Similar drafting is employed in the compulsory acquisition schedules to the Order, which includes separate tables setting out the plots for which new permanent rights and temporary powers are required in each scenario (for instance, under Part 1 for Scenario 1 and under Part 2 for Scenario 2).

- 4.8 To ensure that only one scenario is implemented, and that the relevant local authority (and Marine Management Organisation) have notice of which scenario is implemented, a requirement to this effect is included in the draft Order and an equivalent condition is included in the relevant Deemed Marine Licences. This states that the undertaker may only implement one of the scenarios, and restricts implementation to Scenario 1 in the event that the Norfolk Vanguard DCO is commenced. It also requires the undertaker to notify which scenario is to be implemented prior to commencement of any works authorised under the Order. In practice a decision on which scenario is to be implemented will be made significantly in advance of commencement of the authorised development. However, the Applicant will not be in a position to make a decision on the appropriate scenario until post-consent.
- 4.9 If Norfolk Vanguard is commenced, only Scenario 1 can be implemented and, in any event, the scenario implemented will be apparent from the discharge of other Requirements under the Order. For example, the contents of the Code of Construction Practice will differ depending on whether a pull through scenario or an independent project is progressed. This is explained further within the outline Code of Construction Practice (document reference: 8.1). The outline plans have been drafted to clarify the matters that will be secured under both scenarios as well as any additional matters which would be secured under either Scenario 1 or Scenario 2. The final plans produced in accordance with the requirements of the DCO will depend on the scenario taken forward and, for example, will not need to refer to Scenario 2 if Scenario 1 is taken forward.
- 4.10 The inter-relationship between the Norfolk Vanguard and Norfolk Boreas infrastructure is described in more detail in the Inter-relationship Report (document reference: 3.4). This document sets out some of the efficiencies and synergies in the event that both projects are delivered by explaining the relationship with respect to the project infrastructure and Order limits. Whilst Scenario 2 envisages that Norfolk Boreas only may be delivered, the Applicant considered it important to explain the interaction that Norfolk Boreas would have with Norfolk Vanguard where both projects proceed to construction, particularly with respect to the onshore project substation area.
- 4.11 Whilst the above sections, including Table 1.1, describe some of the differences between the Scenarios it should be noted that the powers required under the DCO for each scenario are very similar and, in almost all cases, the same powers will be required and the same Requirements will apply, irrespective of which Scenario is taken forward. It is therefore considered appropriate to include both Scenarios within the same draft Order. The Applicant explains this in more detail within Section 8 below.
- 4.12 There is only one article, Article 4 (see sections 6.8 and 8 below), which is not required for both Scenarios and this is made clear in the drafting. Although the powers required for the Scenarios are generally the same, the extent of the works to be carried out under those powers may differ according to the Scenario. For this reason and to ensure clarity, separate Parts have been provided in the Schedules, where appropriate, relating to Scenario 1 and Scenario 2.

5 The need for flexibility in the Order

Phasing

- 5.1 Flexibility is sought in relation to phasing for the construction of the Project. The Applicant is considering constructing the Project in either one or two phases, with a maximum electrical export capacity of 1,800 MW.
- 5.2 This could include the option for shared infrastructure between the Project and Norfolk Vanguard, such as through the sharing of an offshore electrical platform and an onshore converter station which would be located within the onshore project substation. The combined export capacity between the Project and Norfolk Vanguard would be up to 3,600MW and the parameters assessed allow for a number of different transmission solutions to be used. For example, this could include:
- 5.2.1 Solution a): a four x 900MW solution, where each project has up to two offshore platforms (four platforms in total) and up to two buildings per project comprised in the two onshore substations. As this solution comprises two offshore electrical platforms (of 900MW each) to serve each project, an interconnector is not required in this case even if Scenario 1 is taken forward; or
- 5.2.2 Solution b): a three x 1,200MW solution. This would allow one offshore electrical platform for Norfolk Boreas, one offshore electrical platform for Norfolk Vanguard and a third offshore electrical platform which would be shared between Norfolk Vanguard and Norfolk Boreas. Under this solution a project interconnector would also be required. The requirement for three buildings, one being shared, would also be replicated at the onshore substation where three buildings would be encapsulated within the two onshore project substations.
- 5.2.3 Solution c): a two x 1,800MW solution, which allows a single offshore electrical platform for each project and a single building for each onshore substation. Under this solution, consent for a project interconnector would also be sought so that this could be installed from the Norfolk Boreas electrical platform to the Norfolk Vanguard electrical platform.
- 5.3 A variation of Solution (c) is also being considered. This variant would be similar to Solution (c) in electrical terms albeit the physical infrastructure would be more akin to Solution (a). This variation is within the terms of the EIA and assessed design envelope. Please see the EIA and DCO Reconciliation Document (document reference: 6.7) for a more detailed breakdown, together with visual representations, of the possible options associated with the overall maximum export capacity.
- 5.4 A solution which allows for shared transmission infrastructure between the Project and Norfolk Vanguard also, in accordance with the Guidance, offers scope to reduce the offshore impacts of projects within the former Zone. Subject to the maximum parameters (see Schedule 3 below), the number of offshore electrical platforms and onshore converter stations, and (if relevant) whether certain elements of that infrastructure may be shared between the Project and Norfolk Vanguard, will depend on the final design of the Project.
- 5.5 The Environmental Statement has assessed the worst case parameters from the phasing of construction on a case-by-case basis. The Order has therefore been drafted to reflect this approach, particularly with regard to maximum parameters and, for the offshore works, the structure of the deemed marine licences (**DMLs**). Implications of phasing on the drafting of the Order are considered further below.

Structure of deemed marine licences

- 5.6 As drafted, the Marine and Coastal Access Act 2009 suggests that while a marine licence may be transferred in whole, it may not be transferred in part (or at least the drafting did not anticipate this). In light of this, the Applicant's proposed approach is to include separate generation and transmission DMLs. This will allow for the separate transfer of the transmission assets within the transmission DMLs to an Offshore Transmission Owner (**OFTO**) under The Electricity (Competitive Tenders for Offshore Transmission Licences)

Regulations 2010 (SI 2010/1903). The generation assets within the generation DMLs can then be retained by the undertaker for generation.

- 5.7 This approach has been adopted on other offshore wind farms under the 2008 Act; most recently in the Norfolk Vanguard application and in the as made East Anglia THREE Offshore Wind Farm Order 2017 (**East Anglia THREE**). As with Norfolk Vanguard and East Anglia THREE, the number of generation and transmission DMLs are relevant to the number of phases in which the Project may be constructed. For example, if the Project is constructed in two phases, two separate transmission DMLs can be used to enable the transmission assets for each phase to be transferred separately to an OFTO at different points in time and, if relevant, to different OFTOs.
- 5.8 It is not yet known how the phases will be constructed in terms of export capacity. The drafting approach used allows for flexibility whilst also restricting what can be constructed to what has been assessed in the Environmental Statement. For example, the drafting permits the Applicant to install:
- 5.8.1 A single phase with an export capacity of 1,800 MW. In this case only one generation DML and one transmission DML would be used under the Order, in addition to a DML for the Interconnector (as relevant for Scenario 1, see paragraph 5.10); or
- 5.8.2 Two phases with a maximum export capacity of 1,800MW which, for example, may be comprised as two phases with an export capacity of 900MW each or two phases with an export capacity of 1,200 MW and 600MW respectively. In this case both sets of generation and transmission DMLs may be used under the Order in addition to the Project Interconnector DML (as relevant for Scenario 1, see paragraph 5.10). The DMLs are not prescriptive as to the amount of export capacity which must be brought forward under each phase, provided that the total export capacity does not exceed 1,800MW and the maximum parameters across both sets of DMLs (as assessed in the Environmental Statement) are not exceeded.
- 5.9 The DMLs also include a notification procedure to ensure that the Marine Management Organisation (**MMO**) is informed prior to commencement of construction as to whether a single phase or a two phase approach will be followed.
- 5.10 As outlined in paragraph 5.2 above, in the event of Scenario 1, the Project may need to connect the offshore electrical platforms to the offshore electrical platforms in Norfolk Vanguard. This will be done through project interconnection cables (the **Project Interconnectors**). In this event, the Project Interconnectors will require their own separate DMLs.
- 5.11 The approach has therefore provided for up to five separate DMLs as follows:
- 5.11.1 Licence 1 – generation assets (Phase 1)
- 5.11.2 Licence 2 – generation assets (Phase 2)
- 5.11.3 Licence 1 – transmission assets (Phase 1)
- 5.11.4 Licence 2 – transmission assets (Phase 2).
- 5.11.5 Licence 1 – Project Interconnector assets (Scenario 1).
- 5.12 Using this approach, it is possible to implement the development in one or two phases and to allow the transfer of the DMLs for each phase and type of asset (i.e. generation or transmission) to separate companies if necessary.
- 5.13 The table provided at Schedule 2 highlights the similarities and differences between the conditions in Part 4 of the generation, transmission, and Project Interconnector DMLs.

Phasing of onshore construction works

- 5.14 Onshore construction works will be undertaken in one continuous construction period but will be phased to allow for the laying of ducts (in the event of scenario 2) separately to the pull through of cables and the construction of the onshore project substation. A single phase of duct installation works (in the event of scenario 2) is proposed irrespective of the approach to offshore phasing. However, phasing for the pulling of cables through the ducts and construction of the onshore project substation (in the event of scenario 1 and scenario 2) will be determined by the number of offshore phases taken forward. If one offshore phase is taken forward there will be a single phase of works to pull the cables through the ducts and a single phase of works to construct the onshore project substation. If two offshore phases are undertaken, the cables will be pulled through the ducts in two separate phases and the onshore project substation will be constructed in two separate phases. The approach to phasing of construction works is set out more fully in the Project Description chapter (Chapter 5) of the Environmental Statement (document 6.1).

Offshore flexibility

- 5.15 The Order defines the generating station in paragraph 1 of Schedule 1, Part 1 (*Authorised development*). It is limited by the 1,800 MW electrical export capacity, which is expressed to be a maximum i.e. "up to 1,800 MW", and will be measured at the point of connection to the offshore electrical platform(s).
- 5.16 The constituent elements of the generating station are specified in Work No. 1, together with offshore associated development in Work Nos. 2 to 4A which are expressly limited to the Order limits seaward of Mean Low Water Springs (**MLWS**). Work No. 4B covers the intertidal area and Works Nos. 4C to 12B specify the onshore associated development linked to the NSIP within the Order limits landward of Mean High Water Springs (**MHWS**). Part 2 of Schedule 1 specifies the ancillary works. Work No. 4 has been split into three separate works (Work Nos. 4A, 4B and 4C). This enables the separation of Works within the MMO and North Norfolk District Council's jurisdiction. For instance, Work No. 4A falls solely within the jurisdiction of the MMO and Work No. 4C falls solely within the jurisdiction of North Norfolk District Council. Work No 4B relates to the intertidal area where both the MMO and North Norfolk District Council have jurisdiction.
- 5.17 Within the Order, flexibility has been provided in relation to the generating station and linked associated development, and in the view of the Applicant this flexibility, which has previously been critical to the development of offshore wind farms in the UK, is fundamental to whether the Order is fit for purpose.
- 5.18 The reasons for this principally relate to the need to manage and drive down the cost of offshore wind developments to justify equity investment and access debt funding in a competitive international market. This includes the need to maintain competitive tension in the procurement process driving down costs; the need to take advantage of new technology developments and emerging products in the market for offshore wind turbine generators and other equipment; and the need to drive down the cost of energy for the purposes of tendering for Contracts for Difference.
- 5.19 The final design of a wind farm depends on a number of factors which include the size, height and capacity of the chosen turbine type; electrical design; length of cables; areas where development is constrained; the outcomes of site investigations, and ongoing wind monitoring results. All these are considered post-consent at the stage of detailed design and optimisation when the final number and type of turbines and their location will be decided as a function of site constraints and viable layout. This final design will be approved under the provisions of the deemed marine licences.

Onshore flexibility

- 5.20 Similar flexibility is required for the onshore elements of the development. With regard to the onshore project substation, the optimal design will be determined through the contracting process. Each tenderer will offer different technologies, designs and layouts for the onshore project substation within the parameters of any consent obtained, which enables the optimal

design solution to be chosen. Final detailed design of the onshore project substation will be agreed after the appointment of a contractor.

- 5.21 As a result, flexibility within the Order, both onshore and offshore, is needed to optimise the Project in the light of variable costs and supply chain availability; to accommodate technology development in turbines and other equipment; and to allow for optimal detailed design and procurement within the parameters of consents.

Policy support for flexibility

- 5.22 The use of flexibility in project details within an Order is expressly endorsed by National Policy Statements EN-1 (at paragraphs 4.2.7 to 4.2.10) and EN-3 (at paragraphs 2.6.42 to 2.6.45), provided the resulting variables are fully assessed in terms of worst case effects. Paragraph 4.2.9 of EN-1 explains that where flexibility is sought, it will be necessary to include appropriate requirements within the Order to ensure that the Project "envelope" is limited to that which has been assessed in the Environmental Statement.
- 5.23 This approach, known as the "Rochdale Envelope", has been followed numerous times in relation to large scale offshore wind farms consented under section 36 of the Electricity Act 1989 and the 2008 Act, and it is an approach which is well known and adopted by statutory consultees. Relevant statutory consultees have all been made aware of the parameters used in the Environmental Impact Assessment (**EIA**) and the Order.
- 5.24 By including scenarios within the Order, the Applicant is utilising synergies and efficiencies between Norfolk Vanguard and Norfolk Boreas. The Project envelope supports this flexibility and the Applicant has included appropriate requirements within Part 3 of Schedule 1 (together with appropriate conditions within the DMLs) to determine how this flexibility can be implemented within the parameters assessed in the Environmental Statement.

Parameters in the Order

- 5.25 The overall result of the wording in Part 1 of Schedule 1 (i.e. paragraph 1 and Work Nos. 1, 2 3A, 3B and 4A) and Requirement 2 (*Detailed offshore design parameters*) in Part 3 is to allow similar flexibility in the Order as in previous consents. In particular, the undertaker will have freedom, within the specified parameters, as to the number of wind turbines installed, the size of turbines, the resulting electrical export capacity of the generating station up to 1,800 MW, the extent to which the area within the Order limits is used, the precise layout of turbines, offshore service platform, meteorological masts, offshore electrical platforms and the arrangement of cabling between the turbines, offshore service platform, meteorological masts and offshore electrical platforms. The undertaker will also have flexibility with regard to the configuration and specification of the HVDC export infrastructure.
- 5.26 The Planning Inspectorate (**PINS**) has issued an Advice Note (Advice Note 9) which suggests (page 10) that a practical way forward in the use of the Rochdale Envelope would be for the Order application to "*set out specified maximum and minimum*" parameters, and gives possible examples, for offshore wind farms, of maximum/minimum turbine numbers; hub height and blade tip heights; minimum clearance above mean sea level; and separation distances between turbines. While these examples are not intended to be exhaustive for use by promoters, many of the fundamental parameters which define the majority of likely significant effects are included in the Advice Note, and each is considered further below, with reasoning provided for including, or not including, each parameter within the Order, or including parameters which are not included in the Advice Note.
- 5.27 The parameters included in the Order are set out in the Appendix to this Explanatory Memorandum for ease of reference.

Maximum capacity and maximum number of turbines

- 5.28 The total capacity of an offshore wind project, together with its project boundary, is an important defining characteristic. The maximum electrical export capacity of the Project is 1,800 MW measured at the point of connection to the offshore electrical platform(s). Export

capacity at the point of connection, rather than capacity of the wind turbine generators, has been used in the description of the authorised development in the Order to allow for internal cable losses and potential turbine non-availability at the wind farm array. The total export capacity comprises the over-arching project description, and all other parameters are in effect subordinate to that description. It controls the maximum number of turbines that can be installed at any given turbine capacity, with an absolute maximum number of turbines for the Project set at 158.

Minimum number of turbines

- 5.29 Advice Note 9 suggests a minimum number of turbines should be specified. It is not considered that this would be a workable or appropriate parameter for the Applicant.
- 5.30 It is not necessary to impose a minimum to ensure that the project exceeds the NSIP threshold of 100 MW as that threshold turns on what the capacity of the scheme is expected to be at the point of application and consent. This is not in doubt – the expected electrical export capacity is 1,800 MW. While a lower figure may in fact be constructed once the turbine size/capacity has been decided and the scheme design optimised after the grant of consent, there is no basis to expect that the capacity constructed would be less than 100 MW.
- 5.31 Whether setting a minimum number of turbines as a parameter would either be reasonable or enforceable must be open to doubt. An offshore wind farm consent is a valuable asset, and if a developer chooses only to utilise part of it, there will invariably be very good commercial and technical reasons for this. The flexibility sought in a modern large scale development consent for a large offshore wind farm is fundamental to whether or not the project will be constructed at all, and goes to the heart of whether the consent is fit for purpose to permit a buildable, economically viable project. This may not be the case for other types of, particularly onshore, development, but it is the case for offshore wind farms.
- 5.32 There can be no EIA justification for seeking to impose a minimum turbine requirement, since the fewer the number of turbines, the lesser the impact.
- 5.33 To seek to impose a minimum number of turbines would also cut across a long standing principle of consents for development, namely that it is lawful for less than the full extent of the consent to be constructed, as long as what is constructed is in accordance with the requirements of the consent.
- 5.34 The other issue which arises is whether a minimum number of turbines is needed to address the point in the Advice Note that the project parameters should not be "*so wide ranging as to represent effectively different schemes*". The project is fundamentally defined by the Order limits, the nature of the development (an offshore wind farm) and the maximum 1,800 MW export capacity. It is inherent in this type of project that there will be variations in turbine numbers and scheme layout, as already explained, and it cannot properly be regarded as giving rise to "*effectively different schemes*" to the extent that an Order in these terms cannot lawfully be granted. Numerous large scale consents on an equivalent basis have already been granted under the Electricity Act 1989, and more recently under the 2008 Act, for offshore wind farms without a minimum number of turbines being specified.

Maximum and minimum hub height

- 5.35 It is accepted by the Applicant that maximum hub height is a parameter which is appropriate for inclusion in the Order. The maximum height (of 198.5 metres from HAT) serves to fix the Environmental Statement assessments and confirms the maximum height at which static (rather than rotating) elements of each turbine would be seen. However a minimum hub height is not necessary as this is inherently defined by the minimum blade clearance.

Maximum and minimum blade tip height and clearance to mean sea level

- 5.36 The maximum blade tip height is a fundamental parameter and has been fixed at 350 metres (above HAT). The minimum blade clearance to MHWS is set at 35 metres for WTGs up to and including 14.6MW, and 30 metres for WTGs of 14.7MW and above. This revised draught

height was introduced following requests from the Examining Authority, Natural England and the Royal Society for the Protection of Birds to consider options for raising draught height to mitigate potential ornithological impacts as far as possible. The Applicant, accordingly, undertook a detailed review of a range of mitigation options. This has led to a commitment to increase the draught height as far as possible within the limits imposed by the installation capacity of available construction vessels. Following engagement with the supply chain, it is understood that installation vessels currently available on the market can install turbines with a hub height up to 145 -150m. Whilst the consent envelope (of up to 350 metre tip height and 198.5 metre hub height) includes turbines that are not yet on the market, the Applicant still needs the security of knowing that there are turbines and construction vessels currently available on the market to deliver its consent envelope. The installation capacity of vessels currently available is therefore a key factor in relation to the maximum draught height increase that can be secured; other factors include rotor diameter and turbine weight. It is also relevant to note that there are various other factors which influence draught height including hub height, water depths and potential impacts on radar line of sight. With the revised draught heights, the Applicant is now progressing its consent envelope with a design which is at the limit of current commercial availability both in relation to installation vessel capacity and turbine capacity.

- 5.37 A minimum blade tip height (i.e. the lowest level at which the highest blade could pass) is not referred to in any of the assessments and is inherently fixed by the minimum blade clearance. It is not therefore included as a proposed parameter.

Minimum separation distances between turbines

- 5.38 A minimum separation distance of 800m between turbines has been adopted. The separation is to allow time for the energy in the wind to recover. This approach of applying minimum separation distances has been commonly used for Electricity Act 1989 and 2008 Act consents. This distance was updated as a result of the reduction in turbine numbers and the commitment to the smallest turbine being an 11.55MW model.

- 5.39 The number of variables affecting the final optimised layout, including the extent to which the area within the Order limits is used or not used, mean that a condition governing scheme layout which goes beyond the specified minimum separation distances is not appropriate. Whilst in practice most offshore wind farms have been built on a broad grid arrangement, there needs to be flexibility on this issue in the Order, to allow for detailed design and optimisation. This is governed through the design plan and the Development Principles (document reference 8.23) submitted under Condition 14 of the Generation DMLs (Schedule 9-10) and Condition 9 of the Transmission DMLs (Schedule 11-12).

Maximum rotor diameters

- 5.40 Whilst not mentioned as a parameter in the Advice Note, the Applicant considers that a parameter on maximum rotor diameter of 303 metres is necessary to ensure a robust EIA. The total blade swept area of the turbines is a key factor in different assessments. This approach also provides an indirect control over the capacity of turbines although the 1,800 MW maximum export capacity means that an individual limit on turbine capacity is not necessary, as it has no bearing on the assessments in the Environmental Statement.

Foundation parameters

- 5.41 It is fundamental to the Project that there should be flexibility to use different foundation types. Four different foundation types are provided for: monopile (piled or suction caisson), jacket (piled or suction caisson), gravity base or Tetra-base. The choice of foundations will be influenced by a variety of factors, as explained in the project description chapter of the Environmental Statement (chapter 5). In terms of the Order, the Applicant has considered which design parameters for each type of foundation are important to ensure a complete and robust EIA, and these have been included in the Order.

Offshore electrical platforms, offshore service platform, meteorological masts and buoys

- 5.42 The number of meteorological masts, offshore service platform and offshore electrical platforms will not exceed two, one and two respectively. The type of meteorological mast, offshore service platform, and offshore electrical platform will be determined as part of the post consent detailed design and optimisation process, and will depend on the final layout and electrical design considerations. For the reasons given above, the precise design of the meteorological masts, offshore service platform and offshore electrical platforms cannot be fixed at this time. Accordingly, parameters limiting their dimensions and foundation arrangements (where relevant) are included in the Order. Their final location within the Order limits will depend on post consent detailed design and optimisation.

Array, Interconnector, Project Interconnector and export cables

- 5.43 The precise number, layout and total length of the array, interconnector, Project Interconnector, and export cables cannot be fixed until post consent design optimisation. The key factor for assessment purposes is the total cable length, based on the maximum number of turbines and a worst case layout for cabling, and the maximum length has been included as a parameter in the Order, whether under a single phase or two phased approach.

Offshore Order limits and offshore plans

- 5.44 The final parameter is the Order limits. The nature of the flexibility sought necessarily means that the offshore Works Plan is simplistic. It is not possible to provide a more detailed plan, for the reasons given above. In this respect, it is worth noting that the offshore Project site, shown on the offshore Works Plan (document reference 2.4) and Figure 5.1 in the Environmental Statement (document reference 6.1), contains a small circular gap in the north-eastern part of the offshore Project site. This is for a meteorological mast (Met Mast) which is owned and operated by East Anglia Offshore Wind. The Met Mast and associated 250m buffer is not part of the Norfolk Boreas Agreement for Lease nor is it included in the Order limits for Norfolk Boreas.
- 5.45 It is important to bear in mind that under the deemed marine licences contained in Schedules 9 to 13 of the Order, the undertaker must submit final construction details for approval by the MMO before construction. The MMO must ensure that final construction details conform with the description of Works Nos. 1 to 4B, and compliance with the design parameters in Part 4, in conditions 1 to 7 in the deemed marine licences for the generation assets; and in Part 4, in conditions 1 to 3 in the deemed marine licences for the transmission assets; and in Part 4, condition 2 of the Project Interconnector assets DML. Those submitted details will specify the number, dimensions and layout of the Wind Turbine Generators (**WTGs**), offshore service platform, offshore electrical platforms, meteorological masts and the network of cables. Hence, there will be a further stage of regulatory control of the final form of the development prior to construction.

6 Associated development

DCLG Guidance on associated development

- 6.1 Pursuant to section 115 of the 2008 Act, development consent can be granted for the NSIP and associated development. The Secretary of State for Communities and Local Government has issued guidance on associated development¹ (the **Guidance**) which sets out its defining characteristics and illustrates the types of development that may qualify. Associated development must not be an aim in itself. In most cases, it is of a type normally brought forward with the primary development² and must be subordinate to and necessary for the effective operation of the NSIP, and may include measures necessary to mitigate the effects

¹ Planning Act 2008: associated development applications for major infrastructure projects (Published by Department for Communities and Local Government, April 2013)

² Guidance para. 5

of the primary development. It should be of a proportionate scale to the primary development. Examples given in the Guidance include grid connections (underground or overhead lines)³.

- 6.2 Work Nos. 2 to 12B in Part 1 of Schedule 1 of the Order include associated development for which consent is sought as part of the generating station NSIP. These works comprise:
- 6.2.1 the offshore electrical platforms (Work No. 2),
 - 6.2.2 subsea cables (Work Nos. 3A, 3B, 4A and 4B),
 - 6.2.3 transition jointing pits (where the offshore cables connect to the onshore cables), onshore underground cables to the onshore project substation, via jointing pits and associated accesses (Work Nos. 4C to 7),
 - 6.2.4 the onshore project substation and associated landscaping and grid connection (Work Nos. 8A to 10C),
 - 6.2.5 the overhead line pylon works and replacement works (Work No. 11A and Work No. 11B), and
 - 6.2.6 the permanent accesses from the A47 (Work No. 12A or 12B) together with various miscellaneous matters.
- 6.3 All these elements clearly fit within the definition of associated development in that they are not an aim in themselves but are required to receive and export the electricity generated by the generating station, with suitable electrical transformation at both the offshore electrical platforms and the onshore project substation. This is reinforced by the fact that these elements will, after construction, be transferred to up to two (depending on whether the phased approach is adopted) new OFTOs. After such transfer, the works will be owned and operated completely separately from the generating station under a transmission licence issued under section 6 of the Electricity Act 1989.
- 6.4 The works are required to be within the Order limits but the detailed design of the associated development will be a matter for the Applicant. As with the WTGs, the precise number of offshore electrical platforms is not fixed at this stage, but is limited to a maximum of two by the wording of Work No. 2 and by Requirement 2 (*Detailed offshore design parameters*).
- 6.5 Similarly, in terms of the onshore associated development, Work Nos. 8A, 10A, 11A and 11B and Requirement 16 (*Detailed design parameters onshore*) control the parameters for the onshore infrastructure. Work No. 8A dictates the site of the onshore project substation. The precise nature and layout of the equipment in the compound will depend on the turbine(s) selected, the electrical design and other matters. Requirement 16 requires detailed approval of the layout, scale and external appearance of the onshore project substation, which are to be in accordance with the principles of the design and access statement, and limits the maximum height and footprint of the onshore project substation. It also limits the extent of the fenced compound area for the onshore project substation. Detailed approval for landscaping of the connection works, including the onshore project substation, must be sought under Requirement 18 (*Provision of landscaping*).
- 6.6 Work No. 10A dictates the site of the extension to the Necton National Grid substation. Requirement 16 specifies the maximum height of the external electrical equipment comprised in the extension, and restricts the size of the fenced compound area for the extension.
- 6.7 In the event of Scenario 2, Work No. 11A dictates the location of the permanent replacement towers and Work No. 11B is the replacement overhead line corridor. Requirement 16 requires details of the overhead line replacement works to be approved by the local planning authority and restricts the maximum height and footprint of the permanent replacement towers.

6.8 In the event of Scenario 2, Article 4 (Limits of deviation) restricts the maximum height of the replacement overhead line to no higher than 4m above the existing overhead line, and also allows a lateral limit of deviation of 25 metres either side of the existing overhead line. In accordance with *The Planning Act (Nationally Significant Infrastructure Projects) (Electric Lines) Order 2013*⁴, these replacement works do not meet the threshold for an NSIP under section 16 of the 2008 Act and are therefore included in the Application as associated development. The proposed overhead line works are to replace existing overhead lines and pylons which are to be slightly realigned. The replacement overhead line works fall within the exempt installations under Section 16, paragraph 3(c) of the 2008 Act as section 37(1) of the Electricity Act 1989 does not apply to it as a result of the *Overhead Lines (Exemption) (England and Wales) Regulations 2009*⁵ (the **2009 Regulations**). The 2009 Regulations state under Regulation 3 that Section 37(1) of the Electricity Act 1989 shall not apply in relation to the installation of an electric line which replaces an existing line whether or not it is installed in the same position as the existing line in question. This is subject to the following limitations as set out in Regulations 4 and 5:

- 6.8.1 the electric line does not have a nominal voltage greater than the nominal voltage of the existing line;
- 6.8.2 any conditions contained in the section 37 consent applicable to the existing line are to be complied with in respect of the replacement line;
- 6.8.3 the height above the surface of the ground of any support for the line will not exceed the height of the highest existing or replacement support by more than 10 per cent;
- 6.8.4 the distance between any new small support (being a support not exceeding 10 metres in height) and the existing line will not exceed 30 metres and the distance between any other support and the existing line does not exceed 60 metres; and
- 6.8.5 where the electric line is to be installed in a different position from the existing line, the existing line will be removed within 12 months of completion of the new line.

The above conditions are met.

In addition, where the electric line is to be installed in a different position from the existing line or where the height of the supports for the electric line is to be greater than the existing or where the installation is to be in a National Park or area of outstanding natural beauty, the exemption does not apply if there is likely to be a significant effect on the environment as determined by the local planning authority. The relevant exemption here is that, whilst the electric line may be installed in a slightly different position from the existing line, there is not likely to be a significant effect on the environment.

7 Preliminary Provisions

The Planning Inspectorate has issued an Advice Note (Advice Note 15) which offers suggestions for achieving best practice in drafting development consent orders. The table at Schedule 4 (Compliance with Advice Note 15) complements the explanations in Section 7-9 below and provides a quick reference guide to explain how the Explanatory Memorandum (and by extension, the DCO) addresses the relevant aspects of Advice Note 15.

Articles 1 and 2 of the Order contain preliminary provisions.

Article 1 (*Citation and commencement*) provides for the commencement and citation of the Order. It includes the date on which the Order comes into

⁴ 2013/1479

⁵ 2009/640

force, which may or may not be the date on which the Order is made.

Article 2

(Interpretation) provides for the interpretation of the Order. Amongst other things, the definition of Order limits includes cross reference to the works plan and to the grid coordinates for the offshore Order limits contained in Schedule 1 of the Order. The Article also defines the offshore electrical platforms and foundations and other structures such as wind turbine generators and the meteorological masts.

In the Order 'commence' is defined as follows:

(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

(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, diversion and laying of services, erection of any temporary means of enclosure, temporary hard standing, and the temporary display of site notices or advertisements.

However, requirements are specifically included in Schedule 1, Part 3 of the Order to ensure that certain pre-commencement works are carried out in accordance with relevant details contained in the certified outline plans.

In the Order 'maintain' is defined to cover both the onshore works and the offshore works, but the definition used in the deemed marine licences is restricted to the offshore works only. However, the definitions have been aligned to maintain consistency.

In the Order, maintain is defined to include inspect, upkeep, repair, adjust, and alter, and this applies to all works. It is also defined to include remove, reconstruct and replace, but (1) only to the extent that this has been assessed in the environmental statement, and (2) only in connection with the following works:

(a) for ancillary works in Part 2 of Schedule 1;

(b) in respect of any cable; and

(c) for any component part of any wind turbine generator, offshore electrical substation, offshore service platform, meteorological mast, or the onshore transmission works.

In addition, maintenance consisting of removal, reconstruction, and/or

replacement is expressly excluded from the definition for foundations and buildings associated with the onshore project substation.

The deemed marine licences have a separate definition of 'maintain'. This definition does, however, mirror that of the Order definition save that the definition refers only to the offshore works. In this context, maintenance consisting of alteration, removal, or replacement is excluded in relation to the offshore foundations.

8 Operative Provisions

Articles 3 to 43 of the Order contain provisions for and relating to the authorised project, and miscellaneous and general provisions.

Article 3 (*Development consent etc. granted by the Order*) would grant development consent for the authorised development within the Order limits, thereby authorising the construction of the main development, associated development and ancillary works. The authorised development means the development described in Part 1 of Schedule 1 (*Authorised development*). This includes further works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement. Part 2 describes the ancillary works. These are defined together as the authorised project. In identifying the development authorised by this Order, Article 3 also makes provision for the offshore and onshore works authorised by the Order to be constructed within the Order limits. All the authorised development must be carried out in accordance with the requirements set out in Part 3 of Schedule 1 (*Requirements*). Article 3 follows the approach taken for The East Anglia THREE Offshore Wind Farm Order 2017 and the Norfolk Vanguard draft DCO, but Article 3(3) is project specific and has been included to clarify that the requirements apply to both scenarios unless otherwise stated. As set out above, Scenario 1 and Scenario 2 are clearly described in Part 1 of Schedule 1, and shown on the related Work Plan and Land Plan.

Article 4 (*Limits of deviation*) As noted in section 2.2 and Table 1.1 above, the overhead line modification works will only be required in the event of Scenario 2 given that Norfolk Vanguard will carry out these works in the event of Scenario 1. This article would therefore only apply in the event of Scenario 2. In that case, it would allow for the vertical and lateral deviation of the overhead line replacement works as part of Work No. 11B, not exceeding 4 metres upwards or to any extent downwards and not exceeding 25 metres either side of the existing overhead line (as shown by the dotted line on the Works Plans).

An element of flexibility in deviation is required so that any construction can respond to ground conditions when the works are carried out. It is sought to provide the necessary (but proportionate degree of) flexibility

when constructing that part of the authorised development, reducing the risk that the project as approved cannot later be implemented for unforeseen engineering or geological reasons.

A similar approach has been adopted on The National Grid (Hinkley Point C Connection Project) Order 2016 and The National Grid (Richborough Connection Project) Development Consent Order 2017.

It should be noted that this article is the only instance in which a standalone article for Scenario 2 is required. The remaining articles are applicable under both Scenario 1 and Scenario 2.

Article 5 (*Power to construct and maintain authorised project*) makes provision for the construction and maintenance of the authorised project. It has been included in other offshore wind farm development consent orders including the recent as made East Anglia THREE Offshore Wind Farm Order 2017. The difference in the current order - and the draft Norfolk Vanguard DCO - is that Article 5 includes reference to a power to construct the authorised project. The Applicant considers that this additional wording provides transparency and gives effect to the Schedule 1 works to construct the Authorised Project. The power to construct is, however, subject to any provision stated otherwise under the Order.

Article 6 (*Benefit of the Order*) provides for the transfer of the whole or part of the benefit of the Order with the consent of the Secretary of State (the **SoS**), subject to certain exceptions. It also provides for the transfer of any of the deemed marine licences with the consent of the SoS. There is no requirement to obtain the SoS's consent in the circumstances referred to in sub paragraph (11) of the Article. These circumstances include where the transferee or lessee is a holder of a transmission licence under the Electricity Act 1989 and where the time limits for claims of compensation in respect of the acquisition of land or effects upon land as a consequence of the Order has elapsed.

It is anticipated that National Grid will undertake Work Nos. 10A to 10C and, in the event of Scenario 2, the overhead line modification under Work No 11A and 11B in reliance on this sub-paragraph. National Grid is the holder of a transmission licence under the Electricity Act 1989 and therefore the Secretary of State's consent would not be required to transfer the benefit of the Order for these works to National Grid in order to allow National Grid to carry out these works. In view of National Grid's involvement with Work Nos. 10A-11B, National Grid have requested that the Secretary of State does not agree to the transfer of the Order (subject to the relevant exceptions) without National Grid's consent.

Article 6 includes a bespoke procedure to be adopted when making an application to the SoS for consent. The essential elements of this procedure are as follows:

- a) before any application is made to the SoS the Undertaker must consult with the SoS and the SoS will provide a response within

four weeks of receipt of the notice;

- b) the SoS must not provide consent before consulting the MMO and National Grid respectively;
- c) the SoS must determine an application for consent under this article within 8 weeks commencing on the date the application is received. This period can be extended where agreed in writing with the Undertaker;
- d) prior to any transfer or grant taking effect the Undertaker is required to notify in writing the SoS and so far as relevant the MMO and the relevant planning authorities. Sub paragraphs 14 to 16 of the Article stipulate the notification requirements that apply. In particular the notice must be received by the recipient a minimum of five days prior to the transfer taking effect.
- e) the Undertaker may transfer without the SoS's consent to a transmission licence holder, as such parties are regulated by Ofgem and ensured to have strong covenant strength.
- f) the Undertaker may also transfer without the SoS's consent to any party, if the time limit for claims for the compulsory acquisition of land have elapsed, and any such claims have been resolved or withdrawn.
- g) the Undertaker has added an exception whereby it may transfer to any group company of Vattenfall AB without the SoS's consent, but before transferring to any group company, the Undertaker must also provide evidence of the financial strength and sufficient funds of the transferee to the SoS. It is anticipated that this will take the form of a new Funding Statement and completed Funding Agreement to demonstrate availability of funds.

This additional wording is considered necessary in view of the absence of any other detailed statutory procedure for obtaining consent to transfer the benefit of the Order. The timescales are considered appropriate for offshore wind schemes which have highly competitive and fixed Contracts for Difference (CfD) milestones, and where offshore construction contracts need to be procured in a timely manner to enable construction to be in a position to be undertaken in safe and optimal weather conditions; undertakers therefore need certainty and confidence that the transfer process can be dealt with in a timely manner.

Article 6 is based on other offshore wind development consent orders including the East Anglia THREE Offshore Wind Farm Order 2017 and some of the more specific sections (mentioned in sub-paragraphs (a) to (g) above) have been updated as a result of the recent Norfolk Vanguard DCO examination and in accordance with the principles within the draft Hornsea Project Three Order.

The notification provisions in Article 6(14), 6(15) and 6(16) are based on those set out in The Millbrook Gas Fired Generating Station Order 2019.

Article 7

(Application and modification of legislative provisions) dis-applies

legislative provisions as they would apply but for this article. Article 7(1) provides for the modification of Regulation 6(1)(j) of the Hedgerows Regulations 1997 to provide that removal of any hedgerow to which the Regulations apply is permitted for carrying out or maintenance of development which has been authorised by a development consent order made pursuant to the 2008 Act. This approach was taken on The East Anglia THREE Offshore Wind Farm Order 2017 in relation to the carrying out of development. However, Article 7(1) has been further amended to clarify that removal of hedgerows is also permitted for maintenance activities.

Article 7(2) dis-applies provisions of the Neighbourhood Planning Act 2017 (NPA 2017). This disapplication would provide that the temporary possession provisions in that enactment would not take effect at the expense of the temporary possession provisions contained in the Order. The provisions relating to temporary possession in the NPA 2017 have not yet come into force and regulations required to provide more detail on the operation of the regime have not yet been made.

Because of the uncertainty in relation to the detail around that regime, the Applicant has consulted on the long-standing process available under the Planning Act 2008. The Applicant additionally considers that if Parliament wished to apply NPA 2017 temporary possession regime to DCO projects it could have done so by effecting amendments to Part VII of the Planning Act 2008. It has not done so, and in the absence of the clarity this would provide, the Applicant proposes to proceed under the existing Planning Act 2008 procedure. Similar provisions have been included in the Silvertown Tunnel Order 2018 and the Northampton Gateway Rail Freight Interchange Order 2019.

Paragraph 3 provides for the disapplication of various additional consents which would otherwise be required from the Environment Agency, internal drainage boards or lead local flood authorities under the Water Resources Act 1991 and the Land Drainage Act 1991. These are the requirements for consents to place structures on or over rivers under the Water Resources Act, the requirement for approval under flood defence and land drainage byelaws made or deemed to be made under the Water Resources Act, the prohibition on placing obstructions in waterways which are not main rivers under the Land Drainage Act and byelaws made under the Land Drainage Act regulating the use and obstruction of watercourses. The Order dis-applies this requirement for in-principle consent in order to ensure that the project can proceed and instead provides for approval of detailed plans in the protective provisions for the Environment Agency and the relevant drainage authorities in Schedule 17. This follows the approaches taken in the Triton Knoll Electrical System Order 2016, the Silvertown Tunnel Order 2018, the Northampton Gateway Rail Freight Interchange Order 2019 and the draft Norfolk Vanguard Order. It should be noted that although these powers will be predominantly required for Scenario 2 (for installation of ducts), the powers may also be required for Scenario 1,

where a running track will be installed/ re-installed for the cable pull operation.

Article 8

(Defence to proceedings in respect of statutory nuisance) provides that no-one shall be able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise, if the noise is created in the course of carrying out or maintenance of the authorised project and for which notice has been given under section 60 or consent obtained under section 61 or 65 of the Control of Pollution Act 1974 or if the noise is unavoidable. As stated in the Statement of Engagement submitted with the Application (Document 5.2), it is not considered that any properties will be affected beyond statutory nuisance thresholds, as mitigation measures will be used to control noise emissions. However, the Applicant considers that this Article should be included in the event that proceedings are brought under Section 82 of the Environmental Protection Act 1990. This approach has been accepted in a number of recently granted Orders including the Tees Combined Cycle Power Plant Order 2019 and the Northampton Gateway Rail Freight Interchange Order 2019. The wording is also included in offshore wind farm development consent orders including, most recently, The East Anglia THREE Offshore Wind Farm Order 2017. The Project comprises nationally significant infrastructure and as a result it is appropriate that the Project is protected.

Article 9

(Street works) confers authority on the undertaker to break up or open, tunnel or bore under, remove or use earth and materials in or under and place and maintain works under the streets specified in Schedule 2 *(Streets subject to street works)*, Part 1 in the event of Scenario 1, or Part 2 in the event of Scenario 2 within the Order limits and for the purposes of the authorised project.

In Scenario 1, given that Norfolk Vanguard will have proceeded and the cable ducts would have been installed underground, this Article is mainly relevant for the streets that are in the vicinity of the onshore project substation and/or Necton National Grid extension. These works will necessitate the powers to (a) break up or open the street, or any sewer, drain or tunnel within or under it (b) tunnel or bore under the street, (c) remove or use all the earth in or under the street, and (d) maintain apparatus under the street. However, this Article is also relevant for Scenario 1 as it applies in order to allow an undertaker to maintain apparatus under a street, which will include the apparatus associated with the onshore cable route.

In the event of Scenario 2, in addition to the works at the Onshore Project Substation and the Necton National Grid extension, Norfolk Boreas will be constructing its own cable corridor and installing its own cable ducts under streets.

As a result, all of the powers under this Article will be required under each of Scenario 1 or Scenario 2. The exact streets in question are

outlined in the respective Part of Schedule 2 (Part 1 for Scenario 1 and Part 2 for Scenario 2).

The authority given by this right is a statutory right for the purposes of sections 48(3) (streets, streets works and undertakers) and 51(1) (prohibition of unauthorised street works) of the New Roads and Street Works Act 1991. The undertaker needs the power to remove or use earth and materials in or under the streets in order to lay the cables for the authorised project under the streets. This approach has been taken in offshore wind farm development consent orders, including The East Anglia ONE Offshore Wind Farm Order 2014 and the Norfolk Vanguard draft DCO. The Article also closely follows the drafting of the more recent National Grid (Richborough Connection Project) Development Consent Order 2017.

Article 10

(Public rights of way) allows the temporary stopping up of public rights of way during the construction of the onshore part of the authorised development. It refers to Schedule 3 (*Public rights of way to be temporarily stopped up*), Part 1 in the event of Scenario 1, or Part 2 in the event of Scenario 2, which lists those rights of way which may be stopped up temporarily. Although these powers will be predominantly required for Scenario 2 (for installation of ducts) they may also be required for Scenario 1 where, for example, the undertaker may need to temporarily stop up a public right of way near a joint bay in order to facilitate cable pulling. Therefore this Article is required in both Scenarios.

This power was included in the National Grid (Hinkley Point C Connection Project) Order 2016 and the Northampton Gateway Rail Freight Interchange Order 2019 and follows the approach taken in other offshore wind farm development consent orders, most recently in The East Anglia THREE Offshore Wind Farm Order 2017 and the Norfolk Vanguard draft DCO.

Article 11

(Stopping up of streets) provides for the temporary stopping up, diversion or alteration of streets. It refers to Schedule 4 (*Streets to be stopped up*), Part 1 in the event of Scenario 1, or Part 2 in the event of Scenario 2, which lists those streets which may be stopped up temporarily. These are the streets which the Applicant anticipates it will need to temporarily stop up, alter or divert. Due to the nature of the works associated with the cable pull through under Scenario 1, the extent of the temporary stopping up under Scenario 1 (Part 1 of Schedule 4) involves less streets and private tracks compared to that under Scenario 2 (Part 2 of Schedule 4). This part of the Article follows the approach taken in the Northampton Gateway Rail Freight Interchange Order 2019.

Where the street is specified in Part 1 and Part 2 of Schedule 4, there is a requirement to consult the street authority, but there is no need to obtain its consent. In addition, Article 11 allows for the stopping up, alteration or diversion of any other street (i.e. a street not referenced in

Schedule 4) for the purposes of carrying out the authorised project, subject to the consent of the street authority which may attach reasonable conditions to any such consent. This Article closely follows the approach taken in The East Anglia THREE Offshore Wind Farm Order 2017 and the Hornsea Two Offshore Wind Farm Order 2016, but Article 11(2) which allows the Applicant, for the purposes of carrying out the authorised project, to use any street which has been temporarily stopped up, is taken from the Silvertown Tunnel Order 2019.

In the event of Scenario 1, Article 11 also includes the power to permanently stop up a private access track at the Necton National Grid Substation. This is needed in the event of Scenario 1 as the footprint associated with the National Grid extension under Work No. 10A and 10B will need to be extended in an easterly direction because the Norfolk Vanguard extension will occupy land to the west. It refers to Part 3 of Schedule 4 (permanent stopping up of private means of access for which a substitute is to be provided) and provides that the private access track can only be stopped up if a new private access track is first constructed and substituted for it, or a temporary route is provided whilst the alternative route is constructed. This part of the Article and Part 3 of Schedule 4 follows the approach taken on the Highways England M20 Junction 10a Order 2017, the Silvertown Tunnel Order 2018 and the Northampton Gateway Rail Freight Interchange Order 2019.

Article 12

(Access to works) authorises accesses to and from public highways to be created at locations specified in Schedule 5 (*Access to works*), Part 1 in the event of scenario 1, or Part 2 in the event of scenario 2.

The power is needed in both Scenarios given that the undertaker will, for example, require access to the running track for the purposes of cable pull-through under Scenario 1 and for the construction of the running track and installation of cables and ducts in the event of Scenario 2.

Any other access not referenced in Schedule 5 will need the approval of the planning authority (subject to a 28 day approval period) after consulting the highway authority. It therefore streamlines matters for the undertaker to require only one approval from the relevant authority.

Similar Articles were included in the National Grid (Richborough Connection Project) 2017 and the Eggborough Gas Fired Generating Station Order 2018 and the drafting follows the approach taken in The East Anglia THREE Offshore Wind Farm Order 2017 and the Hornsea Two Offshore Wind Farm Order 2016.

Article 13

(Agreements with street authorities) authorises street authorities and the undertaker to enter into agreements relating to any temporary stopping up, alteration or diversion of a street authorised by the Order, or the carrying out of works in the streets referred to in Article 9 (*Street works*). This Article broadly follows the approach taken in the National Grid (Hinkley Point C Connection) Order 2016, the National Grid

(Richborough Connection Project) 2017, the Silvertown Tunnel Order 2018 and the Northampton Gateway Rail Freight Interchange Order 2019), but most closely follows the approach taken in The East Anglia THREE Offshore Wind Farm Order 2017 and the Hornsea Two Offshore Wind Farm Order 2016.

Article 14

(Application of the 1991 Act) provides that some provisions of the New Roads and Street Works Act 1991 apply to the carrying out of street works under Article 9 (*street works*) and the temporary stopping up, diversion or alteration of a street under Article 11 (*temporary stopping up of streets*). The relevant provisions are listed in sub-paragraph 2 of the article. Comparable provisions are commonly included in Transport and Works Act Orders and have also been consented in the National Grid (Hinkley Point C Connection) Order 2016, the National Grid (Richborough Connection Project) 2017 and the Silvertown Tunnel Order 2018, and identical articles were included in the Hornsea Two Offshore Wind Farm Order 2016 and the Hornsea One Offshore Wind Farm Order 2014.

Article 15

(Discharge of water and works to watercourses) enables the undertaker to discharge water into any watercourse, public sewer or drain in connection with the construction and maintenance of the authorised project with the approval and superintendence (if provided) of the authority to which the watercourse, public sewer or drain belongs (such approval not to be unreasonably withheld) and subject to other conditions. This element of the Article follows the approach taken in other Orders which require this power - for example, the Eggborough Gas Fired Generating Station Order 2018, the Silvertown Tunnel Order 2018 and the Northampton Gateway Rail Freight Interchange Order 2019, as well as The East Anglia THREE Offshore Wind Farm Order 2017.

Paragraphs (7) and (8) of the Article have been further modified to make it clear that the undertaker will have powers to alter watercourses but only with the consent of the Environment Agency or the Internal Drainage Board or Norfolk County Council as appropriate. Following on from Article 7, the consent process is subject to the process and timeframes stipulated in the protective provisions at Schedule 17 (Part 7).

Article 16

(Authority to survey and investigate the land onshore) confers upon the undertaker a power to survey and investigate land, including the ability to make trial holes, to use and leave apparatus on the land in question and to enter onto land. The Article also makes provision in relation to the payment of compensation and the notice period that must be given to owners and occupiers of land ahead of any surveys. The Article follows the approach taken in the East Anglia THREE Offshore Wind Farm Order 2017 and the National Grid (Richborough Connection Project) 2017. In addition, the purpose for which a survey or investigation might be carried out also includes purposes required by

the assessment carried out in the Environmental Statement for the authorised project. Article 16(8) is also included on the Millbrook Gas Fired Generating Station 2019 and applies Section 13 (refusal to give possession to acquiring authority) of the Compulsory Purchase Act 1965 in respect of entry onto or possession of land for survey purposes to provide an enforcement mechanism (by way of warranty) where entry onto land under the article is refused. This will ensure that there is no delay in the implementation of the authorised development.

Article 17 (*Removal of human remains*) enables the undertaker to remove human remains from the Order limits, and provides a process for notification and identification of the human remains as well as their re-internment or cremation. The undertaker would be required to pay the reasonable expenses associated with this process.

There is a non-designated old Quaker burial ground at North Walsham, where the potential for impacts has been minimised as far as possible. However, whilst it is not anticipated that any human remains will be encountered during construction works, it is possible that human remains could be found within close proximity to the old burial ground or within the wider Order limits such as, for example, at the onshore project substation (which would therefore be relevant under both Scenario 1 and Scenario 2).

This Article follows the approach taken on the Knottingley Power Plant Order 2015 and the Eggborough Gas Fired Generating Station Order 2018 where it also applied across the entirety of the Order limits.

Article 18 (*Compulsory acquisition of land*) confers on the undertaker powers of compulsory acquisition of so much of the Order land as is required for the authorised project or to facilitate it, or is incidental to it. The article provides broad powers. It is considered necessary to make it clear in this provision that the whole of the Order land is potentially subject to powers of compulsory acquisition. In practice, however, pursuant to the other Articles, the powers of compulsory acquisition are limited, and for the majority of the Order land, will be restricted to combination of the acquisition of specified new rights (Article 20), and specified powers of temporary possession. The Article follows the approach taken in the East Anglia THREE Offshore Wind Farm Order 2017 and the Millbrook Gas Fired Generating Station 2019.

Article 19 (*Time limit for exercise of authority to acquire land compulsorily*) imposes a time limit of five years from the coming into force of the Order for the exercise of powers relating to the compulsory acquisition of land. This follows the standard approach taken in Orders granting compulsory acquisition powers including the East Anglia THREE Offshore Wind Farm Order 2017, The Hornsea Two Offshore Wind Farm Order 2016, and the Northampton Gateway Rail Freight Interchange Order 2019.

Article 20 (*Compulsory acquisition of rights*) enables the undertaker to acquire

rights over land, including new rights and existing rights if applicable. It also provides for the extinguishment or overriding of existing rights in land subject to the provisions of the Article in combination with Article 21 (Private rights). The Article is drafted so as to allow the undertaker flexibility to acquire new rights in the Order land if appropriate rather than outright acquisition under Article 18 (*Compulsory acquisition of land*). This flexibility allows the undertaker, if it is possible, to reduce the areas required for freehold acquisition and rely on new, permanent rights instead where appropriate. This flexibility is appropriate to allow for continued negotiations with owners of Order lands. It is a provision that is usual in Transport and Works Act Orders and hybrid bills. An example can be found in Article 19 of the Network Rail (Nuneaton North Chord Order) 2010 and Part 3 of Schedule 6 to the Crossrail Act 2008. It was also accepted in the East Anglia THREE Offshore Wind Farm Order 2017.

The Article is subject to Schedule 6, Part 1 in the event of scenario 1, or Part 2 in the event of scenario 2, and states that in the case of land scheduled in Column 1 of that Schedule, the new rights that may be acquired are limited to the new rights (and restrictive covenants where relevant) set out in Column 2 of the Schedule. The great majority of the plots in the Order are restricted in this way. This limits the powers of acquisition to only the rights which are necessary to deliver the authorised development.

Reference is also made to Schedule 7 (*Modification of compensation and compulsory purchase enactments for creation of new rights*) in the modifications of compulsory purchase legislation to apply appropriate provisions regarding material detriment etc. to the acquisition of new rights.

Further, it is to be noted that the undertaker is seeking to impose new restrictive covenants as scheduled in Schedule 6 (*Land in which only new rights etc. may be acquired*) to the Order for the protection of the onshore cables, jointing bays and any ducts that will be installed as part of the authorised development. Such protection has been given in Transport and Works Orders (notably relating to Docklands Light Railway) to protect the structure of subterranean development such as tunnels. It was also included in the Rampion Offshore Wind Farm Order 2014 and the East Anglia THREE Offshore Wind Farm Order 2017. It is considered that the nature of the authorised development is appropriate for such restrictive covenants and the predominantly agricultural nature of the Order lands would not be unduly burdened by the imposition of restrictive covenants, particularly on the basis that where restrictive covenants are being sought, a right of access for maintenance purposes over the same area is also being sought.

Article 21

(*Private rights*) applies to all private rights over land subject to compulsory acquisition under Article 18 (*Compulsory acquisition of land*) and Article 20 (*Compulsory acquisition of rights*). It provides that where land is compulsorily acquired, such private rights or restrictive

covenants are suspended and unenforceable or (where the beneficiaries are notified by the undertaker), extinguished as far as their continuance would be inconsistent with the acquisition of the land; where new rights or restrictive covenants are acquired over land, private rights cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant; and where temporary possession of land is taken, private rights are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken for as long as the undertaker remains in lawful possession of the land.

Reference to section 152 of the 2008 Act is included in paragraph (4) to confirm that compensation payable under this Article is in accordance with the principles for the payment of compensation for injurious affection to land that would ordinarily apply to schemes where statutory authority is relied upon and a claim under section 10 of the Compulsory Purchase Act 1965 arises. Such claims instead arise under section 152 of the 2008 Act rather than section 10 of the Compulsory Purchase Act 1965 as a result of the contents of section 152 of the 2008 Act. Paragraphs 6 and 7 allow the undertaker to provide notice to the contrary to the provisions of the Article, allowing the undertaker to confirm to the relevant owner of a dominant tenement that the rights that would by operation of this Article be suspended and unenforceable are not so suspended or unenforceable. Similar provisions have been included in other orders including the National Grid (Richborough Connection Project) 2017 and the Northampton Gateway Rail Freight Interchange Order 2019. This provision follows the approach in the East Anglia THREE Offshore Wind Farm Order 2017.

Article 22

(Application of the Compulsory Purchase (Vesting Declarations) Act 1981) provides for the Order to apply as if it were a compulsory purchase order for the purposes of the Compulsory Purchase (Vesting Declarations) Act 1981 and provides for that Act to have effect subject to certain modifications. It gives the undertaker the option to acquire land by this method rather than through the notice to treat procedure. It follows and expands upon the approach taken on the East Anglia THREE Offshore Wind Farm Order 2017. In addition to the East Anglia Three Offshore Wind Farm Order 2017, this Article also reflects recent amendments to the Compulsory Purchase (Vesting Declarations) Act 1981 as inserted by the Housing and Planning Act 2016 to, for example, extend the time limit for general vesting declarations where the making of the Order is subject to a statutory challenge. Precedents can be found in the Northampton Gateway Rail Freight Interchange Order 2019 and the Millbrook Gas Fired Generating Station Order 2019.

Article 23

(Application of Part 1 of the Compulsory Purchase Act 1965) applies Part 1 of the Compulsory Purchase Act 1965 to the Order with certain

modifications in relation to section 125 of the 2008 Act. This provision reflects recent changes introduced by the Housing and Planning Act 2016. Paragraphs (1) to (3) amend the provisions of the Compulsory Purchase Act 1965 so that they are consistent with the terms of the Order and paragraph (4) makes it clear that the notice periods introduced by the Housing and Planning Act 2016 do not apply to the temporary possession or use of land under articles 26 or 27 of the Order.

In addition, the Article also reflects recent amendments to the Compulsory Purchase Act 1965 providing that where the making of the Order is subject to a statutory challenge, the deadline for the exercise of compulsory acquisition powers under the Compulsory Purchase Act 1965 is increased by a period equivalent to the period beginning with the day the application is made, and ending on the day it is withdrawn or finally determined (or if shorter, one year).

This Article also clarifies, by applying an amendment for the purposes of the Order to Schedule 2A of the Compulsory Purchase Act 1965, that the counter-notice provisions in that schedule that are available to landowners where part only of land is acquired compulsorily do not apply where the land has only been taken possession of under the temporary possession powers set out in Article 26 or Article 27.

There is precedent for this in, for example, the High Speed Rail (London – West Midlands) Act 2017. This approach is also followed in The Wrexham Gas Fired Generating Station Order 2017 and the Eggborough Gas Fired Generating Station Order 2018.

Article 24

(Acquisition of subsoil or airspace only) authorises the undertaker to acquire the subsoil in any Order land without acquiring the whole of that land. In certain cases it may be necessary only to acquire a stratum of land below the surface and in the absence of this article the undertaker would be obliged to acquire the whole interest in the land. There are precedents for this in, for example, the Glasgow Airport Rail Link Act 2007.

This article also authorises the undertaker to acquire interests in or rights over airspace a certain height above ground. This is particularly relevant in the context of overhead electricity lines, and therefore the overhead line modification works under Scenario 2. An example can be found at Article 28 of the National Grid (North London Reinforcement Project) Order 2014 and at Article 26 of the National Grid (Hinkley Point C Connection) Order 2016.

This flexibility is required in order to minimise the extent of the interests that are to be acquired from owners, as the acquisition of these rights could minimise the need to acquire the whole of the land. The undertaker considers that this is appropriate in the context of subsoil for cables to be laid underground or in the context of subsoil and airspace for electricity lines to be installed overhead where the entire freehold

interest may not be required.

Article 25

(Rights under or over streets) provides that the undertaker may use the subsoil or air-space over a street within the Order limits for the authorised project without being required to acquire any part of the street or any easement or right in the street, which is particularly necessary for the National Grid overhead line works as part of Work No 11A and 11B in Scenario 2, but may also be required for the areas around the onshore project substation (Work No. 8), National Grid substation extension (Work No. 10), and the landfall works (Work No. 4B and 4C) in the event of Scenario 1 (and Scenario 2). Provision is made for the payment of compensation to an owner or occupier of land where their interest in land is not acquired and who suffers loss as a result. The Article follows the approach taken in the East Anglia THREE Offshore Wind Farm Order 2017, the Eggborough Gas Fired Generating Station Order 2018 and the Millbrook Gas Fired Generating Station Order 2019.

Article 26

(Temporary use of land for carrying out the authorised project)

The power to temporarily possess "any other Order land" (in respect of which notice of entry has not yet been served under Section 11 of the Compulsory Purchase Act 1965 and no vesting declaration has been made under the Compulsory Purchase (Vesting Declarations) Act 1981), in addition to the land specified in Schedule 8, is unlikely to be exercised for the Project, as all of the Order land, save for the freehold plots is included in Schedule 8 for some purpose (either for access, use for temporary construction compounds, or for purposes of construction of the authorised project). The freehold plots are as follows:

Plots 40/14a, 40/14a, 40/14a, 40/14b, 41/23a, 41/24, 41/25, 41/26a, 41/26b, 41/26e, 41/26e, 41/28c, 41/23, 41/24, 41/25, 41/26, 41/26d, 41/23a, 41/24, 41/25, 41/26a, 41/26b, 41/28b, 41/28c, 41/28d, 41/26e, 41/26g, 41/28d, 40/12c, 40/14a, 40/14b, 40/12d, 40/14c, 40/16, 40/16a, 40/16c, 40/12a, 40/16b and 40/24b in Scenario 1; and

Plots 40/17, 40/21, 40/21, 41/28a, 41/29, 41/30a, 41/30a, 41/31, 41/34, 41/35, 41/37, 41/38, 41/38, 41/38, 41/38, 40/13, 40/15, 40/15, 40/14a, 40/14b, 40/14b, 40/19, 40/19, 40/25, 40/29, 42/01, 42/01, 42/01, 42/01, 42/01, 42/01, 41/19, 41/20, 41/21, 41/36, 41/26, 41/26a, 41/04, 41/06, 41/38, 41/38, 41/06b, 42/01, 42/01, 42/01, 41/28a, 41/28a, 41/29, 41/29, 41/30a, 41/30a, 41/30a, 41/31, 41/31, 41/31, 41/34, 41/34, 41/35, 41/35, 41/37, 41/37, 40/19, 40/19, 40/25, 40/25, 40/29, 40/30, 42/01, 42/01, 40/14a, 40/19, 40/17, 40/16, 40/17, 40/18, 40/21, 40/21, 40/22, 40/22, 40/24, 41/02, 40/13, 40/15, 40/14b, 40/14c, 40/16c, 40/24c, 40/24d, 40/22 and 40/22a in Scenario 2.

The Article clarifies that unless permanent interests have been acquired in any land that the undertaker has taken temporary possession of, the undertaker must remove any temporary works and restore the land to the reasonable satisfaction of the owners of the land, but is not required

to remove certain works such as drainage works or road surfacing.

In all cases where powers of temporary possession are exercised, validly evidenced compensation must be paid to the landowner and any occupiers for loss or damage arising from their exercise where claimed.

This Article mirrors the wording in the East Anglia THREE Offshore Wind Farm Order 2017, subject to an addition to Article 26(4) which widens the scope of works the undertaker is not expected to replace or remove during restoration of the land. A similar approach was taken in the Silvertown Tunnel Order 2019.

Article 27

(Temporary use of land for maintaining authorised project) provides that the undertaker may take temporary possession of land within the Order limits required for the purpose of maintaining the authorised project, and to construct such temporary works as may be reasonably necessary for that purpose for a period of five years from the date on which that part of the authorised development is first used. Provision is made for notice and compensation. This power does not apply with respect to houses, gardens or any other buildings for the time being occupied. Provision is also made for taking temporary possession without notice, or at a shorter notice than is usually permitted in an emergency. This follows the approach taken on The East Anglia THREE Offshore Wind Farm Order 2017.

Provision is also made at Article 28(4) for taking temporary possession without notice, or at a shorter notice than is usually permitted, in an emergency - at which point the undertaker must provide notice as soon as reasonably practicable. This provision would only be relied upon in exceptional circumstances, but the undertaker considers that it is of paramount importance to access and use the land on a shorter notice period in an emergency.

Article 28

(Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession) is included in relation to the works to overhead lines, on land in which National Grid owns apparatus. It provides that where National Grid apparatus is removed from land that the undertaker has only taken temporary possession of (and not, necessarily, compulsorily acquired a permanent interest in land), any private rights and restrictive covenants in relation to that apparatus can be permanently extinguished if the parties so agree. In addition, there is no liability or requirement to remove any foundations from the land when giving up temporary possession.

This is intended to allow the Applicant, if appropriate, to remove redundant apparatus where that or other apparatus is altered or relocated, and to facilitate the relevant land being burdened only with interests that are appropriate to the new or altered apparatus with the intention of assisting National Grid. This follows a similar approach taken on other connection projects including The National Grid

(Richborough Connection Project) Development Consent Order 2017
The wording of this Article was required by National Grid Electricity Transmission in respect of the Norfolk Vanguard project, to make the extinguishment of any private rights and restrictive covenants supporting apparatus belonging to National Grid that is removed from the land dependent upon a positive exercise of a power - namely, serving notice in agreement with National Grid that such rights will be extinguished before giving up possession of the land.

- Article 29* *(Statutory undertakers)* authorises the undertaker to acquire land and new rights in land belonging to statutory undertakers as shown on the land plans within the limits of the land to be acquired or used and described in the book of reference. This follows the approach taken on other development consent orders including The East Anglia THREE Offshore Wind Farm Order 2017, The National Grid (Richborough Connection Project) Development Consent Order 2017, the Millbrook Gas Fired Generating Station Order 2019 and the draft Norfolk Vanguard Order.
- Article 30* *(Recovery of costs of new connections)* provides for compensation to owners or occupiers of property to which the apparatus of a public utility undertaker was connected, where that apparatus is removed in accordance with Article 29 *(Statutory undertakers)*. This has been included in various development consent orders including The East Anglia THREE Offshore Wind Farm Order 2017, the Silvertown Tunnel Order 2019 and the draft Norfolk Vanguard Order.
- Article 31* *(Operation of generating station)* authorises specifically the undertaker to operate the authorised project in accordance with the provisions of this Order or an agreement made under this Order. This aspect is included pursuant to section 140 of the 2008 Act. This Article has been included on other development consent orders for electricity generation including The East Anglia THREE Offshore Wind Farm Order 2017, the Tees Combined Cycle Power Plant Order 2019 and the Millbrook Gas Fired Generating Station Order 2019.
- Article 32* *(Deemed marine licences under the Marine and Coastal Access Act 2009)* provides for five deemed marine licences, the terms of which are set out in Part 1 of Schedules 9 to 13, required for the deposit at sea within the Order limits of the specified substances and articles and the construction of works in or over the sea and/or on or under the seabed. As explained above, the approach of splitting the deemed marine licences into four separate licences is to provide for a situation where generation or transmission assets will be held by different companies (including OFTOs) post-construction. This Article has been included on other offshore wind farm development consent orders including The East Anglia THREE Offshore Wind Farm Order 2017.
- Article 33* *(Application of landlord and tenant law)* overrides the application of

landlord and tenant law in so far as it may prejudice the operation of any agreement for leasing the whole or part of the authorised project or the right to operate the same and any agreement for the construction, maintenance, use or operation of the authorised project or any part of it entered into by the undertaker. This has been included in other development consent orders including The East Anglia THREE Offshore Wind Farm Order 2017 and the Tees Combined Cycle Power Plant Order 2019..

Article 34

(Operational land for the purposes of the 1990 Act) provides that for the purposes of section 264(3) of the Town and Country Planning Act 1990 the development consent granted by the Order shall be treated as a specific planning permission. This has been included on other offshore wind farm development consent orders including The East Anglia THREE Offshore Wind Farm Order 2017, The National Grid (Richborough Connection Project) Development Consent Order 2017, the Eggborough Gas Fired Generating Station Order 2018 and the Tees Combined Cycle Power Plant Order 2019.

Article 35

(Felling or lopping of trees and removal of hedgerows) enables the undertaker to fell or lop trees and shrubs for the purposes of preventing obstruction or interference with the authorised project and danger to the authorised project. Provision is included for the payment of compensation for loss and damage.

It enables the undertaker to remove the hedgerows specified in the various Parts in Schedule 14, which include:

(a) in the event of Scenario 1, the important hedgerows specified in Part 1, and the hedgerows specified in Part 2; and

(b) in the event of Scenario 2, the important hedgerows specified in Part 3, the hedgerows specified in Part 5, and the potentially important hedgerows specified in Part 4.

There are a number of hedgerows that are considered potentially important because the Applicant has not yet assessed these hedgerows. These hedgerows will either be classed as 'Important Hedgerows' or 'Hedgerows' once they have been assessed. The reason that there are no potentially important hedgerows under Scenario 1 is because the Applicant has already assessed hedgerows in the vicinity of the onshore project substation and/or connected with the National Grid extension works (Work No.8A – Work No 10C), which has allowed the Applicant to determine whether the hedgerow falls into the category of an 'Important Hedgerow' or a 'Hedgerow'. Along the cable route, cable ducts will have been installed by Norfolk Vanguard under Scenario 1, such that any potentially important hedgerows will have been assessed and removed (where necessary) by Norfolk Vanguard. Under Scenario 1, it is also envisaged that any gaps in hedgerows (required for the running track during the cable pull through operation) will be retained from Norfolk Vanguard, such that no hedgerows will

need to be removed from these locations. Norfolk Boreas would reinstate these hedgerows following completion of the cable pull through operation and removal of the running track.

Similar provisions have been included in other Orders like the Northampton Gateway Rail Freight Interchange Order 2019. The Article closely follows the approach in The East Anglia THREE Offshore Wind Farm Order 2017 and the Norfolk Vanguard draft DCO.

Article 36

(Trees subject to tree preservation orders) enables the undertaker to fell or lop the roots of any tree which is subject to a tree preservation order to prevent it obstructing or interfering with the construction, maintenance or operation of the authorised project. Compensation is payable if loss or damage is caused.

The Article applies generally to any tree subject to a tree preservation order made before and after the date of the Order coming into effect and either within or overhanging the Order limits. The approach follows that taken on the Hornsea Two Offshore Wind Farm Order 2016.

Article 37

(Certification of plans etc) requires the undertaker to submit copies of the documents, plans and sections referred to in the Order to the decision maker, for certification as true copies following the making of the Order. This Article is included in all development consent orders and the wording is taken from The East Anglia THREE Offshore Wind Farm Order 2017 and the Norfolk Vanguard draft DCO. Article 37 is linked with Schedule 18 (Documents to be Certified) in order to provide a complete list of certified documents together with their version number and date of submission. The undertaker also considers it necessary to provide a list of documents considered to form part of the environmental statement. This approach follows that set out in the final draft Thanet Extension Offshore Wind Farm Order and The National Grid (Hinkley Point C Connection Project) Order 2016.

Article 38

(Arbitration) makes provision for any dispute arising under the provisions of the Order and, unless otherwise provided for, to be settled by arbitration. A saving provision has been included for Trinity House, and it will not apply for the Secretary of State, or the Marine Management Organisation (MMO). Whilst the concept of the arbitration article derives from other development consent orders changes, including the addition of a new schedule, have been made to provide a more bespoke and relevant arbitration process which is necessary in the context of offshore wind farm developments. The MMO would instead be subject to an appeal process similar to the Marine Licensing (Licence Application Appeals) Regulations 2011 (2011 Regulations) which would apply to any refusal or non-determination under the DMLs in Schedule 9-13. This appeal process in the 2011 Regulations is subject to certain modifications, provided in Part 5 of the respective DMLs, including a reduction in the time limit to lodge an appeal from six to four months, and provision for time periods for various stages of the

appeal process.

This approach is currently unprecedented in as made Orders. However, this matter has been the subject of extensive analysis and discussion throughout the Hornsea Project Three, Thanet Extension Offshore Wind Farm, and the Norfolk Vanguard examinations. The Examining Authority in the Norfolk Vanguard examination, proposed an appeal mechanism following the modified 2011 Regulations in the Examining Authority's schedule of changes to the draft DCO published on the 9 May 2019. This latest approach been used in the Norfolk Vanguard final draft DCO, the final draft Thanet Extension Offshore Wind Farm Order, and as an option in the final draft DCO for Hornsea Project Three.

Article 39 (*Procedure in relation to certain approvals etc.*) provides a mechanism for securing any consent or approval from a consenting body required by the provisions of the Order. It applies Schedule 16 (*Procedure for discharge of Requirements*), which sets out the procedure for the discharge of requirements contained in Part 3 of Schedule 1. A similar approach was followed on the Hinkley Point C (Nuclear Generating Station) Order 2013 and several subsequent development consent orders including the Tees Combined Cycle Power Plant Order 2019, and the Norfolk Vanguard draft DCO.

Article 40 (*Abatement of works abandoned or decayed*) authorises the Secretary of State to issue a written notice to the undertaker requiring the repair, restoration or removal of Works No. 1(a) to 1(d) or Work No. 2 where they have been abandoned or allowed to fall into decay. This power is stated to be without prejudice to any notice served under section 105(2) of the Energy Act 2004 requiring the submission of a decommissioning scheme. This article has been included on a number of offshore wind farm development consent orders including The East Anglia THREE Offshore Wind Farm Order 2017.

Article 41 (*Saving provisions for Trinity House*) is a standard provision included for offshore wind farms, including that for Scarweather Sands. It has been included on offshore wind farm development consent orders including The East Anglia THREE Offshore Wind Farm Order 2017.

Article 42 (*Crown rights*) protects the Crown's position in relation to its own estates, rights, powers, privileges, authorities and exemptions. The Crown's written consent is required where any land, hereditaments or rights of the Crown are to be taken, used, entered or interfered with as a result of granting of the Order, although there is no conditionality in respect of third party interests in Crown land. The approach taken follows the approach for The East Anglia THREE Offshore Wind Farm Order 2017, the Eggborough Gas Fired Generating Station Order 2018 and the Norfolk Vanguard draft DCO.

Article 43 (*Protective provisions*) gives effect to the protective provisions in

9 Schedules

Schedule 1

(*Authorised Project*) Part 1 of Schedule 1 specifies the authorised development comprising the scheduled works. This consists of the work packages (Work No.1 to 12B) and works in connection with them that fall within the scope assessed by the Environmental Statement. Removal of static fishing equipment is one example of a work associated with Work No.1 to 4B that may be required. The expectation would be that the Applicant would have reached agreement for removal of all static gear prior to construction of offshore activities. However, in the event that this is not possible, the power may be required to remove static fishing equipment that are impeding the safe passage of vessels and/or the safety of construction operations.

The ancillary works are set out in Part 2.

Part 3 sets out certain requirements that the undertaker must meet in relation to the construction and operation of the authorised project. These requirements take a similar form to planning conditions.

With regard to the structure of the onshore requirements, it should be noted that the principles informing the proposed onshore mitigation are largely set out in a number of outline documents submitted with the Application.

Requirements: the Requirements apply to both Scenario 1 and Scenario 2 unless stated otherwise within the Requirements. This is because, as explained in Section 4 above, the Requirements will apply irrespective of the Scenario implemented, and any differences in the scope of the outline plans is detailed within the documents or plans to be submitted pursuant to the respective Requirement.

Requirement 1 (*Time limits*) specifies the time limit for commencing the authorised development as 5 years from the date of the Order, as provided for in Regulation 3 of the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010.

Requirements 2 to 11 (*Detailed offshore design parameters*) set out the detailed design parameters within which the authorised development must be constructed. Requirements 2 and 3 deal with the dimensions and other characteristics of WTGs. Requirement 4 limits the dimensions of the offshore electrical platforms, offshore service platform and meteorological masts. Requirement 5 limits the total length of export, array and interconnector cables and specifies the maximum amounts (in area and volume) of cable protection. Requirement 5(5) also makes clear that Work No. 3A and Work No. 3B are mutually exclusive. Work No. 3B will not be applicable under Scenario 2 as it concerns Project Interconnector cables with offshore electrical platforms in Norfolk Vanguard. However, in the event of Scenario 1, as explained in paragraph 5.2 above, the Applicant will have the option as to whether

to connect into an offshore electrical platform in Norfolk Vanguard West or Norfolk Vanguard East (Work No. 3B). If the Applicant does not connect into Norfolk Vanguard West or Norfolk Vanguard East with a Project Interconnector cable then the Applicant will need to connect the subsea cables into an offshore electrical platform within the Norfolk Boreas site pursuant to Work No. 3A. Accordingly, Requirement 5(5) provides that in the event of scenario 1, only Work No. 3A or Work No. 3B may be commenced.

Requirements 6 to 11 restrict the dimensions of the different foundation types and Requirement 11 limits the amount of scour protection (in area and volume) for the various structures. The purpose of these various restrictions is to ensure that the authorised development is restricted to that which has been assessed in the Environmental Statement.

Requirement 12 (*Aviation safety*) provides that lighting must be used as determined necessary for aviation safety. It also requires notification of certain information to the Defence Infrastructure Organisation at least 14 days prior to commencement of the offshore works, on completion of the offshore works and of any changes to the information supplied.

Requirement 13 (*Ministry of Defence surveillance operations*) has been included to ensure appropriate mitigation to prevent or remove any adverse effects which the operation of the authorised development will have on the air defence radar at Remote Radar Head (RRH) Trimingham and the Ministry of Defence's air surveillance and control operations.

Requirement 14 (*Offshore decommissioning*) requires a decommissioning programme to be agreed with the Secretary of State prior to the commencement of the offshore works and replicates the wording used on consents for offshore wind farms granted under the Electricity Act 1989 (and now the 2008 Act) following the relevant provisions of the Energy Act 2004 coming into force.

Requirement 15 (*Stages of authorised development onshore*) requires confirmation of whether the onshore works will be constructed in a single operation to pull the cables through the ducts and construct the onshore project substation, or whether the onshore works will be constructed in two phases of two separate operations to pull the cables through the ducts and two separate onshore project substation construction operations. This will be dependent upon the number of offshore phases.

Requirement 15 also requires confirmation of whether the undertaker will commence Scenario 1 or Scenario 2. This will give the relevant planning authorities notice of the intended Scenario, which will then be captured in the written scheme setting out all the stages of the onshore transmission works before commencement of any onshore works.

Requirement 16 (*Detailed design parameters onshore*) requires approval of details – in accordance with the design and access

statement - of the proposed works at the onshore project substation, for the extension to the National Grid substation at Necton and, in the event of Scenario 2, the overhead line replacement works by the relevant planning authority. It specifies parameters in terms of the maximum size of the equipment and buildings for the onshore project substation and the National Grid extension works and (in the event of scenario 2) the maximum height of the overhead line replacement pylons.

In addition, in the event of scenario 2, this requirement commits the Applicant to use trenchless installation techniques to install the ducts in the locations specified in the Requirement including at certain rivers and wildlife sites. Taken together these restrictions ensure that the impact of the onshore works is minimised in line with the assessment and commitments contained in the Application.

The requirement commits the undertaker to only installing a maximum of two ducts at the landfall, and the requirement also sets out the maximum parameters (m²) for the temporary works areas.

Requirement 17 (Landfall method statement) requires approval of a method statement for the construction of the works at the landfall. It specifies that the method statement must include measures for horizontal directional drilling below the coastal shore platform and cliff base at the landfall. This commitment ensures that the impact of the landfall works is minimised in line with the assessment and commitments contained in the Application.

The Requirement also stipulates the need for ongoing inspection of the cables at the landfall and reporting of results to North Norfolk District Council, in consultation with Natural England, during the operation of the authorised project. In the event of cable exposure throughout the operation of the Project, the Applicant must submit proposals to North Norfolk District Council (in consultation with Natural England (referred to as the statutory nature conservation body within the DCO)) for remedial measures to protect the cables at the landfall. This commitment ensures that the impact of the landfall works is minimised in line with the assessment and commitments contained in the Application.

Requirement 18 (Provision of landscaping) provides that the relevant stage of the transmission works must not commence until a landscaping management scheme for that stage (which accords with the outline landscape and ecological management strategy) has been submitted and approved by the relevant planning authority. The scheme must be implemented as approved.

Requirement 19 (Implementation and maintenance of landscaping) requires the undertaker to implement the approved landscaping management schemes and to replace trees or shrubs which die along the cable route within five years of planting.

Requirement 20 (Code of construction practice) provides that the relevant stage of the transmission works must not commence until a

code of construction practice for that stage (which accords with the outline code of construction practice) has been submitted and approved by the relevant planning authority in consultation with Norfolk County Council, the Environment Agency and the relevant statutory conservation body (Natural England). The code must be implemented as approved. The code includes details on matters such as fencing, external lighting and control of artificial light, contaminated land and groundwater, construction noise and vibration and surface water and drainage.

As with the other plans secured pursuant to the Requirements, the Outline Code of Construction Practice currently includes the detail of the practices applicable under each Scenario. This detail will be refined further prior to commencement of development as, at that stage, the Applicant will know whether Scenario 1 or Scenario 2 will be commenced.

Requirement 21 (Traffic) requires that the relevant stage of the transmission works shall not commence until a traffic management plan (in accordance with the outline traffic management plan), a travel plan (in accordance with the outline travel plan) and an access management plan (in accordance with the outline access management plan) for that stage have been submitted to and approved by the relevant highway authority. The plans must be implemented on commencement of the relevant stage of transmission works.

The final Traffic Management Plan would include the final detailed design of the scheme of highway mitigation – in particular along Link 34 of the Environmental Statement through Cawston. Requirement 21(4) includes wording to make it clear that the final Traffic Management Plan (and related Highway Intervention Scheme) will deal with relevant cumulative impacts associated with Hornsea Project Three along Link 34. This wording has been added for clarity following a letter from the Secretary of State to the Norfolk Vanguard applicant.

Requirement 22 (Highway accesses) requires that the access management plan submitted for approval under requirement 22 (traffic) includes details of any permanent or temporary means of access to a highway, or any alteration to an existing means of access, by the relevant planning authority in consultation with the relevant highway authority.

Requirement 23 (Archaeological written scheme of investigation) requires that the relevant stage of the transmission works shall not commence until an archaeological written scheme of investigation for that stage (which accords with the outline written scheme of investigation (onshore)) has been submitted to and approved by the relevant planning authority, following consultation with Historic England and Norfolk County Council. Construction works must be undertaken in accordance with the approved scheme.

Requirement 24 (Ecological management plan) requires that the

relevant stage of the transmission works shall not commence until an ecological management plan for that stage (which accords with the outline landscape and ecological management strategy as appropriate for that stage) has been approved by the relevant planning authority, following consultation with Norfolk County Council, the Environment Agency, relevant drainage authorities (as defined), and Natural England. Construction works must be undertaken in accordance with the approved scheme. The Requirement also notes that construction works within 5km of the Broadland Special Protection Area and Ramsar site must be carried out in accordance with specific onshore ornithology mitigation contained in the outline landscape and ecological management strategy, which mitigation must be incorporated into the ecological management plan.

Requirement 25 (*Watercourse crossings*) requires that no stage of the transmission works involving crossing or diverting of a main river or watercourse shall commence until a scheme and programme for that crossing, diversion and subsequent reinstatement has been approved by the relevant planning authority, following consultation with Natural England. Works to cross, divert and then reinstate the main river or watercourse must then be undertaken in accordance with the approved scheme and programme. During construction, all ditches, watercourses, field drainage systems and culverts are to be maintained to ensure that the flow of water and drainage are not impaired.

Requirement 26 (*Construction hours*) provides for construction hours for the transmission works on specified days, with none on Sundays or bank holidays. However, the requirement does allow certain continuous operations, such as construction works at the landfall to be undertaken outside of these times, although the exact duration and timing of the works together with any proposed mitigation must first be agreed with the relevant planning authority. Emergency works and non-intrusive works (such as start-up and shut down operations) can be carried out outside of the times specified without further approval.

Requirement 27 (*Control of noise during operational phase and during maintenance*) limits the noise rating levels during operation and maintenance of the onshore project substation, and requires a scheme for monitoring compliance with the noise rating levels - together with any remedial works and a programme of implementation should the emissions exceed the stated levels - to be submitted to and approved by the relevant planning authority.

Requirement 28 (*European protected species onshore*) provides that no stage of the transmission works shall be commenced until a final pre-construction survey has been carried out for that stage to establish whether there are any European protected species present, or likely to be affected by the works. If so the requirement provides that the relevant stage of the works shall not commence until a scheme for protection and mitigation has been approved, which shall be implemented as approved.

Requirement 29 (*Onshore decommissioning*) provides that within six months of the permanent cessation of commercial operation of the onshore transmission works, an onshore decommissioning plan must be submitted to the relevant planning authority for approval. The plan must then be implemented as approved. The undertaker is also required to notify the relevant planning authority within 28 days of permanent cessation.

Requirement 30 (*Requirement for written approval*) provides that where any requirement requires the approval of the Secretary of State or the relevant planning authority such approval shall be in writing.

Requirement 31 (*Amendments to approved details*) provides that any details approved pursuant to any requirement shall be taken to include any amended details which are subsequently approved, provided that any amendments to or deviations from the approved details are in accordance with the principles set out in the Environmental Statement. This drafting follows precedent set by other offshore wind farm DCOs, including The East Anglia ONE Offshore Wind Farm Order 2014; The East Anglia THREE Offshore Wind Farm Order 2017; The Rampion Offshore Wind Farm Order 2014; The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 (Doggerbank); and the principle set out in The Hornsea Two Offshore Wind Farm Order 2016. Requirement 32 (*Operational drainage plan*) provides that the works at the onshore project substation and the Necton National Grid substation extension must not commence until a written plan for the drainage during operation has been submitted to and approved by the relevant planning authority after consultation with Norfolk County Council and the Environment Agency.

Requirement 33 (*Skills and employment strategy*) provides that, in the event of Scenario 2, prior to commencement of the onshore transmission works, a skills and employment strategy must be submitted to and approved by Norfolk County Council, after consultation with North Norfolk District Council, Broadland District Council, Breckland District Council, Norfolk County Council and the New Anglia Local Enterprise Partnership.

This plan is only required in the event of Scenario 2 as the undertaker under the Norfolk Vanguard Order will have provided a strategy to account for the effects of both Norfolk Vanguard and Norfolk Boreas prior to commencement of the Norfolk Vanguard Order. This same requirement is proposed to be secured pursuant to Requirement 33 of the Norfolk Vanguard draft DCO.

Requirement 34 (*Cromer Primary Surveillance Radar*) has been included to secure appropriate mitigation to prevent or remove any adverse effects which the operation of the authorised development will have on NATS' ability to provide safe and efficient air traffic services/operation. This wording has been agreed as part of the Norfolk Vanguard DCO examination.

Requirement 35 (*Reuse of temporary works in the event of scenario 1*) provides that temporary works carried out pursuant to the Norfolk Vanguard Offshore Wind Farm may be reused under Scenario 1 provided that a scheme for their re-use has been submitted and approved by the relevant planning authority.

Schedule 2 (*Streets subject to street works*) sets out those streets which are to be the subject of street works – part 1 in the event of Scenario 1, and part 2 in the event of Scenario 2.

Schedule 3 (*Public rights of way to be temporarily stopped up*) sets out those public rights of way which are to be temporarily stopped up – part 1 in the event of Scenario 1, and part 2 in the event of Scenario 2.

Schedule 4 (*Streets to be stopped up*) sets out those streets which are to be temporarily stopped up, altered or diverted (part 1 in the event of Scenario 1, and part 2 in the event of Scenario 2) and sets out the private access track which is to be permanently stopped up under Scenario 1 (part 3).

Schedule 5 (*Access to works*) sets out details of access points to the Works– part 1 in the event of Scenario 1, and part 2 in the event of Scenario 2.

Schedule 6 (*Land in which only new rights etc may be acquired*) sets out details of such land over which new rights may be acquired (part 1 in the event of Scenario 1, and part 2 in the event of Scenario 2). It sets out the purposes for acquisition of new rights over specified plots. In accordance with the Guidance issued by the Secretary of State, it specifies rights that apply to the relevant plots set out in the Book of Reference, and also details, where relevant, the restrictive covenants that apply to the relevant plots to protect the installed cables.

Schedule 7 (*Modification of compensation and compulsory purchase enactments for creation of new rights*) sets out changes to the operation of the legislation relating to compulsory purchase, principally the material detriment provisions contained in Section A of the Compulsory Purchase Act 1965.

Schedule 8 (*Land of which temporary possession may be taken*) sets out details of such land that may be occupied under temporary powers – part 1 in the event of Scenario 1, and part 2 in the event of Scenario 2.

Schedule 9 (*Deemed licence under the 2009 Act – generation assets (licence 1 – phase 1)*) sets out the deemed licence for phase 1 of the generation assets within the authorised project.

Standard provisions and structure for deemed marine licences have been developed and included within Orders granted under the 2008 Act. The draft deemed licences comprise two generation licences and two transmission licences within this Order and have been developed

by the Applicant in discussion with the MMO, Maritime and Coastguard Agency and Trinity House.

The licences are deliberately drafted to be standalone documents. This reflects the fact that they will have a wide distribution to contractors and agents, being an audience that may be confused by cross references to the main Order. Also, they are documents which, based on past experience, are likely to be varied from time to time. Such variations will be much easier to follow if the licences have been prepared on a standalone basis. As a result, there is intentional repetition from the main Order of various definitions and the description of the authorised works. Where definitions from the main Order are not included, this is because such definitions only relate to the onshore transmission works and are therefore not relevant for the licences.

Unless otherwise stated, the provisions below relate to all of the deemed marine licences, although condition numbering varies between the deemed marine licences for the generation assets and transmission assets. A table which compares the numbering across the generation, transmission and project interconnector licences is included at Schedule 2 for ease of reference.

Part 1 – Interpretation

Paragraphs 1-4 (*Interpretation*) provides interpretation of certain words and phrases used in the licence and contact details for key organisations relevant to the content of the licence. Many of the definitions (including the different types of foundations and other structures such as wind turbine generators and the meteorological masts) are identical to those used in the main Order.

Part 2 – Licensed Marine Activities – General

Paragraph 1 confirms that the deemed marine licence shall remain in force until the scheme has been decommissioned.

Paragraph 2 confirms that section 72(7) (*Variation, suspension, revocation and transfer*) of the 2009 Act is dis-applied in relation to transfer of the deemed marine licences. Section 72(7) permits the licensing authority to transfer a marine licence to another person. Section 72(8) provides that "*a licence may not be transferred except in accordance with subsection 7*". Article 6 (*Benefit of the Order*) however provides for the transfer to take place in a different way to section 72(7). Since Article 6 is different from the precise wording of section 72(7) of the 2009 Act it is necessary to dis-apply section 72(7) in those limited circumstances to enable Article 6 to operate. Without such a disapplication, Article 6 might be claimed to be inoperative because of adopting a different wording from section 72(7).

Paragraph 3 confirms that where any condition requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under the licence, the approved details, plan or scheme are taken to include any amendments that may subsequently

be approved by the MMO.

Paragraph 4 notes that any amendments to approved details must fall within what has been assessed in the Environmental Statement.

Paragraph 5 sets out the substances or articles authorised for deposit at sea.

Paragraph 6 sets out the grid coordinates for those works within the deemed marine licence.

Part 3 – Details of Licensed Marine Activities

Paragraphs 1-2 specify the licensable marine activities which are authorised by the licence in connection with the construction and operation of the generating station (generation assets licences), offshore associated development (transmission assets) and project interconnector (project interconnector assets). The section deliberately repeats in full the description of the relevant works from Part 1 of Schedule 1. Reference is also included to disposal of material as a result of preparation works for construction of the generating station and associated development (as appropriate).

Part 4 – Conditions

Conditions 1 to 7 (*Design parameters*) repeat the design parameters from requirements 2 to 10 of Part 3 of Schedule 1. This has the effect of putting beyond doubt the fact that when considering approvals under the licence, the details of proposed works must comply with these constraints under the deemed marine licence as well as under the Order.

Condition 8 (*Phasing of the authorised scheme*) restates the maximum numbers of wind turbines and other infrastructure for the authorised scheme. The maximum parameters listed must be taken together with the works authorised pursuant to the phase 2 licence (if relevant). For instance, if the scheme is developed in two phases then the maximum parameters will need to be split (albeit not necessarily evenly) across both phases. It also requires the undertaker to notify the MMO regarding whether the authorised scheme will be constructed in one or two offshore phases, together with a notification provision as to whether Scenario 1 or Scenario 2 will be commenced.

Condition 9 (*Notifications and inspections*) provides for a system of supplying copies of the licence to agents and contractors, restricting the use of contractors and vessels to those notified to the MMO, and publicising commencement and progress of the licensed activities.

Conditions 10-11 (*Aids to navigation and Colouring of Structures*) provide for various matters to aid navigation in the vicinity of the authorised scheme, including the provision of various navigation aids and notices to mariners; the ongoing availability of the aids to navigation; notification of the progress of works to Trinity House and the MMO and the colouring of structures. These are all standard provisions

from previous Electricity Act consents for offshore wind farms and have been incorporated into recently granted Orders under the 2008 Act.

Condition 12 (*Chemicals, drilling and debris*) restricts the use of chemicals and other substances and provides for the disposal of certain drilling arisings and the monitoring of construction materials so as to identify those which may accidentally fall into the sea, which shall then be investigated and, where identified, recovered. The undertaker must inform the MMO of the location and quantities of material disposed of under the licence and, in the event that no activities have taken place during the reporting period, the undertaker must provide a null (0) return to the MMO.

Condition 13 (*Force majeure*) provides for the notification of deposits made in an emergency.

Condition 14 (*Pre-construction plans and documentation*) provides for the submission for approval, before the commencement of licensed activities, of a plan showing the proposed location, dimensions and choice of foundation of all elements of the authorised scheme to ensure that the licensed activities conform with the description of Work No. 1 and the design parameters in conditions 1 to 7. It also provides for submission for approval of a construction programme and monitoring plan, a construction method statement, a project environmental management plan (including a fisheries liaison and co-existence plan), a scour protection and cable protection plan, a marine mammal mitigation protocol (in the event that piled foundations are proposed), a cable specification, installation and monitoring plan, an archaeological written scheme of investigation, a mitigation scheme for habitats of principal importance, an offshore operations and maintenance plan, an aids to navigation management plan, an ornithological monitoring plan and a site integrity plan. It also stipulates the maximum amount of hammer energy that can be used in the event that driven or part-driven pile foundations are used.

Condition 15 requires any archaeological reports produced in accordance with Condition 14 to be agreed with the MMO in consultation with Historic England. It also requires each of the documents for approval under Condition 14 to be submitted for approval at least 4 months prior to the intended start of construction. An appeal mechanism is also included in the event that the MMO refuse or do not determine an application for approval within 4 months of receipt of the application. This approach has been included in the final draft of the Norfolk Vanguard DCO and the final draft of the Hornsea Project Three DCO.

Finally, it states that no part of the authorised scheme may commence until the MMO has confirmed that the undertaker has taken into account and adequately addressed MCA recommendations as appropriate contained within MGN543.

Condition 16 (*Post-construction plans and documents*) requires a swath

bathymetric survey to be undertaken in the areas where construction works were carried out and for the data and survey reports to be provided to the MMO, the MCA and UKHO.

Condition 17 (*Reporting of engaged agents, contractors and vessels*) requires the undertaker to provide to the MMO details of agents and contractors engaged to carry out the licensed activities, and a weekly update as to which vessels are being used during construction.

Condition 18 (*Pre-construction monitoring*) specifies the manner in which the undertaker must discharge its obligation under Condition 14 to put forward proposals for pre-construction surveys/monitoring, and provides an indicative list of the expected pre-construction surveys.

Condition 19 (*Construction monitoring*) specifies the manner in which the undertaker must discharge its obligation under Condition 14 to put forward proposals for construction surveys/monitoring, and specifically requires certain noise monitoring. It provides for the MMO to require further noise monitoring depending on the results; the Applicant must cease piling activities if the noise assessments show significantly different impacts to those assessed in the ES until an update to the marine mammal mitigation protocol has been agreed with the MMO (in consultation with Natural England).

Condition 20 (*Post construction*) specifies the manner in which the undertaker shall discharge its obligation under Condition 14 to put forward proposals for post-construction surveys/monitoring, and provides an indicative list of the expected post-construction surveys. The transmission licences do not require construction monitoring to include marine traffic monitoring or ornithological monitoring.

Condition 21 (*Reporting of impact pile driving*) provides that the undertaker must provide information of the expected location, start and end dates of impact pile driving to the MMO.

Condition 22 (*Reporting of scour and cable protection*) requires details of the location and volumes of scour and cable protection used to be set out in a report to be sent to the MMO and relevant statutory nature conservation bodies within four months following completion of construction.

Part 5 – Procedure for Appeals

Paragraphs 1 to 2 set out the process for appeal in the event that the MMO refuses, or fails to determine within the timeframes, a plan or document submitted to it in accordance with condition 15.

Schedule 10

(Deemed licence under the 2009 Act – generation assets (licence 2 – phase 2))

This deemed marine licence relates to phase 2 of the generation assets only and its provisions duplicate the generation assets deemed marine licence at Schedule 9 of the draft Order save that some of the notification conditions – for instance the notification under Condition 9

governing which scenario the undertaker will be commencing – are not relevant for Phase 2 as they will have already been carried out under the Phase 1 licence.

Schedule 11 (Deemed licence under the 2009 Act – transmission assets (licence 1 – phase 1))

This deemed marine licence relates to phase 1 of the transmission assets only and its provisions largely duplicate the generation assets deemed marine licence at Schedule 9 of the draft Order. However, in addition to the plans listed for approval in Schedule 9, Schedule 11 also requires submission and approval of a plan to mitigate impacts in respect of the Haisborough, Hammond and Winterton Special Area of Conservation. Schedule 11 also includes an additional condition (condition 19) which secures mitigation for red throated diver during cable installation in the January - March period.

As the cable corridor for the Project overlaps with the Norfolk Vanguard Order limits, Condition 18 (Coordination with Norfolk Vanguard) is also included in the transmission asset DMLs to require the undertaker to provide a copy of plans submitted under the DMLs to the undertaker of the Norfolk Vanguard offshore wind farm. Both parties must also participate in liaison meetings with the MMO to consider matters relating to the efficient operation of the offshore element of the authorised project. This condition has precedent in the East Anglia Three Offshore Wind Farm Order 2017. It should be noted that no co-operation condition is included in the generation asset DMLs because the Norfolk Boreas array area does not overlap with the Norfolk Vanguard Order limits.

Schedule 12 (Deemed licence under the 2009 Act– transmission assets (licence 2 – phase 2))

This deemed marine licence relates to phase 2 of the transmission assets only and its provisions largely duplicate the transmission assets deemed marine licence at Schedule 11 of the Order save that some of the notification conditions – for instance the notification under Condition 4 governing which Scenario the undertaker will be commencing – are not relevant for Phase 2 as they will have already been carried out under the Phase 1 licence.

Schedule 13 Deemed Licence under the 2009 Act – Project Interconnector assets (Licence 1 – Scenario 1)

This deemed marine licence relates to the project interconnector assets in the event of Scenario 1 only and its provisions largely duplicate the transmission assets deemed marine licence at Schedule 11 of the Order save that certain conditions in relation to shipping and navigation are not required in this DML given that the infrastructure will only consist of underground cables. This is different from the approach in Schedules 9-12, which all contain infrastructure above sea level such

as the wind turbine generators and the offshore electric platform(s).

Similar to the transmission asset DMLs, the project interconnector assets of the Project overlap with the Norfolk Vanguard Order limits, and for that reason a co-operation condition (similar to that contained in the transmission asset DMLs) has been included at Condition 15.

Schedule 14 (*Hedgerows*) sets out those potentially important hedgerows; important hedgerows; and hedgerows to be removed under each scenario.

Schedule 15 (*Arbitration rules*) sets out further details of the arbitration process. The exact wording in Schedule 15 is not found in any previously made development consent orders, but the applicant considers that it is important to provide a robust process within which substantive differences between the parties can be resolved. The intention is to achieve a fair, impartial and binding award on substantive differences between the parties; these changes have been made to provide a more bespoke and relevant arbitration process for a project of this nature - for instance, the intention is to receive determination within 4 months from the date the arbitrator is first appointed, which allows disputes to be resolved quickly. With the wider context, as exemplified in the National Policy Statements, surrounding the need for new power projects, it is necessary that disputes are resolved promptly to enable the Authorised Project to be delivered in as timely a manner as possible.

Schedule 15 refers to the person who commenced the arbitration as the Claimant and the other party as the Respondent.

The timetable for the process is as follows:

(a) Within 14 days of the Arbitrator being appointed the Claimant shall serve on the Respondent and the Arbitrator a statement of case and all supporting evidence to support the claim.

(b) Within 14 days of receipt of the Claimant's statement of case and supporting evidence the Respondent will serve a statement of defence and all supporting evidence to support its defence, together with any objections to the Claimant's documentation.

(c) Within 7 days of receipt of the Respondent's documentation the Claimant may make a Statement of Reply.

The costs of the arbitration will be awarded by the arbitrator and the principle that costs will follow the event will be adopted. Costs will include the arbitrator's costs together with the reasonable legal fees and other costs incurred by the other party.

Schedule 16 (*Procedure for discharge of requirements*) sets out the process to be followed in relation to applications made to a discharging authority for any agreement or approval required by a requirement in the Order, and follows the approach taken on Hinkley Point C (Nuclear Generating Station) Order 2013.

Schedule 17 (*Protective provisions*) sets out protective provisions for statutory undertakers affected by the authorised development. The protective provisions are for the benefit of general gas, electricity, water and sewerage undertakers affected by the authorised development (Part 1), National Grid (Part 2), Cadent Gas (Part 3), Operators of Electronic Communications Code Networks (Part 4), Network Rail (Part 5), and Anglian Water (Part 6). The Environment Agency and drainage authorities also have the benefit of protective provisions at Part 7 as a result of the disapplication of certain legislative provisions (*Article 7 - Application and modification of legislative provisions*) in relation to works within watercourses. Ørsted Hornsea Project Three (UK) Ltd will have the benefit of protective measures at Part 8 and Norfolk Vanguard Limited have the benefit of protective provisions at Part 9.

Schedule 18 (*Documents to be Certified*) sets out all of the documents to be certified under the Order including documents forming part the environmental statement (Part 1) and other documents including control plans under Part 2.

Schedule 1

Table of comparison with other DCOs

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|--|--|---|---|
| 1 Citation and commencement | Gives effect to Order. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017 | Draft Hornsea Project Three (HP3) Order Draft Norfolk Vanguard Order Draft Thanet Extension Order (TEO) |
| 2 Interpretation | Provides for the interpretation of the Order. | Some similarities with The East Anglia THREE Offshore Wind Farm Order 2017, however with necessary project specific definitions. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 3 Development consent etc. granted by the Order | Authorises the construction of the development as defined in the Order and ancillary works and gives effect to the requirements. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017. | Save for Norfolk Boreas Article 3(3) in relation to scenarios: Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 4 Limits of deviation | Sets limits of deviations within which development will be permitted. | Yes – The National Grid (Hinkley Point C Connection Project) Order 2016 and The National Grid (Richborough Connection Project) Order 2017 save for project specific limits of deviation set at 25m for lateral deviations, in order to provide greater certainty. | Draft Norfolk Vanguard Order (applicable in the event of Scenario 1). |
| 5 Power to | Provides the Applicant with the power to | Yes – The East Anglia THREE Offshore Wind | Draft Norfolk Vanguard Order |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|---|---|--|--|
| construct and maintain authorised project | construct and maintain the development, subject to also complying with the deemed marine licences. | Farm Order 2017 save for the inclusion of the power to construct the project. | Draft Hornsea Project Three Order save for reference to the word 'construct' Draft Thanet Extension Order although the Draft Thanet Extension Order goes further in referring to "operate" and "use" of the authorised project. |
| 6 Benefit of the Order | Permits the Applicant to transfer the benefit of the Order to another undertaker subject to certain conditions. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017 but with necessary project specific differences added to address the position in relation to the Deemed Marine Licences and to make clear where the Secretary of State's (SoS) consent is not required (for instance, where the transferee or lessee is a holder of an Electricity Act 1989 licence). The notice provisions at 6(14), (15) and (16) have precedence in the Millbrook Gas Fired Generating Station Order 2019. | The draft Norfolk Vanguard Order. Draft Thanet Extension Order save in relation to project specific guarantee provisions in TEOW at paragraph (4) and the ability for the TEOW undertaker to refer any delay or refusal by the Secretary of State to arbitration or appeal. |
| 7 Application and modification of legislative provisions | Modifies various legislative provisions that may otherwise hinder the delivery of the authorised development. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017 in relation to the Hedgerow Regulations 1997, and The Triton Knoll Electrical System Order 2016 in relation to Land Drainage Consents and consents under the Water Resources Act 1991. The Silvertown Tunnel Order 2019 in relation to the Neighbourhood | Article 6(a) and (b) of the Draft Hornsea Project Three Order has the same effect as Article 7(1) and (2) of the Draft Norfolk Boreas Order Draft Norfolk Vanguard Order |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|--|--|--|--|
| | | Planning Act 2017. | |
| 8 Defence to proceedings in respect of statutory nuisance | Protects the authorised development from proceedings under Section 82 of the Environmental Protection Act 1990 in the unlikely event statutory nuisance thresholds are breached. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017, Tees Combined Cycle Power Plant Order 2019 and the Northampton Gateway Rail Freight Interchange Order 2019. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 9 Street works | –Provides authority for the Applicant to carry out the necessary street works required to deliver the authorised development. | Yes – in part on The East Anglia ONE Offshore Wind Farm Order 2014, but more recently (and more closely) on The National Grid (Richborough Connection Project) Order 2017. | Draft Hornsea Project Three Order and Draft Thanet Extension Order with the addition of powers to "remove or use all earth and materials in or under the street" in the Draft Norfolk Boreas DCO Draft Norfolk Vanguard Order |
| 10 Public rights of way | Authorises the Applicant to temporarily stop up public rights of way required to deliver the authorised development. | Yes – the National Grid (Hinkley Point C Connection Project) Order 2016, The East Anglia THREE Offshore Wind Farm Order 2017, and the Northampton Gateway Rail Freight Interchange Order 2019. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 11 Stopping up of streets | Authorises the Applicant to temporarily stop up, divert or alter any street as is necessary to deliver the authorised development subject to certain conditions. | Yes - The East Anglia THREE Offshore Wind Farm Order 2017 and The Hornsea Two Offshore Wind Farm Order 2016, and the Silvertown Tunnel Order 2018 in relation to the permanent stopping up of streets, the Highways England M20 Junction 10a Order 2017. | Draft Hornsea Project Three Order with the addition of para (7) and (8) to the Norfolk Boreas Order, which is project specific to the Norfolk Boreas National Grid Extension works. Draft Norfolk Vanguard Order |
| 12 | Provides the Applicant with the power to lay | Yes – The East Anglia THREE Offshore Wind | Draft Norfolk Vanguard |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|--|--|--|---|
| Access to works | out new accesses or improve existing accesses which are required to deliver the authorised development. | Farm Order 2017 and The Hornsea Two Offshore Wind Farm Order 2016, The National Grid (Richborough Connection Project) Order 2017 and Eggborough Gas Fired Generating Station Order 2018. | Order Draft Hornsea Project Three Order save that Hornsea Project Three have a further power to 'maintain' the access. Draft Thanet Extension Order |
| 13 Agreements with street authorities | –Authorises the street authority and the Applicant to enter into agreements to stop up, alter and divert streets and or carry out works to streets as are necessary to deliver the authorised development. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017, The Hornsea Two Offshore Wind Farm Order 2016, The National Grid (Hinkley Point C Connection Project) Order 2016, The National Grid (Richborough Connection Project) Order 2017 and the Silvertown Tunnel Order 2018. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 14 Application of the 1991 Act | Applies certain provisions of the New Roads and Street Works Act 1991 to the Order – this is for the benefit of the street authority and provides some control over how the authorised street works (Article 9) are carried out. | Yes – The Hornsea One Offshore Wind Farm Order 2014, The Hornsea Two Offshore Wind Farm Order 2016, The National Grid (Hinkley Point C Connection Project) Order 2016, The National Grid (Richborough Connection Project) Order 2017 and the Silvertown Tunnel Order 2018. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 15 Discharge of water and works to watercourses | Provides the Applicant powers to use and connect to any watercourse, public sewer or drain to facilitate drainage from the authorised | Yes – The East Anglia THREE Offshore Wind Farm Order 2017 (however not in relation to powers to alter watercourses), Eggborough Gas Fired | Draft Norfolk Vanguard Order Draft Thanet Extension Order The principles in the Draft Hornsea Project |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|--|--|---|---|
| | development, subject to certain conditions. | Generating Station Order 2018, the Silvertown Tunnel Order 2018 and the Northampton Gateway Rail Freight Interchange Order 2019. | Three Order |
| 16 Authority to survey and investigate the land onshore | Provides the Applicant with the power to enter any (onshore) land within the Order limits and carry out surveys, investigations and make trial holes subject to certain conditions. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017, and The National Grid (Richborough Connection Project) Order 2017. Article 16(8) has precedence in the Millbrook Gas Fired Generating Station 2019. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 17 Removal of human remains | Provides the Applicant with the necessary powers to deal with human remains if any are found within the Order limits during construction. This is because the Order land is in the vicinity of a non-designated old Quaker burial ground at North Walsham. | Yes - The Knottingley Power Plant Order 2015, and Eggborough Gas Fired Generating Station Order 2018 | Draft Norfolk Vanguard Order (in view of the project specific need for this power) |
| 18 Compulsory acquisition of land | Provides the power to acquire all land within the Order limits compulsorily to facilitate land assembly. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017 | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order save for TEOW project specific amendments to govern for the Crown Estate consent for lease. |
| 19 Time limit for exercise of authority to | –Sets a time limit on the Applicant's ability to exercise its power of compulsory acquisition. This is | Yes – various including The East Anglia THREE Offshore Wind Farm Order 2017, The Hornsea Two Offshore | Draft Hornsea Project Three Order (save for Hornsea Project Three seeking 7 years for CA powers rather than 5 |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|--|---|---|---|
| acquire land compulsorily | required as section 125(3) of the Planning Act 2008 disapplies section 4 of the Compulsory Purchase Act 1965. | Wind Farm Order 2016, and the Northampton Gateway Rail Freight Interchange Order 2019. | years). Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 20 Compulsory acquisition of rights | Enables the Applicant to acquire new and existing rights and to override rights which exist over the Order land to facilitate land assembly. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017 and similar provisions can be found in Article 19 of The Network Rail (Nuneaton North Chord Order) 2010 and Part 3 of Schedule 6 to The Crossrail Act 2008. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order save for project specific amendments at paragraph (5) of the TEOW Order |
| 21 Private rights | Makes all private rights over land which is compulsorily acquired unenforceable in so far as they are incompatible with the authorised development to facilitate land assembly. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017, The Hornsea Two Offshore Wind Farm Order 2016, The National Grid (Richborough Connection Project) Order 2017, and the Northampton Gateway Rail Freight Interchange Order 2019. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 22 Application of the Compulsory Purchase (Vesting Declarations) Act 1981 | Permits the Applicant to use the general vesting declaration process to acquire land compulsorily, as opposed to a notice to treat, whilst simultaneously modifying the original legislation. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017, the Northampton Gateway Rail Freight Interchange Order 2019, and Millbrook Gas Fired Generating Station Order 2019. | Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 23 Application of Part 1 of the Compulsory Purchase Act 1965 | Applies the procedures and requirements set out in Part 1 of the Compulsory Purchase Act 1965, which sets out how the Applicant may acquire the land subject to certain | Yes – The Wrexham Gas Fired Generating Station Order 2017. | Draft Hornsea Project Three Order save for HP3 making additional modifications to section 11A of the Compulsory Purchase Act 1965 and providing the undertaker with 7 years to exercise CA powers rather than |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|---|---|---|--|
| | modifications to the original legislation. | | five Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 24 Acquisition of subsoil or airspace only | Provides the Applicant with the power to acquire sub-soil or air space only – this is particularly relevant for the delivery of the underground cable and overhead line works and ensures that the Applicant does not have to acquire more than is necessary to deliver the authorised development. | Yes – The National Grid (North London Reinforcement Project) Order 2014, and The National Grid (Hinkley Point C Connection Project) Order 2016. | Draft Norfolk Vanguard Order Draft Thanet Extension Order and Draft Hornsea Project Three Order save for project specific requirements for Norfolk Boreas to acquire airspace rights. |
| 25 Rights under or over streets | –Provides the Applicant with the power to use sub-soil under or air-space over a street without having to acquire the street. | Yes – various including The East Anglia THREE Offshore Wind Farm Order 2017, The Hornsea Two Offshore Wind Farm Order 2016, Egborough Gas Fired Generating Station Order 2018, and the Millbrook Gas Fired Generating Station Order 2019. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 26 Temporary use of land for carrying out the authorised project | Permits the temporary use of land for construction of the authorised development provided the land is restored at the end and compensation is paid to landowners affected. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017, and the Silvertown Tunnel Order 2018. | Draft Norfolk Vanguard Order The principles in the Draft Hornsea Project Three Order and the Draft Thanet Extension Order. |
| 27 Temporary use of land for maintaining | Permits the temporary use of land within the Order limits for maintenance – this is | Yes – The East Anglia THREE Offshore Wind Farm Order 2017. | Draft Hornsea Project Three Order save for HP3 imposing a 14 day notice period rather than |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|--|--|--|--|
| authorised project | particularly important to ensure the underground cable can be maintained as access across third party land may be required. | | a 28 day notice period (Norfolk Boreas Article 27(3)). Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 28 Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession | This relates to National Grid apparatus and allows the Applicant, if appropriate (with agreement), to remove redundant apparatus where that or other apparatus is altered or relocated, and to provide that the land is burdened only with interests that are appropriate to the new or altered apparatus. | Yes - National Grid (Richborough Connection Project) Order 2017. | Draft Norfolk Vanguard Order (in view of the project specific requirements from National Grid). |
| 29 Statutory undertakers | Overrides any protections afforded to statutory undertakers and authorises the Applicant to acquire statutory undertaker land and/or acquire new rights or extinguish existing ones within the Order land, subject to the protective provisions. This is necessary to ensure delivery of the development. | Yes – various including The East Anglia THREE Offshore Wind Farm Order 2017, The Hornsea Two Offshore Wind Farm Order 2016, and The National Grid (Richborough Connection Project) Order 2017. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 30 Recovery of costs of new connections | Provides protection to people affected by any changes to statutory undertaker apparatus, any costs can be recovered from the Applicant. | Yes – various including The East Anglia THREE Offshore Wind Farm Order 2017, The Hornsea Two Offshore Wind Farm Order 2016, and the Silvertown Tunnel Order 2018. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 31 | Provides authority for | Yes – The East Anglia | Draft Hornsea Project |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|--|--|--|--|
| Operation of generating station | the Applicant to operate the offshore wind farm as a generating station. | THREE Offshore Wind Farm Order 2017, The Hornsea Two Offshore Wind Farm Order 2016, Tees Combined Cycle Power Plant Order 2019, Millbrook Gas Fired Generating Station Order 2019 and the draft Norfolk Vanguard Order | Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 32 Deemed marine licences under the 2009 Act | Gives effect to the deemed marine licences in Schedules 9, 10, 11, 12 and 13. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017 and The Hornsea Two Offshore Wind Farm Order 2016. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 33 Application of landlord and tenant law | –Overrides the applicant of landlord and tenant law to ensure it does not prejudice the operation of any lease of part or whole of the authorised development. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017, and Tees Combined Cycle Power Plant Order 2019. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 34 Operational land for purposes of the 1990 Act | –Provides that the consent granted by the Order shall be treated as a specific planning permission under the Town and Country Planning Act 1990. | Yes – various including The East Anglia THREE Offshore Wind Farm Order 2017, The Hornsea Two Offshore Wind Farm Order 2016, The National Grid (Richborough Connection Project) Order 2017, Eggborough Gas Fired Generating Station Order 2018, and Tees Combined Cycle Power Plant Order 2019. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 35 Felling or lopping of trees and removal of hedgerows | Permits the Applicant to fell and lop trees and remove any of the scheduled hedgerows to facilitate delivery of the authorised development. | Yes – various including The East Anglia THREE Offshore Wind Farm Order 2017 The Hornsea Two Offshore Wind Farm Order 2016, and the Northampton | Draft Norfolk Vanguard Order The principles in the Draft Hornsea Project Three Order and Draft Thanet Extension Order |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|--|--|---|---|
| | | Gateway Rail Freight Interchange Order 2019. | |
| 36 Trees subject to tree preservation orders | Permits the lopping and felling of any tree protected by a Tree Preservation Order if it is necessary to prevent interference with the authorised development. Compensation is provided for if loss or damage is caused. | Yes – The Hornsea Two Offshore Wind Farm Order 2016 | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 37 Certification of plans etc | Requires any plans which form part of the Order to be submitted to the Secretary of State for certification as part of the Statutory Instrument. | Yes – similar plans in The East Anglia THREE Offshore Wind Farm Order 2017. | Draft Norfolk Vanguard Order Draft Thanet Extension Order. Draft Hornsea Project Three Order |
| 38 Arbitration | Secures a process for arbitration in the event a dispute arises under the Order. This is a bespoke provision proposed by the Applicant and has been the subject of extensive analysis and discussion throughout the Hornsea Project Three, Thanet Extension Offshore Wind Farm, and the Norfolk Vanguard examinations. | Yes – similar provisions on arbitration are included in The East Anglia THREE Offshore Wind Farm Order 2017, The Northampton Gateway Rail Freight Interchange Order 2019, The Silvertown Tunnel Order 2018, and The National Grid (Richborough Connection Project) Development Consent Order 2017 save that the Applicant has made the drafting bespoke for an offshore wind project. | Draft Norfolk Vanguard Order Draft Hornsea Project Three Order Draft Thanet Extension Offshore Wind Farm Order save that HP3 and TEOW do not exclude the Secretary of State and the MMO from arbitration. |
| 39 Procedure in relation to certain approvals etc | Secures the mechanism by which the Applicant and the discharging authorities must discharge the requirements in Schedule 1. | Yes – The Hinkley Point C (Nuclear Generating Station) Order 2013, and Tees Combined Cycle Power Plant Order 2019 | The draft Norfolk Vanguard Order The principles in the Draft Thanet Extension Order |

| Article in the draft DCO | Reasons for including Article | Precedence in other DCOs | Similarity to relevant offshore wind draft Orders |
|---|---|---|---|
| 40 Abatement of works abandoned or decayed | Provides power to the Secretary of State to require repairs to any works which are abandoned or fall into decay. | Yes – The East Anglia THREE Offshore Wind Farm Order 2017 | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 41 Saving provisions for Trinity House | Required to ensure nothing in the Order prejudices the rights, duties and privileges of Trinity House. | Yes – various including The East Anglia THREE Offshore Wind Farm Order 2017 and The Hornsea Two Offshore Wind Farm Order 2016 | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 42 Crown rights | Required to reflect section 135 of the 2008 Act. | Yes – The National Grid (Hinkley Point C Connection Project) Order 2016, The East Anglia THREE Offshore Wind Farm Order 2017, and Eggborough Gas Fired Generating Station Order 2018. | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |
| 43 Protective provisions | Applies the protective provisions set out in Schedule 17 for the benefit of statutory undertakers and other interested parties. | Yes – various Orders including The East Anglia THREE Offshore Wind Farm Order 2017 | Draft Hornsea Project Three Order Draft Norfolk Vanguard Order Draft Thanet Extension Order |

Schedule 2
Comparison Table of DML Conditions

| | Generation Assets DMLs Schedules 9 and 10, Part 4 | Transmission Assets DMLs Schedules 11 and 12, Part 4 | Project Interconnector Assets DMLs Schedules 13, Part 4 |
|---|--|---|--|
| Effect of this license | - | - | 1 |
| Design parameters | 1(1)(a)-(e)-(2) (wind turbine generator) | 1(1)-(2)(a)-(c) (offshore electrical platform) | - |
| | 2(1) (offshore service platform) 2(2)-(3) (meteorological mast) | - | - |
| | 3 (cables) | 2 (cables) | 2 (cables) |
| | 4(1)(a)-(c), 4(2)(a)-(e), (3) (wind turbine generator foundations) | - | - |
| | 5(1)(a)-(c)-(2) (meteorological mast foundations) | - | - |
| | 6(1)(a)-(b)-(2) (offshore service platform foundations) | - | - |
| | 7(1)-(3) (measurement buoys) | - | - |
| Phasing of the authorised scheme | 8(1)(a)-(j)-(2)(a) (Additional paragraphs cover additional generation assets (wind turbine generators, offshore service platform, meteorological masts, measurement buoys and scour protection for the same). | 3(1)(a)-(e)- (2)(a) (Phasing relates only to offshore electrical platforms.) | - |

| | | | |
|---|---|--|---|
| Notifications and inspections | 9(1)-(12) (in respect of Work No. 1) | 4(1)-(12) (in respect of Work No.2. A second notice is also required advising of the start date for Work No.s 3A, 4A and 4B and route of the sub-sea cables and fibre optic cables) | 3(1) – (11) (in respect of Work No. 3B. A second notice is also required advising of the start date for Work No. 3B and route of the sub-sea cables and fibre optic cables) |
| Aids to navigation | 10(1)-(5) | 5(1)-(5) | 4 (1)-(5) |
| Colouring of structures | 11(1)-(2) | 6(1)-(2) | - |
| Chemicals, drilling and debris | 12(1)-(10) (Condition 12(1) also includes chemical agents placed within any monopile void) | 7(1)-(11) (Additional condition 7(8) relates to obstructions resulting from Work No.s 4A or 4B) | - |
| Force majeure | 13(1)-(2) | 8(1)-(2) | 6(1) - (2) |
| Pre-construction plans and documents | 14(1)(a)-(m) (Condition 14(1)(c)(iii) requires a construction method statement; Condition 14(1)(l) requires an ornithological monitoring plan. Condition 14(1)(m) requires a site integrity plan in the event that piled foundations are proposed to be used.) | 9(1)(a)-(m) (Condition 9(1)(g)(iv) requires the cable specification, installation and monitoring plan to include methods of trawl or drift net for Work No.s 4A and 4B. Condition 14(1)(h) also includes North Norfolk District Council to be consulted, if relevant, for the archaeological written scheme of investigation (offshore). Condition 14(1)(m) requires a site integrity plan to secure the mitigation associated with the Haisborough Hammond and Winterton SAC.) | 7(1)(a) – (j) |

| | | | |
|---|---|-----------|-----------|
| | 14(2) | 9(2) | 2(2) |
| | 15(1)-(8) | 10(1)-(8) | 8(1)-(7) |
| Post construction plans and documents | 16 | 11 | 9 |
| Reporting of engaged agents, contractors and vessels | 17(1)-(2) | 12(1) | 10(1) |
| Pre-construction monitoring and surveys | 18(1)-(3) (Condition 18(2)(c) requires pre-construction surveys to have regard to ornithological monitoring required by the ornithological monitoring plan.) | 13(1)-(3) | 11(1)-(3) |
| Construction monitoring | 19(1)-(5) (Additional condition 19 (4) relates to traffic monitoring.) | 14(1)-(4) | 12(1)-(2) |
| Post construction | 20(1)-(4) (Additional condition 20(2)(c) relates to ornithological monitoring and 20(2)(d) relates to traffic monitoring.) | 15(1)-(4) | 13(1)-(4) |
| Reporting of impact pile | 21(1)-(3) | 16(1)-(3) | - |

| | | | |
|--|-----------|-----------|-----------|
| driving | | | |
| Reporting of scour and cable protection | 22(1)-(2) | 17(1)-(2) | 14(1)-(2) |
| Coordination with Norfolk Vanguard Offshore Wind Farm | - | 18(1)-(2) | 15(1)-(2) |
| Restriction on cable installation construction works | - | 19 | - |

Schedule 3
Norfolk Boreas Offshore Wind Farm
List of Order parameters

| Component | Specifications | Parameters | DCO Reference |
|--------------------------------|---|------------|---|
| Structures | | | |
| Wind Turbine Generators | Total installed export capacity at the point of connection to the offshore electrical platform(s) | 1,800MW | Schedule 1, Part 1, Work No. 1 Schedules 9 & 10, Part 3, paragraph 2 Schedule 9 & 10, Part 4, condition 8 |
| | Maximum number | 158 | Schedule 1, Part 1, Work No. 1 Schedule 1, Part 3, Requirement 3 Schedules 9 & 10, Part 3, paragraph 2 Schedules 9 & 10, Part 4, condition 8 |
| | Maximum tip height from HAT | 350m | Schedule 1, , Part 3, Requirement 2 Schedules 9 & 10, Part 4, condition 1 |
| | Maximum hub height from HAT | 198.5m | Schedule 1, Part 3, Requirement 2 Schedules 9 & 10, Part 4, condition 1 |
| | Maximum rotor diameter | 303m | Schedule 1, part 3, Requirement 2 Schedules 9 & 10, Part 4, condition 1 |
| | Minimum spacing crosswind | 800m | Schedule 1, Part 3, Requirement 2 Schedules 9 & 10, Part 4, condition 1 |
| | Minimum spacing downwind | 800m | Schedule 1, Part 3, Requirement 2 Schedules 9 & 10, Part 4, condition 1 |

| Component | Specifications | Parameters | DCO Reference |
|--|----------------------------------|--|--|
| | Minimum draught height from MHWS | Up to and including 14.6MW WTGs, 35m from MHWS; 14.7 MW WTGs and above, 30m from MHWS. | Schedule 1, Part 3, Requirement 2 Schedules 9 & 10, Part 4, condition 1 |
| | Foundation types | Monopile (piled or suction caisson) Jacket (piled or suction caisson) Gravity base Tetrabase (piled or suction caisson) | Schedule 1, Part 1, Work No. 1 Schedules 9 & 10, Part 3, paragraph 2 |
| Offshore Electrical Platform – export capacity of 1,800MW at the point of connection to the offshore electrical platform(s) | Maximum number | 2 | Schedule 1, Part 1, Work No. 2 Schedule 1, Part 3, Requirement 3 Schedules 11 & 12, Part 3, Work No. 2 Schedules 11 & 12, Part 4, condition 3 |
| | Maximum height from HAT | 100m | Schedule 1, Part 3, Requirement 4 Schedules 11 & 12, Part 4, condition 1 |
| | Maximum length | 120m | Schedule 1, Part 3, Requirement 4 Schedules 11 & 12, Part 4, condition 1 |
| | Maximum width | 80m | Schedule 1, Part 3, Requirement 4 Schedules 11 & 12, Part 4, condition 1 |
| | Foundation types | Jacket (piled or suction caisson) Gravity base | Schedule 1, Part 1, Work No. 2 Schedules 11 & 12, Part 3, paragraph 2 |
| Offshore Service Platform | Maximum number | 1 | Schedule 1, Part 1, Work No. 1 Schedule 1, Part 3, Requirement 3 |

| Component | Specifications | Parameters | DCO Reference |
|--------------------------------|-------------------------|--|---|
| | | | Schedules 9 & 10, Part 3, paragraph 2 Schedules 9 & 10, Part 4, condition 8 |
| | Maximum height from HAT | 100m | Schedule 1, Part 3, Requirement 4 Schedules 9 & 10, Part 4, condition 2 |
| | Maximum length | 90m | Schedule 1, Part 3, Requirement 4 Schedules 9 & 10, Part 4, condition 2 |
| | Maximum width | 60m | Schedule 1, Part 3, Requirement 4 Schedules 9 & 10, Part 4, condition 2 |
| | Foundation types | Jacket (piled or suction caisson) Gravity base | Schedule 1, Part 1, Work No. 1 Schedule 1, Part 1, Work No. 2 Schedules 9 & 10, Part 3, paragraph 2 |
| Meteorological Mast | Maximum number | 2 | Schedule 1, Part 1, Work No. 1 Schedule 1, Part 3, Requirement 3 Schedules 9 & 10, Part 3, paragraph 2 Schedules 9 & 10, Part 4, condition 8 |
| | Maximum height from HAT | 200m | Schedule 1, Part 3, Requirement 4 |
| | Foundation types | Monopile (piled or suction caisson) Jacket (piled or suction caisson) Gravity base | Schedule 1, Part 1, Work No. 1 Schedules 9 & 10, Part 3, paragraph 2 |
| Lidar Measurement Buoys | Maximum number | 2 | Schedule 1, Part 1, Work No. 1 |

| Component | Specifications | Parameters | DCO Reference |
|-------------------------------|--------------------------|--|---|
| | | | Schedule 1, Part 3, Requirement 3 Schedules 9 & 10, Part 3, paragraph 2 Schedules 9 & 10, Part 4, condition 8 |
| | Foundation types | Monopile (piled) Floating | Schedule 1, Part 1, Work No. 1 Schedules 9 & 10, Part 3, paragraph 2 |
| Wave Measurement Buoys | Maximum number | 2 | Schedule 1, Part 1, Work No. 1 Schedule 1, Part 3, Requirement 3 Schedules 9 & 10, Part 3, paragraph 2 Schedules 9 & 10, Part 4, condition 8 |
| | Foundation types | Floating | Schedule 1, Part 1, Work No. 1 Schedules 9 & 10, Part 3, paragraph 2 |
| Offshore Cables | | | |
| Array Cables | Maximum length | 600km | Schedule 1, Part 3, Requirement 5 |
| | Maximum cable protection | 389,000m ² 198,500m ³ | Schedule 1, Part 3, Requirement 5 |
| Interconnector Cables | Maximum length | 90km | Schedule 1, Part 3, Requirement 5 |
| | Maximum cable protection | 34,000m ² 17,000m ³ | Schedule 1, Part 3, Requirement 5 |
| Export Cables | Maximum length | 500km | Schedule 1, Part 3, Requirement 5 |
| | Maximum cable protection | 132,086m ² 76,436m ³ | Schedule 1, Part 3, Requirement 5 |
| | Maximum number | 4 | Schedule 1, Part 1, Work No. 4A |

| Component | Specifications | Parameters | DCO Reference |
|--|---|--|---|
| | | | Schedule 1, Part 1, Work No. 4B Schedules 11 & 12, Part 3, paragraph 2 |
| Project Interconnector Cables | Maximum length | 180km | Schedule 1, Part 3, Requirement 5 |
| | Maximum cable protection | 74,000m ² 41,000m ³ | Schedule 1, Part 3, Requirement 5 |
| | Maximum number | 3 | Schedule 1, Part 1, Work No. 3B |
| Foundations (Wind Turbine Generators) | | | |
| Piled Foundation | Maximum number of piles per foundation | 4 | Schedule 1, Part 3, Requirement 6 Schedules 9 & 10, Part 4, condition 4 Schedules 9 & 10, Part 4, condition 19 |
| | Maximum pile diameter (single pile) | 15m | Schedule 1, Part 3, Requirement 6 Schedules 9 & 10, Part 4, condition 4 |
| | Maximum pile diameter (multiple piles) | 5m | Schedule 1, Part 3, Requirement 6 Schedules 9 & 10, Part 4, condition 4 |
| All Foundations | Maximum seabed footprint area (excluding scour protection) of single foundation | 1,963m ² | Schedule 1, Part 3, Requirement 6 Schedules 9 & 10, Part 4, condition 4 |
| Foundations (Meteorological Mast) | | | |
| Piled Foundation | Maximum number of piles | 4 | Schedule 1, Part 3, |

| Component | Specifications | Parameters | DCO Reference |
|---|--|----------------------|---|
| | | | Requirement 7 Schedules 9 & 10, Part 4, condition 5 |
| | Maximum pile diameter (single pile) | 10m | Schedule 1, Part 3, Requirement 7 Schedules 9 & 10, Part 4, condition 5 |
| | Maximum pile diameter (multiple piles) | 3m | Schedule 1, Part 3, Requirement 7 Schedules 9 & 10, Part 4, condition 5 |
| All Foundations | Maximum seabed footprint area (excluding scour protection) | 314m ² | Schedule 1, Part 3, Requirement 7 Schedules 9 & 10, Part 4, condition 5 |
| Foundations (Offshore Electrical Platform) | | | |
| Piled Foundation | Maximum number of piles | 18 | Schedule 1, Part 3, Requirement 8 Schedules 11 & 12, Part 4, condition 1 |
| | Maximum pile diameter (jacket) | 5m | Schedule 1, Part 3, Requirement 8 Schedules 11 & 12, Part 4, condition 1 |
| All Foundations | Maximum seabed footprint area (excluding scour protection) | 15,000m ² | Schedule 1, Part 3, Requirement 8 Schedules 11 & 12, Part 4, condition 1 |
| Foundations (Offshore Service Platform) | | | |
| Piled Foundation | Maximum number of piles | 6 | Schedule 1, Part 3, Requirement 9 Schedules 9 & 10, Part 4, condition 6 |
| | Maximum pile diameter (jacket) | 3m | Schedule 1, Part 3, |

| Component | Specifications | Parameters | DCO Reference |
|---|---|--|---|
| | | | Requirement 9 Schedules 9 & 10, Part 4, condition 6 |
| All Foundations | Maximum seabed footprint area (excluding scour protection) per foundation | 7,500m ² | Schedule 1, Part 3, Requirement 9 Schedules 9 & 10, Part 4, condition 6 |
| Foundations (Buoys) | | | |
| Wave buoy | Maximum seabed footprint area | 150m ² per buoy and 300 m ² in total | Schedule 1, Part 3, Requirement 10 Schedules 9 & 10, Part 4, condition 7 |
| Lidar buoy | Maximum pile diameter | 10m | Schedule 1, Part 3, Requirement 10 Schedules 9 & 10, Part 4, condition 7 |
| | Maximum seabed footprint area (excluding scour protection) | 157m ² | Schedule 1, Part 3, Requirement 10 Schedules 9 & 10, Part 4, condition 7 |
| Total Scour Protection | | | |
| Wind turbine generators, Offshore service platform Meteorological masts, offshore electrical platforms and Lidar buoys | Maximum scour protection | 5,186,854m ² 25,934,269m ³ | Schedule 1, Part 3, Requirement 11 |
| Licensed Marine Activities | | | |
| Wind turbine generators | Maximum inert material disposed | 1,648,824m ³ | Schedules 9 & 10, Part 3, paragraph 1 |
| Offshore service platform | Maximum inert material disposed | 37,500 m ³ | Schedules 9 & 10, Part 3, paragraph 1 |
| Meteorological masts | Maximum inert material disposed | 12,566m ³ | Schedules 9 & 10, Part 3, paragraph 1 |

| Component | Specifications | Parameters | DCO Reference |
|--|--|-------------------------------|--|
| Array cable | Maximum inert material disposed | 36,000,000m ³ | Schedules 9 & 10, Part 3, paragraph 1 |
| Offshore electrical platforms | Maximum inert material disposed | 75,000m ³ | Schedules 11 & 12, Part 3, paragraph 1 |
| Interconnector cables | Maximum inert material disposed | 3,600,000m ³ | Schedules 11 & 12, Part 3, paragraph 1 |
| Project Interconnector cables | Maximum inert material disposed | 7,200,000m ³ | Schedule 13, Part 3, paragraph 1 |
| Export cables (excluding SAC area) | Maximum inert material disposed | 3,100,000m ³ | Schedules 11 & 12, Part 3, paragraph 1 |
| Export cables (SAC area) | Maximum inert material disposed | 500,000m ³ | Schedules 11 & 12, Part 3, paragraph 1 |
| Drill arisings in connection with foundation drilling | Maximum inert material disposed | 413,913m ³ | Schedules 9 & 10, Part 3, paragraph 1 and Schedules 11 & 12, Part 3, paragraph 1 |
| Onshore Parameters | | | |
| Onshore Project Substation | Maximum number of buildings housing the principal electrical equipment | 2 | Schedule 1, Part 3, Requirement 16 |
| | Maximum height of buildings | 19m | Schedule 1, Part 3, Requirement 16 |
| | Maximum height of external electrical equipment | 25m | Schedule 1, Part 3, Requirement 16 |
| | Maximum footprint of each building | 110m (length) x 70m (width) | Schedule 1, Part 3, Requirement 16 |
| | Maximum fenced compound area (excluding accesses) | 250m (length) by 300m (width) | Schedule 1, Part 3, Requirement 16 |
| Extension to the existing Necton National Grid substation | Maximum height of external electrical equipment | 15m | Schedule 1, Part 3, Requirement 16 |
| | Maximum fenced compound area (excluding accesses) | 135m (length) by 150m | Schedule 1, Part 3, |

| Component | Specifications | Parameters | DCO Reference |
|---|---|--|------------------------------------|
| Overhead line replacement pylons(in the event of Scenario 2) | under Scenario 1 | (width) | Requirement 16 |
| | Maximum fenced compound area (excluding accesses) under Scenario 2 | 200m (length) by 150m (width) | Schedule 1, Part 3, Requirement 16 |
| | Maximum height | 55m | Schedule 1, Part 3, Requirement 16 |
| Underground cable ducts at the landfall | Maximum number of ducts | 2 | Schedule 1, Part 3, Requirement 16 |
| Temporary works areas | Maximum footprint of each mobilisation area | 10,000 m ² | Schedule 1, Part 4, Requirement 16 |
| | Maximum footprint of trenchless crossing compounds (Scenario 2 only) | 7,500m ² at each drill entry site and 5,000m ² at each drill exit site | Schedule 1, Part 4, Requirement 16 |
| | Maximum footprint of each temporary landfall compound at Work No. 4C (up to two) | 3,000 m ² | Schedule 1, Part 4, Requirement 16 |
| | Maximum footprint of temporary construction compound associated with Work No. 8A and 8B | 20,000 m ² | Schedule 1, Part 4, Requirement 16 |

Schedule 4
Compliance with Advice Note 15

| Advice Note 15 reference | Guidance | Compliance |
|---------------------------------|--|--|
| 1.2 | A thorough justification should be provided in the Explanatory Memorandum for every Article and Requirement, explaining why the inclusion of the power is appropriate in the specific case. The extent of justification should be proportionate to the degree of novelty and/ or controversy in relation to the inclusion of that particular power. | Yes – see section 7-9. |
| 1.4 | <p>For each provision, the ExA is likely to want to be satisfied about certain matters, such as:</p> <ul style="list-style-type: none"> a) The source of the provision (whether it be a previous made DCO or Transport and Works Act Order, or a novel provision). b) The section/ Schedule of the PA2008 under which it is made. c) Why it is relevant to the proposed development d) Why the Applicant considers it to be important / essential to the delivery of the proposed development. | <p>a) Yes – see section 7-9 and Schedule 1 (Table of comparison with the Model Provisions and other DCOs). The Applicant has referred to precedent and previous examples throughout these explanations – focusing mainly on areas of most relevance to offshore wind.</p> <p>b.) Yes, where relevant – see for example Article 31 which references section 140 of the Planning Act 2008.</p> <p>c.) Yes – see section 7-9, as well as section 2-6 for background to the purpose of the Order, offshore generating stations, phasing, scenarios, associated development and the need for flexibility.</p> <p>d.) Yes – see section 7-9, as well as section 2-6 in particular in relation to the need for flexibility, phasing, scenarios, and associated development.</p> |
| 1.5 | If a draft DCO includes wording derived from other made DCOs, this should be explained in the Explanatory Memorandum. The Explanatory Memorandum should explain why that particular wording is relevant to the proposed draft DCO, for example | Yes – see section 7-9 and Schedule 1 (Table of comparison with the Model Provisions and other DCOs). The Applicant has referred to precedent and previous examples throughout these explanations – focusing mainly on areas of most relevance to |

| Advice Note 15 reference | Guidance | Compliance |
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| | <p>detailing what is factually similar for both the relevant consented NSIP and the Proposed Development.</p> <p>The ExA and Secretary of State will need to understand why it is appropriate for the scheme applied for. Any divergence in wording from the consented DCO drafting should also be explained.</p> | <p>offshore wind, for example the East Anglia Three Offshore Wind Farm Order 2017, The Triton Knoll Electrical System Order 2016, The Hornsea Two Offshore Wind Farm Order 2016, and the Norfolk Vanguard draft DCO (2019). The Applicant has also referred to examples from The National Grid (Hinkley Point C Connection Project) Order 2016 for the purposes of Article 4 and Schedule 16, The National Grid (Richborough Connection Project) Development Consent Order 2017 for the purposes of Article 4, and The Wrexham Gas Fired Generating Station Order 2017 for the purposes of Article 23.</p> |
| 1.6 | <p>Where applicants are seeking to include specific wording or apply a particular approach from a different statutory regime in a draft DCO, the reasons for doing so and the relevance of this to the application should also be made clear in the Explanatory Memorandum.</p> | <p>Yes – see sections 7-9, in particular Article 7, Article 14, and Article 20 for examples.</p> |
| 4.1 | <p>Where agreement on Protective Provisions has not been reached during the pre-application stage, applicants should, as a minimum, submit with their application the standard Protective Provisions for all relevant protected parties with any amendments that the Applicant is seeking annotated with full justification included within the Explanatory Memorandum.</p> | <p>Yes – the Applicant has included either agreed form protective provisions within the draft DCO or protective provisions that are considered to be the starting form template for engagement with statutory undertakers. The Applicant will continue to engage with the statutory undertakers throughout the examination and the Applicant will submit a revised version of the dDCO to capture any updates to the protective provisions accordingly.</p> |
| 6.1 | <p>Care should be taken to ensure that the definitions provided in draft DCOs do not conflict with any of the definitions provided in s235 of the PA2008 (where there is conflict, applicants should explain and provide justification in the Explanatory Memorandum).</p> | <p>Yes – the definitions in the dDCO do not conflict with any of the definitions provided in s235 of the PA 2008.</p> |

| Advice Note 15 reference | Guidance | Compliance |
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| 17.1 | Any provisions in the draft DCO that allow for flexibility must be thoroughly justified within the Explanatory Memorandum. | Yes – see section 5 for a detailed explanation of the flexibility contained within the Order, including why it is necessary and the policy support for such flexibility. |
| Good practice point 1 | <p>If a Requirement imposes an obligation on the Applicant to seek approval of final details in a scheme, the Requirement should not be drafted in a way which allows the discharging authority to dispense with the need for a scheme altogether. Neither should it enable the discharging authority to vary the scheme in writing such that the scheme then departs from the principles fixed by the application.</p> <p>Applicants should, in the Explanatory Memorandum submitted with the application, provide justification for any flexibility which allows details to be approved after the grant of development consent. Any relevant case law should be cited where it is relied upon.</p> | <p>Yes – section 7-9.</p> <p>All the relevant schemes are secured by Requirements with clear and measurable enforcement triggers – for instance, prior to commencement of an onshore stage, the [relevant] scheme must be submitted to the relevant planning authority for approval/discharge. It is appropriate to reserve approval to this stage given that final details will not be known until contractors have been appointed and the project design is finalised, following the Contracts for Difference auction and a Final Investment Decision. Notwithstanding this, outline, or in-principle, schemes have been included with the Application and the final scheme must accord with the relevant outline scheme.</p> <p>In some instances it may be necessary to vary certain elements of a scheme with the approval of the relevant discharging authority. Flexibility is considered necessary in some circumstances – but only in so far as the amendments are in line with the assessments in the Environmental Statement (i.e. the principles fixed by the Application) – in order to unlock nationally significant (renewable energy) infrastructure projects. This is secured by Requirement 31.</p> <p>By way of further example, Requirement 19(2) allows the relevant planning authority to approve to the planting of a different species of tree (compared to the type previously approved). This is designed to allow flexibility for the Applicant and relevant planning authority to be able to select a new species in the event that the previous species selected was not appropriate for the area.</p> |

| Advice Note 15 reference | Guidance | Compliance |
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| 19.2/ Good practice point 3 | <p>Mechanisms for dealing with any disagreement: the Planning Inspectorate has produced standard drafting for a DCO mechanism to deal with the resolution of such disagreements. The standard wording is provided at Appendix 1 to this advice note. Where an applicant seeks for any amendment(s) to be made to the drafting of this standard wording, it should be justified in full in the Explanatory Memorandum.</p> <p>Applicants are also encouraged to confirm in the Explanatory Memorandum that the discharging authority has been consulted about and is willing to assume a discharging role.</p> | <p>Yes - see section 8 and Article 39, which explains how Schedule 16 (Procedure for discharge of Requirements) will operate. The Schedule 16 procedure has also been agreed with relevant stakeholders as part of the Norfolk Vanguard examination.</p> <p>An arbitration mechanism is included at Schedule 15 – see explanation at Article 38, and an appeal mechanism has been included in the DMLs – see explanation at Article 38 and Schedule 9, Condition 15 and Part 5.</p> |
| Good practice point 5 | <p>In some decisions the Secretary of State has removed definitions of 'commence' and/ or 'preliminary works' which could have allowed for a range of site preparation works (such as demolition or de-vegetation) to take place before the relevant planning authority had approved details of measures to protect the environment under the Requirements.</p> <p>If applicants consider that such an approach is appropriate in the particular circumstances of their proposed NSIP, they should provide reasons in the Explanatory Memorandum.</p> | <p>Yes – see section 7, and the explanation provided alongside Article 2.</p> <p>The drafting of the definition of commence 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</p> |

| Advice Note 15 reference | Guidance | Compliance |
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| | | <p>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 Landscape Management Scheme (LMS), Ecological Management Plan (EMP), Written Scheme of Investigation (WSI), and the Code of Construction Practice (CoCP)), the effect of the Requirements at Part 3 of Schedule 1 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 (Requirement 21(3)), archaeological investigations to be carried out in accordance with the WSI (Requirement 23(4)) and site clearance works to be carried out in accordance with the OLEMS (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> |
| 25.3 / Good practice point 10 | Under section 120(5)(a) of the PA2008 DCOs may apply, modify or exclude an existing statutory provision which relates to any matter for which provision may be made in the DCO. In this context, applicants should also be aware of the opportunities and | Yes – see section 8, in particular the explanation provided alongside Article 7. |

| Advice Note 15 reference | Guidance | Compliance |
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| | restrictions under section 150 of the PA2008 on removing consent requirements. Applicants should provide in the Explanatory Memorandum a clear justification for the inclusion of such provisions in the particular circumstances. | |