



Triton Knoll Offshore Wind Farm Limited Triton Knoll Electrical System

**The Applicant's Response to
Deadline 3**

Date: 30th November 2015

**Document Ref: 2505-TKC-CON-
K-KX-0050**

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Appendix Number	Document Title
1	Written Summary of The Applicant's Oral Case put at DCO Issue Specific Hearing on the 12 November 2015
2	Written Summary of The Applicant's Oral Case put at Compulsory Acquisition Hearing on 13 November 2015
3	Written Summary of The Applicant's Oral Case put at Onshore Impacts - Issue Specific Hearing on 17 November 2015
4	Written Summary of The Applicant's Oral Case put at Landscape and Visual Issue Specific Hearing on 18 November 2015
5	Written Summary of The Applicant's Oral Case put at Socio-Economic Issue Specific Hearing on 19 November 2015
6	Credentials Outline - Triton Knoll Team
7	Revised draft DCO Revision D
8	Comparison document draft DCO against revision C
9	Comparison document draft DCO against revision B
10	DCO Schedule of Amendments
11	DCO Schedule of Amendments Explanatory document
12	Updated Schedule of Compulsory Acquisition
13	Statements of Common Ground Summary and Index
14	Joint Statement between TKOWFL and the Crown Estate Commissioners
15	Joint Statement between TKOWFL and Highways England Historical Railway Estate

16	Order Limits Reduction Request
17	Compulsory acquisition case Clarification Note
18	Lincolnshire Coastal Grazing Marsh Spatial Clarification Note
19	Updated HRA Screening Matrices
20	Construction Noise Monitoring Clarification Note
21	External Electrical Infrastructure Clarification Note
22	Construction Sequencing, Cable Testing and Joint Bay Location Clarification Note
23	Hedgerow Removal and Mitigation Clarification Note
24	Lincolnshire Coastal Grazing Marsh Consultation Clarification Note

1. SUMMARY

1.1 In response to the Examining Authority's (ExA) letter of 11th September 2015 (the Rule 8 Letter), which set out the procedural timetable for the examination of the Triton Knoll Electrical System Application (Application Reference EN020019) ('the proposed development'), Triton Knoll Offshore Wind Farm Limited (The Applicant) has prepared the following:

- Written summaries of oral cases put at hearings;
- Applicant's revised draft DCO;
- Updated Schedule of Compulsory Acquisition;
- A status update on Statements of Common Ground;
- The Applicant's response to Actions from Issue Specific Hearings; and
- Post hearing documents.

1.2 These documents (collectively 'the Response') are submitted for the deadline of 30 November specified in the Rule 8 Letter (Deadline 3) and are discussed in more detail below.

2. Written summaries of oral cases

2.1 The Applicant has prepared written summaries of its oral submissions from the issue specific hearings held on the 12, 13, 17, 18 and 19 November 2015. These comprised the following:

- The Development Consent Order (12 November 2015);
- Compulsory Acquisition (13 November 2015);
- Onshore issues including construction (17 November 2015);
- Landscape and visual impacts (18 November 2015); and
- Socio-economic issues (19 November 2015).

2.2 The Written summaries for the hearings are provided at Appendices 1 to 5 of this Response.

2.3 A document presenting summary information for individuals appearing on behalf of the Applicant at the hearings is presented at Appendix 6.

3. The Applicant's revised draft DCO

- 3.1 As requested in the Rule 8 Letter, the Applicant has provided an updated draft DCO (marked Revision 'D') for Deadline 3 at Appendix 7 of the Response which incorporates further changes as a result of on-going discussions with stakeholders and specific requests from the ExA made at the issue specific hearings held in November 2015.
- 3.2 Comparison versions of the revised draft DCO, highlighting changes between the current version (Revision D) and Revision C (submitted at Appendix 21 of the Applicant's Response to Deadline 2) and also between Revision D and Revision B (submitted in advance of the commencement of the Examination) are provided at Appendix 8 and 9 respectively of this Response.
- 3.3 To assist the ExA, the Applicant has also provided an update to the Schedule of Changes to the draft DCO at Appendix 10 and an accompanying explanatory document at Appendix 11 to incorporate these further amendments.
- 3.4 In summary, the revised draft DCO includes the following changes:
- Specific drafting amendments requested by the ExA at the DCO issue specific hearing;
 - Specific drafting changes suggested at the DCO issue specific hearing that are acceptable to the Applicant and do not require further discussion;
 - Amendments to remove the alternative temporary construction compound (Work No 47B) and consequential changes to the compulsory acquisition changes; and
 - Amendments as a result of the Bicker Fen change request which was accepted in principle by the ExA at the hearing on 20th November.

4. Updated Schedule of Compulsory Acquisition

- 4.1 The Applicant provided an update as to the status of the schedule of compulsory acquisition in its responses to both Deadline 1 and subsequently to Deadline 2. As requested in the Rule 8 letter, the Applicant has provided a further update at Appendix 12 to this Response.
- 4.2 In summary, the Applicant has provided an update on the following:
- Meetings held regarding Heads of Terms (HoTs);
 - Progress achieved on HoTs;
 - Progress on agreements reached;

- Highlighting any envisaged impediments to reaching agreement; and
- Correction of minor typographical errors.

5. Statements of Common Ground

- 5.1 The Applicant's response to Deadline 1, submitted on the 5 October 2015 contained a number of signed Statements of Common Ground (SoCG), together with unsigned drafts (where these were considered helpful to the ExA) between the Applicant and a number of Interested Parties (see Appendices 20-32, 34 and 37 of the Applicant's Response to Deadline 1).
- 5.2 Subsequent to the submission of the Applicant's response to Deadline 1, the Applicant secured further signed SoCGs with Anglian Water Services Ltd. and the Eastern Inshore Fisheries and Conservation Agency. These were provided at Appendices 15 and 16 of the Applicant's response to Deadline 2, respectively.
- 5.3 The Applicant has also provided an update to the status of discussions on all SoCGs at Appendix 13 of this Response. A summary of discussions is also given below for relevant Interested Parties.

The Canal and River Trust

- 5.4 The Applicant is continuing to seek engagement with the Canal and River Trust, with a focus on matters raised in their relevant representation in order to progress a SoCG. The Applicant intends to submit a SoCG commenting on these matters once agreed as soon as possible and will provide an update to the ExA by Deadline 4.

ConocoPhillips (UK) Ltd

- 5.5 The Applicant notes the submission from ConocoPhillips (UK) Ltd to the ExA of the 25 November 2015 and can confirm that the parties are engaged in ongoing technical discussions in order to progress a SoCG. The Applicant expects to update the ExA by Deadline 4.

EDF Energy Renewables Ltd

- 5.6 The Applicant can confirm that discussions with EDF Energy Renewables are ongoing and the parties expect to have progressed all issues by Deadline 4. The Applicant will update the ExA on this matter at that time.

The Environment Agency

- 5.7 The Applicant and the EA have agreed a SoCG, which has been submitted to Deadline 1. At that time a number of matters were still under discussion in relation to requests for new Requirements; the Applicant can update the ExA that the requested condition within the draft deemed Marine Licence (dML) relating to bathing water quality has now

been agreed by both the EA and the MMO and is included as a new condition 14 of the dML, submitted at Appendix 7 of this Response.

- 5.8 As noted at the DCO issue specific hearing on the 12 November 2015, the Applicant and the Environment Agency remain in discussions regarding the appropriate means of controlling the management of any encounters with unexpected contamination and the need for the undertaking of a hydrogeological risk assessment within the draft DCO. The Applicant and the EA will continue to discuss these matters in order to provide an update at Deadline 4.

The Marine Management Organisation

- 5.9 The Applicant can confirm that agreement has been reached between the Parties in the majority of cases, as shown in the draft SoCG submitted for Deadline 1. The draft SoCG, reflects the Applicant's understanding of matters agreed based on discussions with the MMO both pre and post submission of the application. As at Deadline 1, although substantially agreed, the MMO has not yet approved the SoCG in its current form pending final confirmation on the specific wording of conditions within the dML. The Applicant and MMO are actively engaged on these aspects and both parties are confident that a final signed version of the SoCG will be submitted to the ExA for Deadline 4.

The Internal Drainage Boards

- 5.10 The Applicant and IDBs have agreed to prepare a joint SoCG. Initial progress was made between the Applicant and the IDBs, with a draft SoCG submitted at Deadline 1. Subsequent discussions have identified issues that require resolution before this can be further progressed and, as indicated at the hearings in November 2015, the parties will meet on the 3rd December to discuss outstanding matters in relation to the Application. All parties will work towards a joint update on progression on these issues for Deadline 4.

National Grid

- 5.11 The Applicant, NGET and NGG (together "National Grid") are continuing to have productive discussions regarding the matters raised in their relevant and written representations. The parties expect to agree protective provisions and other relevant documentation to provide adequate protection for National Grid's rights and interests in existing operational assets and to address the provision of land rights and access, including those necessary for the Applicant's connection to Bicker Fen substation, in lieu of the exercise of compulsory purchase rights. The parties are also working to agree a SoCG to record agreed approach. The parties hope to be in a position to provide a detailed update to the ExA at Deadline 4 and are targeting to have reached at least in principle agreement on all substantive matters before that deadline.

Lincolnshire County Council.

- 5.12 The Applicant has continued to seek agreement with Lincolnshire County Council for the purposes of producing a final signed SoCG and can confirm to the ExA that meetings on specific topics have been held and engagement is ongoing to facilitate submission of a final SoCG at the earliest opportunity. The Applicant will provide an update on progress and status for Deadline 4.

Lincolnshire Wildlife Trust

- 5.13 The Applicant and the Lincolnshire Wildlife Trust (LWT) have engaged in consultation on the matters raised in their Written Representation and a SoCG was submitted at Deadline 2. In order to progress and finalise the SoCG, the parties have arranged a meeting on the 3rd December to discuss outstanding matters in relation to the mitigation of Field 6 (Site E) of the LCGM. The Applicant issued an updated mitigation proposal to LWT on the 30th November to inform these discussions. The Applicant will provide a finalised SoCG or update on progress towards achieving this by Deadline 4.

Natural England

- 5.14 The Applicant and Natural England have continued engagement on finalising the SoCG submitted at Appendix 18 of the Applicant's response to Deadline 2. Both parties note that there is a single remaining issue for agreement with Natural England relating to potential disruption of sediment to designated sites as set out in the SoCG and the potential need for further monitoring to address residual concerns. As noted at the hearing, the Applicant will review the paper currently being finalised by Natural England that has been identified as informing the discussions, in particular on the need for any such monitoring. The parties will update the ExA on progress at Deadline 4.

Westminster Gravels Limited

- 5.15 The Applicant can update the ExA that the parties are close to final agreement on terms and expects to report this to the ExA by Deadline 4.

Land Interest Group

- 5.16 The Applicant and the Land Interest Group have agreed to pursue a SoCG as requested by the ExA and have arranged a meeting on the 3rd December to discuss outstanding matters in relation to the proposed development. The Applicant will update the ExA on progress at Deadline 4.

6. Actions from Issue Specific Hearings

- 6.1 The Applicant has progressed the ExA's required actions identified at the Hearings and as provided by the ExA in its 'Action note from November hearings' published on the PINS website on 26 November 2015. The Applicant's responses to these actions are
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set out in a table in Part 1 of this Response. The table indicates how and where those actions have been addressed and also makes reference to other appendices within this Response where relevant.

6.2 The Applicant also noted several issues for which clarification or position statements were considered to be helpful to the ExA arising from the hearings. The Applicant's responses on these items is presented in Part 2 of this Response.

7. Post hearing documents

7.1 The Applicant has drafted several clarification notes in response to issues raised and requests made during the issue specific hearings in November 2015. These documents, provided as Appendices to this Response, comprise the following:

- A joint statement with The Crown Estate Commissioners regarding changes to the Book of Reference at Appendix 14;
- A joint statement with the Highways England Historical Railways Estate (HEHRE) regarding changes to the Book of Reference at Appendix 15;
- A change request related to removal of an alternative temporary construction compound (TCC) and removal/reduction of other associated plots (with appended updated land plans and updated Book of Reference extract) at Appendix 16;
- A clarification note on the Applicant's compulsory acquisition case at Appendix 17;
- A clarification note on the spatial extents of Lincolnshire Coastal Grazing Marsh (LCGM) within the proposed onshore development area at Appendix 18;
- Updated and additional Habitats Regulations Assessment (HRA) screening matrices at Appendix 19;
- A clarification note on construction noise monitoring at Appendix 20;
- A clarification note on external electrical infrastructure at Appendix 21;
- A clarification note on construction sequencing, cable testing and joint bay locations at Appendix 22;
- A clarification note on hedgerow removal and mitigation at Appendix 23; and
- A clarification note on consultation undertaken on the LCGM at Appendix 24.

Part 1 The Applicant's response to Actions from Issue Specific Hearings

Introduction

- 1 A number of actions for the Applicant and Interested Parties arose through the course of the issue specific hearings. The Applicant has progressed these actions as summarised below and elsewhere in this document and/or the draft DCO, as noted and/or signposted in the table below. Where an action is still to be completed, this is highlighted to assist the ExA.

Issue specific hearing, Development Consent Order, held 12 November 2015

Action Item No.	Subject	Response
1	Schedule of changes to DCO note to be provided to support the change request by demonstrating the consequential changes to the DCO	Details provided and submitted to PINS on 16 November 2015.
2	Definition of Commencement to be considered further	The Applicant notes that this action is to the MMO, however the Applicant confirms that it is considering the drafting of the definition of "commencement" within the draft DCO and the works that are excluded from that definition. The MMO's comment was to confirm that any changes to the definition in article 2 of the draft DCO are also reflected in the definition in the deemed marine licence (dML). The Applicant has checked the definitions and amended the definition in Article 2 to reflect the change made to the dML at the request of the MMO (see Appendix 7 of this Response)

Action Item No.	Subject	Response
3	Plot 39/05 to be reviewed to ensure ownership and its reference in the DCO is correct and understood.	The Applicant has checked this and the accuracy of the information provided is confirmed in the DCO hearing summary (Appendix 1).
4	National Grid clarification note expanding oral submission on statutory role in providing connections for projects, approach to substation design and future proofing.	<i>Action for National Grid Electricity Transmission plc</i>
5	Minor works requires further clarification of the definition specifically considering the implication of their inclusion alongside the definition of commencement.	The ExA requested that the Applicant consider the scope of the “temporary highways alterations” as defined in Article 2 of the draft DCO. Further clarification is provided in the DCO hearing summary (Appendix 1).
6	Hedgerows in relation to removal to be reviewed as to whether it is appropriate for their exclusion from ‘commencement’.	<p>The Applicant considers that it is appropriate to exclude the removal of hedgerows from the definition of “commence” to ensure that these works do not trigger the discharge of the numerous Requirements set out in Part 3 Schedule 1 of the draft DCO.</p> <p>The Applicant does, however, accept that the removal of hedgerows should only take place in accordance with the mitigation measures set out in the Outline Landscape and Ecological Management Plan and the Outline Construction Method Statement. The Applicant will discuss the drafting and</p>

Action Item No.	Subject	Response
		inclusion of suitable control measures within the draft DCO with Natural England and will include the agreed wording in the draft DCO submitted for Deadline 4.
7	Article 2 requires 'and' to be added	This has been included in the revised draft DCO, submitted at Appendix 7 of the Response.
8	Article 3 definition of 'limits of deviation' to be added to ensure a clear relation to the order limits.	This has been included in the revised draft DCO, submitted at Appendix 7 of the Response
9	Article 9 further discussion required in relation to the time limit for notice	The Applicant has proposed wording within the draft DCO to provide for prior notification to the relevant planning authorities of any stopping up, alteration or diversion under Article 9(4). The Applicant noted the request by the relevant planning authorities for 28 days' notice, and is discussing this separately with them and will update the ExA on any agreement in relation to the timing of notice reached at Deadline 4.
10	Articles 8-11 further consideration to be given in relation to the relevant local authority to be discharging requirements	As explained at the hearing, the Applicant considers the relevant planning authorities to be the appropriate authority in relation to Articles 8-10. Recognising the County Council's role as Highways Authority, the Applicant has included provision for consultation with

Action Item No.	Subject	Response
		<p>Lincolnshire County Council in relation to the article 10 (b) and (c).</p> <p>No consultation is considered necessary with the County Council in relation to matters covered by Articles 8 and 9 as these are detailed and secured within the draft DCO and the relevant schedules.</p> <p>The Applicant would highlight the provisions in Part 8 of the Planning Act 2008 relating to enforcement where, as set out in section 173, the relevant planning authority with power to enforce the DCO is the district planning authority (in this case either East Lindsay District Council or Boston Borough Council).</p>
11	Requirement 14 further clarification to be considered as to the information to be included in the DCO regarding the content of the Code for Construction Practice.	<p>The Applicant understands that this action item relates to the discussion regarding the detail of the management of Public Rights of Way (PRoWs).</p> <p>As explained at the hearing, the detail regarding the management of public rights of way during construction is included within the Outline Construction Method Statement. In order to make this clearer, a specific reference to the management of public rights of way has been included in Requirement 14(2)(a) of the draft DCO (Appendix 7 of the Response).</p>
12	Discharging requirements – clarification to be provided in the DCO to ensure that the	The Applicant can confirm that the fee payable in accordance with paragraph 5(1) of Schedule 11 is per requirement

Action Item No.	Subject	Response
	fee is per requirement discharged rather than per request	discharged, not per request (i.e. a single request to discharge a number of requirements would attract a fee per requirement). The Applicant considers the current drafting is sufficiently clear that it does not require amendment.
13	Transfer of Benefit requires further discussion between parties.	The Applicant and the MMO have agreed to provide further clarification to the ExA on the matters of disagreement in relation to the transfer of benefit and expect to be able to provide this for Deadline 4
14	Deemed marine licence content to be commented on by Historic England before the Applicant provides further comment	Historic England has supplied its suggested wording for Condition 8(2) of the dML and this has been included in the revised draft submitted for Deadline 3 at Appendix 7
15	New requirement proposed by Environment Agency (EA) agreed and to be inserted in DML	The condition relating to bathing water quality has now been agreed by the Environment Agency and the MMO and is included as a new Condition 14 of the dML (Appendix 7)
16	New requirement proposed by the EA in relation to contaminated land. Protective provision proposed. Further discussion required	As explained at the hearing, the Applicant and the Environment Agency remain in discussions regarding the appropriate means of controlling unexpected contamination within the draft DCO.

Action Item No.	Subject	Response
17	New requirement suggested requiring that all construction traffic use the new permanent access road from the A17: discussion required.	Boston Borough Council has proposed additional wording to the Applicant for Requirement 18 of the draft DCO (construction traffic), this is still under discussion and we will update the ExA with any agreed drafting at Deadline 4.
18	Further clarification to be provided in relation to concerns relating to traffic impacts at the Bicker Fen substation site.	<i>Action for Boston Borough Council</i>
19	Disapplication of legislation - where this takes place, agreement is to be sought from the consenting body	The Applicant has noted the need to secure agreement from the relevant bodies to the disapplication of legislation, as set out in the Additional Consents Document (document reference 8.19). This is part of the ongoing discussions with the Environment Agency and the IDBs in relation to protective provisions and land matters

Issue specific hearing, Compulsory Acquisition, held 13 November 2015

Action Item No.	Subject	Response
1	Crown Estates – suggest the insertion of ‘except for the interests of the Crown’ into the DCO to ensure that CA powers are not to include Crown Estate interests. This should be reflected on all relevant plots in the Book of Reference	The Applicant has, in liaison with The Crown Estate Commissioners, amended the relevant plot descriptions in the Book of Reference (see Appendix 14 of this Response) to include equivalent wording acceptable to the Commissioners, and has prepared a Joint Statement submitted for Deadline 3, which confirms that the Commissioners are happy with the amendment (Appendix 14 of this Response).
2	Highways Agency and Historical Railways Estate – suggest similar wording to that in point 1 to ensure that land is excluded.	<p>The Applicant has, in liaison with Highways England Historical Railways Estate (“HEHRE”), amended the relevant plot descriptions in the Book of Reference to include equivalent wording acceptable to HEHRE (see Appendix 15 of this Response).</p> <p>The Applicant has also updated the Owner details in the third column of the Book of Reference to reflect the fact that following the transition from Highways Agency to Highways England, the relevant interests are owned by the Secretary of State for Transport and administered by HEHRE.</p> <p>The Applicant has prepared a Joint</p>

Action Item No.	Subject	Response
		Statement submitted for Deadline 3, which confirms that HEHRE is happy with these amendments (Appendix 15 of this Response)
3	Evidence of agreements – should be sought from Crown Estates, Highways Agency and Historical Railways Estate in relation to inserted wording and inclusion of their land in the Book of Reference.	Please see comments at Items 1 and 2 above.
4	Sandhills Act - Lincolnshire CC (LCC) raised the Sandhills Act as evidence in relation to the beach access at the landfall site. For this to be raised, it needs to be formally submitted into the examination.	<i>Action for Lincolnshire County Council.</i>
5	Length of CA – LCC raised matters in relation to the length of the CA rights, further information was promised to be forthcoming at the next deadline.	<i>Action for Lincolnshire County Council.</i>
6	Permission from the Internal Drainage Boards (IDB) – the IDBs request that their permission is sought before drainage is moved or interfered with.	The Applicant has arranged to meet with the Internal Drainage Boards on 3rd December to discuss outstanding matters in relation to the proposed development. The Applicant will update the ExA on progress at Deadline 4.

Action Item No.	Subject	Response
7	Permanent easements – further discussion is required between parties in relation to the appropriateness of easements	The Applicant has arranged to meet with the Land Interest Group on 3rd December to discuss outstanding matters in relation to the proposed development, including the nature of the rights sought. The Applicant will update the ExA on progress at Deadline 4.
8	Restrictive covenants – a number of representations were made and a number of actions noted by the applicant to follow up at the next deadline	The Applicant has arranged to meet with the Land Interest Group, and separately the Internal Drainage Boards, on 3rd December to discuss outstanding matters in relation to the proposed development, including restrictive covenants. The Applicant will update the ExA on progress at Deadline 4.
9	Conflict between schedule 5 of the DCO and the Protective Provisions – it was agreed that an additional sentence is to be added to article 26.	To clarify, the Applicant does not consider that there is a conflict between these provisions and did not agree to make such an amendment. Rather, the Applicant confirmed it would review the request. During the hearing, counsel for the Internal Drainage Boards suggested that there is a potential conflict between the rights sought to be acquired under Schedule 5 and the protective provisions of Schedule 8 part 1 of the Order. It was suggested that the perceived conflict could be resolved by adding a further sentence

Action Item No.	Subject	Response
		<p>to Article 26 of the draft Order to state that the rights sought to be acquired under Article 17 and Schedule 5 are subject to the protective provisions of Schedule 8.</p> <p>The Applicant highlights that the drafting of Article 26 is consistent with that included in other development consent orders such as the Rampion Offshore Wind Farm Order 2014 and the Dogger Bank Creyke Beck Offshore Wind Farm Order 2015, and simply confirms that Schedule 8 has effect.</p> <p>Schedule 8 will have effect in relation to the carrying out of the proposed development, for the protection of specified and statutory undertakers, regardless of whether or not the rights over land required for the proposed development are acquired compulsorily pursuant to Article 17 and Schedule 5 or by private agreement.</p>

Issue specific hearing, onshore issues including construction, held 17 November 2015

Action Item No.	Subject	Response
1	Further information regarding enhancement with specific regard to grazing marshes.	<p>The Applicant has set out the enhancement incorporated as part of the project in Section 4 of its Response to LWT Written Representation (Appendix 6 of the Applicant's Response to Deadline 2).</p> <p>Further, the Applicant has summarised the enhancement in relation to the LCGM in paragraphs 1.26 – 1.29 of the Written Summary of The Applicant's Oral Case put at Onshore Impacts - Issue Specific Hearing on 17 November 2015 (Appendix 3 of the Applicant's Response to Deadline 3)</p> <p>The Applicant is also in the process of discussing internally measures to create/improve grazing marsh habitats within the LCGM target areas. An update on whether these measures will be provided will be given to the Examining Authority as soon as information becomes available.</p>
2	Provide a summary of the background to the Coastal Country Park.	<i>Action for Lincolnshire County Council</i>

Action Item No.	Subject	Response
3	Provide a note regarding EIA in relation to the Viking Link Project	<i>Action for National Grid Viking Link Ltd</i>
4	Provide a note regarding harbour porpoise	<p>The Applicant notes this action is directed at Natural England, however it should be noted that both parties have been in discussion and are agreed on this matter.</p> <p>The Applicant understands that the proposals for possible SAC sites for harbour porpoise will be consulted upon in early 2016. As noted at the Issue Specific Hearing (onshore issues including construction) on the 17 November, the proposed development does not involve activities that could cause a potential risk of disturbance through noise generated during any phase of the development and both Natural England and the Applicant are in agreement on the lack of any potential impact pathway based on current information arising from the proposed development on harbour porpoise in the area. The Applicant will continue engagement with Natural England and the JNCC to discuss any implications arising from the potential designation of such sites as and when information on relevant conservation objectives is brought</p>

Action Item No.	Subject	Response
		forward.
5	Provide outstanding matrices for European Sites.	<p>The Applicant and Natural England have agreed the accuracy of the screening matrices for the following sites:</p> <p>The matrices are presented at Appendix 19 of this Response.</p>
6	A joint note on outstanding SoCG matters	<p>There is a single remaining issue for agreement with Natural England relating to potential disruption of sediment to designated sites as set out in the SOCG and the potential need for further monitoring to address residual concerns.</p> <p>As noted at the hearing, the Applicant will review the paper currently being finalised by Natural England that has been identified as informing the discussions, in particular on the need for any such monitoring.</p> <p>The parties will update the ExA on progress at Deadline 4. The Applicant understands that Natural England will also provide the paper to the ExA at this time.</p>

Action Item No.	Subject	Response
7	Provide a note detailing how monitoring of noise during construction will be secured through a requirement.	The Applicant has provided wording for inclusion in the Outline Noise Management Plan. The text has been presented at Appendix 20 of this Response.

Issue specific hearing, Landscape and visual, held 18 November 2015

Action Item No.	Subject	Response
1	Provide clarification note regarding heights of structures including lightning rods and perimeter fencing	The Applicant has provided a clarification note providing information on the heights of structures as part of Appendix 21 of this Response

Issue specific hearing, Socio-economics, held 19 November 2015

Action Item No.	Subject	Response
1	Provide a figure showing indicative extent of trenchless and open cut techniques	The Applicant is producing this figure, however it has not been possible to complete in time for Deadline 3. The Applicant will provide this by Deadline 4.
2	Provide a note on construction sequencing including further information on how the location of inspection chambers will be selected.	The Applicant has provided a clarification note providing information on construction sequencing at Appendix 22 of this Response.
3	Provide clarification in the draft code of construction practice as to when liaison would begin with land owners	The Applicant is meeting with the LIG on the 3rd of December to discuss the commencement of the Agricultural Liaison Officer (ALO) and other matters and will update the ExA on progress at Deadline 4.
4	Submit joint note with NFU following December meeting.	The Applicant is meeting with the LIG on the 3rd of December and will update the ExA on progress at Deadline 4.
5	Submit information regarding the day-to-day activities of the agricultural liaison officer	The Applicant is meeting with the LIG on the 3rd of December to discuss the role of the Agricultural Liaison Officer (ALO) and other matters and will update the ExA on progress at Deadline 4.

Action Item No.	Subject	Response
6	Provide a note following request from NFU regarding soil sampling post construction	The Applicant is meeting with the LIG on the 3rd of December to discuss soil sampling post construction and other matters and will update the ExA on progress at Deadline 4.
7	Provide a note regarding drainage methodology.	The Applicant is meeting with the LIG on the 3rd of December to discuss drainage methodology and other matters and will update the ExA on progress at Deadline 4.

Part 2 The Applicant's responses to additional items raised at Hearings

Introduction

- 1 Following the issue specific hearings, the Applicant also noted several issues for which clarification or position statements were considered to be helpful to the ExA. The following section provides summary responses and clarifications on these matters.

Compulsory acquisition of public open space and the Sandhills Act 1932

- 2 During the Development Consent Order and Compulsory Acquisition Hearings held on 12th and 13th of November 2015, the ExA requested that the Applicant and Lincolnshire County Council ("LCC") prepare a Joint Statement setting out so far as may be practicable their agreed position on:

- The correct procedure to be followed in respect of the application for compulsory purchase powers in the Order which would enable the compulsory acquisition of rights over land forming public open space; and
- The extent to which the provisions of the Lindsey County Council (Sandhills) Act 1932 affects the disposal and/or use of the public open space and as a result needs to be modified/dis-applied by the Order.

- 3 As agreed with LCC's legal representative, the Applicant prepared a draft Joint Statement which was sent to LCC for review on the 18th of November. Although the Applicant made a number of follow up requests, no response from LCC was received until 2:30pm on the 30 of November (the date of Deadline 3).
- 4 The document received by LCC, albeit signed, included a number of square brackets and drafting notes and did not confirm the agreed position, or LCC's position, on the issues raised by the ExA, simply stating that LCC would submit further representations. Given the ExA's request that only final, agreed documents be submitted to the Examination, the Applicant provided LCC with an updated draft of the Joint Statement for review to try to address these issues. The Applicant also drew the LCC's attention the need for LCC to formally submit a copy of the Sandhills Act as requested at Item 4 of the ExA's '*Note of Information Proposed by interested parties to be submitted at Deadline 3*', and suggested that this be appended to the Joint Statement, however LCC declined to consider it further at this time.
- 5 The Applicant would highlight that the document provided by LCC does not constitute a Joint Statement as requested by the ExA and the Applicant does not therefore consider it appropriate to submit it.
- 6 The Applicant will continue to make every effort to engage with LCC with a view to submitting a Joint Statement at Deadline 4.
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Habitats Regulations Assessment

- 7 The Applicant also noted additional points from issue specific hearing of the 17 November 2015, *onshore issues including construction* relating to HRA aspects. The Applicant would highlight to the ExA that the matters presented below have been discussed and agreed with Natural England.

The consideration and correct identification of the qualifying features of the European sites

- 8 The Applicant and Natural England note the thorough and detailed consultation on the assessment of features within designated sites, including the scoping and subsequent scoping direction [document reference 8.1] as well as the EIA Evidence Plan process and report and the Report to Inform Appropriate Assessment (RIAA) submitted at Application [document references 8.16 and 5.3 respectively]. In all correspondence, the relevant features of European Sites have been detailed and agreed with Natural England through the pre-Application consultation process.

Inner Dowsing, Race Bank and North Ridge SCI

- 9 As evidenced in the RIAA, the Inner Dowsing, Race Bank and North Ridge SCI is the sole site for which a potential LSE has been identified and that 'Reefs', specifically *S. spinulosa*, and 'Sandbanks slightly covered by sea water at all times' are the only features of that site that were required to be taken through to the assessment of adverse effect on integrity.
- 10 The Applicant recognises that the references provided by NE in their Written Representation on the Inner Dowsing, Race Bank and North Ridge SCI (site assessment document and data form) do list harbour porpoise and grey seal as annex II species, however neither the site improvement plan, Regulation 35 advice nor the information presented on the JNCC website list annex II species as applicable for the SCI. Natural England agree that these species do not require specific mention within the screening matrices for the SCI.
- 11 Both parties agree that both the European sites considered within the RIAA and the relevant qualifying features have been appropriately considered for the purposes of the Application.

The screening of a likely significant effect for impacts on the Inner Dowsing, Race Bank and North Ridge Site of Community Importance for the project alone

- 12 At the time of the Application, discussions with Natural England had confirmed that there was no Likely Significant Effect (LSE) resulting from the proposed development alone on the IDRBNR SCI and this was detailed within the Applicant's RIAA [document reference 5.3, Table 3 'Summary of Consultation relating to HRA, Row 32 (Feb 2015 and Row 42 March 2015)] as well as in text throughout the document.

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- 13 Previous advice from Natural England, as referenced in the Applicant's response to HRA 1.7 of the ExA's first written questions, was that a LSE was only considered for in-combination effects for operations and maintenance (O&M) activities. However, the Applicant notes that Natural England has confirmed that although Natural England now advise that a LSE cannot be ruled out for O&M activities for the proposed development alone (as well as for in-combination), the scale of such impacts, both alone and in-combination, is unlikely to result in an adverse effect on site integrity. The Applicant refers the ExA to paragraph 4.237 the SoCG between the Applicant and Natural England, Appendix 18 to the Applicant's Response to Deadline 2, where this matter is agreed (paragraph 4.237).

Gibraltar Point SPA and Ramsar

- 14 A screening matrix for the Gibraltar Point SPA and Ramsar is included within the Applicant's Response to Deadline 3 and has been agreed with Natural England. The matrix details and supports the finding of no likely significant effect.

North Norfolk Ramsar and the Wash Ramsar

- 15 Screening matrices for both the North Norfolk SPA and the Wash SPA were included at Appendix 9 of the Applicant's Response to Deadline 1. The relevant features of the Ramsars for both sites are included within the matrix submitted in that Appendix, identifying a lack of any potential impact pathway arising from the proposed development on features of the Sites. This matter is agreed with Natural England. The matrices are included within Appendix [] of this Response for clarity, specifically noting the inclusion of the relevant Ramsar sites.

Flamborough and Filey Coast pSPA

- 16 The proposed reclassification of the Flamborough and Bempton Cliffs SPA, which will become the Flamborough and Filey Coast SPA, has been appropriately considered within the screening matrix provided by the Applicant for the Flamborough and Bempton Cliffs SPA, which identifies a lack of any potential impact pathway arising from the proposed development on features of the sites. The reclassification of the site under the pSPA proposal brings the distance from the proposed project down to some 81.33 km (previously 83 km). This reduction in separation distance will have no material implications for the findings of the screening matrix submitted previously. This matter is agreed with Natural England.

Possible SAC for harbour porpoise

- 17 The Applicant understands that the proposals for possible SAC sites for harbour porpoise will be consulted upon in early 2016. As noted at the issue specific hearing onshore issues including construction, held on the 17 November, the proposed development does not involve activities that could cause a potential risk of disturbance through noise generated during any phase of the development and both Natural England and the Applicant are in agreement on the lack of any potential impact
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pathway based on current information arising from the proposed development on harbour porpoise in the area. The Applicant will continue engagement with Natural England and the JNCC to discuss any implications arising from the potential designation of such sites as and when information on relevant conservation objectives is brought forward.

Biogenic Reef

- 18 As noted at the ISH on the 17 November 2015, the provisions secured in the draft DML in respect of mitigating against impacts to reef features as a result of maintenance activities for the proposed development have been accepted by and agreed with both the MMO and Natural England.
- 19 The provisions comprise a commitment to avoid core reef during installation (Condition 7 (1)(h)); and the production and agreement of an Offshore Operations and Maintenance Plan (Condition 7(1)(i)), which will be agreed with the MMO and the relevant SNCB and periodically updated during the lifetime of the proposed development and which will provide for survey information to be obtained on the existence of any reef that has developed above buried or secondarily protected cable prior to maintenance or repair work commencing.
- 20 The Applicant highlights that this matter is agreed with Natural England as detailed in the Applicant's SoCG with Natural England, presented at Appendix 18 of the Applicant's response to Deadline 2, paragraphs 4.235 and 4.236.
- 21 It is also worth noting that should the pre-maintenance survey identify the formation of biogenic reef on the seabed over the installed cable, then disturbance of such reef during maintenance, if unavoidable, would not be expected to preclude its re-formation once the maintenance activities (and therefore disturbance) have been completed. This follows since the conditions that allowed the reef to form over the cable would not be changed and thus given the area was suitable for the establishment of the reef post-installation, there would be no reason to expect it would not reform once the maintenance activities had also completed. In this way, there would be no impediment to the recovery of such reef features.