

**WRITTEN SUMMARY OF ORAL SUBMISSIONS FOR NORTH HOYLE WIND FARM LTD AT  
COMPULSORY ACQUISITION HEARING OF 28 FEBRUARY 2023**

1. Parties have been seeking to deal with the impact on North Hoyle by way of a cable crossing agreement. A revised version was returned to the Applicant's solicitor on 20 February which sought to move a number of issues forward. However, there are a number of fundamental issues between the parties in relation to financial obligations and the extent to which the obligations should be reciprocal. Since the hearing, a further iteration of the agreement has been received from the applicant which is under consideration by NHWFL.
2. The ExA requested NHWFL to provide their preferred set of protective provisions for protection of the interests of NHWFL. These were prepared and submitted at Deadline 5. These are intended to be the provisions which would apply in the event that agreement cannot be concluded. However, discussions are ongoing. The extent to which protective provisions are required will depend on the degree of agreement which is reached between the parties.
3. Currently, the following issues remain in dispute:-
  - NHWFL remains concerned, on the basis of previous experience, that works carried out by the Applicant to connect their development to the grid could lead to temporary disconnection or curtailment of generation of the NHWFL development. NHWFL therefore seeks additional protection for that potential impact.
  - A cap on the level of the indemnity is not acceptable. The protective provisions which the Applicant has proposed in the draft DCO for other electricity undertakers are not subject to caps. There is no reasonable basis for requiring such a cap in relation to works affecting NHWFL.
  - Presently, NHWFL could execute works on their cable without a requirement for third party consent and without incurring potential liability under an indemnity or a having requirement for mandatory insurance. It is the Applicant that is introducing new works which impacts on future works by NHWFL. NHWFL is prepared to agree to reasonable reciprocal provisions to ensure that future works can be coordinated between the parties. However, it is not reasonable for NHWFL to be expected to incur additional liability or expenditure as a result of the Applicant's works. For that reason, NHWFL cannot accept that they should be placed under a requirement for a reciprocal indemnity and insurance requirement in relation to works which they could currently carry out without such financial obligations.
4. Although the Applicant refers to an industry standard template, there can be considerable variation in the terms of cable crossing agreements. The previous agreement which the Applicant refers to was entered into in different circumstances and it was made clear to the Applicant at an early stage that different provision may be required in the present case.
5. NHWFL still seeks to reach agreement with the Applicant on the terms of the cable crossing agreement. In the event that agreement cannot be reached, however, the NHWFL would seek that the protective provisions are added to the DCO. These would still allow the parties to reach a contractual agreement but would ensure that there is a mechanism in place for regulation of the crossing works.

6. At the hearing, the Applicant questioned the need for protective provisions. It is noted, however, in the agenda for the Compulsory Acquisition Hearing on 28 February 2023, the ExA asked in relation to Agenda Item 5 about the possible use of the protective provisions made in the Norfolk Boreas and Hornsea Threes DCOs as a mechanism for resolving a dispute with Network Rail Infrastructure Ltd. NHWFL would draw the ExA's attention to Part 8 of Schedule 17 to the Norfolk Boreas Offshore Wind farm Order 2021. This includes protective provisions for the benefit of Orsted Hornsea Project Three (UK) Ltd for the protection of the Hornsea Three cable where it requires to be crossed by the Norfolk Boreas cable. There is therefore precedent for the inclusion of protective provisions in a DCO in relation to cable crossings.