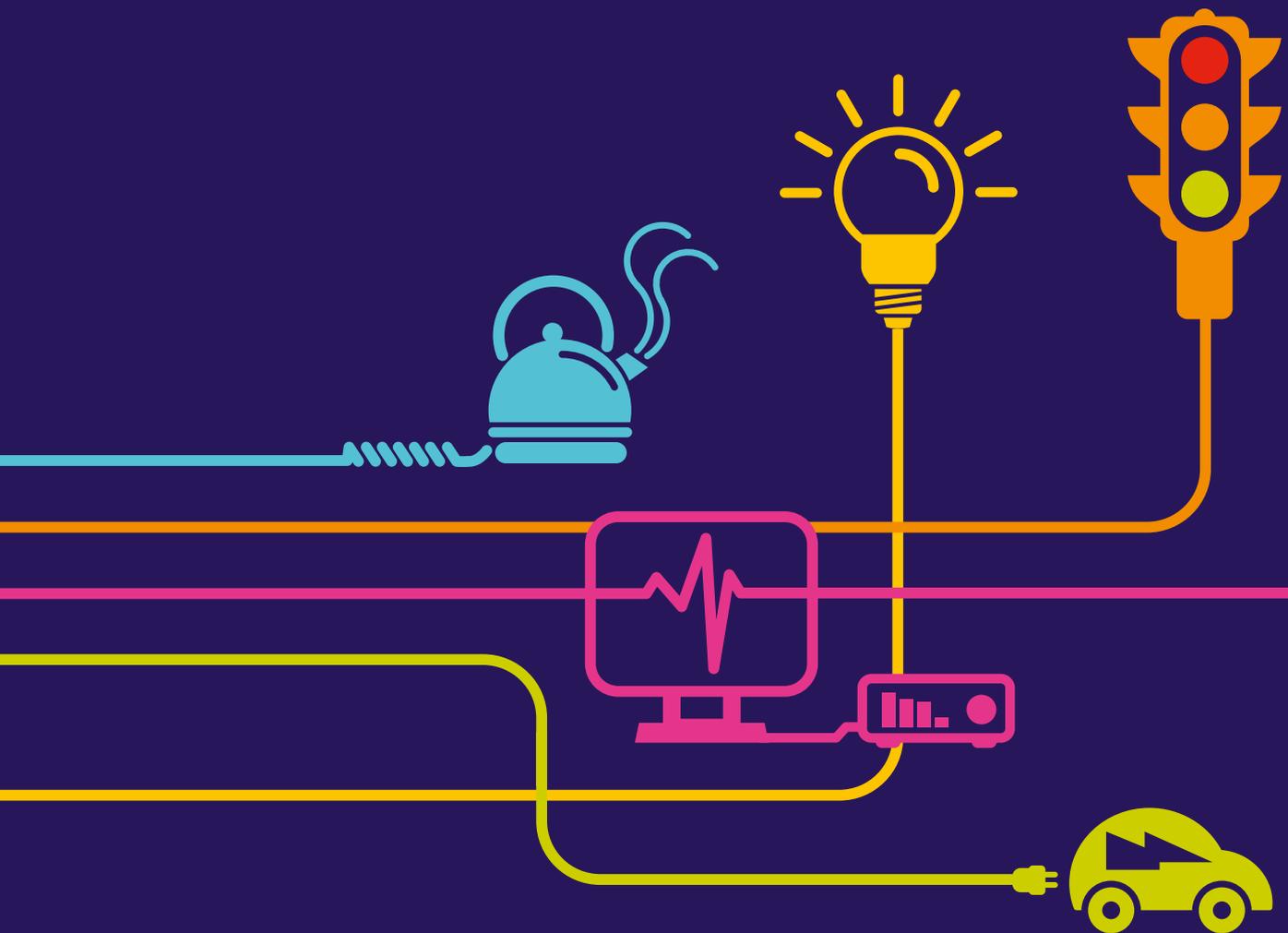


8.4.1(C)

Statements of Common Ground Environment Agency

National Grid (Richborough Connection Project) Order



Richborough Connection Project

Statement of Common Ground between National Grid and the Environment Agency

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Final

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1 INTRODUCTION

1.1 Purpose of this Document

1.1.1 This Statement of Common Ground (SoCG) is between National Grid Electricity Transmission Ltd (National Grid) and the Environment Agency relating to the Development Consent Order (DCO) application for the Richborough Connection Project. It has been prepared in accordance with the guidance¹ published by the Department of Communities and Local Government.

1.1.2 This SoCG has been prepared to identify matters agreed and matters currently outstanding between National Grid and the Environment Agency. This represents the final SoCG between National Grid and the Environment Agency.

1.2 Approach to the SoCG

1.2.1 This SoCG is structured as follows:

- Section 1 provides an introduction to this SoCG and a description of its purpose.
- Section 2 states the role of the Environment Agency in the DCO application process and details consultation undertaken between National Grid and the Environment Agency.
- Section 3 sets out matters agreed between National Grid and the Environment Agency.
- Section 4 sets out matters where agreement is currently outstanding between National Grid and the Environment Agency.
- Appendix A includes the signing off sheet.

¹ Planning Act 2008: Guidance for the examination of applications for development consent. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance_final_for_publication.pdf

2 CONSULTATION

2.1 Role of the Environment Agency in the DCO process

2.1.1 The Environment Agency is an executive non-departmental public body, sponsored by the Department for Environment, Food and Rural Affairs with the stated purpose “to protect or enhance the environment, taken as a whole”. Within England it is responsible for:

- Regulating major industry and waste;
- Treatment of contaminated land;
- Water quality and resources;
- Fisheries;
- Some inland river, estuary and harbour navigations;
- Conservation and ecology; and
- Managing the risk of flooding from Main Rivers, reservoirs, estuaries and the sea.

2.1.2 The Environment Agency’s priorities are to:

- Work with businesses and other organisations to manage the use of resources;
- Increase the resilience of people, property and businesses to the risks of flooding and coastal erosion;
- Protect and improving water, land and biodiversity; and
- Improve the way it works as a regulator to protect people and the environment and support sustainable growth.

2.1.3 The Environment Agency is named as a prescribed consultee for DCO applications in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

2.2 Summary of consultation

2.2.1 Consultation carried out by National Grid and the way in which it has informed the DCO application is set out in full in the Consultation Report submitted with the DCO application. The Environment Agency was included in the pre-application consultation carried out by National Grid.

2.2.2 National Grid and the Environment Agency have been, and continue to be, in direct communication in respect of the DCO application and issues pertinent to the Environment Agency’s interests.

2.2.3 This SoCG between National Grid and the Environment Agency is based on the extensive programme of consultation and discussions as summarised in **Table 2.1**.

Table 2.1 Consultation between National Grid and the Environment Agency

Date	Details
27 November 2012	Letter from the Environment Agency to National Grid responding to the Strategic Options Report (SOR) for the South East Region.
29 April 2014	Meeting between National Grid and the Environment Agency to provide an overview of the project, including the Nemo Link interconnector project, the options appraisal, programme, and to discuss the South East Water (Broad Oak) reservoir, and the scope and assessment of biodiversity and water environment issues. Final meeting minutes issued on 22 July 2014.
16 June 2014	Email from National Grid to the Environment Agency to make initial enquiries regarding watercourses of greatest concern, height clearances for bridges, design information required in the DCO submission and request for a meeting.
30 June 2014	Email from National Grid to the Environment Agency providing drawings showing indicative haul road routes and requesting review.
2 September 2014	Letter response from the Environment Agency to the EIA Scoping Opinion request.
22 September 2014	Meeting between National Grid and the Environment Agency to provide a general project update, and to discuss general water environment and selected biodiversity issues, the Environment Agency remit and consent requirements, engineering information to support the application, EIA requirements, and advice on Water Framework Directive (WFD) requirements. Final meeting minutes issued on 5 November 2014.
5 November 2014	Email from the Environment Agency to National Grid responding to a number of queries related to flood risk raised by the water environment EIA team.
18 March 2015	Formal Environment Agency response to Section 42 consultation.
17 April 2015	Meeting between National Grid and the Environment Agency to provide a general project update, obtain feedback on the Preliminary Environmental Information Report (PEIR) and draft Flood Risk Assessment (FRA), and to discuss disapplication of byelaws, consenting requirements, technical queries, and Broad Oak reservoir. Final meeting minutes issued on 5 June 2015.
17 April 2015	Email from National Grid to the Environment Agency providing template and guidance for WFD assessment for Flood Defence Consents (FDCs).
29 April 2015	Email from National Grid to the Environment Agency, including document attachments outlining DCO and non-DCO consents.
19 May 2015	Email from the Environment Agency to National Grid regarding the DCO and non-DCO consents email dated 29 April 2015.

Date	Details
5 June 2015	Email from National Grid to Environment Agency containing revised meeting minutes for the 17 April 2015 meeting, including a post-meeting note regarding the division of protected species responsibilities with Natural England.
10 June 2015, 13 July 2015 and 5 August 2015	Emails from National Grid to the Environment Agency regarding actions from 17 April 2015 meeting.
13 October 2015	Meeting between National Grid and the Environment Agency to provide the Environment Agency with an update on the development proposals, the DCO application, the water environment chapter of the ES and FRA, and discuss DCO requirements (Construction Environmental Management Plan (CEMP)), permitting requirements (flood defence and discharge consents), and the Statement of Common Ground (SoCG). Final meeting minutes issued on 4 December 2015.
9 November 2015	Email from Environment Agency to National Grid responding to actions from the 13 October 2015 meeting, advising on Environmental Permits and exceptions guidance on waste.
16 November 2015	Email from National Grid to Environment Agency requesting clarification on Environmental Permitting advice provided on 9 November 2015.
17 November 2015	Email from Environment Agency to National Grid providing further advice on Environmental Permit exceptions and requirements.
19 November 2015	Email from Environment Agency to National Grid providing comments on draft DCO.
24 November 2015	Email from Environment Agency to National Grid responding to final two actions from the 13 October 2015 meeting, advising on the Lower Stour Wetlands Biodiversity Opportunity Area (BOA), and clarification of Natural England and Environment Agency roles.
25 November 2015	Email from Environment Agency to National Grid agreeing to finalisation of minutes for 13 October 2015 meeting.
15 January 2016	Email from National Grid to the Environment Agency providing further information on likely future Flood Defence Consent applications, including location plans, typical construction drawings, and a bridge/culvert schedule setting out which crossing type is likely to be utilised at each location.
11 February 2016	Email from the Environment Agency in response to National Grid's Flood Defence Consent application consultation email sent on 15 January 2016.
29 March 2016	Email from National Grid to Environment Agency requesting direct provision of Relevant Representation to help resolve issues as soon as possible.
4 April 2016	Email from the Environment Agency providing a copy of their Relevant Representation dated 23 March 2016.

Date	Details
7 April 2016	Email from National Grid to the Environment Agency providing the Indicative Construction Programme for the Richborough Connection Project.
8 April 2016	Email from National Grid to the Environment Agency providing the first draft of the Statement of Common Ground (issue 0.1) between National Grid and the Environment Agency for comment and discussion at the meeting to be held on the 18 April 2016.
18 April 2016	Meeting between National Grid and the Environment Agency to discuss the Environment Agency's Relevant Representation, Flood Risk Activity Permit (FRAP) requirements, the first draft of the SoCG and the draft DCO requirements. The Environment Agency's concerns and interests with respect to Broad Oak Reservoir were also discussed.
20 May 2016	Email from the Environment Agency to National Grid responding to a number of actions from the 18 April 2016 meeting, including clearances from overhead lines, consenting of ordinary watercourses within the Environment Agency's permitting distances, guidance on WFD assessments to accompany FRAPs and wording on the Sequential Test for the SoCG.
23 June 2016	Email from National Grid to the Environment Agency providing the second draft (Issue 0.2a) of the Statement of Common Ground between National Grid and the Environment Agency for comment.
24 June 2016	Telephone conversation between Environment Agency and National Grid regarding water vole licencing.
30 June 2016	Email from the Environment Agency to National Grid providing review of the second draft (Issue 0.2a) of the Statement of Common Ground between National Grid and the Environment Agency.
06 July 2016	Email from National Grid to the Environment Agency providing the third draft (Issue 0.3) of the Statement of Common Ground between National Grid and the Environment Agency for comment.
07 July 2016	Email from the Environment Agency to National Grid providing review of the third draft (Issue 0.3) of the Statement of Common Ground between National Grid and the Environment Agency.
08 July 2016	Email from National Grid to the Environment Agency providing updated Land Quality Assessment report, and National Grid's Guidelines Pollution Prevention report for review.
08 July 2016	Emails between the Environment Agency and National Grid culminating in a signed version of the Statement of Common Ground for submission at Deadline 2.
25 July 2016	Email and letter from the Environment Agency to National Grid providing comment on updated Land Quality Assessment report, and National Grid's Guidelines Pollution Prevention for review.

Date	Details
27 July 2016	Email from the Environment Agency to National Grid advising that the amendments to Requirement 13, covering unsuspected contamination and piling are satisfactory.
1 August 2016	Telephone conversation between National Grid and the Environment Agency regarding Requirement 17 of the Draft DCO.
1 and 2 August 2016	Emails between National Grid and the Environment Agency regarding final amendments to the SoCG and signing as final for Deadline 3.
26, 30 and 31 August and 2 and 5 September 2016	Emails between National Grid and the Environment Agency regarding draft answers to the Examining Authorities second set of questions.
1 September 2016	Email from the Environment Agency to National Grid, regarding agreement of wording of Requirement 17.
2 September 2016	Emails between the Environment Agency and National Grid regarding future updates of the SoCG.
5 September 2016	Email from National Grid to the Environment Agency requesting the updated Water Body Improvement Plan (WIP) for the Sarre Penn and River Wantsum.
7 September 2015	Email from the Environment Agency to National Grid providing the updated WIP for the Sarre Penn and River Wantsum.
21 September 2016	Telephone conversation between National Grid and the Environment Agency regarding the Environment Agency's response to Q2.3.6, regarding FRAPs and planting.
26 and 27 September 2016	Emails between National Grid and the Environment Agency documenting the telephone conversation held on 21 September regarding FRAPs and planting.
27 September 2016	Telephone conversation between National Grid and the Environment Agency regarding the update of the SoCG for Deadlines 5 and 6, and attendance at the upcoming hearings.
27, 29 and 30 September 2016	Emails between National Grid and the Environment Agency regarding the updated SoCG (provision of draft to EA for comments, and provision of EA comments) and signing as final (Issue 3) for Deadline 5.
13, 19, 24 and 25 October	Emails between National Grid and the Environment Agency regarding the next update of the SoCG, including that the next update would be for Deadline 7, and provision of new contact details.
21 October 2016	Telephone conversation between National Grid and the Environment Agency regarding the next update of the SoCG. Matters discussed included Article 4.7 of the WFD, licencing for water voles and the addendum to the ES covering Cycle 2 WFD information and an update to the cumulative effects based upon updated information available for other proposed schemes.

Date	Details
27 October 2016	Email from the Environment Agency to National Grid providing the Environment Agency's position regarding Article 4.7, and requests for further information relating to the Addendum to the ES, and the updated Draft DCO.
27 October 2016	Emails from National Grid to the Environment Agency providing the Addendum to the ES for review, and advice regarding the updated DCO.
2 November 2016	Email from the Environment Agency to National Grid providing comments on the Addendum to the ES (Document 5.2.2), and subsequent agreement on wording to include in this updated SoCG.
2 November 2016	Emails between National Grid and the Environment Agency regarding the updated Statement of Common Ground, to be submitted at Deadline 7.

3 MATTERS AGREED

3.1 Summary of current position

- 3.1.1 The Environment Agency has no objection to the principle of the Richborough Connection Project.
- 3.1.2 The Environment Agency agrees with the project description for the Richborough Connection Project as set out in Chapter 4 of the Environment Statement and this is not discussed further.
- 3.1.3 National Grid and the Environment Agency have worked together to ensure the inclusion in the DCO application of a number of suitable environmental measures.

3.2 Environment Agency principal matters agreed

- 3.2.1 The Environment Agency agrees with the following principal matters relating to the DCO application:
- The Environment Agency is essentially satisfied that the EIA approach and method is appropriate, addresses the relevant issues, and is compliant with the National Policy Statement for Energy (NPS EN-1).
 - The Environment Agency is satisfied that the baseline descriptions of relevance to the Environment Agency, as set out in Chapters 9 and 13 of the ES, are sufficient and appropriate.
 - The Environment Agency has reviewed the submitted Flood Risk Assessment (FRA) produced by Amec Foster Wheeler, reference 5.4.13A, dated January 2016. The Environment Agency considers the document to comply with the requirements of the National Policy Statement for Energy (EN-1), the National Planning Policy Framework (NPPF) and the Planning Practice Guidance, and represent an accurate assessment of the flood risks on site; the assessment is proportionate to the risk and appropriate to the scale and nature of the project.
 - The Environment Agency agrees that the operational elements of the proposed development will have a negligible impact on flood risk. Both the Sequential and Exception Tests have been considered and the management measures summarised in section 9.1.7 of the FRA should ensure that flood risk will not be increased elsewhere. Measures relating to the proposed culverts and bridges associated with 'Main River' will be examined through the Flood Risk Activity Permit (FRAP) (previously Flood Defence Consent FDC) process.
 - Applying the Sequential Test is ultimately a task for the decision-maker (in this case the Secretary of State), assisted through the supply of information by the applicant. Whilst the Environment Agency does not scrutinise the Test itself they have confirmed that the Route Corridor Study provides sufficient evidence to support both FRA and the application of the Sequential Test.
 - The Environment Agency is satisfied with the embedded environmental measures set out in the ES and FRA.
 - The Environment Agency has reviewed the Addendum to the Environmental Statement submitted at Deadline 6 (Doc. 5.2.2), and is satisfied that the update with respect to the Cycle 2 WFD information, as well as the update with respect to cumulative effects, is appropriate. However, it should be noted that the

matter relating to cumulative effects from the Broad Oak Reservoir proposal remains outstanding, as set out in Item 4.1.1 of this SoCG.

3.2.2 Any exceptions and clarifications to the above in-principle statements are covered in the subsequent sections of this SoCG.

3.3 Environment Agency specific matters agreed

3.3.1 Specific matters for which agreement between National Grid and the Environment Agency has been reached to date are set out in Table 3.1 below.

Table 3.1 – Matters Agreed between National Grid and the Environment Agency

SoCG ID	Matter	Agreed Position	Date Agreed
3.1 Temporary works			
3.1.1	<p>Notification prior to complete closure of the River Stour to the passage of boats</p> <p>Item 1.2 in the Environment Agency's Relevant Representation</p>	<p>National Grid has agreed to provide prior notification to both the Environment Agency and Sandwich Harbourmaster if complete closure of the River Stour to the passage of boats is required. National Grid are asked to contact the Environment Agency with notification via email to ps0.eastkent@environment-agency.gov.uk. If urgent, National Grid are asked to contact the Environment Agency's Flood Incident Duty Officer on 0800 169 7047.</p> <p>National Grid has advised that any closures would simply be for specific sections (with temporary mooring buoys provided) for health and safety reasons, and would be for short timeframes (a matter of hours at a time, whilst, for instance, cables are strung over the river). The Environment Agency's comments provided within their Relevant Representation relating to wording in the draft DCO are dealt with under item 3.11 (Draft DCO) of this SoCG.</p>	18 April 2016
3.2 Flood Risk Activity Permits (FRAPs) (formerly Flood Defence Consents)			

SoCG ID	Matter	Agreed Position	Date Agreed
3.2.1	<p>FRAPs – works in the vicinity of Main Rivers</p> <p>Item 2.0 in the Environment Agency's Relevant Representation</p>	<p>From 6 April 2016, Flood Defence Consents (FDCs) were replaced by a new permitting regime for flood risk activities for Main Rivers under the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016. This permitting regime applies to all activities:</p> <ul style="list-style-type: none"> • in, over, or under the channel of Main Rivers; • on their banks; • within 8m of the top of their banks (16m for a tidally influenced water-body); or • within 8m of the landward toe of any flood defence (16m for a tidally influenced water-body). <p>Two types of FRAP would be issued, either 'bespoke' or 'standard rules', depending on the potential impact of the proposed activities. Other low risk activities may be either exempt or excluded from permitting. Exempt activities would still need to be registered with the Environment Agency. There is no requirement to notify the Environment Agency of excluded activities, provided these activities comply with the description of and conditions for the activity specified by the Environment Agency.</p> <p>National Grid is not seeking to disapply any of the Environment Agency's permitting powers with respect to FRAPs. A FRAP will therefore be required for any works within 8m/16m of any Main River or Main River flood defence structures that do not comply with requirements for exclusions or exemptions.</p> <p>The Environment Agency will only issue FRAPs for works related to Main Rivers. Ordinary Watercourses and IDB ditches will be consented either by Kent County Council (KCC) or the River Stour (Kent) Internal Drainage Board (IDB) under the provisions of the Water Resources Act (1991).</p> <p>National Grid and the Environment Agency agree that the FRAP process will be adhered to where required.</p>	18 April 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.2.2	FRAPs – pre-agreement of general principles	<p>It has been agreed that National Grid’s proposed approach to FRAPs, whereby applications for the permits themselves (including the final location and design of each watercourse crossing) will be made by the construction contractor once the DCO has been granted, is acceptable. This will enable the contractor to make the final decisions on detailed design based upon the environmental conditions/constraints at each location. Detailed information will be provided at the time of FRAP application. In the meantime, consultation regarding the details and requirements of the new FRAP applications is on-going.</p> <p>Nevertheless, the general principles applicable to the consenting process have been agreed between the relevant parties during the examination stage as part of this SoCG.</p>	<p>17 April 2015 22 September 2014 13 October 2015 18 April 2016</p>
3.2.3	FRAPs – grouping of activities/applications	<p>The Environment Agency indicated that it may be possible to group applications for the predecessor FDCs into 4 groups, and agreed to circulate the details ahead of the preparation of the FDC applications. The Environment Agency has agreed to advise National Grid whether such an approach will also be possible under the FRAP regime.</p>	17 April 2015
3.2.4	FRAPs – IDB crossings within 8m/16m Environment Agency Main River permitting distance	<p>National Grid and the Environment Agency are agreed that, under the new Environmental Permitting Regulations, National Grid will need to apply for a Flood Risk Activity Permit from them as well as the IDB for all crossings over Ordinary Watercourses within the Environment Agency’s 8m/16m permitting distance.</p>	20 May 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.2.5	<p>Confirmation of vertical and horizontal clearances for overhead lines over and adjacent to Main Rivers (FRAPs – clearances over Main Rivers)</p> <p>Item 2.1 in the Environment Agency's Relevant Representation</p>	<p>The following position has been agreed with the Environment Agency:</p> <p>The new Environmental Permitting Regulations for Flood Risk Activity Permits recommend both horizontal and vertical clearances for electrified cables adjacent to Main rivers are a minimum of 15m (vertical clearance is above bank top or flood defence crest level). Where 15m can be achieved the activity would be categorised as an Exemption and a formal application would not be necessary (providing all other Exemption criteria are met https://www.gov.uk/government/publications/environmental-permitting-regulations-exempt-flood-risk-activities).</p> <p>Where 15m is not achievable we have agreed the following:</p> <p>Tidal:</p> <ul style="list-style-type: none"> • Vertical clearances will be a minimum of 10m above mean high water level and a minimum of 8.1 m above bank top or flood defence crest level for the tidal River Stour. A FRAP will be required for all crossings over tidal Main Rivers below 15m above bank top or flood defence crest level. • Horizontal clearances of any tower or support from the top of the bank or toe of defence of tidal Main River will be a minimum of 10m. A FRAP will be required for structures that fall within the 16m permitting distance for tidal Main Rivers. <p>Non tidal:</p> <ul style="list-style-type: none"> • Vertical clearances will be a minimum of 8.1m for overhead lines from the top of bank or flood defence crest level for Main Rivers. A FRAP will be required for all crossings over tidal and non-tidal Main Rivers below 15m above bank top or flood defence crest level. • For horizontal clearances, National Grid are not proposing any permanent structures within 8m of the toe of defence for non-tidal Main Rivers, and the Environment Agency has advised that provided this distance is achieved, a FRAP will not be necessary. 	<p>07 July 2016</p> <p>20 May 2016</p> <p>18 April 2016</p>

SoCG ID	Matter	Agreed Position	Date Agreed
3.2.6	<p>FRAPs – temporary watercourse crossings/clear span bridges</p> <p>Items 2.0, 3.0, 3.1, 3.2 & 4.1 in the Environment Agency’s Relevant Representation</p>	<p>National Grid has advised that the only permanent infrastructure for which National Grid are seeking Development Consent is the new overhead line itself. Everything else will be temporary, including new watercourse crossings, except for new/replacement land drainage infrastructure. In addition, all new crossings over Main Rivers will be clear span bridges – no new culverts are proposed and there will be no in-channel piers. On the basis that all of the proposed new watercourse crossings are to be temporary, and no culverts are proposed, the Environment Agency has agreed that a number of comments made in their Relevant Representation are no longer necessary/applicable. These include comments relating to:</p> <ul style="list-style-type: none"> • permanent and semi-permanent bridges; • all comments relating to culverts (on the basis that none are proposed in Main Rivers); • topographic survey; • strict specifications for mammal ledges; • soffit heights for temporary bridges; <p>These are discussed under the relevant items of this SoCG.</p>	18 April 2016
3.2.7	<p>FRAPs – use of existing culverts/no new culverts</p> <p>Item 3.2 in the Environment Agency’s Relevant Representation</p>	<p>Existing culverts may be used in-situ for Main River crossings where these are found to be suitable and subject to structural survey. Where existing culvert crossings are found to be structurally unsuitable, National Grid has proposed to bridge over (or adjacent) using a clear span design, thus ensuring that no new culverts would be installed on Main Rivers. National Grid and the Environment Agency agree that this is an acceptable approach.</p>	18 April 2016
3.2.8	<p>FRAPs - less stringent FRAP requirements (because crossings are temporary and clear span) – visual survey appropriate</p> <p>Item 2.0 in the Environment Agency’s Relevant Representation</p>	<p>The Environment Agency has agreed that topographic surveys of the bed and banks will not be required for clear span crossings. Instead National Grid would simply need to ensure that the locations are left in the state they were before, which can be undertaken through visual survey, supported by photographic evidence.</p>	18 April 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.2.9	FRAPs – ecological surveys Items 4.4 and 4.4.2 in the Environment Agency's Relevant Representation	It has been agreed that pre-works 'verification' species surveys will be undertaken to support the FRAP applications. These will confirm the status of protected species in those habitats affected, where there was potential for them to be present, to check that their status has not changed since the extensive surveys undertaken to support the DCO application. Where species surveys have not been possible to date it is agreed that full ecological surveys would be undertaken to support the FRAP applications.	18 April 2016
3.2.10	FRAPs – Minimum bridge soffit levels for the proposed temporary crossings over the River Stour Item 3.1 in the Environment Agency's Relevant Representation	It is agreed that the use of Environment Agency flood model data to specify the minimum bridge soffit levels for the temporary crossings over the River Stour is appropriate. It was agreed that the 2 x temporary crossings over the River Stour would need to have soffit levels in excess of the 1 in 100 year plus climate change flood event ² plus 600mm above this level. Ultimately, soffit levels have been defined based upon navigation requirements (National Grid consulted the Sandwich Harbourmaster and the River Stour Downstream Interests Group on the proposed soffit heights and amended the designs for our proposed crossings over the River Stour accordingly), which are significantly in excess of flood requirements, as discussed in Sections 3.3 and 5.3 of the FRA.	18 April 2016 17 April 2015 22 September 2014
3.2.11	FRAPs – Climate change	It is agreed that the climate change allowances used in the FRA are appropriate. The 20% allowances for climate change used in the FRA is considered to be acceptable on the basis that the Richborough Connection DCO application was submitted prior to the publication of the updated guidance issued by the Environment Agency in February 2016, which sets out increased allowances for climate change impacts, and that this is a low risk development, so qualifies as a 'temporary exception' set out in the new guidance.	18 April 2016

² Despite the temporary nature of the proposed bridges, it was agreed to incorporate an allowance for climate change into design levels for these bridges, as the Environment Agency argued that temporary structures can often become permanent. The modelling incorporated climate change allowances to 2070 for tidal flooding and 2115 for fluvial flooding. It should be noted that the only permanent development for which National Grid is seeking consent is the overhead line itself, except for new/replacement land drainage infrastructure.

SoCG ID	Matter	Agreed Position	Date Agreed
3.2.12	<p>FRAPs – Minimum bridge soffit levels for the proposed temporary crossings over other Main Rivers (other than the River Stour)</p> <p>Item 3.1 in the Environment Agency's Relevant Representation</p>	<p>It is agreed that setting soffit heights 600mm above the 1:100 year flood level would be inappropriate for the vast majority of the other Main River crossings (other than the River Stour), which are level-maintained ditches located in the marshes and levels. It is agreed that the setting of watercourse crossings 'at grade', is likely to be appropriate in the marshes and levels.</p> <p>On the basis that no permanent watercourse crossings are proposed, the Environment Agency has agreed that the proposed soffit heights can be determined on a case by case basis at the Flood Risk Activity Permit application stage.</p>	18 April 2016
3.2.13	FRAPs – Abbott's Wall	<p>Abbott's Wall is not maintained by the Environment Agency as a flood defence structure, but it does provide flood defence benefit. It has been agreed that a FRAP (formerly Flood Defence Consent) will be necessary for any works affecting this structure.</p>	17 April 2015
3.2.14	<p>FRAPs – Water Framework Directive Assessment to support the applications</p> <p>Item 3.0 in the Environment Agency's Relevant Representation</p>	<p>The Environment Agency has advised that applications for bespoke permits and standard rules permits would need to be accompanied by WFD assessment. However, it has been agreed that these need only be brief, and potential effects can be scoped out for each location that is 'low risk'. Given National Grid's intention to avoid 'high risk' work e.g. by use of clear span bridges and no culverts, and that the works are only temporary, the Environment Agency anticipates that not many/if any activities would be 'amber' or 'red', meaning that few if any are likely to require further assessment to determine the impact on the river.</p>	18 April 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.2.15	Permitting – temporary groundwater discharges	<p>It has been agreed that where the conditions of the Environment Agency's regulatory position statement on temporary discharges from excavations (GEHO0810BSYE-E-E, version 4, issued July 2015) are met, an application for an environmental permit for discharges would not be required.</p> <p>Where the conditions cannot be met, applications for Environmental Permits would be submitted by National Grid to the Environment Agency.</p> <p>The Environment Agency has advised that the Environmental Permit issued would have at least two conditions, depending on the information supplied when submitting an application:</p> <ul style="list-style-type: none"> • The discharge shall not contain more than 30 milligrams per litre of suspended solids (measured after drying at 105°C), and • The discharge shall contain no trace of visible oil or grease. <p>It has been agreed that the contractor will agree details with the Environment Agency once details are known.</p>	17 November 2015
3.2.16	FRAPs - New/replacement land drainage outfalls	<p>The Environment Agency has advised that new/replacement land drainage outfalls may be covered by an exemption (to the FRAP process) subject to compliance with the exemption's conditions. It has been agreed that the details of this would be determined as part of the permitting and consenting process, outside the DCO itself.</p>	18 April 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.2.17	FRAPs – Planting	<p>It has been agreed that any planting within the FRAP permitting distances (8m for a non-tidal Main River and 16m for a tidal Main River), would require a FRAP, except where exclusions or exemptions apply. National Grid would not require a FRAP outside of these permitting distances, which apply to existing watercourses and defences only.</p> <p>National Grid would not need to apply for a FRAP for any planting to be located with any land that might be affected by SEW's future proposals for the Broad Oak reservoir and mitigation works. Additional detail on such planting is not required for FRAP purposes at this time to inform the RCP examination. It would be for SEW to apply for a FRAP at that time for any planting it proposes within the permitting distance (8m) of the existing or proposed new alignment of the Sarre Penn. As indicated by the Environment Agency in response to Q2.3.6, more details, including information on how this planted land will be managed, would be required at that time from SEW along the land affected by their proposals in order to issue a FRAP for their works.</p>	21 September 2016
3.3 Design of the 400kV line			
3.3.1	<p>Sufficient vertical clearance for the operational 400kV overhead lines for Main River watercourse maintenance activities</p> <p>Item 2.1 in the Environment Agency's Relevant Representation</p>	<p>National Grid undertakes to provide a minimum overhead line clearance of 8.1m over land, including above all tidal and non-tidal Main River bank top or flood defence crest levels. In addition, for the tidal River Stour, National Grid undertakes to provide a minimum 10m clearance above the mean high water level of the River. The Environment Agency agrees that this is acceptable.</p> <p>Clearances are also discussed under items 3.2.5 and 4.2.1 of this SoCG, which cover the agreed position relating to clearances and FRAPs (3.2.5) and the ongoing discussion relating to Draft DCO Requirement 17 (4.2.1).</p>	<p>07 July 2016</p> <p>20 May 2016</p> <p>18 April 2016</p> <p>17 April 2015</p> <p>22 September 2014</p>
3.4 Biodiversity			

SoCG ID	Matter	Agreed Position	Date Agreed
3.4.1	<p>Clarification on the remit/division of responsibility between the Environment Agency and Natural England.</p> <p>Item 4.3.1 in the Environment Agency's Relevant Representation</p>	<p>The Environment Agency has agreed with Natural England (NE) which areas each agency will take lead responsibility for in reviewing the DCO application:</p> <p>NE lead roles:</p> <ul style="list-style-type: none"> • SSSI and other designated sites; • land in environmental stewardship; • licensing for protected species to include dormice, great crested newts, bats and water voles; and • collision risk modelling for birds. <p>Environment Agency lead roles:</p> <ul style="list-style-type: none"> • Overall lead for water voles and other aquatic species (non-licensing); • disturbance of migratory species by site activities including backscatter of light on to the river and silt / pollution; • surface and ground water; • contaminated land; • waste management; • Flood Risk Activity Permitting (FRAP) - where a FRAP has the potential to affect nesting birds or water voles, the Environment Agency will comment on these species to ensure that activities which they regulate do not have the potential to harm nature conservation interests. If any FRAPs are to be issued in designated areas, the Environment Agency will consult Natural England in the normal way. <p>The Environment Agency's comments on water voles and other aquatic species have been noted, and have been fully taken into consideration in the Biodiversity chapter of the ES and the Biodiversity Mitigation Strategy (BMS).</p>	<p>18 April 2016</p> <p>24 November 2015</p> <p>17 April 2015</p> <p>29 April 2014</p>
3.4.2	<p>Scoped out receptors</p>	<p>With respect to biodiversity, the Environment Agency agreed with the conclusions stated in Section 7.6.19 of the Scoping Report, i.e. that potential effects (to Thanet Coast and Sandwich Bay SAC and Stodmarsh SAC) are unlikely to be significant and do not require further assessment.</p> <p>It was later agreed that the Stodmarsh SSSI/SAC would be considered in both the biodiversity and water environment sections of the ES (document 5.2).</p>	<p>17 April 2015</p> <p>2 September 2014</p>

SoCG ID	Matter	Agreed Position	Date Agreed
3.4.3	<p>Mammal ledges - less stringent FRAP requirements (because crossings are temporary and clear span)</p> <p>Item 4.1 in the Environment Agency's Relevant Representation</p>	<p>The Environment Agency has agreed that some of the comments included in the Relevant Representation will not be relevant because they were intended to cover permanent crossings. These include that the specifications for mammal ledges dimensions set out in their Relevant Representation (1m of bank with 300mm height clearance) would not be as rigorously applied for the clear span crossings, on the basis that these would be temporary and that provision of a corridor for mammals (as indicated in the typical construction drawings) would still be provided.</p>	18 April 2016
3.4.4	<p>Biodiversity – soft start piling</p> <p>Item 4.1 in the Environment Agency's Relevant Representation</p>	<p>The Environment Agency has requested the use of soft start piling techniques in the vicinity of tidal watercourses (16m) to reduce the potential to harm fish and/or seals. National Grid has agreed to use soft start techniques if piling is required within 16m of the tidal sections of the River Stour, which would only be for temporary bridges in any case, and would only be necessary during the October to March fish migration and breeding season.</p>	18 April 2016
3.4.5	<p>Aquatic species – migratory fish - timing of works in Main Rivers</p> <p>Item 4.1 in the Environment Agency's Relevant Representation</p>	<p>The Environment Agency has requested that any works that may cause vibration, silt mobilisation and unshielded lighting on the River Stour are limited between the October to March fish migration and breeding season.</p> <p>No in-river works are proposed in the River Stour; clear span bridges are proposed for the two crossings over the River Stour and mooring buoys would be attached by chain to the bank. National Grid has agreed (see statement above) to use soft start techniques if piling is required within 16m of the River Stour during the migration season. The embedded environmental measures proposed and secured through the CEMP are intended to ensure that silt mobilisation is minimised at source and contained before discharge to any watercourses. A lighting scheme will be produced under Requirement 6 of the DCO. The written details will incorporate the environmental measures in relation to lighting set out in the Generic Embedded Measures Schedule (Volume 5, Document 5.4, Appendix 3B) to avoid, reduce or compensate for potential effects on habitats and species. As a minimum, measures will be included to ensure that all lighting in the vicinity of the River Stour will be shielded during the October to March fish migration and breeding season.</p> <p>On this basis, i.e. the understanding of the current proposals, it has been agreed that it would be possible to undertake the proposed construction works without causing adverse effects on migratory fish.</p>	17 April 2015

SoCG ID	Matter	Agreed Position	Date Agreed
3.4.6	<p>Withdrawal of Environment Agency Pollution Prevention Guidance</p> <p>Items 4.1 and 12.1 in the Environment Agency's Relevant Representation</p>	<p>National Grid's proposed approach for dealing with the withdrawal of the Environment Agency's Pollution Prevention Guidance is covered under item 3.7.3 of this SoCG.</p>	18 April 2016
3.4.7	<p>Ecological enhancement</p> <p>Item 4.2 in the Environment Agency's Relevant Representation</p>	<p>The Environment Agency has requested National Grid to consider providing additional enhancements to aquatic habitats where possible. National Grid, as a regulated body, must develop the overhead line in an economic and efficient manner. Enhancements can only be delivered where there is a clear planning policy case (e.g. NPSs) or legislative driver (e.g. protected species licences). The enhancement measures proposed are set out in the Landscape and Habitat Enhancement Scheme, which mainly relates to landscape, to reduce the impact of the overhead line, and habitat, such as tree planting.</p> <p>The Environment Agency has suggested a potential enhancement that would not have a cost implication to National Grid; when temporary culverts are removed from IDB watercourses, that enhancement could be provided by leaving capacity on the bank for elvers. The Environment Agency have discussed with the River Stour IDB and reinstatement proposals will be agreed as part of the Land Drainage Consent process with the IDB (subject to Requirement 12 of the DCO). National Grid has agreed to enact any such re-instatement proposals agreed between the Environment Agency and River Stour IDB, provided they do not have a time or cost implication for the wider Richborough Connection Project. This matter is addressed in National Grid's, the Environment Agency's and the River Stour IDB's response to Q2.5.12.</p>	18 April 2016
3.4.8	<p>Water Voles - Licensing requirements for enhancement</p> <p>Item 4.3.1 in the Environment Agency's Relevant Representation</p>	<p>National Grid are not seeking a licence from Natural England (NE) for water voles because one is not currently thought to be required on the basis that an approach of avoidance of water vole habitat is proposed, including clear span bridges for temporary crossings where necessary. The Environment Agency has advised that it does not foresee any issues with respect to water voles, as National Grid's approach undertaken to date is acceptable. Thus National Grid have not included any statement in the BMS in respect of licencing requiring enhancements. If licencing is subsequently required, such enhancements would be secured outside of the BMS through derogation licencing conditions. Further to the responses by both National Grid and the Environment Agency to Q2.2.25 from the Examining Authority, both parties remain in agreement on this matter.</p>	18 April 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.4.9	Biodiversity Mitigation Strategy (BMS) – bankside work Item 4.3.2 in the Environment Agency’s Relevant Representation	It has been agreed that bankside as well as in-channel effects would be considered with respect to the installation of short span bridges where water voles have been/are confirmed. This has been incorporated into the BMS.	
3.4.10	4.4.1 Invertebrate surveys Item 4.4.1 in the Environment Agency’s Relevant Representation	National Grid obtained all relevant records from the Kent & Medway Biological Records Centre (KMBRC) in addition to research papers on the distribution of shining ram’s-horn snail, which have been considered in the ES (Volume 5, Document 5.2, Chapter 9) and Invertebrate Survey Report Document 5.4.9K. Kent Wildlife Trust was consulted throughout the scoping and survey process, and clarified that they had no additional data to that which we gathered from the KBRC. This species is well recorded in Kent particularly across Stodmarsh SSSI & NNR including Westbere Marshes. Following habitat appraisal for aquatic invertebrates within the Order Limits, due to the intensive agricultural nature of land adjacent to water courses, the habitat is generally unsuitable for this species (of poor quality in comparison to habitats known to support this species in Kent). Consequently, shining ram’s-horn snail was only recorded in one ditch of better water quality. Clear span bridging of this single suitable ditch and embedded environmental measures presented within the Water Environment chapter 13 (Document 5.2), would ensure that no significant effects upon the ditch habitat which supports these species would occur. There is no other suitable habitat within the Order Limits for shining ram’s-horn snail, and as such pre-verification surveys for this species are not considered necessary; notwithstanding embedded environmental measures presented within the Water Environment chapter 13 (Document 5.2), to prevent pollution to ditch habitats will be implemented across the Order Limits.	18 April 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.4.11	<p>Invasive species</p> <p>Item 11.0 in the Environment Agency's Relevant Representation</p>	<p>The Environment Agency notes the appropriateness of the BMS in respect of non-native species, and the requirement in the BMS to update staff as needed during project delivery. As stated in the ES, BMS and the draft CEMP, detailed plans for the control and management of relevant invasive species would be detailed prior to the relevant stage of works by the appointed contractor. "Due to the ability of [invasive species] to spread, pre-works surveys would be conducted prior to any decommissioning works and if required, Method Statements would be developed and employed that reflect the legislation and biodiversity conditions in the Order limits prevalent at that time to ensure that no legal breaches occur.</p> <p>National Grid has stated in the ES that they would apply the non-native species guidance cited by the Environment Agency, and that they would abide by prevailing guidance on the use of herbicides in close proximity to water courses. National Grid notes the comment on updates. The ES and BMS allows for updates in legislation or prevailing guidance and so will take those into account as appropriate.</p> <p>The comment in the Environment Agency's Relevant Representation regarding mink is noted. Given typical mink behaviours, the infestation of active site compounds or buildings is considered unlikely, however, as stated above, a Method Statement for invasive species would be detailed prior to the relevant stage of works by the appointed contractor following up to date surveys.</p>	18 April 2016
3.4.12	Riparian trees	<p>The Environment Agency is satisfied that the Arboricultural Impact Assessment (AIA) (doc 5.4.3I) for the project addresses their hydromorphological concerns in relation to the loss of riparian trees.</p>	30 June 2016
3.4.13	Submission of ecological survey information	<p>National Grid has agreed to submit ecological survey information to the Kent and Medway Biological Records Centre on a yearly basis or at similar suitable milestones.</p>	18 April 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.5 Water Framework Directive (WFD)			
3.5.1	Consideration of WFD in ES Item 5.0 in the Environment Agency's Relevant Representation	It was agreed that an overall WFD compliance assessment would not be required for the development as a whole at DCO application stage, although the assessment of water environment effects presented in Chapter 13 of the ES is considered in terms of the WFD status of potentially affected water bodies. It is agreed that WFD assessments would need to accompany the Flood Risk Activity Permits.	18 April 2016 17 April 2015 22 September 2014 29 April 2014
3.5.2	Future WFD compliance Item 5.0 in the Environment Agency's Relevant Representation	In general, subject to satisfactory WFD assessments to accompany FRAP applications, the Environment Agency agrees that WFD status will not be affected, nor are future achievement of WFD objectives compromised, as a result of the RCP development.	18 April 2016
3.6 Land contamination			
3.6.1	Risk to controlled waters – addendum to the desk study Item 6.1 in the Environment Agency's Relevant Representation	In response to the Environment Agency's comments provided in their Relevant Representation regarding the risk of existing ground contamination to controlled waters, National Grid agreed to update the Land Contamination Desk Study (Appendix 14A, reference 5.4.14A) to cover this. National Grid provided the updated report (Doc 5.4.14A(A)) to the Environment Agency for comment, prior to submitting it to the Examining Authority at Deadline 2. The Environment Agency has reviewed the updated report and provided the following response to National Grid on 25 July 2016: <i>"We are pleased to see that a Controlled Waters Risk Assessment has been completed in response to our previous comments. The report has in general been carried out in line with relevant guidance. The conclusions state that a pre-construction ground investigation will be completed before any shallow ground works commence. If any contamination is identified at this point, an assessment on the risk it poses to controlled waters should be completed."</i> The Environment Agency agree that the updated Land Contamination Desk Study satisfactorily addresses the concerns raised in their Relevant Representation.	25 July 2016
3.7 Environmental management			

SoCG ID	Matter	Agreed Position	Date Agreed
3.7.1	8.1 Materials Management Plan Item 8.1 in the Environment Agency's Relevant Representation	It has been agreed that this will be prepared in consultation with the Environment Agency.	18 April 2016
3.7.2	8.2 Conformance with Corporate and Project Environmental Management Systems (EMS) Item 8.2 in the Environment Agency's Relevant Representation	An Environmental Management Systems document will be prepared. This will be an internal National Grid document. All relevant information contained therein will be consulted with the Environment Agency under the CEMP and relevant DCO requirements. National Grid and the Environment Agency agree that this is an acceptable approach.	18 April 2016
3.7.3	Withdrawal of the Environment Agency's Pollution Prevention Guidance Item 12.1 in the Environment Agency's Relevant Representation	<p>The Environment Agency advised in their Relevant Representation that their Pollution Prevention Guidelines (PPGs) (as set out in section 4.43 of the Construction Environmental Management Plan (CEMP)) were withdrawn on 14 December 2015. However, National Grid and the Environment Agency are agreed that the principles of these guidelines should still be followed. The Environment Agency requested that National Grid produce a method statement or other guidance document that sets out the pollution prevention measures that they propose to implement during their work to ensure that their activities prevent pollution.</p> <p>National Grid has prepared such a document, known as National Grid's Guidelines for Pollution Prevention (Doc 8.10). This document (to which any guidance that is not extant, such as the PPGs, have been appended), ensures that all references already made to the PPGs in the DCO application documents will not need to be updated (numerous documents refer to the Environment Agency's PPGs), thus avoiding unnecessary work in creating a new document that repeats the content of the Environment Agency's PPGs, and the need to reissue multiple DCO application documents.</p> <p>National Grid provided the document to the Environment Agency for comment, prior to submitting it to the Examining Authority at Deadline 2. The Environment Agency has reviewed the document and has advised that they have no comments.</p> <p>The Environment Agency agree that National Grid's Guidelines for Pollution Prevention document (8.10) satisfactorily addresses the concerns raised in their Relevant Representation.</p>	18 April 2016 27 July 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.8 Land Interests			
3.8.1	Landlord and tenant agreement for use of Environment Agency land for the Richborough Connection Project Item 9.0 in the Environment Agency's Relevant Representation	Head of Terms for rights over and use of Environment Agency owned land for the Richborough Connection Project were signed by the Environment Agency on 14 January 2016. These were received by National Grid's agent on 15 January, who then provided the confirmation of the Heads of Terms agreed to National Grid on 24 March for approval. The only issue relating to land interests at this stage is the provision of access to the land, as this relies on crossing third party land. This is subject to ongoing discussions between the two parties'. The agent of the current tenant of the Environment Agency's land at Broad Oak Road, Canterbury confirmed on 31 March 2016 that the tenant will co-operate with the landlord's (Environment Agency's) wishes in respect of agreeing terms.	14 January 2015 & 18 April 2016
3.9 Potential impact on other schemes			
3.9.1	Broad Oak Reservoir Item 10.0 in the Environment Agency's Relevant Representation	This is discussed further in Table 4.1 of this SoCG.	18 April 2016
3.10 Access for maintenance during the construction period			
3.10.1	Emergency access to National Grid working areas for various reasons	It was agreed that Environment Agency emergency access to National Grid working areas could be arranged, subject to the appropriate site inductions being carried out.	17 April 2015
3.10.2	Access for routine maintenance	It has been agreed that the parties (National Grid and the Environment Agency) will work together to avoid short term issues relating to scheduling of works and implications on Environment Agency routine annual maintenance works. The Environment Agency has advised that their annual maintenance works take place from mid-July onwards and schedules are usually confirmed by March/April. National Grid has provided the draft construction schedule for the Richborough Connection Project for review by the Environment Agency's Asset Performance Team. Effort will need to be made on both sides to dovetail construction with annual maintenance.	13 October 2015 & 18 April 2016
3.11 Draft DCO			

SoCG ID	Matter	Agreed Position	Date Agreed
3.11.1	DCO Requirements – method by which the environmental measures set out in the ES (& FRA) will be secured	<p>It has been agreed that the environmental measures set out in the ES and FRA will be secured through the DCO requirements (conditions).</p> <p>The main draft Requirements relevant to the water environment are as follows:</p> <ul style="list-style-type: none"> ▶ 5 – Construction Environmental Management Plan (CEMP). The CEMP will be accompanied by a number of other plans, including a Biodiversity Mitigation Strategy (BMS). ▶ 6 – Approval and implementation of construction mitigation plans. A number of construction mitigation plans are required, including a Drainage Management Plan, Pollution Incident Control Plan and an Emergency Response Plan for Flood Events. ▶ 12 – Reinstatement schemes ▶ 13 – Contaminated land and controlled waters. ▶ 14 – Inspection of temporary watercourse crossings. ▶ 15 – Removal of temporary bridges and culverts. ▶ 17 – Clearance over the tidal River Stour. 	<p>13 October 2015</p> <p>18 April 2016</p> <p>27 July 2016</p>
3.11.3	DCO Requirements – Removal of temporary bridges and culverts	<p>It has been agreed that the 12 month timeframe mentioned in requirement 15 (removal of temporary bridges and culverts) is a pragmatic allowance to ensure that National Grid will have the flexibility to avoid being required to remove structures during inappropriate periods, such as when the removal works could result in unnecessary destruction of crops.</p>	18 April 2016
3.11.4	<p>Draft DCO - Part 6, Miscellaneous and General</p> <p>Item 1.2 in the Environment Agency's Relevant Representation</p>	<p>With reference to the section of the Draft DCO on 39. Temporary closure of, and works in, the River Stour (within Part 6, Miscellaneous and General), National Grid and the Environment Agency are agreed that the wording should reflect the fact that any temporary closure would be for health and safety reasons. This will be reflected in the updated Draft DCO to be submitted at Deadline 2 (Doc 2.1(A)).</p>	18 April 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.11.5	Discharge of DCO requirements, including time required for response from the Environment Agency	<p>As requested in the Examining Authority's Rule 6 letter, the following has been agreed with respect to discharge of DCO requirements, including time required for response from the Environment Agency.</p> <p>Where the Environment Agency is the discharging authority they will have 35 days to consider applications to discharge requirements (as outlined in Schedule 4 of the draft DCO). Where the Local Authority is the discharging authority and the Environment Agency is a consultee this will be issued to the Environment Agency by the Local Authority within 3 days of receipt of an application by National Grid.</p>	30 June 2016
3.11.6	<p>Draft DCO requirements – unsuspected contamination</p> <p>Item 6.2 in the Environment Agency's Relevant Representation</p>	<p>In response to the Environment Agency's comments regarding unsuspected contamination provided in their Relevant Representation, the wording of the existing Requirement relating to contamination and controlled waters (Requirement 13) has been amended for the updated version of the draft DCO (Doc 2.1 (A)) submitted at Deadline 2. The Environment Agency has reviewed the amendments to Requirement 13 and agree that it satisfactorily covers their concerns about unsuspected contamination.</p>	27 July 2016
3.11.7	<p>Draft DCO requirements – Piling</p> <p>Item 7.0 in the Environment Agency's Relevant Representation</p>	<p>In response to the Environment Agency's proposed additional Requirement to cover piling, as provided in their Relevant Representation, National Grid advised that they did not consider an additional Requirement to be necessary.</p> <p>The Environment Agency agree that the updated wording of Requirement 13, submitted at Deadline 2 of the examination (Doc 2.1 (A)) to cover both known and unsuspected contamination, will provide the necessary control for works where unacceptable risks to groundwater have the potential to occur and will include consideration of construction methodology in these locations (including piling where proposed). The Environment Agency is a consultee to the Local Planning Authority for both Requirements.</p> <p>The Environment Agency has reviewed the amendments to Requirement 13 and agree that it satisfactorily covers their concerns about piling. These are included in Doc 2.1 (A).</p>	25 July 2016

SoCG ID	Matter	Agreed Position	Date Agreed
3.11.8	Draft DCO requirements – clearance (of overhead lines) over the tidal River Stour (Requirement 17)	<p>It has been agreed that the updated wording of Requirement 17, which relates to clearance of 400kV overhead electric lines over the tidal River Stour, is acceptable.</p> <p>The Environment Agency had previously advised that they did not consider the requirement to be necessary at all, and were open to it being removed from the Draft DCO. However, the Marine Management Organisation (MMO), in consultation with Sandwich Port and Haven Commissioners, requested that Requirement 17 remains within the DCO.</p> <p>The Environment Agency subsequently suggested that if the requirement is to remain, that the agreed clearance for the non-tidal River Stour also be included in the wording of the Requirement for completeness, however they advised that, irrespective of this, they are content for Requirement 17 to remain as currently drafted – clearance requirements have been agreed in this SoCG, and will be agreed through the FRAP process anyway.</p> <p>Informed by this reasoning, National Grid decided against any change to the wording of Requirement 17 to incorporate the non-tidal element of the River Stour. The existing wording is acceptable to both the Environment Agency and the MMO, and as it was the MMO who requested that the requirement be retained, it follows that relating it only to the tidal element of the River Stour is appropriate.</p> <p>The Environment Agency are agreed that capturing this history in this SoCG (in the form of this item 3.11.8), highlighting the role of the FRAP process, is sufficient to allay any concerns they may have relating to clearances of overhead lines.</p>	1 September 2016
3.12 Addendum to the ES			
3.12.1	Cycle 2 WFD information and cumulative effects	<p>The Environment Agency has reviewed the Addendum to the Environmental Statement submitted at Deadline 6 (Doc. 5.2.2), and is satisfied that the update with respect to the Cycle 2 WFD information, as well as the update with respect to cumulative effects, is appropriate. However, it should be noted that the matter relating to cumulative effects from the Broad Oak Reservoir proposal remains outstanding, as set out in Item 4.1.1 of this SoCG.</p>	2 November 2016

4 MATTERS CURRENTLY OUTSTANDING

4.1 Summary of current position

4.1.1 Outstanding principal matters relating to the DCO application between National Grid and the Environment Agency are set out in Table 4.1 below. This represents the final position of both parties.

4.2 Environment Agency specific matters currently outstanding

4.2.1 The Environment Agency's matter currently outstanding is understood to relate to:

- Cumulative effects of the Richborough Connection Project and the proposed South East Water reservoir near Broad Oak;

4.2.2 This matter currently outstanding is captured in Table 4.1, with the position of the Environment Agency and National Grid provided.

Table 4.1 Matters Currently Outstanding between National Grid and the Environment Agency

SoCG ID	Matter	Environment Agency position	National Grid Position
4.1 Cumulative effects			
4.1.1	<p>Cumulative effects of the Richborough development and the proposed Broad Oak Reservoir on WFD status of the Sarre Penn</p> <p>Item 10.0 in the Environment Agency's relevant representation</p>	<p>In the 17/04/2015 joint meeting with the IDB, the Environment Agency suggested that the combined impacts of the Richborough development and South East Water's (SEW) proposed Broad Oak Reservoir on WFD status of the Sarre Penn would need to be considered in the ES. In their Relevant Representation and again at a meeting on 18/04/2016, the Environment Agency repeated that full consideration should be given to the implications of this proposal on the viability of the Reservoir because of its importance in ensuring security of water supply in East Kent.</p> <p>The Environment Agency advised that Broad Oak Reservoir is an important strategic supply option identified within SEW's Water Resources Management Plan 2014, and therefore full consideration should be given. The development of a plan is a statutory duty, imposed on Water Undertakers by Section 37A(1) Water Resources Act 1991, amended by Section 62 of the Water Act 2003. The Plan has been through public consultation, reviewed by the Environment Agency and approved by the Secretary of State, as is required under Section 37(2). Given revised population forecasts, a minimum deficit of approximately 25MI/d will be experienced within this part of East Kent [supply zone 8] by 2040. With a proposed yield of 13.5MI/d Broad Oak Reservoir will be integral to meeting future demand; given current rates of population growth, previous small scale solutions employed to maintain supply are no longer viable alone.</p> <p>Construction of the Reservoir will require mitigation as the Sarre Penn (a stream that runs through the site) will need to be realigned and be passable by fish. The submitted plans show that a section of the proposed route falls within the footprint of the Sarre Penn realignment.</p>	<p>National Grid acknowledged that the Broad Oak proposals had been around for a number of years, but that few details were available to inform National Grid's proposals at the commencement of the Richborough Connection Project. Therefore, National Grid has been collaborating with SEW on the reservoir designs, including holding numerous meetings, and contributing financially to studies in to the interaction between the two schemes.</p> <p>The intention has been to ensure that the design of the reservoir progresses to a more detailed level to ensure all parties are comfortable that the two schemes can co-exist.</p> <p>On the basis of the information known to date, National Grid believes the two schemes can be constructed and operated in parallel with all water resource and environmental objectives met (including WFD).</p> <p>As set out in National Grid's response to Q2.3.33 (Document 8.26, National Grid's Responses to the Examining Authority's 2nd Round of Written Questions (Deadline 4)) there has been a longstanding agreement with the Environment Agency that effects of the RCP on the water environment during the operational phase can be scoped out of the environmental impact assessment, Therefore, once construction of the Richborough Connection is complete, the development should have had no permanent effect on the WFD status of the Sarre Penn. In the absence of detailed South East Water (SEW) proposals, once operational, the Richborough Connection Project (RCP) would have no impact on the water environment, and hence no permanent effect on the WFD status of the Sarre Penn. This will remain the case if the reservoir is not</p>

SoCG ID	Matter	Environment Agency position	National Grid Position
		<p>As clarified in the Environment Agency’s response to Q2.3.34 (REP4-024) to the Examining Authority’s 2nd Round of Written Questions (Deadline 4), we have not agreed that the effects on the water environment, in relation to the WFD status of the Sarre Penn during the operational or construction phase, can be scoped out of the EIA cumulative assessment. Any agreements about the EIA have always been made in general terms. The Environment Agency fully supports National Grid working with SEW to ensure both developments can proceed. The Environment Agency advised that they provided advice to staff from Jacobs (working on behalf of SEW and National Grid) on the design of the Sarre Penn diversion channel around the proposed Reservoir. Given the importance of this scheme to maintaining security of supply, we strongly advise National Grid to continue to work with SEW to consider the implications of the proposed transmission route and the viability of Broad Oak Reservoir, specifically whether the Reservoir’s existing designed mitigation measures remain feasible. The implication, should the Reservoir no longer be considered feasible, is that alternatives would need to be explored. These may be more costly, less sustainable, involve less proven technologies and take longer to implement. Alternatively, alterations may be required of the pylon route, which, once constructed, would be expensive.</p>	<p>brought forward.</p> <p>As also set out in National Grid’s response to Q2.3.33 (Document 8.26), in the absence of an impact from the RCP during the operational phase, it follows that there would not be a cumulative impact associated with any other development. The EA’s position, as set out in this SoCG ID 4.4.1, is clearly more nuanced in the specific instance of the WFD status of the Sarre Penn, in suggesting that the RCP could impact SEW’s ability to deliver a reservoir that would comply with the requirements of the WFD. However, National Grid maintain that this in itself is not a cumulative impact. National Grid’s position remains that SEW would be still be able to deliver a reservoir, including mitigation that meets the requirements of the WFD, by adapting its concept design where appropriate to take into account the new overhead line.</p> <p>As stated in Table 5.3 of the ES (doc 5.2), information set out in SEW’s latest Water Resource Management Plan (WRMP) indicates that the Broad Oak reservoir is a ‘preferred reservoir option’, with a ‘Yield start’ of 2033 identified. SEW’s published programme confirms that its reservoir development would follow the Richborough Connection project. There is therefore no potential for construction phase cumulative effects on the environment (including the water environment), as has been agreed by SEW and National Grid in the response to Q2.3.30 from both parties.</p>
<p>4.2 Article 4.7 (of the Water Framework Directive) and the Broad Oak Reservoir Proposals</p>			
<p>4.2.1</p>	<p>Exemptions to meeting the Water Framework Directive (WFD) which might apply to the proposed Broad Oak Reservoir (Article 4.7)</p>	<p>The Water Framework Directive (WFD) provides a defence to non-compliance with the Directive requirements in Article 4.7 (see http://tinyurl.com/hdfjaej).</p> <p>Based on the information available to us, we consider that it is likely that a WFD compliant scheme can be</p>	<p>National Grid agree with the Environment Agency that Water Framework Directive (WFD) provides a defence to non-compliance with the Directive requirements in Article 4.7.</p> <p>National Grid also agree that SEW could potentially rely on the defence in Article 4.7, given the public</p>

SoCG ID	Matter	Environment Agency position	National Grid Position
		<p>designed and implemented for South East Water's (SEW) proposed reservoir at Broad Oak. However, as currently proposed, we believe that the Richborough Connection Project would prevent necessary mitigation required for the reservoir under the Water Framework Directive and therefore cause non-compliance with the Directive.</p> <p>We continue to strongly advise National Grid to work with SEW to explore a solution that would enable successful completion of both schemes and allow the Broad Oak reservoir to secure WFD compliance.</p> <p>If the Richborough Connection Project proceeds as currently proposed and the proposed Broad Oak Reservoir scheme cannot as a consequence achieve WFD compliance, SEW could potentially rely on the defence in Article 4.7 given the public interest in the provision of drinking water supply. This would be on the provision that all other conditions are met, including 'all practicable steps ... to mitigate the adverse impact on the status of the body of water'. This would be a judgement to be made when application for planning permission for Broad Oak Reservoir and the information provided by SEW as part of such an application is considered.</p> <p>However, until all practicable steps to satisfy the implementation of both schemes and secure WFD compliance have been explored, we consider that it would not necessary for SEW to rely on Article 4.7 as a defence to non-compliance with WFD.</p>	<p>interest in the provision of drinking water supply.</p> <p>National Grid also agree that any judgement on Article 4.7 would be made when an application for planning permission for Broad Oak Reservoir (and the information provided by SEW as part of such an application) is considered.</p> <p>However, National Grid question whether the information available date is sufficient to enable the Environment Agency to draw a conclusion that "it is likely that a WFD compliant scheme can be designed and implemented for South East Water's (SEW) proposed reservoir at Broad Oak". Given the preliminary nature of SEW's proposals, and the lack of EIA to support them, it is not clear how a conclusion that 'it is likely' can be reached at this stage.</p> <p>Although a Preliminary WFD Compliance Assessment has been prepared in draft (June 2015) which is intended to form a sub-appendix of the Stage 1a report, it is understood that this has not yet been provided to the Examination. In the absence of an assessment that is suitable for submission to the Examination, it is unclear as to how a conclusion can be drawn regarding the likelihood that a WFD compliant scheme can be provided. It is National Grid's view that, even in the absence of the Richborough Connection project, it is possible that SEW may not be able to provide the 'necessary mitigation' in order to ensure compliance with the WFD, and thus might need to rely upon Article 4.7.</p> <p>Finally, it is worth acknowledging that National Grid support the Environment Agency's role in seeking to achieve a solution that does not bring about failure of a waterbody to achieve good health or failure to prevent deterioration of the health of a waterbody. To this end National Grid contributed financially to the development of SEW's proposals to help inform this examination, and continues to engage regarding the interaction of the Richborough Connection and the</p>

SoCG ID	Matter	Environment Agency position	National Grid Position
			proposed Sarre Penn stream diversion and fish pass.

APPENDIX A – SIGNING SHEET

APPROVALS	
Signed	
On Behalf of	National Grid Electricity Transmission Ltd
Name	EMER MCDONNELL
Position	SENIOR CONSENTS OFFICER
Date	2 NOVEMBER 2016

APPROVALS	
Signed	
On Behalf of	ENVIRONMENT AGENCY
Name	ALAN CANSDALE
Position	AREA ENVIRONMENT MANAGER
Date	3 NOVEMBER 2016