



**Wheelabrator**  
TECHNOLOGIES



## Statement of Common Ground between the Applicant and Natural England

**Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator Kemsley North  
(WKN) Waste to Energy facility Development Consent Order**

PINS Ref: EN010083

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Client: **Wheelabrator Technologies Inc.**  
Project: **Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator Kemsley North (WKN) Waste to Energy facility Development Consent Order**  
Date: **June 2020 - Final**  
Reference: **EN010083**  
Author: **Tim Spicer** BSc MSc PIEMA  
**(For and on behalf of Wheelabrator Technologies Inc.)**

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# 1 Introduction

- 1.1.1 Wheelabrator Technologies Inc. (“the Applicant”) has made an application to the Secretary of State for Business, Energy and Industrial Strategy (SoS) for a Development Consent Order (‘DCO’) for the construction and operation of the Wheelabrator Kemsley (‘K3’ Generating Station) and the construction and operation of a waste-to-energy facility on adjacent land called Wheelabrator Kemsley North (‘WKN’).
- 1.1.2 Planning permission was granted under the Town and Country Planning Act 1990 by Kent County Council in 2012 for a sustainable waste-to-energy facility (K3). Construction of the plant began in July 2016 and is expected to be completed with the plant fully operational by the end of quarter two 2020. K3 as consented is permitted to process 550,000 tonnes of waste per annum and has a generating capacity of 49.9 megawatts (MW).
- 1.1.3 The Planning Act 2008 states that the construction or extension of an onshore generating station with a capacity of more than 50MW in England or Wales is considered by Section 14(1)(a) and Section 15 of the Act to be a ‘nationally significant infrastructure project’ (NSIP) and as such requires an application for a DCO to be made to the Planning Inspectorate (PINS) for determination and approval by the SoS.
- 1.1.4 The applicant has identified that K3 would be capable of processing an additional 107,000 tonnes of waste per annum and, without any change to the external layout or design, generate an additional 25.1MW of electricity.
- 1.1.5 However, in order for the K3 project to be properly categorised and consented as the construction of a generating station under the Planning Act 2008 (the changes sought do not qualify as an ‘extension’ under the Act) the applicant is seeking consent for the construction of K3 at its total generating capacity of up to 75MW (49.9MW consented + 25.1MW upgrade) together with its proposed tonnage throughput of up to 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase) (the ‘K3 Proposed Development’). Notwithstanding this the ‘practical effect’ of the K3 Proposed Development would simply be K3, as constructed under its existing permission, permitted to generate an additional 25.1MW and to process an additional 107,000 tonnes of waste per annum without any change to the external layout or design.
- 1.1.6 Development Consent is also being sought for a proposed new waste-to-energy facility, capable of processing 390,000 tonnes of waste per annum, with a generating capacity of 42MW (“the WKN Proposed Development”). The WKN Proposed Development is not therefore an NSIP as its generating capacity is below 50MW. Instead WTI made a formal application on the 1st June 2018 to the SoS under Section 35 of the Planning Act 2008 for a direction as to whether the WKN Proposed Development together with any matters associated with it can be treated as a development for which Development Consent is required. The SoS issued his direction on the 27th June 2018 confirming that WKN is to be treated as development for which Development Consent is required.

- 1.1.7 Consent for the K3 and WKN Proposed Developments has therefore been sought under a single application to the SoS via PINS for a single DCO.

## 1.2 The Application Site

### Wheelabrator Kemsley (K3) Site

- 1.2.1 The site is located on land immediately to the east of the Kemsley Paper Mill, located 0.8km east of Kemsley, a residential suburb in the north of Sittingbourne in Kent (hereafter the 'K3 Site'). It lies adjacent to the Swale Estuary to its east, with the Isle of Sheppey beyond and within the administrative areas of Kent County Council (KCC) and Swale Borough Council (SBC). To the south of the K3 Site lies a capped former landfill site which lies adjacent to the confluence between Milton Creek and the Swale Estuary.

### Wheelabrator Kemsley North (WKN) Site

- 1.2.2 The site is located on land immediately north of the permitted K3 facility (hereafter the "WKN Site"). The WKN Site is currently being used by the Applicant as a laydown and parking area for the construction of the adjacent K3 facility. It has been cleared of vegetation and laid to concrete or hardcore with a perimeter fence.
- 1.2.3 To the east of the WKN Site lies the Swale Estuary with the Isle of Sheppey beyond. Immediately to the north lie the Kemsley Marshes beyond which lies the Kemsley Paper Mill anaerobic digester treatment works (under construction) and to the north east a jetty operated by Knauf for the import of gypsum by barge.
- 1.2.4 The nearest statutory designation in proximity to the Sites with regard to ecological interest is the Swale Special Protection Area and Site of Special Scientific Interest (SSSI) which lies approximately 100m east of the Sites at its closest point. Milton Creek Local Wildlife Site (LWS) is also less than 400m and 550m respectively from the K3 and WKN Sites.

## 1.3 The Proposed Developments

- 1.3.1 The Applicant has made an application to the SoS for a DCO for the construction and operation of the K3 and WKN Proposed Developments.
- 1.3.2 A full description of the K3 and WKN Proposed Developments is provided within the Environmental Statement (Doc 3.1).
- 1.3.3 The K3 and WKN Proposed Developments are split into a number of key works within the DCO boundary including areas where ancillary works are required for the construction and operation of the key works. A plan showing the DCO boundary and location of the key works are provided as Doc 5.5a&b submitted with the application.
- 1.3.4 The different elements of the works pertaining to the K3 and WKN Proposed Developments are set out in the Table below.

<b>Table 2.1: Works No.</b>
1 – Construction and operation of an onshore generating station with a generating capacity of up to 75MW and permissible waste throughput of 657,000tpa (the K3 Proposed Development)
1A - Installation of grid connection for Work No 1
1B- Installation of steam connection for Work No 1
1C- Alteration of existing private access road to construct, use and maintain Work No 1
1D- Creation of a temporary construction compound and laydown area for the construction of Work No 1
1E- Construction and operation of a surface water outfall for Work No 1
2- Construction and operation of a waste-to-energy facility capable of processing 390,000 tonnes of waste per annum, with a generating capacity of up to 42MW (the WKN Proposed Development)
3- Installation of a grid connection WKN Proposed Development
4- Alteration of existing private access road to construct, use and maintain Work No 2
5- Temporary construction or alteration of existing private haul road for the construction of Work No 2
6- Creation of a temporary construction compound and laydown area for the construction of Work No 2
7- Construction and operation of a new surface water outfall for Work No 2

## 1.4 The role of Natural England

1.4.1 Natural England is the statutory adviser to Government on nature conservation in England and promotes the conservation of England's wildlife and natural features.

1.4.2 Natural England's role in relation to the DCO process derives from the Planning Act 2008 (the 2008 Act).

1.4.3 In the context of the Planning Act 2008 Act (the PA 2008), Natural England's main responsibilities relate to EIA, the Habitats Regulations, the regulation of SSSIs under the Wildlife and Countryside Act (WCA) 1981 and the licensing body in respect of protected species.

1.4.4 The main roles and responsibilities of Natural England fall into the following categories:

- as one of the prescribed consultees under section 42 of the 2008 Act that applicants are required to consult before submitting a NSIP application;
- as one of the consultation bodies that the Planning Inspectorate must consult before a scoping opinion is adopted in relation to any EIA and as

a prescribed consultee for the environmental information submitted pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017;

- as a statutory party in the examination of DCO applications;
- as a statutory nature conservation body under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) or the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007 (Offshore Regulations) in respect of the HRA;
- as a consenting and licensing body/authority in respect of protected species and operations likely to damage the protected features of SSSIs pursuant to the Wildlife and Countryside Act 1981 (as amended) (WCA 1981) and in relation to European protected species under the Habitats Regulations; and
- as a prescribed consultee under the Marine and Coastal Access Act (2009) for proposals within the area of the English territorial sea capable of affecting, other than insignificantly, any of the protected features of a Marine Conservation Zone (MCZ) or any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent.

1.4.5 Natural England have been formally consulted by the applicant with regard to the K3 and WKN Proposed Developments in November 2018 and July 2019 and provided responses on the 10<sup>th</sup> January 2019 and the 6<sup>th</sup> September 2019.

1.4.6 Natural England submitted a Relevant Representation in December 2019 which is available as part of the online public register. This Statement of Common Ground has been prepared pursuant to Natural England's Relevant Representation and seeks to agree all matters raised.

## 2 Matters agreed between the parties

### 2.1 Relevant designated sites

2.1.1 It is agreed that the following sites are relevant to this application:

- The Swale SPA, Ramsar Site and SSSI
- The Swale Estuary Marine Conservation Zone
- Medway Estuary and Marshes SPA and Ramsar site
- Thames Estuary and Marshes SPA and Ramsar site
- Queendown Warren SAC and SSSI
- South Thames Estuary and Marshes SSSI

### 2.2 Overarching principles

2.2.1 The Sites do not lie within the boundary of any designated sites and will not result in the direct loss of habitat therein, nor do they contain any supporting habitat for the cited interested features of the designations. The K3 and WKN Proposed Developments will not affect the management regimes within the identified designated sites and given the context and location of the development it will not result in the loss of future space to allow for managed realignment of the estuarine habitats or have a detrimental urbanising effect given the context of its setting.

2.2.2 It is agreed that the principal potential pathways for effects resulting from the K3 and WKN Proposed Developments are air quality from the stacks and vehicles, noise, water quality, recreation, visual disturbance and light spill during the construction, operational and decommissioning phases of the developments as relevant.

### 2.3 The Swale SPA, Ramsar Site and SSSI

#### **Air quality**

#### Construction

#### *K3 Proposed Development*

2.3.1 K3 as consented is at an advanced stage of construction and was the subject of its own assessment as part of the 2010 ES and consented with conditions (including an Environmental Management Plan and Construction Method Statement) pursuant to the protection of adjacent habitats and air quality impacts (dust deposition). No likely significant effects were deemed likely to result from the construction of the K3 facility in this regard.



- 2.3.2 All relevant conditions of the extant planning permission have been discharged and complied with.
- 2.3.3 No further construction is required pursuant to the practical effect of the K3 Proposed Development and therefore no further dust deposition effects will occur.

*WKN Proposed Development*

- 2.3.4 It is agreed that subject to best practice construction methods to minimise dust, secured through the CEMP (Requirement 22 of the DCO) and in light of air quality modelling undertaken in support of the application with regard to traffic emissions that the WKN Proposed Development is unlikely to result in ~~a significant an adverse~~ effect on the integrity of the Swale designations occurring during construction.

Operation – K3 and WKN Proposed Developments

- 2.3.5 Following the issues highlighted by Natural England in their Relevant Representation it is agreed that these have now been addressed. A summary of issues raised, and the consequential clarification provided and agreed is provided for reference.

“The Air Quality Assessment of Impacts on Ecological Receptors [APP-028] and HRA Report [APP-044] consider the air quality impacts of the K3 upgrade and WKN proposals alone, and the cumulative effect of the stack emissions and traffic generated by those proposals plus other emissions-producing developments in the area. We welcome this cumulative assessment, though it may be appropriate to add the traffic movements generated by Local Plan proposals. Therefore, we recommend that the applicant considers adding the Swale Local Plan to the cumulative assessment”.

- 2.3.6 Given its location, the only road that lies within 200m of The Swale SPA/Ramsar/SSSI and Medway Estuary and Marshes SPA/Ramsar/SSSI which could also carry traffic associated with the Swale Local Plan would be the A249 at the Swale Crossing (which marks the boundary between the two sites). However, in this location, the habitats present within 200 m of the road comprise intertidal mudflats and cattle-grazed grazing marsh, neither of which are sensitive to changes in air quality (the former by virtue of being inundated by the tide, the latter because of the high-nutrient status systems, especially when grazed).
- 2.3.7 ~~It is agreed that for~~ the completeness of the HRA ~~that~~ this analysis and conclusion ~~should be has been~~ added to the HRA Report and submitted to PINS ~~at an appropriate time in the examination~~.
- 2.3.8 No other road that could carry traffic associated with the Local Plan lies within 200 m of a designated site (the M2 is circa 300 m north of Queendown Warren SAC). It is, therefore, agreed by both parties that adverse effects from traffic generated air quality impacts, in combination with the Swale Local Plan, can be ruled out.

“Natural England welcomes the use of APIS to consider the background however the date of the last APIS update should be considered and other potential increases

from other plans or projects need to be added to the APIS figure if those proposals have become operational since the last APIS update. If these are not taken into account within the background figures, then these should be added to the modelling figures to ensure potential impacts from all relevant plans and projects are correctly assessed. Therefore, Natural England's view is that clarity is needed on the above two points regarding the 'in combination' assessment and the use of APIS background levels before we can comment on the assessment of significant effects. "

2.3.9 The background data used in the assessment presented in Appendix 5.4 of the ES is the average from the three-year period 2014-2016. It therefore still includes aerial emissions associated with both the Kemsley K2 Sludge Combustion facility, which was decommissioned in 2018, and the K1 CHP Plant which is due to be decommissioned in 2022 once the recently approved K4 CHP Plant is operational (which provide better in emissions to K1). The in-combination Process Contributions (PCs) generated in the assessment also specifically include emissions associated with K4, in addition to including those from K1 in the background, i.e. adopting a precautionary approach by double counting these emissions (the two plants would only operate simultaneously for a very short period during commissioning). The in-combination PCs also include the Kemsley AD Plant which became operational in 2018.

2.3.10 ~~At this stage it is agreed by both parties~~, therefore, ~~that~~ there are no further facilities with emissions to air that are either not captured by the background used in the assessment or included in the in-combination PCs.

"Further, we advise that the ecological assessment of the impacts of air quality should use the critical load for vegetated shingle habitat for terns in the Medway, rather than saltmarsh. Whilst paragraph 7.13 of the HRA Report [APP-O44] is correct in stating that the terns breed on saltmarsh islands, the habitat they use within those islands is shingle, rather than pioneer saltmarsh."

2.3.1 As stated in paragraph 7.13 of the HRAR, APIS does not provide a specific critical load for vegetated shingle *per se*, with the tern interest feature noted on APIS as using acid stable dune grasslands with a critical load of 8-10 kgN.ha<sup>-1</sup>.yr<sup>-1</sup>. Therefore, as agreed at the meeting of the 16<sup>th</sup> January 2020 the shingle present within the saltmarsh islands on the Medway on which the terns breed is very different in character from the low-nutrient status, more stable shingles on which such vegetation usually occurs. Those at Dungeness SAC, for example, demonstrate the full continuum of successional stages from early vegetation colonisers through to scrub/heathland with the nutrient status of the shingle being naturally very low. This contrasts with the Medway, where the shingle is very dynamic, in constant flux around the salt marsh which may eventually form on it. In this location, the nutrient status of the shingle is heavily influenced by the surrounding early-pioneer salt marsh which, in turn, is dominated by that of the Medway Estuary. Therefore, on this basis, ~~it is agreed by both parties that~~ the critical load of the pioneer saltmarsh habitat used in the HRAR is considered to be ~~more~~ appropriate.

Decommissioning – K3 and WKN Proposed Developments

- 2.3.2 It is agreed that subject to best practice construction methods to minimise dust, secured through the DEMP (Requirement 4 of the DCO) and in light of air quality modelling undertaken in support of the application with regard to traffic emissions that no adverse air quality related effect on the integrity of the Swale designations will occur during decommissioning of the facilities.

## Noise

### Construction

#### *K3 Proposed Development*

- 2.3.3 K3 as consented is at an advanced stage of construction and was the subject of its own assessment as part of the 2010 ES and consented with conditions (including an Environmental Management Plan and Construction Method Statement in addition to seasonal piling restrictions) pursuant to the protection of adjacent protected species and sites and noise impacts. No likely significant effects were deemed likely to result from the construction of the K3 facility in this regard.
- 2.3.4 All relevant conditions of the extant planning permission have been discharged and complied with.
- 2.3.5 No further construction is required pursuant to the practical effect of K3 Proposed Development and therefore no further dust deposition effects will occur.

#### *WKN Proposed Development*

- 2.3.6 It is agreed that impact piling is the construction activity most likely to impact on bird species. The noise modelling presented in Chapter 7 of the ES identifies that noise levels during construction with impact piling will reach 65dB L<sub>Amax</sub> within an area of the Swale's SPA and Ramsar designation. Marsh harrier breed in the reed beds adjacent to the site access road. These reed beds are functionally linked land to the SPA by virtue of supporting the SPA species.
- 2.3.7 It is agreed that the marsh harriers appear to be habituated to their location and with the exception of percussive piling are unlikely to be disturbed by noise during the construction of the WKN Proposed Development.
- 2.3.8 It is agreed that the mitigation measures set out in the HRAR are sufficient to minimise disturbance to ~~In order to ensure that~~ over wintering birds using their intertidal ~~area~~ area ~~are not subject to disturbance that could compromise their ability to survive and to safeguard and~~ breeding Marsh Harrier it is agreed that such that an adverse effect on the integrity of the sites will be avoided. The measures include the following impact piling restrictions, ~~should be~~ secured as part of Requirement 28, and other measures set out in the CEMP, secured by Requirement 22 [GA1] of the DCO.÷

- ~~No impact piling between April and August, inclusive;~~
- ~~No impact piling between the months January and February inclusive;~~

- ~~Limited impact piling is permissible between the months of November and December provided that any impact piling activity does not accrue to more than a total of 10 days consecutively or otherwise.~~ [GA2]

- 2.3.9 ~~In the same way, t~~Timing for the construction of the surface water outfall is restricted in the MMO licence ~~for the same time period~~ to avoid adverse impacts on adjacent sites. (Appendix A).
- 2.3.10 Subject to the inclusion of this restriction by way of a requirement in the DCO it is agreed that no adverse effects on the integrity of the Swale designations will occur as a result of impact piling.
- 2.3.11 Noise modelling of other construction activities including construction vehicles accessing the site and the laydown area has been completed and it is agreed that this is not of sufficient magnitude to result in significant effects on the Swale SPA and Ramsar site or the reed bed to the north.

#### Operation - K3 Proposed Development and WKN Proposed Development

- 2.3.12 During operation of the K3 and WKN Proposed Development concurrently and with reference to the noise contour plans produced as part of the noise assessment in Chapter 7 of the ES it is agreed that during the operation of the K3 and WKN Proposed Developments no ~~adverse effect on the integrity of significant effect on~~ the bird species forming interest features of the Swale SPA/Ramsar site ~~will occur.~~
- 2.3.13 Similarly, it is agreed that the increase in vehicles associated with the K3 and WKN Proposed Developments will not have a ~~n-significant adverse impact~~ effect on the integrity of any European sites.
- 2.3.14 It is agreed that marsh harriers appear to be habituated to their location and given this and the screening described in the HRAR, [GA3] are unlikely to be disturbed during the operation of the K3 and WKN Proposed Developments.

#### Decommissioning – K3 and WKN Proposed Developments

- 2.3.15 It is agreed that subject to best practice construction methods to minimise noise, secured through the DEMP (Requirement 4 of the DCO) and in the absence of impact piling (required for construction only) that no adverse effect on the integrity of the Swale designations will occur during decommissioning of the facilities.

### **Water quality and resource**

#### Construction

##### *K3 Proposed Development*

- 2.3.16 K3 as consented is at an advanced stage of construction and was the subject of its own assessment as part of the 2010 ES and consented with conditions (including an Environmental Management Plan and Construction Method Statement in addition to seasonal piling restrictions) pursuant to the protection of

adjacent protected species and sites and water quality. No likely significant effects were deemed likely to result from the construction of the K3 facility in this regard.

- 2.3.17 All relevant conditions of the extant planning permission have been discharged and complied with.
- 2.3.18 No further construction is required pursuant to the practical effect of K3 Proposed Development and therefore no further dust deposition effects will occur.

*WKN Proposed Development*

- 2.3.19 There is a risk of pollution to surface water during construction and therefore due to the close proximity of The Swale SPA and Ramsar site there is potential for contaminated water to be discharged into the designated site. Natural England agrees that the implementation of "general industry guidelines and best practice measures", detailed in the CEMP (and secured by Requirement 22 of the DCO), are sufficient to avoid adverse effects on The Swale SPA/Ramsar site.
- 2.3.20 Construction of surface water outfall will be undertaken in accordance with the Construction Method Statement pursuant to the MMO Licence (Appendix A).
- 2.3.21 Therefore, it is agreed that an adverse effect on integrity of the sites during construction can be avoided.

Operation - K3 Proposed Development and WKN Proposed Development

- 2.3.22 A surface water management scheme was created for the K3 facility as consented and forms a certified document of the DCO for the K3 Proposed Development. No process or dirty water will be discharged to the Swale. Clean Surface water falling on impermeable surfaces (roof and hardstanding) will be stored in an onsite lagoon and discharged at a controlled rate into the Swale Estuary.
- 2.3.23 No alterations to the approved drainage scheme are required pursuant to the practical effect of the K3 Proposed Development. Any alteration to the certified surface water management strategy would require consent from the planning authority pursuant to Requirement 7 of the DCO.
- 2.3.24 A surface water outfall has been constructed to the east of the K3 Site for the K3 facility in the intertidal area between Mean High Water and Mean Low Water. This outfall is subject to Marine Management Licence (licence number MLA/2017/00316) (Appendix A).
- 2.3.25 For the WKN Proposed Development a surface water drainage system has been designed and it is agreed that subject to the standard operational and management measures set out in Table 10-15 of Chapter 10 of the ES including a Drainage Maintenance Plan, Emergency Spill Management Plan and Water Quality Monitoring Strategy that the risk of contamination to surface water from on-site drainage during operation will be reduced as far as reasonably practically possible so as to avoid and adverse effect on the integrity of the Swale designated sites.

- 2.3.26 The MMO licence for the K3 outfall has been varied to permit the discharge of clean water from the WKN Proposed Development through a separate outfall to be located adjacent to the existing K3 outfall.
- 2.3.27 This variation to the MMO licence was granted by the Marine Management Organisation in April 2019 (ref: L/2017/00482/2) and subject to the tests of the Habitats Regulations, Water Framework Directive and Marine Conservation Zone assessment to which the Natural England are a consultee (Appendix A).
- 2.3.28 It is therefore agreed that the K3 and WKN Proposed Developments do not pose a risk to surface water quality and the River Swale subject to the controls set out.

#### Decommissioning

- 2.4.12 It is agreed that subject to standard construction practice and the decommissioning procedures to be agreed as part of the future DEMP (Requirement 4) that the risk of pollution to watercourses will be as low as reasonably possible during the decommissioning of K3 and the WKN Proposed Development and no ~~likely~~ adverse effect on the integrity of the Swale designated sites will occur during decommissioning of the facilities.

#### **Recreation**

- 2.3.29 It is agreed that recreational pressure will be negligible throughout all phases of the K3 and WKN Proposed Developments and no adverse effects on integrity are likely to occur.

#### **Visual Disturbance**

##### Construction

###### *K3 Proposed Development*

- 2.3.30 A 2.4 m closed-board wooden fence was erected along the site boundary and around the laydown area.

###### *WKN Proposed Development*

- 2.3.31 A 2.4 m closed-board wooden fence is to be erected along the northern WKN Site boundary and around the proposed laydown area. The erection of the fencing forms a requirement of the CEMP secured through Requirement 22 of the DCO.
- 2.3.32 Subject to the implementation of the above it is agreed that the movement of plant or people will not result in ~~significant adverse~~ effects on the breeding marsh harrier which form part of the breeding bird assemblage of the Swale SPA.

- 2.3.33 It is agreed that no direct effect on the SPA/Ramsar cited birds within the designated site itself will occur.

Operation

*WKN Proposed Development*

- 2.3.34 A 2.4m close-board fence will be maintained along the northern WKN Site boundary. Subject to this it is agreed that the WKN Proposed Development will not result in ~~significant-adverse~~ effects on the breeding marsh harrier which form part of the breeding bird assemblage of the Swale SPA.

- 2.3.35 It is agreed that no direct effect on the SPA/Ramsar cited birds within the designated site itself will occur.

Decommissioning

It is agreed that subject to best practice construction methods and the retention of a 2.4m close board fence along the northern WKN Site boundary, secured through the DEMP (Requirement 4 of the DCO) that no adverse effects on the integrity of the Swale designations will occur as a result of the K3 and WKN Proposed Developments.

**Light spill**

Construction

*K3 Proposed Development*

- 2.3.36 K3 as consented is at an advanced stage of construction and was the subject of its own assessment as part of the 2010 ES and consented with conditions (including an Environmental Management Plan and Construction Method Statement in addition to seasonal piling restrictions) pursuant to the protection of adjacent protected species and sites and water quality. No likely significant effects were deemed likely to result from the construction of the K3 facility in this regard.

- 2.3.37 All relevant conditions of the extant planning permission have been discharged and complied with.

- 2.3.38 No further construction is required pursuant to the practical effect of the K3 Proposed Development and therefore no further dust deposition effects will occur.

*WKN Proposed Development*

- 2.3.39 It is agreed that subject to best practice construction methods to minimise light spill such that lighting levels are no more than 1 lux, secured through the CEMP (Requirement 22 of the DCO) that the WKN Proposed Development is unlikely to result in an ~~adverse-significant~~ effect on the integrity of the Swale designations ~~will occur~~ during construction.

Operation

### *K3 Proposed Development*

- 2.3.40 A lighting scheme for K3 as consented was approved under Condition 21 of its extant planning permission from KCC. No changes to this lighting scheme pursuant to the practical effect of the K3 Proposed Development are required. The approved lighting strategy forms a certified document of the DCO for the K3 Proposed Development. Any amendments to the certified lighting strategy would require consent from the planning authority pursuant to Requirement 7 of the DCO.

### *WKN Proposed Development*

- 2.3.13 It is agreed that subject to the implementation of Requirement 23 (external lighting) that the WKN Proposed Development will not have a detrimental effect on biodiversity.

## **2.4 The Swale Estuary Marine Conservation Zone**

- 2.4.1 It is agreed that the Proposed Developments will not result in significant effects on the Swale Estuary Marine Conservation Zone. See 'Water Quality and Resources' above.

## **2.5 Medway Estuary and Marshes SPA and Ramsar site**

- 2.5.1 It is agreed that the Proposed Developments will not result in significant effects on the Medway Estuary and Marshes SPA and Ramsar site.

## **2.6 Thames Estuary and Marshes SPA and Ramsar site**

- 2.6.1 It is agreed that the Proposed Developments will not result in significant effects on the Thames Estuary and Marshes SPA, Ramsar site and SSSI.

## **2.7 South Thames Estuary and Marshes SSSI**

- 2.7.1 It is agreed that the Proposed Developments will not result in significant effects on the South Thames Estuary and Marshes SSSI.

## **2.8 Queendown Warren SAC and SSSI**

- 2.8.1 It is agreed that the Proposed Developments will not result in significant effects on the Queendown Warren SAC and SSSI.

## **2.9 Conclusion**

- 2.9.1 It is agreed that the Proposed Developments will not compromise the conservation objectives of the identified Natura 2000 sites and will not result in adverse effects on the respective sites integrity.





### **3 Matters where discussions are ongoing**

- 3.1.1 The parties to this SoCG confirm that there are currently no matters where ongoing discussion is required.

## 4 Matters Not Agreed

- 4.1.1 The parties to this SoCG confirm that there are currently no matters which have not been agreed.

Signed.....

Name and position.....

**On behalf Wheelabrator Technologies Inc.**

Date.....

Signed.....

Name and position.....

**On behalf of Natural England**

Date.....