

# Norfolk Boreas Offshore Wind Farm Written Summary of the Applicant's Oral Case at Issue Specific Hearing 5

## Draft Development Consent Order and other matters

Applicant: Norfolk Boreas Limited  
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Deadline 13

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Author: Womble Bond Dickinson

*Photo: Ormonde Offshore Wind Farm*

Date	Issue No.	Remarks / Reason for Issue	Author	Checked	Approved
28/07/2020	01D	Internal draft for Deadline 13	JT	VR	JL
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## Glossary of Acronyms

CfD	Contracts for Difference
CIA	Cumulative Impact Assessment
CSIMP	Cable Specification, Installation and Monitoring Plan
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DML	Deemed Marine Licence
EA	Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	Examining Authority
HGV	Heavy Goods Vehicle
HHW	Haisborough, Hammond and Winterton
HIS	Highways Intervention Scheme
HP3	Hornsea Project Three
HRA	Habitats Regulations Assessment
ISH	Issue Specific Hearing
MMO	Marine Management Organisation
NCC	Norfolk County Council
NNDC	North Norfolk District Council
OLEMS	Outline Landscape and Ecological Management Strategy
OTMP	Outline Traffic Management Plan
OWF	Offshore Windfarm
PEIR	Preliminary Environmental Information Report
RSA	Road Safety Audit
SAC	Special Area of Conservation
SIP	Site Integrity Plan
SoCG	Statement of Common Ground

**Written Summary of the Applicant's Oral Case at Issue Specific Hearing 5 Draft Development Consent Order and other matters**

- 1.1 Issue Specific Hearing (**ISH**) 5 on the draft Development Consent Order and other matters for Norfolk Boreas took place on 24 July 2020 virtually through Microsoft Teams at 10:00am.
- 1.2 A list of the Applicant's participants that attended the ISH can be located at **Appendix 1** of this note.
- 1.3 The broad approach to the ISH followed the form of the agenda published by the Examining Authority (the **ExA**) on 16 July (the **Agenda**).
- 1.4 The ExA, the Applicant, and the stakeholders discussed the Agenda items which broadly covered the areas outlined below.

Item	ExA Question / Context for discussion	Applicant's Response
<b>AGENDA ITEM 3 – DCO: Scenarios</b>		
	<p>For the Applicant to confirm the position regarding scenarios it plans to include in the Norfolk Boreas dDCO following the 1 July 2020 decision by the SoS to consent the Norfolk Vanguard OWF.</p> <p>For other Interested Parties to comment if required/ if the position is different from that advised at ISH1, which was to retain reference to both scenarios in this dDCO with or without a consent for Norfolk Vanguard OWF [REP1-041, Agenda item 2].</p>	<p>The Applicant's position set out at ISH1 [REP1-041] was that both scenarios were required until a decision had been made on whether Norfolk Vanguard would proceed to construction. That position was understood and agreed with the relevant planning authorities, and has been accommodated through the drafting of the dDCO and associated plans and documents.</p> <p>The grant of consent for Norfolk Vanguard does not alter the position outlined previously in REP1-041 even though it may make scenario 1 more likely.</p> <p>A final investment decision on whether to proceed with Norfolk Vanguard will not be made until after the outcome of the Allocation Round Contracts for Difference (CfD) auction, and until the position is known as to whether or not Norfolk Vanguard and Norfolk Boreas have been successful in obtaining a CfD.</p> <p>Therefore, until a final investment decision is made it is not known whether Norfolk Vanguard will proceed to construction. Accordingly, it will be necessary to retain both scenarios in the dDCO at this stage.</p> <p>A decision will be made on which scenario is taken forward post consent, and the dDCO (document reference 3.1 (version 8)) includes mechanisms to ensure that this is notified to relevant planning authorities and the MMO. In particular Requirement 15 states that the undertaker must notify which scenario is to be implemented prior to commencement of any works authorised under the Order; and this is restricted to implementation of Scenario 1 in the event that the Norfolk Vanguard DCO is commenced.</p>

**AGENDA ITEM 4 – DCO: Implications for the Norfolk Boreas dDCO of the changes made to the consented Norfolk Vanguard DCO**

<p>a)</p>	<p>Article 6: Benefit of the Order;</p>	<p>The Applicant explained that the changes made to Article 6 of the Norfolk Vanguard DCO generally relate to the removal of the power for Vattenfall to transfer the benefit of the DCO to another member of the Vattenfall group without seeking the Secretary of State’s consent or otherwise meeting the requirements for not needing consent.</p> <p>The ability to transfer in this way was included as a result of revised wording on the ability to transfer to all licence holders under section 6 of the Electricity Act 1989, which was sought by National Grid. This position is reflected in version 7 of the Norfolk Boreas dDCO [REP 10-004].</p> <p>There is no explanation as to why these changes have been made in the Secretary of State's decision for Norfolk Vanguard. The Applicant's interpretation is that the Secretary of State intended to revert back to the 'standard' transfer of benefit provisions that have been included on other offshore wind schemes to date. This position is to allow transfers to all Electricity Act 1989 licence holders without the Secretary of State's consent, but not to allow inter-company transfers without the Secretary of State's consent.</p> <p>As the current drafting in Article 6 of the Norfolk Boreas dDCO was previously agreed with National Grid, the Applicant has been liaising with National Grid as to whether they have any objection to making the Secretary of State's changes to the Norfolk Boreas dDCO. The Applicant has obtained the approval of National Grid and, accordingly, the Applicant has updated Article 6 in version 8 of the dDCO.</p>
<p>b)</p>	<p>Article 37: and how this relates to Article 44 and Schedule 18 of the dDCO;</p>	<p>The Applicant explained that Article 37 of the Norfolk Vanguard DCO contains the list of certified documents, and changes have been made to delete the reference to the Norfolk Vanguard CSIMP, in favour of retaining the Norfolk Vanguard Haisborough, Hammond and Winterton (HHW) Special Area of Conservation (SAC) Site Integrity Plan (SIP). The Secretary of State has also deleted the compensation plans for Norfolk Vanguard as compensation was not deemed necessary for the Norfolk Vanguard applicant.</p> <p>The Applicant's intention is to retain Article 44 (Compensation to protect the coherence of the Natura 2000 network) and Schedule 18 (Documents to be Certified) of the dDCO in its current form on the basis that the Applicant recognises that the Examining Authority may wish to recommend an alternative approach to that adopted under the Norfolk Vanguard DCO, both in relation to whether the HHW Cable Specification, Installation and Monitoring Plan (CSIMP) or SIP is adopted (control document 8.20), and on the extent to which any compensatory measures may be required and, if so, the extent to which they are appropriately secured.</p> <p>However, and notwithstanding that the HHW SAC SIP was included in the Norfolk Vanguard DCO, the Applicant's preference for the HHW control document (8.20) is the CSIMP. The Applicant also understands that the CSIMP is the MMO's and Natural England's preferred approach.</p>

		<p>In addition, on compensatory measures, the Applicant understands that both the MMO and NE are content with the approach to securing compensatory measures and have no further comments on the drafting currently contained in the dDCO [REP10-004].</p> <p>Therefore, in summary, these particular changes made to the Norfolk Vanguard DCO will not be adopted and instead references to the CSIMP and compensatory measures will be retained within square brackets in Schedule 18 for ease of reference for the ExA and to allow a final decision by the Secretary of State on these matters as appropriate.</p>
c)	Article 38: Arbitration;	<p>The Secretary of State in the Norfolk Vanguard DCO has removed the timeframe for the Secretary of State to make an appointment of an arbitrator, which was previously a 14 day period following which the referring party could refer the matter of the appointment to the Centre for Effective Dispute Resolution.</p> <p>This change brings the drafting in line with previous precedent, and the Applicant is content to apply the same change to the Norfolk Boreas dDCO.</p> <p>The Applicant has reflected this drafting in version 8 of the dDCO submitted at Deadline 13.</p>
d)	Requirement 18 and consequential later changes in the DCO and how this relates to Requirement 16 and any other changes in the dDCO;	<p>The Applicant notes that no amendments have been made to Requirement 18 of the Norfolk Vanguard DCO, and the reference to Requirement 18 appears to be an error which should refer to Requirement 16 (in relation to the list of trenchless crossings).</p> <p>The Applicant explained that the Applicant is willing to adopt this wording in relation to the B1149 in the Norfolk Boreas dDCO. The Applicant will therefore update Requirement 16, and make any associated changes to the plots in Schedule 6 of the dDCO.</p> <p>The Applicant has updated version 8 of the dDCO, submitted at Deadline 13, to reflect these changes. Updates have also been made to Sheet 19 of the Works Plan (document reference 2.4) to show a change to some of the hatching, and corresponding key/description, to reflect that a trenchless crossing may be needed for the B1149.</p>
e)	Requirement 21: Traffic;	<p><u>Explanation of the Norfolk Vanguard amendments</u></p> <p>Two changes have been made to Requirement 21 of the Norfolk Vanguard DCO.</p> <p>First, a new sub paragraph (5) has been included. This was included on the suggestion of the Norfolk Vanguard applicant and commits Norfolk Vanguard to adopting the latest version of the Norfolk Boreas OTMP, with the further mitigation and compliance measures that have been agreed during the course of the</p>

	<p>Norfolk Boreas examination. It has always been Vattenfall's intention that both projects would adopt the same mitigation for Cawston, and paragraph (5) of Requirement 21 therefore secures this commitment.</p> <p>Second, a new sub-paragraph (4) has been included which seeks to secure revised details in the event of cumulative impacts with Hornsea Project Three (HP3). The same mechanism has also been included in the draft DCO for HP3, which was issued alongside the SoS's "minded to" letter, and on which the SoS has asked for comments.</p> <p>At the outset it is important to note that the Highways Intervention Scheme (HIS) was always developed with the intention to mitigate impacts both alone and cumulatively.</p> <p>Significant revisions have been made to the HIS, subsequent to the HP3 and Norfolk Vanguard examinations, during the course of the Norfolk Boreas examination. The HIS has been subject to a number of design revisions, has passed a Road Safety Audit, addresses driver compliance and is agreed with NCC as appropriate to mitigate cumulative impacts. Therefore, in terms of the introduction of physical mitigation in the form of highways infrastructure, the scheme design has been finalised.</p> <p>Notwithstanding the evolution of the HIS during the Norfolk Boreas examination, the Applicant recognises the concerns on cumulative impact raised by the ExA for Norfolk Vanguard. The Applicant is mindful that traffic impacts have been assessed very much on a worst case basis, and it has always been the intention to refine and manage cumulative HGV numbers post consent in line with construction methodologies and programmes. On that basis, the Applicant proposes to adopt the wording within paragraph (4) of Requirement 21 and the Applicant has included this in version 8 of the dDCO submitted at Deadline 13. However, in doing so, the Applicant considers that it would be of assistance to include a further explanation in the OTMP as to the scope of the 'revised details' and what form this might take, bearing in mind that no further physical changes are proposed to the HIS and therefore that this would focus on the reduction of cumulative HGV numbers (as suggested by the Norfolk Vanguard ExA) as further information on the HGV profiles and peaks becomes available.</p> <p><u>Overlap with HP3 and securing the delivery of the HIS</u></p> <p>Initially, the HIS was conceived and designed by HP3 to mitigate impacts both alone and cumulatively with the Vattenfall projects, and the original HIS was secured through Requirement 18(1) of the HP3 DCO by virtue of being contained in the HP3 Outline Construction Traffic Management Plan. The original HIS designed by HP3 was subsequently adopted by Norfolk Vanguard and Norfolk Boreas. Following the closure of the HP3 and Norfolk Vanguard examinations, HP3 agreed that Norfolk Boreas could take the initial HIS and progress its design through the RSA process for the benefit of all three projects. HP3 have been kept fully informed of the development of the HIS and have committed to adopt the HIS in its final form</p>
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	<p>as documented in the Statement of Common Ground with HP3 (REP9-026) and in HP3's letter submitted at Deadline 11 (REP11-026).</p> <p>The Norfolk Boreas OTMP, at paragraph 127, commits the first project to proceed (between HP3 and Norfolk Vanguard / Norfolk Boreas) to deliver the full scheme and the final project would then be responsible for removing the temporary infrastructure (commitment also contained in the Norfolk Vanguard OTMP, paragraph 108). Therefore, in response to the ExA's questions on sequences:</p> <ol style="list-style-type: none"> <li>1. <b>Norfolk Vanguard delivered first (equivalent to Norfolk Boreas Scenario 1)</b> – the scheme would be implemented by Norfolk Vanguard and would be adopted by subsequent schemes i.e. Norfolk Boreas Scenario 1 and HP3. The implementation of the scheme, as developed by Norfolk Boreas, would be secured through Requirement 21(5) of the Norfolk Vanguard DCO.</li> <li>2. <b>Norfolk Vanguard not delivered and Norfolk Boreas is consented and proceeds first (Norfolk Boreas Scenario 2)</b> – the scheme would be implemented by Norfolk Boreas as secured through Requirement 21(1) and (4) of the Norfolk Boreas dDCO and as detailed in the OTMP [REP10-016], and subsequently adopted by HP3.</li> <li>3. <b>HP3 is consented and starts delivery first</b> – the scheme would be implemented by HP3 under Requirement 18(1) and (4) of the HP3 DCO, and subsequently adopted by Norfolk Vanguard and Norfolk Boreas. The commitment to implement the final scheme as developed by Norfolk Boreas is confirmed by HP3 in the Statement of Common Ground [REP9-026] and in HP3's Deadline 11 submission [REP11-026].</li> <li>4. <b>HP3 is consented and proceeds to construction before the Norfolk Boreas decision</b> – the scheme would be implemented by HP3 under Requirement 18(1) and (4) of the HP3 DCO, and subsequently adopted by Norfolk Vanguard and Norfolk Boreas (as for sequence 3 above). The scheme to be taken forward would be the final HIS promoted by Norfolk Boreas to date, regardless of whether Norfolk Boreas has been determined by that stage because HP3 have already committed to adopt the final HIS scheme as confirmed by their submissions to the Norfolk Boreas examination [REP9-026, and REP11-026].</li> </ol> <p>Notwithstanding the above, for additional clarity, it may be appropriate for draft Requirement 18(4) of the proposed HP3 DCO to refer to Norfolk Vanguard <u>and Norfolk Boreas</u>. The Applicant will engage with HP3 to discuss this further.</p> <p>In any event, the Applicant considers that it is not strictly necessary to secure HP3's agreement to the final HIS (beyond the commitments already given by HP3) for the following reasons:</p>
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		<ul style="list-style-type: none"> <li>• The current scheme is very likely to be adopted by HP3 given that HP3 designed the initial scheme, agreed to Norfolk Boreas progressing the design of that scheme, and HP3 has since committed to adopt the final Norfolk Boreas HIS [REP9-026 and REP11-026].</li> <li>• The discharging authority for Cawston (Link 34 for Norfolk Boreas, and Link 89 for HP3) would be the same across all three projects – Broadland District Council in consultation with Norfolk County Council as the relevant highway authority. These authorities would seek to ensure that the final HIS agreed for Norfolk Boreas would be followed by HP3 in the event that HP3 sought to discharge Requirement 18(1) of the HP3 DCO.</li> <li>• If the HP3 project was first to be delivered and, for any reason, the final Norfolk Boreas HIS was not adopted by HP3, any scheme would still need to be based on the original HIS which was designed by HP3 and which is secured in the HP3 Outline Construction Traffic Management Plan under Requirement 18(1) of the HP3 dDCO. As this formed the basis of the final HIS agreed for Norfolk Boreas it is highly unlikely that any evolution of this scheme would materially differ to the final HIS agreed for Norfolk Boreas, especially given that it would also need to be agreed with/ discharged by the same stakeholders and pass the RSA in the same way that the final HIS for Norfolk Boreas has already done so.</li> <li>• In order to be acceptable to Broadland District Council and Norfolk County Council when discharging Requirement 18(1) of the HP3 DCO, any alternative scheme which did emerge would still need to deliver all of the mitigation which the final HIS for Norfolk Boreas contains.</li> </ul> <p>Finally, the Applicant welcomes the confirmation from the planning authorities that they are content with the process for discharge of the plan - in which the relevant planning authorities act under the recommendation of Norfolk County Council for highways matters.</p>
f)	Requirement 27(3): Control of noise;	The Applicant explained that the amendments to Requirement 27(3) of the Norfolk Vanguard DCO relate to the submission of measurements for noise monitoring, and a requirement for remedial works in the event that these are required. These amendments were previously consulted on by the Secretary of State for Norfolk Vanguard and the wording has already been incorporated into the dDCO for Norfolk Boreas.
g)	Schedules 9 to 12, Part 5: removal of appeals procedures and consequential change to conditions;	The Applicant explained that this amendment removes the appeals procedure connected to the DMLs. The Norfolk Vanguard Examining Authority's rationale for this change was primarily on the basis that no evidence was submitted that previous delays had been occasioned by the MMO so as to cause material harm or economic loss to any marine licence holder, and that no substantive evidence of potential delays was presented to support an adaptation of the appeals process to address perceived deficiencies.

		<p>The Norfolk Vanguard Examining Authority considered that an appropriate balance would be struck by retaining the wording which required the MMO to use reasonable endeavours to determine applications as soon as reasonably practicable and within a period of 4 months.</p> <p>On the basis that the Applicant does not propose to submit further evidence as to either previous delays or the impact of potential delays at this stage, these changes will be adopted in the NB dDCO, and for the purposes of consistency with previously made DCOs. This has been reflected in the revised dDCO (version 8) submitted at Deadline 13.</p> <p>The Applicant also confirmed that no consequential changes – connected to the Norfolk Vanguard applicant's fall-back position on arbitration (or deemed approval/ refusal within the DMLs) – are proposed to the arbitration wording at Article 38 (or the DMLs).</p>
h)	Schedules 9 to 12: new decommissioning of cable protection within marine areas condition;	<p>An additional condition has been included in the Norfolk Vanguard DCO which requires decommissioning of cable protection within the HHW SAC. This reflects the commitments contained in the HHW control plan (both for Norfolk Vanguard and Norfolk Boreas).</p> <p>In principle the Applicant is willing to include this condition within the DMLs for the transmission licences, which are the relevant DMLs given that the HHW SAC is only affected by works under the transmission licences.</p> <p>The Applicant understands that the MMO and NE are in agreement with the principle of the decommissioning condition and for the Applicant to include this within the dDCO. The Applicant has therefore included this condition within Schedule 11-12 of version 8 of the dDCO submitted at Deadline 13. The Applicant, however, understands that the MMO and NE have comments and suggestions on the precise wording relating to the timeframes. The Applicant is in ongoing discussions with NE and the MMO on the final wording to be included in the dDCO.</p> <p>As a result of including the decommissioning condition, the Applicant considers that it is necessary to remove condition 3(1)(g) from the Transmission Licence DMLs. This is because condition 3(1)(g) was included to secure the commitment to decommissioning of cable protection; it would therefore be superfluous to have condition 3(1)(g) as well as the new Norfolk Vanguard decommissioning condition. The Applicant has updated version 8 of the dDCO accordingly, although it should be noted that the removal of condition 3(1)(g) has not been agreed by Natural England and will be the subject of further discussions between the parties during the course of the examination.</p>
i)	Schedules 9 to 12, Part 2: new language to add clarity to dealing with amendments or variations from approved plans;	<p>Additional text has been included in the Norfolk Vanguard DCO to clarify that any amendments or variations to approved plans or statements under the DMLs must "be minor or immaterial", in addition to the existing text which required the Applicant to demonstrate that any amendments or variations are unlikely to give rise to materially new or materially different environmental effects from those assessed in the ES. This reflects</p>

		the intention of the parties and, to ensure consistency between the two DCOs, the Applicant proposes to adopt this wording within the Norfolk Boreas dDCO. This has been included in version 8 of the dDCO submitted at Deadline 13.
j)	Schedules 9 to 12: amended procedure following identification of the exposure of subsea cabling;	The amended wording relating to the timescales for notification in the case of exposure of cables has already been included in the Norfolk Boreas dDCO, following the Secretary of State's previous consultation on this point. Accordingly, no further amendments are required to this condition.
k)	Schedule 14: Arbitration Rules adding a paragraph to para 1(2) and how this relates to Schedule 15 of the dDCO;	<p>Schedule 14 (Arbitration) in the Norfolk Vanguard DCO has been amended to require the parties to attempt to agree disputes through senior management negotiations, before proceeding with arbitration.</p> <p>The Applicant considers this to be a sensible first step before arbitration, and will therefore adopt this wording in the revised dDCO for Norfolk Boreas at Schedule 15. The Applicant has updated version 8 of the dDCO submitted at Deadline 13.</p>
l)	Schedule 15: Procedure for discharge of Requirements, amendment to time scale for SoS to appoint a person as part of appeals process;	Schedule 15 (Procedure for discharge of Requirements) in the Norfolk Vanguard DCO has increased the period for the Secretary of State to appoint a person to deal with appeals from 20 to 28 business days. The Applicant is content to make this change to the Norfolk Boreas dDCO for consistency, and the Applicant has updated version 8 of the dDCO submitted at Deadline 13.
m)	Schedule 16: additions to refer to National Grid's policies for safe working and how this relates to the deletions that have been made to dDCO Schedule 17, for the interpretation of 'specified works' in para 13 and 29;	<p>The Applicant explained that the latest set of protective provisions included for National Grid (Schedule 17, Part 2) and Cadent (Schedule 17, Part 3) have been previously agreed with National Grid and Cadent; the Applicant understands that these are the most up to date standard form protective provisions sought by National Grid and Cadent Gas.</p> <p>The Applicant considers that it is not entirely necessary to include the additional wording from the Norfolk Vanguard DCO in relation to activities in the safe working policies under the definition of "specified works". This is because the defining criteria is whether the works to be undertaken are within 15m of National Grid's, or Cadent's, apparatus, or would otherwise affect that apparatus.</p> <p>In this context, it is perhaps superfluous to include activities which are referred to in the safe working policies – as these essentially require consultation with National Grid, or Cadent, on whether certain works (within certain distances of apparatus) have the potential to affect apparatus. In the majority of cases, the activities referred to in the relevant paragraph of the policies are also not applicable in this particular project – for instance, they also relate to surface mineral extraction; landfilling; demolition; blasting; and deep mining.</p> <p>Nevertheless, the Applicant has been engaging with National Grid and Cadent to seek agreement on whether it is appropriate to include the amendments from the Norfolk Vanguard DCO within the Norfolk</p>

		<p>Boreas dDCO. National Grid and Cadent have confirmed to the Applicant that they are content for these changes to be made to the respective protective provisions, save that the reference in the Cadent protective provisions should be to paragraph 6 and 7 of the Specification for safe working in the vicinity of Cadent's assets requirements for third parties SSW22.</p> <p>The Applicant confirmed that the protective provisions in the dDCO are agreed with the statutory undertakers. The Applicant, however, wishes to make a minor clarification in that the deemed discharge mechanism at paragraph 73 of Schedule 17, Part 7 remains an area not agreed between the Environment Agency and the Applicant. This position is reflected in the SoCGs between the parties [REP9-020]. The Applicant considers that the Norfolk Vanguard DCO - which adopts the same discharge wording in the Environment Agency protective provisions as that within the dDCO - is the most recent precedent in support of the Applicant's position on this matter. In view of the overlap in the onshore areas across both the Norfolk Vanguard and Norfolk Boreas DCOs, to maintain efficiencies and avoid confusion for contractors and statutory undertakers, the Applicant considers that the procedures for the approval of plans should follow the same process across both the projects.</p>
n)	Other changes proposed by the SoS which do not materially affect the DCO's effect.	The Applicant explained that the other changes referred to in the Norfolk Vanguard DCO are largely minor in nature, relating to drafting in the SI template, and updating of footnotes. The Applicant has adopted these revisions within version 8 of the dDCO submitted at Deadline 13.
<b>AGENDA ITEM 5 - Subsequent changes to the Norfolk Boreas dDCO</b>		
a)	For the Applicant to advise if there are any other changes to the dDCO being considered in light of the consented Norfolk Vanguard DCO.	<p>The Applicant does not anticipate any other changes to the dDCO in light of the consented DCO for Norfolk Vanguard. The Applicant noted North Norfolk District Council's (NNDC) oral submission that it may wish to make further written submissions on the Norfolk Vanguard DCO to the extent that they are relevant to matters within NNDC's administrative area. The Applicant confirmed that it does not intend to amend the drafting included in Requirement 19(2) of the Norfolk Boreas dDCO in relation to the 10 year maintenance planting for NNDC's administrative area (or associated changes to the articles), despite recognising that the Secretary of State is content that the Norfolk Vanguard DCO only secures 5 years within its Requirement 19 (with reference to 10 years having been secured for NNDC's administrative area in the OLEMS, subject to landowner consent).</p> <p>In accordance with the cover letter submitted at Deadline 11 [REP11-001], agreement has now been reached with BT to allow the Applicant to cut and remove the remaining two cables located within the HHW SAC. The Applicant has therefore reduced the cable protection figures within version 8 of the dDCO submitted at Deadline 13.</p>
b)	Also to include the revisiting of the Article 2 definition of 'commence' in	The original clarification for Requirement 15(2) was in relation to how the parties could be certain of the meaning of 'Norfolk Vanguard commencing' when only the Norfolk Vanguard draft DCO was in the public

	the Norfolk Vanguard DCO for inclusion of the reference at R15(2) in this dDCO as agreed at ISH1 [REP1-041, R15, Ref 3].	<p>domain. Now that the Norfolk Vanguard DCO has been made as a Statutory Instrument there is certainty on the definition of "commence" in that DCO.</p> <p>For additional clarity, the Applicant proposes to make a slight amendment to Requirement 15 to refer to the made SI, with the inclusion of a new paragraph (6) to clarify that "commence" in relation to Norfolk Vanguard has the meaning given in Article 2 of that DCO. This mechanism will be consistent with the way in which interpretation of other legislation is referred to in the dDCO.</p> <p>The Applicant has updated version 8 of the dDCO accordingly.</p>
<b>AGENDA ITEM 6 - Requirement 18: provision of landscaping of the Norfolk Boreas dDCO</b>		
	<p>For the Applicant to comment on whether Requirement 18(g) should be amended by the addition of the word 'levels' to accommodate Breckland Council's point that it is important not to rule out screening and landscape options including bunding and possible level changes to minimise the adverse impact of the development [REP10-044, response to Q4.9.6.3b]. If not here, where is the potential to consider level changes specifically set out? This point relates to both proposed substations.</p>	<p>Given that bunding and levels is dealt with in the OLEMS, the Applicant considers that it is more appropriate to deal with possible level changes in the same context, rather than under Requirement 18(2)(g). The Applicant therefore proposes to address this point in the OLEMS in relation to both the National Grid extension and onshore project substation.</p> <p>The Applicant notes the Examining Authority's further comments and queries on the ability to secure an early design review for the onshore project substation. The Applicant has responded to these points in Position Statement on Early Involvement of a Design Review [ExA.AS-4.D13.V1] submitted at Deadline 13.</p> <p>The Applicant notes the Examining Authority's comments on options for materials to be used in the construction of the converter halls and, in accordance with the Action Points, the Applicant will be responding to this point at Deadline 14.</p>
<b>AGENDA ITEM 7 - Schedule of Changes to the Norfolk Boreas dDCO</b>		
i.	For the Applicant to be aware that the ExA will require an updated version of the Schedule of Changes which should list all changes to the dDCO, including footnotes, date changes etc.	The Applicant notes the request to check the Schedule of Changes alongside the dDCO to ensure that footnotes are captured in the Schedule of Changes. The Applicant has updated the Schedule of Changes submitted at Deadline 13 accordingly.
<b>AGENDA ITEM 8 - Any other matters</b>		
a)	'Land-locking' and the onshore project substation	By reference to figure 5 at Part 4 of 4 of the DAS [REP7-010], the Applicant explained that the Applicant's Order Limits do not land lock access between the landowner's field parcels. The landowner raised with the

		<p>Applicant in March 2020 that notwithstanding the exclusion of the existing track (of a width of approximately 3 metres, outside the north east corner of the onshore project substation site) from the Order Limits, this may not be sufficient in itself for larger scale agricultural machinery, such as combine harvesters with headers, to negotiate the access between the land parcels. The landowner expressed concern that if mitigation planting was installed to the boundary of the Order Limits that this may limit access for larger agricultural machinery which over sail beyond the width of this track. The Applicant has agreed to avoid planting which has the potential to cause constraints to the use of the access track in a 12m area, which is inclusive of the access track and extends into the Order Limits, to address this concern. This will be secured through private agreements with the landowner.</p> <p>The Applicant explains this in more detail in the Applicant's Response to Open Floor Hearing 3 [ExA.OFH3.D13.V1] submitted at Deadline 13, and has also submitted a plan which illustrates this further [ExA.AS-10.D13.V1].</p>
b)	Implications of the Norfolk Vanguard decision	<p>The Applicant considered that it may assist the Examining Authority to set out the Applicant's comments on the implications of the Secretary of State's decision for Norfolk Vanguard, including information on the legal principle surrounding consistency in decision making.</p> <p>The Applicant has included this document (Implications of the Norfolk Vanguard Decision on Norfolk Boreas [ExA.AS-3.D13.V1]) within the Deadline 13 submissions in accordance with Action Point 17.</p>
c)	Dudgeon & Sheringham Shoal cumulative impact assessment	<p>The Applicant referred to its previous response to Written Question 4.0.1 submitted at Deadline 2 [REP2-021] which explained that it is only possible to carry out a meaningful and robust cumulative impact assessment on projects that are sufficiently advanced and reasonably well detailed.</p> <p>The Applicant confirmed that the response outlined in REP2-021 is still an accurate reflection of the latest position. The scoping opinion for these projects was submitted in October 2019 and the level of information in the public domain has not changed since October 2019. The level of detail in the public domain is still not sufficient for the Applicant to be able to carry out a cumulative impact assessment (CIA). The development programme indicates that the Preliminary Environmental Information Report (PEIR) will be available in early 2021. Whilst it may be possible to undertake a CIA at that stage, this will only occur following the closure of the Norfolk Boreas examination. Therefore any potential cumulative impacts of these projects with Norfolk Boreas will need to be considered as part of the Dudgeon and Sheringham Shoal extensions application and the cumulative assessment which forms part of their Environmental Impact Assessment (EIA).</p>

## APPENDIX 1: THE APPLICANT'S LIST OF APPEARANCES

1. **John Houghton**, Senior Counsel, **Womble Bond Dickinson**; **Victoria Redman**, Partner, **Womble Bond Dickinson**; and **Josh Taylor**, Associate, **Womble Bond Dickinson**  
Speaking on behalf of Norfolk Boreas Limited:
  - In response to the Examining Authority's questions and for general advocacy
2. **Claire Davies**, Senior Environmental Consultant, Industry and Buildings Europe, Royal HaskoningDHV (**RHDHV**)  
Speaking on behalf of Norfolk Boreas Limited on
  - Onshore environmental matters
  - Mitigation plans
  - Cumulative impacts (where relevant)
3. **Andrew Ross**, Technical Director Transport Planning, **RHDHV**  
Speaking on behalf of Norfolk Boreas Limited on:
  - Traffic and Transport
  - HGVs and highway safety (Highway Intervention Scheme)
4. **Andrew Hardcastle**, Technical Leader, **GHD**  
Speaking on behalf of Norfolk Boreas Limited on:
  - Onshore construction
5. **David Tarrant**, Senior Environmental Consultant, **RHDHV**  
Speaking on behalf of Norfolk Boreas Limited on:
  - Marine ecology
  - Benthic and Haisborough Hammond and Winterton SAC
  - HRA implications
6. **Jake Laws**, Consents Manager, **Vattenfall**; and **Graham Davey**, Senior Development Manager, **Vattenfall**  
Speaking on behalf of Norfolk Boreas Limited on:
  - Any other matters including project updates (if necessary).