



Triton Knoll Offshore Wind Farm Limited Triton Knoll Electrical System

**Appendix 32: Draft Statement of
Common Ground between Triton
Knoll Offshore Wind Farm
Limited and Black Sluice Internal
Drainage Board, Lindsey Marsh
Drainage Board and Witham
Fourth District Internal Drainage
Board**

Date: October 2015

**Appendix 32 of the Applicant's
Response to Deadline 1**

Triton Knoll Offshore Wind Farm Limited

Triton Knoll Electrical System

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Appendix 32 of the Applicant's Response to Deadline 1

Date: October 2015

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DRAFT

1. CONFIRMATION OF AGREEMENT

Confirmation of Agreement with the drainage boards

Signed:

For: Triton Knoll Offshore Wind Farm Limited

Name:

Title:

Date:

DRAFT

Signed:

For: Black Sluice Internal Drainage Board

Name:

Title:

Date:

DRAFT

Signed:

For: Lindsey Marsh Drainage Board

Name:

Title:

Date:

DRAFT

Signed:

For: Witham Fourth District Internal Drainage Board

Name:

Title:

Date:

DRAFT

2. INTRODUCTION

Reason for this Statement of Common Ground

- 2.1 This Statement of Common Ground (SoCG) has been prepared in respect of Triton Knoll Offshore Wind Farm Limited's (TKOWFL, or the Applicant) application for a development consent order (DCO) under the Planning Act 2008 (the Application) for the Triton Knoll Electrical System (TKES) works.
- 2.2 This SoCG with Black Sluice Internal Drainage Board, Lindsey Marsh Drainage Board and Witham Fourth District Internal Drainage Board (the IDBs), is intended to clearly record any areas of agreement and disagreement between the parties in relation to the Application. The SoCG has been structured to reflect topics of relevance to the IDBs in relation to the Application.
- 2.3 The structure of the SoCG is as follows:
- The proposed development;
 - Consultation;
 - The IDBs' remit;
 - The Land Drainage Act and disapplication of legislative provisions;
 - Protective Provisions;
 - The Application;
 - Development Consent Order; and
 - Matters under discussion.
- 2.4 Throughout this SoCG the phrase "It is agreed..." is used as a precursor to any point of agreement that has been specifically agreed between the Applicant and the IDBs.
- 2.5 It is the intention that this document will help facilitate further discussions between the parties and also give the Examining Authority (ExA) an understanding of the level of common ground between the parties from the outset of the examination process.
- 2.6 **The IDBs have not approved this SoCG in its current form, and wish to reserve formal agreement to allow more time for final review of the document in full. The Applicant and IDBs will work towards a final agreed SoCG to be submitted at Deadline 2.**

The proposed development

- 2.7 The proposed development comprises the project elements as described in Volume 2, Chapter 1 *Offshore Project Description* (document reference 6.2.2.1) and Volume 3, Chapter 1 *Onshore Project Description* (document reference 6.2.3.1) of the Environmental Statement (ES).

2.8 The draft development consent order (DCO) also includes the following in relation to the project:

- Compulsory acquisition powers in order to secure any permanent or temporary rights in the land required for the delivery of the project;
- The application and/or disapplication of legislative provisions relevant to the project; and
- Such ancillary, incidental and consequential provisions, permits or consents as are necessary or convenient, including protective provisions for the apparatus and rights of statutory undertakers.

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3. CONSULTATION

- 3.1 The IDBs are prescribed consultees for the proposed development under section 42 of the Planning Act 2008 and Regulation 9 (1)(a) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.
- 3.2 The Applicant engaged with the IDBs on the proposed development during the pre-application process, both in terms of informal non-statutory engagement, and statutory consultation carried out pursuant to section 42 of the Planning Act 2008 (the 2008 Act). A summary of consultation undertaken, specific to an environmental topic, is presented in each of the chapters of the ES, with full detail on the pre-application consultation undertaken by the Applicant presented in the Consultation Report (document reference 5.1).
- 3.3 It is agreed that the Consultation Report (document reference 5.1) submitted with the application provides accurate record of the statutory consultation which the IDBs were involved in.
- 3.4 It is agreed that topic specific consultation with the IDBs, outside of the EIA Evidence Plan process, is accurately captured within Table 7.4 of Volume 3, Chapter 7 *Hydrology and Flood Risk of the ES* (document reference 6.2.3.7).

EIA Evidence Plan

- 3.5 The Applicant engaged with the IDBs as part of the EIA Evidence Plan process. The primary aim of the EIA Evidence Plan has been to ensure that the Applicant, by agreement with the key statutory and non-statutory bodies, provided sufficient and proportionate information and applied appropriate and proportionate methods in the assessment of the TKES works. The EIA Evidence Plan (document reference 8.16) was submitted with the application for development consent and provides detail of the discussions undertaken and agreements made as part of that process.
- 3.6 As part of the EIA Evidence plan process the IDBs were represented in a topic specific Review Panel for issues relating to hydrology and flood risk.
- 3.7 Agreements reached during the EIA Evidence Plan process, detailed in paragraphs 5.19 – 5.25 and Appendix I; Annex D of the EIA Evidence Plan (document reference 8.16) are included as agreements within this SoCG in order to provide the ExA with a clear understanding of the status of these matters.

Post-application Consultation

- 3.8 The Applicant made initial contact with the IDBs in relation to the preparation of a SoCG in late May 2015, following the Secretary of State's acceptance of the Application. It was agreed that drafting a SoCG would be an appropriate way of making a clear statement to the ExA on the key issues during the early stages of the examination.
- 3.9 A meeting was held on 31 July 2015 to discuss the examination process and the draft SoCG with the IDBs.

The IDBs' remit

- 3.10 IDBs are local public authorities that manage water levels and are an integral part of managing flood risk and land drainage within areas of special drainage need in England and Wales.
- 3.11 They have permissive powers under the Land Drainage Act 1991 (as amended) to undertake work to provide water level management within their respective drainage districts, and undertake works to reduce flood risk to people and property, and manage water levels to meet local needs. Much of their work involves the maintenance of rivers, drainage channels, outfalls and pumping stations, facilitating drainage of new developments and advising on planning applications.
- 3.12 IDBs are under a duty to exercise their permissive powers in accordance with legislative provisions which includes but is not limited to a duty to have regard to the environment, recreation and conservation.
- 3.13 The Department for Environment, Food and Rural Affairs (Defra) is the Government department responsible for IDBs and the work of IDBs is closely linked with that of the Environment Agency (EA), Lead Local Flood Authorities (Lincolnshire County Council with respect to the TKES) and Local Planning Authorities.
- 3.14 The permissive powers of IDBs relate to all watercourses (whether maintained by an IDB or not) within their geographical boundaries of responsibility but IDBs are not responsible for watercourses designated as main rivers; supervision of these watercourses is undertaken by the EA.
- 3.15 It is agreed that where the drainage boards have made no comment in respect of the approach to the environmental impact assessment (EIA) undertaken to identify potential Hydrology and Flood Risk impacts (including the identification of the study area, scope and methodology, key parameters for assessment and the outcomes of the assessment), the drainage boards will defer to the views of the EA.

4. MATTERS AGREED

The Land Drainage Act

- 4.1 Article 6 *Application and modification of legislative provisions* of the draft DCO (document reference 3.1) provides for the disapplication of section 23, and any byelaws made under section 66 of the Land Drainage Act 1991 (as amended).
- 4.2 It is agreed that, the IDBs shall be able to confirm that there is no objection in principle to the inclusion of Article 6 in the draft DCO, and thereby agree to the disapplication of the legislative provisions relevant to them under the Land Drainage Act 1991 (as amended), subject to the agreement of suitable Protective Provisions within Schedule 8, Part 1 of the draft DCO (document reference 3.1).
- 4.3 It is agreed that this SoCG relates to all watercourses subject to IDB permissive powers and that this SoCG does not relate to any other land or other assets owned by an IDB.

Protective Provisions

- 4.4 It is agreed that the inclusion of Protective Provisions in the draft DCO (document reference 3.1) are necessary for the protection of drainage works (as described therein) which are the responsibility of the IDBs and that the Applicant and the IDBs will continue to work together in order to finalise wording of the Protective Provisions that is agreeable to all parties. An update on the status of these negotiations will be provided to the ExA at the appropriate time.

The Application

- 4.5 The following sections of this SoCG set out those aspects of the Application that relate to the details of the project that are agreed. This section relates to the Application in general and Hydrology and Flood Risk, particularly in relation to land drainage.
- 4.6 It is agreed that the study area defined in paragraphs 7.32 – 7.34 of Volume 3, Chapter 7 *Hydrology and Flood Risk* of the ES (document reference 6.2.3.7) is acceptable for the purposes of understanding the potential impacts on land drainage resulting from the proposed development.
- 4.7 It is agreed that the data sources listed in Table 7-5 of Volume 3, Chapter 7 of the ES are adequate and appropriate for the purpose of informing the assessment of impacts on the hydrological environment.
- 4.8 It is agreed that the descriptions given in paragraphs 7.57 – 7.72 of Volume 3, Chapter 7 of the ES provide an accurate and appropriate characterisation of the existing hydrological features and environment.

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- 4.9 It is agreed that Table 7-10 of Volume 3, Chapter 7 of the ES describes the mitigation measures that have been embedded into the project design and demonstrates how the design has sought to minimise hydrology and flood risk impacts.
- 4.10 It is agreed that the use of trenchless techniques for the installation of cable ducts and electrical circuits beneath IDB owned/maintained watercourses, as detailed in the Crossing Schedule (document reference 8.3) submitted with the Application, appropriately minimises the impacts on the hydrological environment.
- 4.11 It is agreed that paragraphs 2.45 – 2.48 of the Outline Construction Method Statement (CMS) version 2 (Appendix 38 of the Applicant's response to Deadline 1), adequately ensures that consent must be obtained for any specified works that are in, on, under, over or within 9m of a drainage work or that may affect any drainage work; the volumetric rate of flow of water flowing to or from any drainage work; the flow, purity or quality of water in any watercourse; or the conservation, distribution or use of water resources.
- 4.12 It is agreed that paragraph 2.46 of the Outline CMS adequately ensures that runoff from the construction compounds, haul road and any other areas of reduced permeability is kept to IDB specified rate or less (less than 1.4 l.s-1.ha-1 or a *de minimis* rate of 5 l.s-1).
- 4.13 It is agreed that paragraph 2.46 of the Outline CMS adequately ensures that any discharge to watercourses will require the consent and appropriate licensing from the EA and, where relevant, the IDBs.
- 4.14 It is agreed that paragraph 5.8 – 5.9 of the Outline CMS adequately ensures that the Applicant (or an appointed contractor) works in collaboration with the relevant consenting body to assess and obtain IDB agreement to the depth of cable crossings at every IDB maintained watercourse, which must be a minimum of 2 metres underneath the hard bed level plus an appropriate safe working separation distance, in order to ensure that IDB maintained watercourses are capable of being safely and effectively widened and deepened by up to a maximum of 2 metres below the hard bed level.
- 4.15 It is agreed that the surface water drainage strategy, detailed in Section 6.2 of Volume 5, Annex 7.3 *Flood Risk Assessment* (document reference 6.2.5.7.3) of the ES, is adequate and appropriate for the management of flood risk across all of the onshore works of the proposed development.
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Draft Development Consent Order (DCO)

- 4.16 This section of the SoCG sets out those aspects of the Application that are agreed in relation to the draft DCO (document reference 3.1).
- 4.17 It is agreed that, in relation to the agreed scope of this SoCG, the articles of the draft DCO (document reference 3.1) are appropriate and reasonable for the proposed development.
- 4.18 It is agreed that, under **Article 12 Discharge of water** of the draft DCO (document reference 3.1), relevant powers to use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project are provided for.
- 4.19 It is agreed that the wording of **Requirement 5(11) Detailed design onshore** of the draft DCO (document reference 3.1) adequately secures the use of trenchless techniques for cable duct and electrical circuit installation where identified in the Crossings Schedule (document reference 8.3).
- 4.20 It is agreed by Lindsey Marsh Drainage Board and Black Sluice Internal Drainage Board that the wording of **Requirement 10 Requirement for surface water drainage scheme** of the draft DCO (document reference 3.1) adequately secures a surface water drainage scheme which accords with the surface water drainage strategy submitted as part of Volume 5, Annex 7.3 *Flood Risk Assessment* of the ES (document reference 6.2.5.7.3).

5. MATTERS UNDER DISCUSSION

Cable Crossings at non-IDB maintained watercourses

- 5.1 Paragraph 4.14 of this SoCG sets out agreement to working in collaboration with the relevant consenting body to assess and obtain IDB agreement to the depth of cable crossings at every IDB maintained watercourse. The IDBs have requested that this should also be agreed with the IDBs for non-IDB maintained watercourses. The Applicant is seeking to clarify the details of this matter with the IDBs.
- 5.2 The Applicant and the IDBs will continue discussions on this matter and an update on the status of this shall be provided to the ExA at Deadline 2.

Safe working distances

- 5.3 The IDBs have requested that the Applicant confirms what the safe working separation distance will be where the cable route crosses watercourses. The Applicant will discuss this further with the IDBs and an update on the status of this shall be provided to the ExA at Deadline 2.