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Kelvin Macdonald
National Infrastructure Directorate
The Planning Inspectorate
(via e-mail only)

Your ref: EN020019
Our reference: DCO/2014/00013

22 December 2015

Dear Mr Macdonald,

**PROPOSED TRITON KNOLL ELECTRICAL SYSTEM
DEVELOPMENT CONSENT ORDER: RESPONSE TO EXAMINING AUTHORITY'S
SECOND ROUND OF WRITTEN QUESTIONS (ExQ – Deadline 4)**

The Marine Management Organisation (MMO) is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIP) in the marine area. The MMO received the Examining Authority's second round of written questions on 11 December 2015.

The MMO response to the written questions is presented within the appendix attached to this letter.

Please note that the MMO reserves the right to make further comments on this application throughout the examination process and to modify its present advice or opinion in view of any additional information that may come to our attention.

Yours sincerely,

[REDACTED]
Andrew Souter
Marine Licensing Case Officer

D: [REDACTED]
E: [REDACTED]

CC:
Ross Hodson – MMO
Alan Gibson – MMO
Paul Carter – RWE



INVESTORS
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Appendix MMO Response to the Examining Authority’s Deadline 4

AGENDA ID	TOPIC HEADING AND QUERY	QUESTION	MMO RESPONSE
DCO 2.8	Article 2 – the definition of ‘Commence’ The Marine Management Organisation (MMO)	<p>The Applicant has proposed removing the phrase “exit for HDD and related works” {ExA Note: this is stated to be “including exit for HDD” in the DCO Schedule of Amendments Explanatory document [REP3-047]} from the definition of “commence”.</p> <p>Indicate your acceptance or otherwise of this proposed amendment.</p> <p>You may respond to this question in conjunction with question DCO 2.30, below.</p>	<p>As HDD exit works are a licensable activity, the activity should be covered by the definition of “commence”. The MMO acknowledge the applicants concerns that they did not wish the HDD works to “trigger” all other reporting and monitoring commitments detailed within the DML which predominately relate to export cable installation (Work Item 1) (as opposed to HDD landfall works).</p>
DCO 2.30	Schedule 9 - Condition 7 The MMO	<p>The Applicant has proposed that Condition 7 could be amended to state “The licensed activities or any part of those activities except for HDD works within works No 2 shall not commence...”</p> <p>Indicate your acceptance, or otherwise, of this proposed amendment.</p> <p>You may respond to this question in conjunction with question DCO 2.8, above.</p>	<p>The MMO concurred with this approach and therefore advised the applicant to re-draft the definition of commence to remove the words “including exit for HDD”, and re-draft Condition 7 to state “The licensed activities or any part of those activities (except for HDD works within works No 2) shall not commence...”</p> <p>The MMO noted that the previous drafting of condition 9 referenced commence, but</p>

			<p>the definition of commence excluded the works relevant to condition 9 (i.e. HDD exit works).</p> <p>The amendments suggested and currently included in REV D of the DCO resolve this matter, and enable the applicant to proceed with the HDD works without requiring approval of pre-construction documents detailed in DML condition 7. The MMO therefore accepts the proposed changes.</p>
DCO 2.12	Article 5 – Transfer of benefit of Order The MMO	<p>The Applicant has included additional wording as article 5(5) to disapply section 72 of the Marine and Coastal Access Act 2009 (see previous question). Indicate your acceptance or otherwise of this proposed amendment.</p>	<p>The MMO re-iterate our objection to the details of Article 5 (Transfer of Benefit of Order) on the grounds that all transfers or grants should follow the Article 5 (1) regardless of whether it is the transferee / grantee is a section 6 licence holder. Our position has not deviated from those submitted within our written response to the Section 56 consultation dated 13 July 2015 (Please note this was RR-190 and not RR-188 as stated on the Examination Library Document), our written response to Deadline 1 dated 29 September 2015 (REP1-036), our oral representations given at the Issue Specific Hearing held on the 12 November 2015 (REP3-037) and our written response to Deadline 3 dated 25 November 2015 (REP3-010).</p> <p>The MMO and the applicant acknowledge that we will be unable to come to an agreement on the issue of Transfer of Benefit and this “disagreement” will be</p>

			<p>included within the updated Statement of Common Ground.</p> <p>We contacted the applicant on 17 December 2015 regarding the submission of a SoCG at Deadline 4 and have suggested a new drafting of the document be issued to the MMO at the earliest opportunity to allow us to review internally and provide comments back to the applicant by 19 January 2016, with a view to getting a signed agreement detailing our positions submitted to the ExA at Deadline 5 (1 February 2016).</p> <p>However, with specific regard to the inclusion of Article 5(5) we are content for this drafting to be included.</p>
DCO 2.28	<p>Schedule 9 - Condition 3(3) The Applicant The MMO The Marine and Coastguard Agency (MCA)</p>	<p>The DCO Schedule of Amendments Explanatory document [REP3-047] states that the Applicant has 'noted' the MMOs comments on this draft Condition.</p> <p>The MMO's Response to the ExA's Deadline 3 [REP3-010] states, in connection with this Condition, that the MMO is content to leave this to the applicant and the MCA to determine and if no agreement is reached then the ExA/Secretary of State may need to make the conclusive decision.</p> <p>a) The Applicant</p> <p>Justify your decision not to take any further action on the MMO's comments</p> <p>b) The MMO</p> <p>Do you have a preferred wording for this Condition? If so,</p>	<p>The MMO are content that the current drafting is appropriate, if it is deemed necessary to include the condition, and are content for the applicant and the Maritime and Coastguard Agency (MCA) to come to an agreement on whether they deem it necessary to include this requirement within the DML.</p> <p>The MMO opinion remains as that stated in our written response to Deadline 3 dated 25 November 2015 (REP3-010).</p>

		<p>provide this.</p> <p>c) The Marine and Coastguard Agency</p> <p>The MCA has not made any submissions for Deadline 3. The Statement of Common Ground between the Applicant and the MCA [REP1-082] shows an agreement that Condition 3 will retain both 3(1) {ExA's Note: Condition 3 in REP3-044} and 3(3) {ExA's Note: Condition 3(2) in REP3-044} in the draft DML.</p> <p>Comment on the MMO's stated concerns related to this Condition.</p>	
DCO 2.29	<p>Schedule 9 - Condition 5(13)</p> <p>The MMO</p> <p>The MCA</p> <p>Trinity House</p> <p>United Kingdom</p> <p>Hydrographic Office (UKHO)</p>	<p>The Applicant has added "Trinity House, MCA and UKHO" to the bodies to which reports must be made under this Condition.</p> <p>Indicate your acceptance, or otherwise, of this proposed amendment.</p>	<p>The MMO confirm that we are content with this new drafting. However we would question whether a 48 hour delay in notification is appropriate given there may be a potential for navigational safety to be compromised dependant on the amount of rock material lost and its position within the marine environment. We also query how this information would be disseminated to the local fishing industry and would again draw the applicants attention to the "dropped object procedure" as an appropriate method for detailing any "rock" misplacement.</p>
DCO 2.33	<p>Schedule 9 – proposed new Condition 12</p> <p>The Applicant</p> <p>The MMO</p>	<p>Note: The Comparison document draft DCO against revision C [REP3-044] shows this as (new) Condition 12 whereas the DCO Schedule of Amendments Explanatory document [REP3-047] states that this is Condition 13.</p> <p>The DCO Schedule of Amendments Explanatory document states that The MMO have provided an alternative to the current drafting in relation to paragraph (b) of the condition.</p>	<p>The MMO have provided an alternative drafting to the applicant surrounding the on-going monitoring requirements that should be secured to ensure the cable remains buried throughout the lifetime of the project and therefore reduce navigational risk. We have additionally requested that the details of the survey</p>

		<p>Provide an update on discussions on this proposed change of wording to this Condition and detail any areas of potential disagreement.</p>	<p>be included within the DML to ensure compliance to this request.</p> <p>The MMO undertook further discussion with the applicant on 9 December 2015 regarding this issue and outlined our concerns to the applicant in an email dated 15 December 2015.</p> <p>On 16 December 2015 the applicant sign-posted the MMO to the offshore operational maintenance plan and the sections within the DML regarding the submission for approval of pre-construction plans and documents which they consider to alleviate the concerns regarding lifetime monitoring of the cable burial depths.</p> <p>The MMO are currently reviewing these documents and will provide an update to the ExA at Deadline 5, 1 February 2016.</p>
DCO 2.34	<p>Schedule 9 – proposed new Condition 14 The Environment Agency The MMO East Lindsey DC</p>	<p>The DCO Schedule of Amendments Explanatory document [REP3-047] states that the condition relating to bathing water quality has now been agreed by the MMO and is included as a new condition 14 of the DML.</p> <p>i) To the MMO Signify that you have agreed the wording of this proposed new Condition.</p>	<p>The MMO confirm that we are in agreement with all parties on this matter and are content with this new drafting.</p>
AH 2.12	<p>Offshore SoCG The Applicant Marine Management Organisation</p>	<p>Confirm and update, as referred to on Page 16 of Appendix 13: Statements of Common Ground Summary and Index submitted at Deadline 3 30 November 2015 [REP3-049] that a Statement of Common Ground (SoCG) with the Marine Management Organisation will be submitted no</p>	<p>The MMO understand that the applicant is currently updating the Statement of Common Ground (SoCG) to ensure it reflects the current status of the project including Transfer of Benefit and our</p>

		<p>later than Deadline 4 and will agree the effects if any on the offshore historic environment and the mitigation measures required to avoid and reduce these effects.</p>	<p>concerns regarding the ongoing monitoring of the cable.</p> <p>We contacted the applicant on 17 December 2015 regarding the submission of a SoCG at Deadline 4 and have suggested a new drafting of the document be issued to the MMO at the earliest opportunity to allow us to review internally and provide comments back to the applicant by 19 January 2016, with a view to getting a signed agreement detailing our positions submitted to the ExA at Deadline 5 (1 February 2016).</p>
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