

**EN020019 Triton Knoll Electrical System**

**Examining Authority's consultation draft Development Consent Order (DCO)**

**Schedule of ExA's recommended amendments to the Applicant's draft DCO version F [REP5-035]**

**10 February 2016**

Reference	Text as at version draft DCO version F	ExA's recommended amendment	Reason and Notes
<b>Article</b>			
<b>Article 2</b> – Interpretation "limits of deviation"	"limits of deviation" means the situations as shown on the works plans	"limits of deviation" means the limits for the scheduled works as shown on the works plans	The ExA acknowledge that the revised definition contained in version F does refer to the works plan but consider that the definition is not precise enough or effective in terms of, for example, in Article 3 or Schedule 8, Part 1.
<b>Article 2</b> – Interpretation "mean high water springs" and "mean low water"			Please note that there is a <b>question</b> relating to this definition at ExA's questions DCO 3.7
<b>Article 5</b> - Transfer of benefit of Order			Please note that there are <b>questions</b> relating to this Article at ExA's questions DCO 3.8, 3.9 and 3.10
<b>Article 6</b> - Application and modification of legislative provisions	(2) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the	(2) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the	s. 150 of the 2008 Planning Act states that an order granting development consent may include provision the effect of which is to remove a

	<p>construction or maintenance of the authorised project–</p> <p>(a) section 109 (structures in, over or under a main river) of the Water Resources Act 1991(b);</p> <p>(b) the provision of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991, which requires consent or approval for the carrying out of works;</p> <p>(c) section 23 (prohibition of obstructions etc. in watercourses) of the Land Drainage Act 1991(c);</p> <p>(d) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act which require consent or approval for the carrying out of works;</p> <p>(e) the provisions of the Lindsey County Council (Sandhills) Act 1932(d).</p>	<p>construction or maintenance of the authorised project–</p> <p>(a) <del>section 109 (structures in, over or under a main river) of the Water Resources Act 1991(b);</del></p> <p><del>(b) the provision of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991, which requires consent or approval for the carrying out of works;</del></p> <p><del>(c) section 23 (prohibition of obstructions etc. in watercourses) of the Land Drainage Act 1991(c);</del></p> <p><del>(d)</del> (a) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act which require consent or approval for the carrying out of works;</p> <p>(e) the provisions of the Lindsey County Council (Sandhills) Act 1932(d).</p>	<p>requirement for a prescribed consent or authorisation to be granted, only if the relevant body has consented to the inclusion of the provision.</p> <p>Draft Article 6(a) – (c) requires the consents of the Environment Agency and the Internal Drainage Board.</p> <p>The Applicant should delete these parts of this Article if such consents are not submitted in writing to the ExA on or before Deadline 7 (24 February 2016)</p>
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<b>Article 13</b> - Authority to survey and investigate the land			Please note that there are <b>questions</b> relating to this Article at ExA's questions DCO 3.11 and CA 3.5 and CA 3.6.
<b>Schedule 1: Part 3: Requirements</b>			
<b>Requirement 5 (4)</b> - Detailed design onshore	(4) Any details provided by the undertaker pursuant to paragraphs (2) and (3) must where relevant be in accordance with the design principles document and be within the Order limits.	(4) Any details provided by the undertaker pursuant to paragraphs (2) and (3) must <del>where relevant</del> be in accordance with the design principles document and be within the Order limits.	The ExA consider that the retention of the phrase 'where relevant' in this Requirement has the potential to allow a broad and lax interpretation of which parts of the design principles document and whether these should be within the Order limits.  The ExA consider that, in practice, if there are parts of the design principles document that are not relevant, then these should be identified in the details provided.
<b>Requirement 5 (11)</b> - Detailed design onshore	(11) (a) At least three months prior to the commencement of the onshore cable works the undertaker must: (i) submit a cable route sequencing plan to the relevant planning authority including details of the indicative sequencing of the onshore cable works; and (ii) notify the public and	(11) (a) At least three months prior to the commencement of the onshore cable works the undertaker must: ( <del>ii</del> ) notify the public and landowners of the <b>draft</b> sequencing of the onshore cable works in accordance with the Communications Plan agreed as part of the Code of Construction Practice;	The ExA considers that the cable route sequencing plan provides a potentially useful means whereby landowners and the public may be informed of, and comment on, the final alignment and width of the cable corridor as well as its sequencing in order to reduce potential uncertainty about the final scale and

	<p>landowners of the sequencing of the onshore cable works in accordance with the Communications Plan agreed as part of the Code of Construction Practice;</p> <p>(b) any cable route sequencing plan submitted in accordance with sub-paragraph (i) may be updated, as required, from time to time, and communicated to landowners and the public in accordance with the Code of Construction Practice.</p> <p>(12) For the purposes of paragraph (11) "onshore cable works" means works Nos 3, 5, 8, 11, 14, 17, 19, 21, 22, 24, 26, 29, 31, 33, 37, 39, 42, 44, 46 and 52.</p>	<p>(ii) submit <u>to the relevant planning authority for its comments and approval</u> a cable route sequencing plan <u>including details of width and alignment of the cable corridor post construction and of the indicative sequencing of the onshore cable works</u>; and</p> <p>(b) any cable route sequencing plan <del>submitted</del> <u>approved</u> in accordance with sub-paragraph (i) may be updated, as required, from time to time, and communicated to <u>the relevant local planning authority</u>, landowners and the public in accordance with the Code of Construction Practice.</p> <p><u>(c) The works must be constructed in accordance with the approved cable route sequencing plan.</u></p> <p>(12) For the purposes of paragraph (11) "onshore cable works" means works Nos 3, 5, 8, 11, 14, 17, 19, 21, 22, 24, 26, 29, 31, 33, 37, 39, 42, 44, 46 and 52.</p>	<p>location of land to be used and land potentially subject to powers of compulsory acquisition and the imposition of a restrictive covenant.</p> <p>The ExA further consider that the ability of the local planning authority to comment on and approve the sequencing plan would provide a further check on the width and alignment given that the Applicant has stated that, for example, it is not possible or practicable to have carried out all the investigations required to identify all the possible constraints at this stage (paragraph 1.65 of the <i>Written Summary of The Applicant's Oral Case put at Compulsory Acquisition Hearing on the afternoon Wednesday 20 January and Thursday 21 January 2016</i> [REP5-015]).</p>
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<p><b>Requirement 8</b> (2) and (4) -Highway accesses and improvements</p>	<p>(2) The highway accesses for that stage must, where relevant, be constructed or altered, and the works described in paragraph (1) in relation to access management measures must be carried out, in accordance with the approved details before the relevant highway accesses are brought into use for the purposes of the authorised development.</p> <p>(3) No stage of the onshore works shall commence until for that stage a scheme of temporary highways alterations within the highway boundary has after consultation with the highway authority been submitted to and approved by the relevant planning authority.</p> <p>(4) The temporary highways alterations for that stage must, where relevant, be constructed in accordance with the approved details before they are brought into use for the purposes of the authorised development.</p>	<p>(2) The highway accesses for that stage must, <del>where relevant,</del> be constructed or altered, and the works described in paragraph (1) in relation to access management measures must be carried out, in accordance with the approved details before the relevant highway accesses are brought into use for the purposes of the authorised development.</p> <p>(3) No stage of the onshore works shall commence until for that stage a scheme of temporary highways alterations within the highway boundary has after consultation with the highway authority been submitted to and approved by the relevant planning authority.</p> <p>(4) The temporary highways alterations for that stage must, <del>where relevant,</del> be constructed in accordance with the approved details before they are brought into use for the purposes of the authorised development.</p>	<p>The ExA consider that the retention of the phrase 'where relevant' in this Requirement has the potential to allow a broad and lax interpretation of which parts of the approved details must be adhered to.</p> <p>The ExA consider that, in practice, if there are parts of the approved details that are not relevant, then these should be identified in advance of construction or alteration.</p>
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<p><b>Requirement 13 - Ecological management plan and removal of hedgerows</b></p>	<p>13.—(1) No stage of the onshore works shall commence until for that stage a written ecological management plan (which accords with the outline landscape strategy and ecological management plan) reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement has after consultation with the appropriate statutory nature conservation body been submitted to and approved by the relevant planning authority.</p> <p>(2) The ecological management plan must include an implementation timetable and measures to be taken to reinstate hedgerows on completion of the relevant stage of the onshore works.</p> <p>(3) Any hedgerow removal must be carried out in accordance with the details set out in the outline landscape strategy and ecological management plan.</p>	<p>13.—(1) No stage of the onshore works shall commence until for that stage a written ecological management plan (which accords with the outline landscape strategy and ecological management plan) reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement has after consultation with the appropriate statutory nature conservation body been submitted to and approved by the relevant planning authority.</p> <p>(2) The ecological management plan must include an implementation timetable and measures to be taken to reinstate hedgerows on completion of the relevant stage of the onshore works</p> <p><u>(3) Any hedgerow removal undertaken before approval of the written ecological management plan in accordance with paragraph (1) must be carried out in accordance with the details set</u></p>	<p>The ExA consider that the Requirement as drafted:</p> <ul style="list-style-type: none"> <li>a) does not cover the position if, for whatever reason, either construction does not commence or is abandoned post hedgerow removal; and</li> <li>b) does not cover the position if hedgerows are removed before the written ecological management plan has been submitted to and approved by the relevant planning authority.</li> </ul> <p>Please also note that there is a <b>question</b> relating to this definition at ExA’s questions DCO 3.6</p>
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		<p><u>out in the outline landscape strategy and ecological management plan.</u></p> <p><u>(4) If the consented scheme does not commence within six months of the removal of any hedgerow, or commences but works cease and there is inactivity for a period no greater than six months from the date of commencement of works, all removed hedgerows shall be replaced in their entirety and to their original condition within one year from the date of the cessation of construction works or in the earliest planting season, whichever is the soonest.</u></p>	
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<p><b>Requirement 14 (1) - Code of construction practice (onshore)</b></p>	<p>14.—(1) No stage of the onshore works shall commence until for that stage a code of construction practice in accordance with the outline code of construction practice (onshore) has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority. The code of construction practice must, where relevant, cover all the matters set out in the outline code of construction practice.</p>	<p>14.—(1) No stage of the onshore works shall commence until for that stage a code of construction practice in accordance with the outline code of construction practice (onshore) has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority. The code of construction practice must, <del>where relevant,</del> cover all the matters set out in the outline code of construction practice.</p>	<p>The ExA consider that the retention of the phrase 'where relevant' in this Requirement has the potential to allow a broad and lax interpretation of which parts of the outline code of construction practice must be covered in the code of construction practice.</p> <p>The ExA consider that, in practice, if there are parts of the outline code of construction practice that are not relevant, then the code of construction practice should identify these.</p>
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ExA's Recommended new Requirement			
<p><b>Requirement xx – Local employment</b></p>		<p><u>xx. – (1) No stage of the authorised development may commence until for that stage a written scheme for the promotion of local employment opportunities and the development of local skills has been submitted to and approved in writing by the relevant planning authority.</u></p> <p><u>(2) The scheme must set out the means by which the undertaker will work with local agencies, including the relevant local enterprise partnership and local authorities, to secure as far as reasonably practicable the use of local labour, contractors, goods and services during the construction stage of the authorised development.</u></p> <p><u>(3) The approved scheme must be implemented in full for the entire duration of the construction stage of the authorised development.</u></p>	<p>The ExA have taken into account the Applicant's stated approach to local employment and skills development as set out in paragraphs 1.43 to 1.53 of the Applicant's Written Summary of the Oral Case put at the DCO Hearing held on 22 January [RE5-016] and welcome this statement.</p> <p>The ExA consider that the inclusion of this additional Requirement will support and help to secure the achievement of such an approach by the undertaker of the project should the DCO be granted.</p> <p>The ExA further consider that the wording of the proposed Requirement does not conflict with any relevant procurement legislation or other binding requirements.</p>