



Marine Management Organisation

Marine Licensing
Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

T +44 (0)300 123 1032
F +44 (0)191 376 2681
www.gov.uk/mmo

Norfolk Boreas Case Team
Planning Inspectorate
NorfolkBoreas@planninginspectorate.gov.uk
(Email only)

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

31 March 2020

Dear Sir or Madam,

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

Responses to the Examining Authority's (ExA) Third Round of Written Questions

The Marine Management Organisation (MMO) is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the marine area. Should consent be granted for the project, the MMO will be responsible for monitoring, compliance and enforcement of Deemed Marine Licence (DML) conditions.

The MMO received a Rule 17 letter containing the ExA's second round of written questions on 23 March 2020 for the proposed Norfolk Boreas Offshore Wind Farm (Ref EN010087). Please find the MMO's response to the ExA's third round of questions below for your consideration.

In order to ensure clarity, who the question was directed to and the question to which the answer has been provided has been incorporated in this response.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours faithfully



Rebecca Reed
Marine Licensing Case Officer

D +44 (0)2080268854
E Rebecca.Reed@marinemanagement.org.uk



INVESTORS
IN PEOPLE | Bronze





Marine Management Organisation

EN010087 – Norfolk Boreas – The Examining Authority’s second written questions and requests for information
 Issued on 23 March 2020 for submission at Deadline 7.

ExQ3	Question to:	Question:	MMO Response:
2. Biodiversity, Biological Environment and Ecology			
2.0 Offshore benthic and marine mammals			
Q3.2.0.1	The Applicant	<p>Marine Mammal Monitoring:</p> <p>The Applicant to comment on NE’s wording in [REP6-050] to be included in the Generation DMLs Schedules 9 and 10, which would link with the marine mammal monitoring requirements within the IPMP.</p>	<p>The MMO has discussed this further with the Applicant and understands their position is that a condition is not required. The MMO understands the Applicant is still willing to review and discuss the possibility of adding a condition.</p> <p>The MMO believes that the condition provided by Natural England (NE) in REP6-050 is not suitable.</p> <p>The MMO is continuing discussions with the Applicant and NE to work together to see if an agreement can be reached on this point.</p>
Q3.2.0.2	Applicant Marine Management Organisation	<p>Sandeel:</p> <ol style="list-style-type: none"> Applicant to state its position regarding MMO’s request for a further update to the IPMP for sediment sampling for particle size analysis in respect of habitat suitability for sandeel. The Applicant and MMO to provide any additional information to assist the ExA in making 	<ol style="list-style-type: none"> The MMO understands the Applicant has agreed to amend the In Principle Monitoring Plan (IPMP) with the proposed wording in REP6-045. The MMO will review the updated IPMP and provide confirmation of agreement within the Statement of Common Ground (SoCG) at Deadline 8. The MMO believes this point is not related to habitat suitability for sandeel but is related to the particle size analysis of dredged material to be



ExQ3	Question to:	Question:	MMO Response:
		its recommendation regarding sediment sampling to the SoS.	<p>disposed of within the Haisborough, Hammond and Winterton (HHW) Special Area of Conservation (SAC).</p> <p>The MMO understands the Applicant's position is that the additional mitigation/design amendments proposed for dredge and disposal within the HHW SAC in (Question 2.8.3.1, REP5-045) is enough to not require a condition on this matter. However, the applicant is willing to discuss this further to find agreement.</p> <p>The MMO has a number of concerns in relation to the previous conditions set out during Norfolk Vanguard Examination and in point 7 of the SoS letter (Dated 6 December 2019) and how these would be enforceable.</p> <p>The MMO is still working with the Applicant and Natural England to find agreement on this matter.</p>
2.1 Offshore ornithology			
Q3.2.1.1	The Applicant, IPs	<p>PVA Modelling:</p> <ol style="list-style-type: none"> 1. The Applicant and IPs to state their final position on PVA modelling, and whether agreement is possible within the Examination. 2. The Applicant and IPs to provide any additional information to assist the ExA in making its recommendation to the SoS. 	The MMO defers to Natural England on PVA modelling.

ExQ3	Question to:	Question:	MMO Response:
Q3.2.1.2	The Applicant, IPs	<p>Headroom:</p> <ol style="list-style-type: none"> 1. The Applicant and IPs to state their final position on headroom, and whether agreement is possible within the Examination. 2. The Applicant and IPs to provide any additional information to assist the ExA in making its recommendation to the SoS. 	<ol style="list-style-type: none"> 1. The MMO has sought further advice from our internal legal team and on the basis of advice received is content that the consented figures can be used. The MMO does not agree that as built figures can be used. The MMO supports Natural England's response (REP6-049). The MMO believes that for Hornsea One Offshore Wind Farm, Triton Knoll and Race Bank the DCO/DMLs (and MLA in the case of Race Bank) do not have a specific requirement to provide confirmation of the completion of construction including the confirmation of the final as-built parameters. 2. The MMO believes the decision lies with the SoS and does not have any further information to assist the ExA.
Q3.2.1.3	The Applicant, Marine Management Organisation, Natural England	<p>Turbine Parameters:</p> <ol style="list-style-type: none"> 1. In [REP6-024] the Applicant bases its CRM assessment on either 158 x 11.55 MW turbines or 124 x 14.7MW turbines. There is no explicit commitment to a minimum turbine size in the DCO [REP5-003], which states "Up to and including 14.6 MW". In theory, the Applicant could implement the maximum number of smaller turbines. The Applicant to confirm whether this would invalidate the CRM. 	<ol style="list-style-type: none"> 2. The MMO will discuss this point further with the applicant and Natural England and comment at Deadline 8. 3. The MMO defers to Natural England in relation to mortality rates.

ExQ3	Question to:	Question:	MMO Response:
		<p>2. Should the DCO refer to a minimum turbine size of 11.55MW as this is the design basis?</p> <p>3. Similarly, the Applicant could currently, in theory, implement a lower number of higher output turbines, if technology allows it. The Applicant states 14.7MW option results in a higher collision mortality than the 11.5MW option. Without stipulating a maximum turbine output in the DCO, is there a risk of higher mortality than has been predicted? Can the Applicant provide assurance that this is not the case?</p> <p>4. Given the rate at which technology advances - is it sensible to apply a given draught height to a given WTG generating capacity? On what assumptions are these draught heights and capacities made?</p>	
5. Development Consent Order and Deemed Marine Licences			
5.0 General			
Q3.5.0.1	The Applicant Marine Management Organisation	<p>Outstanding matters in the dDCO of concern to MMO</p> <p>Provide an update on progress in resolving issues raised by the Marine Management Organisation (MMO) [REP6-014] related to ExA Written Question 2.5.0.2:</p> <ul style="list-style-type: none"> - Cable Crossings; - Disposal Site queries and references; - Definition of Inert. 	<p>- Cable Crossings:</p> <p>The MMO and the Applicant have now agreed this point and this will be updated in the SoCG at deadline 8.</p> <p>- Disposal Site queries and references:</p> <p>The MMO has provided the applicant with the disposal site reference numbers and understands these will be included within the next dDCO. The MMO requested a minor update to the Site Characterisation Report submitted at (REP5-037)</p>

ExQ3	Question to:	Question:	MMO Response:
			<p>and understands the Applicant will update this for Deadline 7.</p> <p>- Definition of Inert:</p> <p>The MMO has discussed this further with the Applicant and is content that this definition is no longer required for the Norfolk Boreas project.</p>
5.5 SCHEDULES 9 to 13: Deemed Marine Licences			
Q3.5.5.21	<p>Marine Management Organisation</p> <p>Natural England</p>	<p>DML Schedule 9/10/13 Part 4 Condition 15 (4):</p> <p>The MMO and NE to review the further comments from the Applicant at [REP6-014] on time periods for approvals including in relation to CfD timescales and provide further comments at Deadline 7.</p>	<p>The MMO notes that timescales are linked to the concerns relating to both arbitration and appeals.</p> <p>Fundamentally, the MMO does not agree with the 4 month timescale and the MMO's position going forward will continue to be that a 6 month timescale is appropriate.</p> <p>The MMO provided detailed comments in RR-069 section 2.1.13 – 2.1.32 along with the Joint position Statement submitted by the MMO as part of RR-069. The Applicant submitted the joint position paper in Appendix 3 of AS-025.</p> <p>The MMO has reviewed REP6-014 comments in relation to CfD timelines and understands the Applicant's concerns of delays during the CfD process. However, the MMO believes that this only serves to emphasise the MMO's concerns regarding its ability to sign off documents within 4 months. The MMO considers that 6 months allows a realistic timescale to work through any issues or concerns and also provides the Applicant with a deadline of when a decision would be made.</p>

ExQ3	Question to:	Question:	MMO Response:
Q3.5.5.1	The Applicant Marine Management Organisation Natural England	<p>Prospects for agreement on DML Schedule 9/10/13 Part 4 Condition 15 (4):</p> <p>It appears unlikely that agreement will be reached between the Applicant, NE and MMO regarding four- or six-month submission periods in Schedule 9/10/13 Part 4 Condition 15 (4).</p> <p>The Applicant, MMO and NE to provide any additional information to assist the ExA in making its recommendation to the Secretary of State.</p>	<p>Please see the response to Q3.5.5.21.</p> <p>The MMO provided detailed comments in RR-069 section 2.1.13 – 2.1.32 along with the Joint position Statement submitted by the MMO as part of RR-069. The Applicant submitted the joint position paper in Appendix 3 of AS-025.</p> <p>The MMO believes that there is no need for an appeals process to be included, therefore the condition does not need to include the wording in red below:</p> <p><i>Condition 15 (4)</i> <i>No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 14 or approval has been given following an appeal in accordance with subparagraph (6).</i></p> <p>In addition to the removal of this wording the MMO believes that Condition 15(6) should be removed and Condition 15(7) should be amended to remove wording relating to the appeal process. Part 5 – Appeals process should also be removed.</p> <p>The MMO also understands NE agrees that the timescale should be 6 months.</p>
Q3.5.5.5	Marine Management Organisation (MMO)	<p>Alternative to Schedule 11 &12 Part 4 Condition 9 (1) (m):</p> <p>The MMO and NE to comment on the alternative condition proposed by the Applicant [REP6-</p>	<p>The MMO welcomes this condition along with the proposed amendment to Schedule 11 &12 Part 4 Condition 9 (1) (g). However, the MMO still has concerns in relation to the sign off of the document</p>

ExQ3	Question to:	Question:	MMO Response:
	Natural England (NE)	016(ExA.AS-2.D6.V1 Alternative to the Grampian condition for the HHW SAC)] which would secure a Cable Specification, Installation and Monitoring Plan that would contain all of the elements of the HHW SIP, but would not defer the conclusion of AEol to post consent.	<p>and the potential for the MMO to have to make a decision on AEol at the post-consenting stage. The MMO stresses that any decision on AEol as part of an Appropriate Assessment should be made at consenting stage by the SoS and not later down the line when a plan is submitted.</p> <p>The MMO defers to Natural England in relation to HRA matters.</p> <p>The MMO, NE and the Applicant have had further discussions relating to the title of the plan and the wording of the condition.</p> <p>The MMO believes the plan includes all information that would be required however recommends that the plan is renamed to Cable Specification, Installation, Mitigation and Monitoring Plan.</p> <p>Discussions will continue and updates will be provided at Deadline 8.</p>
8. Habitats Regulation Assessment			
8.2 Southern North Sea SAC			

ExQ3	Question to:	Question:	MMO Response:
Q3.8.2.1	Marine Management Organisation	<p>Discussions with Regulators Group:</p> <p>MMO to provide further details of discussions with Regulators Group [REP6-045], to include:</p> <ol style="list-style-type: none"> 1. How the management tool will work in practice? 2. Is it a tool just for an in-combination assessment to be undertaken or for MMO to use for the actual management of various activities? 3. When will this be finalised? 	<p>1. All regulators (MMO, MOD, and OPRED) will input data into the tool with timetables and spatial impacts of noise generating activities in the SNS.</p> <p>2. The tool is intended to be used for the management of noise generating activities in the SNS SAC. In addition to this the data is intended to be made publicly available to inform shadow Habitat regulation assessments (HRAs) submitted by developers.</p> <p>3. Work on the tool is progressing well, however the hosting of the tool and a number of other issues are subject to funding applications which have yet to be secured. The MMO is continuing to be part of the monthly regulators group to discuss and progress work forward and to manage noise-generating activities as applications come in in the short term.</p> <p>The MMO will continue to provide updates where available throughout examination.</p>
8.3 Haisborough, Hammond and Winterton SAC			
Q3.8.3.2	Natural England, Marine Management Organisation, other IPs	<p>Alternative to the Site Integrity Plan:</p> <p>All IPs to provide any additional information regarding the CSIMP or SIP that will assist the ExA in making its recommendation to the SoS.</p>	<p>The MMO understands there is still disagreement regarding adverse effect on Integrity (AEoI) between the Applicant and Natural England (NE).</p> <p>The MMO emphasises that while the MMO defers to NE on these matters, the MMO still strongly believes that a decision should be made on AEoI at consenting stage and supports NE's position.</p> <p>The MMO welcomes the applicants proposed alternative Cable Specification and Implementation</p>

ExQ3	Question to:	Question:	MMO Response:
			<p>Monitoring Plan (CSIMP) and related conditions and can confirm the MMO is content that these would capture all the information required at a post consent stage. However, the MMO still has concerns in relation to the sign off of the document and the potential for the MMO to have to make a decision on AEol at the post-consenting stage.</p> <p>The MMO stresses that any decision on AEol as part of an Appropriate Assessment should be made at consenting stage by the SoS and not later down the line when a plan is submitted.</p> <p>The MMO also emphasises that it still has significant concerns relating to the use of the SIP for HHW SAC as set out in RR-069. These concerns also apply to the CSIMP if no decision on AEol is made.</p> <p>The MMO, NE and the Applicant have had further discussions relating to the title of the plan and the wording of the condition. The MMO recommends the plan is renamed to Cable Specification, Installation, Mitigation and Monitoring Plan.</p> <p>These discussions will continue and updates will be provided at Deadline 8.</p>
Q3.8.3.6	<p>Marine Management Organisation (MMO)</p> <p>Natural England (NE)</p>	<p>Micrositing within the HHW SAC:</p> <p>In [REP5-073] the MMO noted that it still has concerns that micrositing may not be possible at the time of construction and would like this to be dealt with at consenting stage rather than post consent; and also that NE have queried how the MMO would make a decision between the</p>	<p>The MMO acknowledges the export cable corridor is wider than other offshore windfarms.</p> <p>The MMO defers to NE in relation to HRA aspects.</p> <p>The MMO welcomes the alternative condition to the Grampian condition – further comments can be found in Q3.5.5.5 and Q3.8.3.2.</p>

ExQ3	Question to:	Question:	MMO Response:
	Historic England (HBMCE)	<p>potential impacts to Annex 1 reef and Archaeological interest features.</p> <p>In order to assist the ExA in assessing the likelihood of successful micro-siting to avoid these composite constraints, MMO, NE and HBMCE to comment on the Applicant's response to these concerns [REP6-013] claiming that "micro-siting is possible at present and that there is unlikely to be any discernible difference in extent or location of the different constraints when final cable routing is undertaken" with specific reference to the reconciliation of multiple constraints including any additional constraints that may be presented by the presence of sandbanks in the cable corridor.</p>	
16. General and cross-topic questions			
16.0 General			
Q3.16.0.3	All Interested Parties	<p>Norfolk Vanguard Offshore Wind Farm responses to the Secretary of State's consultation letter dated 6 December 2019</p> <p>Submit anything from the Norfolk Vanguard Offshore Wind Farm responses to the Secretary of State's consultation letter dated 6 December 2019, published on the National Infrastructure Planning website, which is considered relevant to this Examination, and not already submitted, with an explanation of why it is of relevance.</p>	<p>The MMO submitted the following document in response to the SoS letter: EN010079-004198-MMO-reponse-to-Vanguard-SOS-letter-Final. This has been attached as part of the Deadline 7 response for review.</p> <p>The MMO notes that the response to each relevant point for Norfolk Vanguard has also been provided within the MMO's response to Examiners Second Round of written Questions and the MMO's written representations during Examination.</p> <p>Any further information provided to the Norfolk Vanguard Project team will be included in the Norfolk Boreas Examination.</p>

