

# Cottam Solar Project

## Statement of Common Ground with Upper Witham Internal Drainage Board Revision A

Prepared by: Delta-Simons  
January 2024

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Infrastructure Planning (Examination Procedure) Rules 2010



## Contents

<b>1</b>	<b>INTRODUCTION</b>	<b>3</b>
1.1	PURPOSE OF THIS DOCUMENT	3
1.2	PARTIES TO THIS STATEMENT OF COMMON GROUND	3
1.3	TERMINOLOGY	3
<b>2</b>	<b>RECORD OF ENGAGEMENT</b>	<b>1</b>
2.1	SUMMARY OF CONSULTATION	1
<b>3</b>	<b>ISSUES</b>	<b>5</b>
3.1	MATTERS AGREED	5
3.2	MATTERS UNDER DISCUSSION	9
3.3	MATTERS NOT AGREED	9
<b>4</b>	<b>SIGNATORIES</b>	<b>10</b>
4.1	OVERVIEW	10
<b>APPENDIX A – CORRESPONDENCE WITH UPPER WITHAM IDB</b>		<b>11</b>

## Issue Sheet

**Report Prepared for: Cottam Solar Project Ltd.**

### Statement of Common Ground Upper Witham Internal Drainage Board

**Prepared by:**

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**Approved by:**

Name: Josh Rigby,

Title: Associate Water Services, Delta Simons

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Original Date: July 2023

Revision: [A]: January 2024

## **1 Introduction**

### **1.1 Purpose of this document**

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared as part of the proposed Cottam Solar Project Development Consent Order (the Application) made by Cottam Solar Project Ltd (the Applicant) to the Secretary of State for Energy Security and Net Zero (the Secretary of State) pursuant to the Planning Act 2008 (PA 2008).
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available on the Planning Inspectorate website.
- 1.1.3 This SoCG has been produced to confirm to the Examining Authority (ExA) where agreement has been reached between the parties, and where agreement has not yet been reached. SoCGs are an established means in the DCO consenting process of allowing all parties to identify and focus on specific issues that may need to be addressed during the examination.

### **1.2 Parties to this Statement of Common Ground**

- 1.2.1 This SoCG has been prepared by (1) Cottam Solar Project Ltd as the Applicant and (2) Upper Witham Internal Drainage Board.
- 1.2.2 Collectively, Cottam Solar Project Ltd and Upper Witham Internal Drainage Board are referred to as 'the parties'.

### **1.3 Terminology**

- 1.3.1 In the table in the Issues chapter of this SoCG:
- "Agreed" indicates where the issue has been resolved.
  - "Not Agreed" indicates a final position, and
  - "Under discussion" indicates where these points will be the subject of ongoing discussion wherever possible to resolve, or refine, the extent of disagreement between the parties.

## 2 Record of Engagement

### 2.1 Summary of consultation

2.1.1 The parties have been engaged in consultation since October 2021, just prior to the non-statutory consultation stage of the project which took place during November-December 2021. A summary of the meetings and correspondence that have taken place between Cottam Solar Project and Upper Witham Internal Drainage Board in relation to the Application is outlined in **Table 2-1**. The IDB's interest in the Scheme relates only to the Cottam 1 site and not the Scheme as a whole.

**Table 2.1 - Record of Engagement**

Date	Form of Correspondence	Key topics discussed and key outcomes
13/10/21	Email – Witham IDB Head of Technical & Engineering Services	<p>Flood Risk Assessment and Drainage Strategy <b>[APP-090]</b> and Hydrology Chapter <b>[APP-045]</b>.</p> <p>IDB representative stated that solar farm developments within floodplain can be accepted with appropriate mitigation.</p> <p>Comments raised:</p> <p>All electrical equipment should be placed above design flood levels.</p> <p>The proposed development needs to be resilient to flooding.</p> <p>Any surface water runoff associated with new developments will be required to be limited to greenfield rates.</p> <p>A clear unobstructed strip is required adjacent to all board watercourses.</p> <p>New byelaws will soon be adopted which require an easement distance of 9 m.</p> <p>[Note: the 9m Byelaw distance has now been adopted by the IDB.]</p>
06/06/2023	Phone call and Email - Witham IDB	C8.3.7 Upper Witham IDB draft SoCG.

	Head of Technical & Engineering Services	<p>Comments Raised:</p> <p>As agreed between the parties, 9m offsets from the 'top of the bank' to the Scheme will provide a clear strip adjacent to all maintained watercourses.</p> <p>Upper Witham IDB confirmed an initial review of the draft SoCG had been completed with comments fed back to the Applicant.</p> <p>Discussion of the need for additional/ revised plans had not been agreed as being required, however, the Applicant confirms additional/ revised plans will be made at the detailed design stage to detail the extent and location of each of the IDB's maintained watercourses.</p>
27/07/23	Section 42 Consultation response	<p>Flood Risk Assessment and Drainage Strategy [APP-90] and Hydrology Chapter [APP-045].</p> <p>Upper Witham Internal Drainage Board stated that while they have a standing objection in principle to development within floodplain, solar farms can be appropriate with mitigation.</p> <p>The Board reiterated that under the terms of the Board's Byelaws, the prior written consent of the Board is required for any proposed temporary or permanent works or structures in, under, over or within the byelaw distance of 9m of the top of the bank of a Board maintained watercourse. A clear unobstructed strip the full width is required adjacent to all the maintained watercourses.</p> <p>[Note: the 9m Byelaw distance has now been adopted by the IDB as of April 2022].</p>
March 2023	Relevant Representation submitted by the Board [RR-0045]	<p>Some of the proposed sites are within the Upper Witham Internal Drainage Board district and a number of Board maintained watercourses are within or adjacent to the sites. Some of the site is also within the Board's Extended Area where the Board acts as agent to Lincolnshire CC for Consents under the Flood and Water Management Act 2010, and the Land Drainage Act. 1991. A map has been provided to the applicant</p>

		<p>previously showing the areas and watercourses. Upper Witham Internal Drainage Board OBJECTS to the proposals.</p> <p>Reason;- Fencing, planting and solar panels are shown on the submitted documents within the maintenance access strip adjacent to a number of Board maintained watercourses preventing or obstructing access. All Fencing, planting and solar panels needs to be relocated 9m from the top of the bank as agreed following the initial consultation with the Board.</p> <p>Environmental Statement Chapter 10: Hydrology, Flood Risk and Drainage 10 Hydrology, Flood Risk and Drainage Table 10.1: Consultation</p> <ul style="list-style-type: none"> <li>• ‘Witham 3 Internal Drainage Board’ is incorrect and needs to be replaced with ‘Upper Witham Internal Drainage Board’.</li> <li>• New Byelaws have now been adopted with a 9m Byelaw distance from the top of the bank.</li> <li>• All other comments are correct and it is noted that there is on going engagement.</li> </ul> <p>This section should also include.</p> <ul style="list-style-type: none"> <li>• Under the terms of the Land Drainage Act. 1991 the prior written consent of Upper Witham Internal Drainage Board is required for any proposed temporary or permanent works or structures within any watercourse including infilling or a diversion within the Boards district.</li> <li>• Under the provisions of the Flood and Water Management Act 2010, and the Land Drainage Act. 1991, the prior written consent of the Lead Local Flood Authority (Lincolnshire County Council) is required for any proposed works or structures in any watercourse outside those designated main rivers and Internal Drainage Districts. Within the ‘extended area’ Upper Witham Internal Drainage Board acts as Agents for the Lead Local Flood Authority and as such any works, permanent or temporary, in any ditch, dyke or other such watercourse will require consent from the Board..</li> </ul>
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		<p>10.7 Embedded Mitigation</p> <ul style="list-style-type: none"> <li>• This states '8m easements have been established around all watercourses, including Main Rivers and Ordinary Watercourses and 9 m from IDB assets.' However, the submitted plans show encroachment of fencing/planting/solar panels within the 9m distance to IDB watercourses which is unacceptable. Note the 9m is 'from the top of the bank' it is required to allow access for large plant to undertake maintenance. Flood zone 2 and 3. The document indicates that some of the area in within Flood zone 2 and 3. But the is not proposed mitigation it would be recommended that all the electrical equipment is above design flood levels in the main river system and any construction is resilient to flooding. It is noted 3.2.2 in Appendix 10.1 includes mitigation. Environmental Statement Appendix 10.1: Flood Risk Assessment and Drainage Strategy It is noted various measures are included to reduce the impact of increased impermeable areas.</li> </ul> <p>3.2.2</p> <ul style="list-style-type: none"> <li>• states '8m easements have been established around all watercourses, including Main Rivers and Ordinary Watercourses and 9 m from IDB assets' However, the submitted plans show encroachment of fencing/planting/solar panels within the 9m distance to IDB watercourses which is unacceptable. Note the 9m is 'from the top of the bank' it is required to allow access for large plant to undertake maintenance.</li> <li>• It is noted 'Fixed panels should be located within areas of the Site which are located in Flood Zone 1 whereas tracker panels can be located in areas that are within Flood Zones 2 and 3 on the basis of the additional flood protection offered by their potential to be stowed horizontally.'</li> <li>• It is noted 'Electrical infrastructure associated with the panels can be adequately waterproofed to withstand the effect of flooding. Where possible the sensitive electrical equipment has been located in parts of the Site that are within Flood Zone 1. Where this hasn't been possible, equipment will be raised 0.6 m above the 0.1% Annual Exceedance Probability (AEP) flood level or where this is not possible as high as</li> </ul>
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		<p>practicable.' EN010133-000461-C7.6 Design and Access Statement_Part 2 of 4 Solar Panels and fencing within 9m of the top of the bank of an Upper Witham IDB watercourse.</p> <p>EN010133-000462-C7.6 Design and Access Statement_Part 3 of 4 Figure 8.16.2</p> <ul style="list-style-type: none"> <li>• IDB watercourses not clearly identified.</li> </ul> <p>0502 - Fillingham South Drain o Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance</p> <p>0500 - East Till o Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance Figure 8.16.3</p> <ul style="list-style-type: none"> <li>• IDB watercourses not clearly identified.</li> </ul> <p>0600 - Cammeringham Drain o Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance Figure 8.16.4</p> <ul style="list-style-type: none"> <li>• IDB watercourses not clearly identified.</li> </ul> <p>0600 - Cammeringham Drain o Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance Figure 8.16.5</p> <ul style="list-style-type: none"> <li>• IDB watercourses not clearly identified.</li> </ul> <p>0700 - Cricket Till o Fencing and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance Figure 8.16.7.1 &amp; 2</p> <p>IDB watercourses not clearly identified. • 0500 - East Till o Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance</p> <p>0400 - Padmoor Drain o No comments</p>
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		<p>0106 - Throops Drain o Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance Figure 8.16.6</p> <ul style="list-style-type: none"> <li>• IDB watercourses not clearly identified.</li> </ul> <p>0106 - Throops Drain o Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance Only Cottam 1 is within the area relevant to Upper Witham IDB. For Cottam 2 and Cottam 3A/3B Scunthorpe &amp; Gainsborough IDB should be consulted.</p>
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2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) Cottam Solar Project Ltd and (2) Upper Witham Internal Drainage Board in relation to the issues addressed in this SoCG.

### 3 Issues

#### 3.1 Matters Agreed

3.1.1 **Table 3.1** below details the matters agreed with the Upper Witham Internal Drainage Board.

**Table 3.1: Matters Agreed**

Main Topic Ref	Sub-topic	Stakeholder Comments	Applicant Response
<p><u>Hydrology</u></p> <p><u>HY-01</u></p>	<p>Maintenance Access Strip and Embedded Mitigation</p>	<p><i>From Relevant Representations – RR-045</i></p> <p>Flood zone 2 and 3. The document [chapter 10 of the ES: Hydrology, Flood Risk and Drainage] indicates that some of the area in within Flood zone 2 and 3. But the is not proposed mitigation it would be recommended that all the electrical equipment is above design flood levels in the main river system and any construction is resilient to flooding."</p> <p>"It is noted 'Fixed panels should be located within areas of the Site which are located in Flood Zone 1 whereas tracker panels can be located in areas that are within Flood Zones 2 and 3 on the basis of the additional flood protection offered by their potential to be stowed horizontally.</p> <p>It is noted that Electrical infrastructure associated with the panels can be adequately waterproofed to withstand the effect of flooding. Where possible the sensitive electrical equipment has been located in parts of the Site that are within Flood Zone 1. Where this hasn't been possible, equipment will be raised 0.6 m above the 0.1%</p>	<p>The Applicant confirms that the embedded mitigation measures states, within section 10.7 of <b>C6.2.10 ES Chapter 10 Hydrology Flood Risk and Drainage [APP-045]</b>, "where both fixed and tracker panels all sensitive and electrical equipment on the solar panel will be elevated by the legs so that it is no less than 0.6m above the surrounding peak flood level. Tracker panels will be stowed horizontally which will result in panels being 2.3m above ground level. Fixed panels will be raised so that they are no less than 0.6m above the surrounding peak flood level."</p> <p>Critical infrastructure within the Scheme (the conversion units, substations and energy storage compounds) have been sequentially located within Zone 1, an area with a "Low probability of flooding" and therefore in land assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (&lt;0.1%).</p>

		Annual Exceedance Probability (AEP) flood level or where this is not possible as high as practicable.'	<p>The Applicant points to <b>C6.2.22 ES Chapter 22_Mitigation Schedule [APP-057]</b> and <b>C7.15 Concept Design Parameters and Principles [APP-352]</b> where those embedded mitigation measures, as captured within ES Chapter 10, have been designed into the Scheme. The Applicant confirms that detailed design approval, as secured by Requirement 5 of Schedule 2, is included within the <b>draft Development Consent Order [AS-012]</b>.</p> <p>The Applicant notes that there are variances between how the embedded flood risk mitigation is described in <b>C6.2.10 ES Chapter 10 Hydrology Flood Risk and Drainage [APP-045]</b> and <b>C6.3.10.1 ES Appendix 10.1 Flood Risk Assessment and Drainage Strategy Report [APP-090]</b>. The Applicant confirms that <b>C6.2.10 ES Chapter 10 Hydrology Flood Risk and Drainage [APP-045]</b> will be updated to reflect the embedded mitigation measures as written into ES Appendix 10.1 <b>[APP-090]</b>.</p> <p><b>C6.2.22 ES Chapter 22 Mitigation Schedule [APP-057]</b> will also be updated by Deadline 1 so that it aligns with the description of the embedded flood risk mitigation in <b>ES Chapter 10</b>.</p>
<u>Hydrology</u> <u>HY-02</u>	Maintenance Access Strip and	<i>From Relevant Representations – RR-045</i>	The Applicant has discussed this matter with the IDB and both parties are in agreement that the scale of the project makes it impossible to

	<p>Embedded Mitigation</p>	<p><i>Upper Witham Internal Drainage Board (IDB) OBJECTS to the proposals. Reason; - Fencing, planting and solar panels are shown on the submitted documents within the maintenance access strip adjacent to a number of Board maintained watercourses preventing or obstructing access. All fencing, planting and solar panels need to be relocated 9m from the top of the bank as agreed following the initial consultation with the Board Environmental Statement Chapter 10: Hydrology, Flood Risk and Drainage Table 10.1: Consultation.</i></p> <p><i>10.7 Embedded Mitigation. This states '8m easements have been established around all watercourses, including Main Rivers and Ordinary Watercourses and 9m from IDB assets'. However, the submitted plans show encroachment of fencing/planting/solar panels within the 9m distance to IDB watercourses which is unacceptable. Note the 9m is 'from the top of the bank' it is required to allow access for large plant to undertake maintenance.</i></p>	<p>provide the full details of the scheme at this stage. The Upper Witham IDB requirement of a 9m (from the bank top) clear strip adjacent to all the maintained watercourses is not fully defined on the current drawings. However, the Applicant can confirm that distances between IDB drains and proposed development/landscape mitigation will all be offset at a distance of at least 9m. Detailed drawings showing the required offsets will be provided to the IDB at the detailed design stage post DCO consent.</p> <p>Protective provisions for the benefit of the IDB are included in part 8 to Schedule 16 of the draft DCO [AS-012] which require that the IDB be consulted and approve any "specified works" within 9m of any of the IDB's drains/watercourses.</p> <p>Please also see the response to HY-03 below.</p>
<p><u>Hydrology</u> <u>HY-03</u></p>	<p>Identification of Watercourses</p>	<p><i>"Figure 8.16.2: IDB watercourses not clearly identified.</i></p> <p><i>0502 - Fillingham South Drain. Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance</i></p> <p><i>0500 - East Till. Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance.</i></p>	<p>These IDB watercourses and drains have been considered throughout the layouts with a 9m offset as has been possible and as shown on <b>Landscape and Ecology Mitigation and Enhancement Plans (Figures 8.16.1 to 8.16.10) [APP-305 to APP-315]</b>. The Applicant has discussed this matter with the IDB and both parties are in agreement that the scale of the Scheme makes it impossible to provide the</p>

	<p><i>Figure 8.16.3: IDB watercourses not clearly identified.</i> 0600 - Cammeringham Drain. Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance.</p> <p><i>Figure 8.16.4: IDB watercourses not clearly identified.</i> 0600 - Cammeringham Drain. Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance.</p> <p><i>Figure 8.16.5: IDB watercourses not clearly identified.</i> 0700 - Cricket Till. Fencing and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance.</p> <p><i>Figures 8.16.7.1 &amp; 2: IDB watercourses not clearly identified.</i> 0500 - East Till. Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance.</p> <p>0400 - Padmoor Drain. No comments.</p> <p>0106 - Throops Drain. Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance.</p> <p><i>Figure 8.16.6: IDB watercourses not clearly identified.</i> 0106 - Throops Drain. Fencing, planting and potentially solar panels within the 9m Byelaw distance (from the top of the bank) preventing access for maintenance.</p>	<p>full information regarding detailed design at this stage.</p> <p>The Applicant notes that the drawings are based on the currently available data and mapping and in some cases the 'top of bank' is not defined. It notes that further survey work will be required to establish the 'top of bank' which will in turn give the 9m offset and required clear working access. The IDB can provide a shape file to confirm the locations during the detailed design stage post DCO consent.</p> <p>The Applicant will then provide a specific plan to the IDB at the detailed design stage (post DCO consent) to give clear details of all 9m offsets to the IDB's maintained watercourses and drains.</p>
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<p><u>Hydrology</u> <u>HY-04</u></p>	<p>Provision of Works</p>	<p><i>Provision of any culverts, outfalls and other works within all watercourses (apart from Environment Agency main river.)</i></p> <p><i>Within the Upper Witham IDB district under the terms of the Land Drainage Act. 1991 the prior written consent of the Board is required for any proposed temporary or permanent works or structures within any watercourse including infilling or a diversion.</i></p> <p><i>Within the extended area of Upper Witham IDB under the provisions of the Flood and Water Management Act 2010, and the Land Drainage Act. 1991, the prior written consent of the Lead Local Flood Authority (Lincolnshire County Council) is required for any proposed works or structures in any watercourse outside those designated main rivers and Internal Drainage Districts. At this location this Board acts as Agents for the Lead Local Flood Authority and as such any works, permanent or temporary, in any ditch, dyke or other such watercourse will require consent from the Board.</i></p>	<p>The IDB have asked for this item to be included within the Statement of Common Ground. The Applicant notes the requirements and will ensure that the project adheres to these as and when required. Protective provisions for the benefit of the IDB are included in part 8 to Schedule 16 of the draft DCO [AS-012] which require that the IDB be consulted and approve any “specified works” within 9m of any of the IDB’s drains/watercourses.</p>
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### 3.2 Matters Under Discussion

3.2.1 None

### 3.3 Matters Not Agreed

3.3.1 None

## 4 Signatories

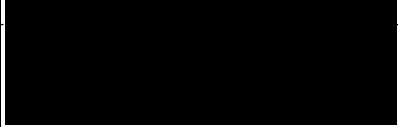
### 4.1 Overview

4.1.1 The above SoCG is agreed between Cottam Solar Project Ltd. (the Applicant) and **Upper Witham Internal Drainage Board**, as specified below.

Duly authorised for and on behalf of **Cottam Solar Project Ltd.**

Name:	Eve Browning
Job Title:	Senior Project Development Manager
Date:	16/10/2023
Signature:	

Duly authorised for and on behalf of **Upper Witham Internal Drainage Board.**

Name:	Mr martin Shilling
Job Title:	Director of Engineering
Date:	13/10/2023
Signature:	





## Appendix A – Correspondence with Upper Witham IDB

# UPPER WITHAM INTERNAL DRAINAGE BOARD

**Mrs. Jane Froggatt**  
**MA, BA (Hons), Dip HSM**  
**Chief Executive**



**WITHAM HOUSE**  
**MEADOW LANE**  
**NORTH HYKEHAM**  
**LINCOLN**  
**LN6 9GJ**

Web:  
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[enquiries@witham3idb.gov.uk](mailto:enquiries@witham3idb.gov.uk)

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BY EMAIL

The Planning Inspectorate  
Email:  
[cottamsolarproject@planninginspectorate.gov.uk](mailto:cottamsolarproject@planninginspectorate.gov.uk)

10/01/2023

Dear Sir or Madam,

**PINS REF EN010133**

**APPLICATION BY COTTOM SOLAR PROJECT LIMITED ('APPLICANT') FOR A DEVELOPMENT CONSENT ORDER FOR THE CONSTRUCTION, OPERATION (INCLUDING MAINTENANCE) AND DECOMMISSIONING OF THE COTTAM SOLAR PROJECT ('ORDER')**

I am writing on behalf of the Upper Witham Internal Drainage Board (IDB).

Following the recent discussions that we have had with the Applicant; we are in agreement that we give consent under section 150 Planning Act 2008 in relation to the following legislation referred to in Article 6 of the draft Order:

Section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991;

The provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991; and

The provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of authority) to the Water Resources Act 1991.

This consent is provided on the basis of the matters set out in the Applicant's draft Development Consent Order, Document ref: EX2/C3.1\_C.

Yours faithfully,

Martin Shilling  
Director of Engineering and Technical Services

pp. Mark Ketley

