



# Triton Knoll Offshore Wind Farm Limited Triton Knoll Electrical System

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**Appendix 3: Written Summary of  
the Oral Case put at the DCO  
Hearing held on 22 January**

**Date: 01 February 2016**

**Appendix 3 of the Applicant's  
Response to Deadline 5**

Triton Knoll Offshore Wind Farm Limited

## Triton Knoll Electrical System

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Deadline 5

Date: 01 February 2016

Triton Knoll  
Offshore Wind Farm Limited  
4<sup>th</sup> Floor One Kingdom Street  
Paddington Central  
London  
W2 6BD

T: 0845 026 0562  
Email: [info@tritonknoll.co.uk](mailto:info@tritonknoll.co.uk)

[www.rweinnogy.com/tritonknoll](http://www.rweinnogy.com/tritonknoll)

Drafted By:	TKOWFL
Approved By:	Kim Gauld-Clark
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## 1. WRITTEN SUMMARY OF THE ORAL CASE PUT AT THE DCO HEARING HELD ON 22 JANUARY

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### Introduction

- 1.1 At the issue specific hearing on Friday 22nd January 2016 to consider the draft development consent order (DCO), a number of actions were identified by the Examining Authority (ExA). The following sections list out those actions and how they are being progressed or have been addressed in the Applicant's submissions for Deadline 5.

#### 1 DCO Drafting – Article 2, definition of “commencement”

- 1.2 There was discussion about the drafting of the definition of "commencement" and the amendments to the listed activities excluded from the definition, in particular the insertion of the term 'pre-construction' to clarify and refine the reference to archaeological investigations and whether it was necessary to define the term 'construction' in the DCO. As explained at the hearings, the Applicant's position is that the term 'construction' is a recognised term, understood by the parties involved in the process and therefore no definition of 'construction' is required in the draft DCO. This was agreed by BBC and ELDC.
- 1.3 There was also a discussion on the inclusion of 'removal of hedgerows' from the definition of “commencement”. The ExA noted the amendment to Requirement 13 to secure that the removal of hedgerows is carried out in accordance with the Outline Landscape Strategy and Ecological Management Plan (LSEMP) but questioned whether there could be a potential conflict between the Outline LSEMP and the final LSEMP as approved by the relevant planning authority. The Applicant explained that 'removal of hedgerows' has been excluded from the definition of commence so that removal can take place without triggering the discharge of the whole suite of requirements including the final LSEMP. In respect of removal of hedgerows, the Outline LSEMP effectively operates as the approved plan and the relevant planning authority would enforce against that plan. The final LSEMP will operate at a later stage in the process, and may be approved after hedgerow removal has taken place. However, in the event that further hedgerow removal is required, after commencement, then the final LSEMP will reflect that. The Applicant explained that subject to review of the wording it did not see a conflict between the Outline LSEMP and the final LSEMP. This was agreed by Louise Burton on behalf of Natural England.

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- 1.4 The Applicant has reviewed the wording and can confirm that it is content that the amendment to Requirement 13 adequately secures the removal of hedgerows and that there is no conflict between the Outline LSEMP and the final LSEMP. The Applicant does not consider that additional drafting is required in the draft DCO.

## **2 DCO Drafting – Article 2, definition of “external electrical equipment”**

- 1.5 The ExA noted the Applicant's response to question LV 2.6 of the ExA's Second Written Questions and the Applicant's position that it considers that further clarification of the term external electrical equipment is not required but also noted the Applicant's suggested definition if required. The ExA confirmed that they do consider that a definition of “external electrical equipment” would be useful.
- 1.6 The Applicant confirms that the following definition would be included in the draft DCO submitted for Deadline 5:-

*“external electrical equipment” means any electrical equipment in relation to Work No 9 and /or Work No 50 that is not housed within a building and has been assessed in the environmental statement and is otherwise referred to as “external transmission components” in the environmental statement and “additional electrical infrastructure” in the design principles document.*

## **3 DCO Drafting – Article 2, definition of “external electrical equipment”**

- 1.7 There was a discussion about the drafting of the definition of “limits of deviation” and two queries were raised. Firstly, whether the reference to Order Limits plans in the definition should in fact be to the Works Plans and secondly whether, given the discussions had at the hearings, the Applicant considered that reference to vertical limits of deviation is required.
- 1.8 The Applicant has reviewed the definition of "limits of deviation" and agrees that the correct reference should be to the works plans. The definition of “limits of deviation” now reads:-

*“limits of deviation” – means the situation as shown on the works plans*

- 1.9 The ExA also requested confirmation from the Applicant whether consideration had been given to including vertical limits of deviation for the cable circuits within the draft DCO. The Applicant confirmed that this had been considered but discounted on the basis that the 1.2 m minimum burial depth for the cables had been included within the Outline Construction Method Statement (CMS) [REP4-048] and therefore it was not
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necessary to include this on the face of the DCO. In addition, the Applicant noted that unlike pipeline consents it was not standard practice for offshore wind farm DCOs to include a minimum and maximum cable burial depth. The ExA asked the Applicant to provide a detailed summary of the consideration given to vertical limits of deviation in its response to Deadline 5. That summary is included as Annex 1 to this hearing summary.

#### **4 DCO Drafting – Article 5 Transfer of benefit of Order**

- 1.10 The ExA noted the amendments to Article 5 and in particular queried whether the amendment included in Article 5(6) was at the request of the MMO. The Applicant explained that the drafting in article 5(6) was proposed by the Applicant to address the MMO’s concerns in relation to transfers that may take place without the consent of the Secretary of State under that paragraph. Following discussions between the Applicant and the MMO after the DCO hearing on 22 January 2016, it has been agreed that this wording is not required and it has therefore been deleted from Article 5(6) in the draft DCO submitted for Deadline 5.
- 1.11 The Applicant noted that the issues the MMO raised in respect of a partial transfer of the benefit of the Order under Article 5(6) have been examined on most offshore wind farms schemes, and to-date the position of the MMO, that transfers without the consent of the SoS should not be permitted, has not been accepted by the SoS in the final DCOs made.
- 1.12 The Applicant has submitted a joint note with the MMO setting out the respective positions on the transfer of benefit of order as Appendix B to the Statement of Common Ground with the MMO, submitted at Appendix 32 of the Applicant’s Submission for Deadline 5. This note sets out agreement on all aspects of Article 5, with the exception of Article 5(6) which permits the transfer of benefit to another body licenced under Section 6 of the Electricity Act 1989 without the consent of the Secretary of State and without consultation with the MMO. The Applicant stated that the MMO had raised concerns regarding the partial transfer of benefit of a DCO on all offshore wind NSIPs submitted to date, but, the Secretary of State has not adopted the MMO’s preferred approach on any offshore wind DCO granted.

#### **5 DCO Drafting – Article 6 Application and modification of legislative provisions**

- 1.13 The Applicant has proposed an amendment to the wording on the disapplication of the Sandhills Act to ensure that it relates to compulsory acquisition. Article 6(3) now reads:-

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*“(3) The following provisions do not apply in relation to the exercise of any power conferred by this Order—*

*(a) the provisions of the Lindsey County Council (Sandhills Act 1932)”*

1.14 This wording has been agreed with LCC.

## **6 DCO Drafting – Article 9 Temporary stopping up of streets**

1.15 There was a discussion at the hearing whether consultation with Lincolnshire County Council (LCC) as the highways authority was required in respect of the temporary stopping up of streets. The ExA referred to the Applicant's response to DCO 2.15 and LCC's response for Deadline 4. The Applicant explained that since the Deadline 4 submissions matters had progressed, in particular, in respect of Public Rights of Way (PRoW).

1.16 In respect of temporary stopping up of streets, the Applicant explained that for those works set out in Schedule 3 of the Order, the purpose of Article 9 is to permit those works to be carried out without any further steps being carried out as both the public and LCC, in particular, are aware that such temporary closures may take place through the extensive consultation on the DCO itself. It is the Applicant's position that the process of consultation and notification identified by LCC in their response for Deadline 4 is unnecessary as in these circumstances, unlike standard traffic order procedures, LCC is not being asked to determine an application for a traffic order.

1.17 The Applicant confirmed however, that it would be happy to extend the requirement for notification under Article 9 to LCC. The Applicant has proposed wording within the draft DCO to provide for notification to LCC as the Highways Authority. This wording has been sent to LCC for comment but at D5 no response to it has been received.

1.18 The amendments proposed to Article 9 are highlighted in the revised draft DCO (revision F) at Appendix 22 to the Applicant's submission at Deadline 5, together with the Schedule of Changes and DCO Amendments Explanatory Document at Appendices 25 and 26 respectively .

## **7 DCO Drafting – Article 13 Authority to survey and investigate the land**

1.19 The Applicant noted that the comments made by LCC regarding this article were personal comments from Councillor Davie and confirmed that its position in respect of the authority to survey and investigate the land is as stated in its response for DCO 2.16 of the Applicant's Response for Deadline 4.

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## 8 DCO Drafting – Cable Landfall

- 1.20 Natural England (NE) and East Lindsey District Council (ELDC) raised a question regarding approval of the landfall works. NE and ELDC explained that although ELDC is the approving authority for any requirements relating to landfall works, the expertise to review any plans relating to the cable landfall sits with NE and the MMO, not ELDC.
- 1.21 The Applicant noted that the Construction Method Statement (CMS) does contain some wording dealing with the cable landfall, but agreed to review the wording in light of the comments made by NE and ELDC. The Applicant explained that it does not have the power to prescribe how ELDC, NE and the MMO interact with one another or any other body, that is a matter for those bodies and as such this is not a matter which can be secured in the DCO. The Applicant considers that this matter is appropriately dealt with when undertaking pre-discharge consultation, and will work with NE and ELDC on this matter at that time.

## 9 DCO Drafting – Requirement 5 Cable route sequencing plan

- 1.22 The Applicant had proposed insertion of a requirement for the submission of a cable route sequencing plan in Requirement 5. The Applicant explained that the inclusion of this requirement was not at the request of any interested party. However, the Applicant considers that this will assist the relevant planning authorities, the public and the landowners to understand the general phases and timings of construction along the cable route. This information will be disseminated in accordance with details agreed in the Communications Plan secured as part of the relevant Code of Construction Practice.

## 10 DCO Drafting – Requirement 15 Unexpected contamination

- 1.23 There was a discussion on the timing of consultation with the Environment Agency (EA) in respect of unexpected contamination. The EA requested that the requirement specify that the relevant planning authority consult with them prior to the approval of any plan submitted.
- 1.24 The Applicant explained its position regarding consultation with the EA - that, in line with the process set out in the other requirements in the DCO, the Applicant would consult with the EA prior to submitting the scheme to the relevant planning authority in order to save time post-submission and its expectation being that the relevant planning authority would wish to confirm this itself and would automatically consult with the EA prior to signing off the scheme. However, following the discussion at the hearing the Applicant has reviewed the wording of Requirement 15 and accepts the suggested amendment of the EA. Requirement 15 now reads-

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*"15.—(1) If, during any stage of the authorised development, contamination not identified or address within the relevant code of construction practice is found to be present within the Order limits then no further development in the vicinity of the contamination shall be carried out until, a written scheme to deal with the associated risks has been submitted to and approved by the relevant planning authority following consultation with the Environment Agency."*

## **11 DCO Drafting – Requirement 19 Construction traffic**

1.25 The Applicant and Boston Borough Council confirmed that a form of words is now agreed for Requirement 19. Requirement 19(2) now reads as follows:-

*"19(2) Construction and contractor traffic related to the authorised development shall only use Work No 48 or 49 to access Work Nos 50 to 55 inclusive and the timings for the construction of Work Nos 48 and 49 shall be included within the Construction Method Statement approved as part of the relevant Code of Construction Practice."*

1.26 This has been included in the draft DCO (revision F) submitted at Deadline 5.

## **12 DCO Drafting – Schedule 5, Plot 48/17B**

1.27 There was a discussion whether the imposition of the restrictive covenant over Plot 48/17B created a conflict with the rights needed for the works to be carried out at Bicker Fen substation. The Applicant explained that the imposition of the restrictive covenant over Plot 48/17B seeks to ensure that no other party can undertake works without the Applicant's consent.

1.28 Given the proposed extension at Bicker Fen substation, the Applicant needs to obtain the necessary rights over this plot. Whilst the Applicant and National Grid Electricity Transmission are near to settling the necessary agreements, any other party that may have a right in this land must be subject to the necessary restrictions.

## **13 DCO Drafting – dML Condition 3 Offshore Safety Management**

1.29 The Applicant confirmed its understanding that the MMO is happy for Condition 3(3) to be included.

## **14 DCO Drafting – dML Condition 5 Chemicals, drilling and debris**

1.30 The Applicant explained that discussions were on-going with the MMO with regard to the period for notification in the event of lost materials. The dML provides two alternative procedures for notifying the MMO of dropped objects:

- the audit sheets procedure; and
- the dropped objects procedure.

1.31 The Applicant recognises that the dropped objects procedure is now the preferred procedure of the MMO. However, the audit sheet procedure is the scheme included in the Triton Knoll Array DCO and therefore for consistency between the two DCOs the Applicant would prefer to retain the option for both procedures.

1.32 The applicant proposed revised wording in paragraph 13 of condition 5 and following discussions with the MMO, [this is now agreed. Condition 5(13) now reads:-

*"In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the MMO, Trinity House, MCA and UKHO as soon as possible and in any event within 6 hours and if the MMO shall reasonably consider such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it ."*

## **15 DCO Drafting – dML Condition 8**

1.33 There was a discussion around the need for notification of LCC under Condition 8 and LCC proposed amendment to delete notification of LCC. The Applicant confirmed that the notification of LCC under Condition 8 was an amendment confirmed by Historic England (HE). The Applicant explained that this is a matter for HE and LCC. The Applicant did not have any objection to removing LCC from condition 8, provided HE are satisfied.

1.34 The ExA requested that LCC seek confirmation from HE that they are content for LCC to be removed from this condition.

## **16 DCO Drafting – dML Condition 12 Pre-construction monitoring and surveys**

1.35 The Applicant noted the comments received from the MMO on Condition 12 of the draft dML and the potential need for amendments to the Outline Offshore Management Plan and Condition 13. The Applicant confirmed that the principles of these amendments were generally agreed but discussions were on-going with the MMO on the wording of the revised drafting.

1.36 Revised wording on surveys has been agreed with the MMO and NE and has been included in the revised draft DCO for Deadline 5:

1.37 “ 13.—(2)(b) a swath bathymetric survey to IHO Order 1a within 12 months of the completion of the licenced marine activities across the area(s) within the offshore Order limits within which licenced marine activities have been carried out to-

1.38 i) ensure the cables have been buried and located within the Order limits; and

1.39 ii) provide information on bedform morphology

*and the data and survey report(s) are to be provided to the UKHO. The results of the post cable lay surveys must be submitted to the MMO as part of a cable burial risk assessment which shall include detail of cable burial management including surveys and notification of cable exposure over the lifetime of the project.*

*(c) a subsequent swath bathymetric survey, focused on agreed locations to demonstrate that any changes to bedforms or sediment movement are within the ranges predicted in the environmental statement.”*

## **17 DCO Drafting – Condition 14 Bathing Water Quality**

1.40 The Applicant agreed to the inclusion of wording to secure consultation with ELDC by the MMO in respect of this condition. Condition 14 now reads-

*“Work No 2 shall not be undertaken between 15 May and 30 September in any year unless a scheme to protect the bathing Water Quality Directive status, as determined by a review of Environment Agency baseline data prior to construction, has been submitted to an approved in writing by the MMO, following consultation with the Environment Agency and East Lindsey District Council.”*

## **18 DCO Drafting – ExA Proposed Amendments**

1.41 Prior to the close of the hearing the ExA indicated three areas where it was considering amendments to the draft DCO and asked the parties for comment. The Applicant gave an initial high level response to those suggestions at the time and its detailed response is set out below.

### **New Article - Removal of Human Remains**

1.42 The Applicant has considered the ExA’s view that as the proposed development is principally on agricultural land, there is the potential for human remains to be discovered during construction. The Applicant has no evidence to suggest that this would occur, but agrees with the ExA that it is beneficial to include the model article to provide a process in the event that human remains are discovered. The Applicant has

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therefore inserted a new Article 14 Removal of Human Remains that follows the model provision, in the draft DCO.

## **New Requirement - Local employment and skills plan**

### **Employment and skills plan**

- 1.43 The Applicant noted the ExA's suggestion that a requirement securing an employment and skills plan is included within the draft DCO.
- 1.44 The Applicant has already set out in its response to SE 2.2 of the ExA's second written questions submitted at Deadline 4 [REP4-027] why it does not consider such a requirement to be necessary or justified. It is the Applicant's position that there are legal issues relating to the imposition of such a requirement (which relate to the Applicant's obligations in relation to procurement and the delivery of an economic and efficient project) and that such a requirement is also not necessary. The Applicant is required as part of its application for a Contract for Difference to include a supply chain plan that will address local resourcing – as set out in its Local Impacts hearing summary (Appendix 1), it is this that the Applicant is seeking to discuss with the LEP to ensure that there is full and appropriate engagement with the LEP in relation to local opportunities.
- 1.45 It must be acknowledged that the procurement strategy for such a complex project is dependent upon a number of factors including final design and the equipment selected. Therefore the procurement process must be allowed enough flexibility to ensure that it is proportionate, transparent, non-discriminatory, commercially sound and ensures equal treatment. For these reasons, it is not considered necessary or appropriate to restrict this process through the DCO.
- 1.46 The selection of the major suppliers for the Triton Knoll Electrical System (TKES) works will be the subject of a competitive tender process governed by European Procurement Legislation and fundamental EU Treaty principles (including free movement of people). Where European Procurement Regulations apply to procurement, it may be possible to structure that procurement to deliver certain local benefits as long as these benefits relate to the subject matter of the contract and are clearly included in the procurement and contract documents. However, this has to be on a case-by-case basis rather than a blanket requirement. Committing to procuring all or a certain percentage of goods or services provided by a locally based workforce is not something that should be secured through the DCO as not only would it be extremely difficult to identify suitable measures of success for such a condition, but also because it risks the commercial viability of the project.
- 1.47 The Applicant is committed to ensuring that local businesses and people have the opportunity to benefit from the offshore wind farm project (both the consented array
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and the electrical system works). An important part of this will be making sure that Lincolnshire-based companies are well placed to bid for contracts should the project receive the necessary consents to progress.

- 1.48 The Applicant needs to develop supply chain and skills plans that relate to the wider offshore wind farm project (including the electrical system). Therefore, engagement will be sought with the relevant regional stakeholders including Greater Lincolnshire LEP, Humber LEP, local authorities, education and training providers, business groups and key supply chain participants. In order to help design engagement that resonates with local stakeholders and the supply chain, a Perceptions Audit involving around 30 key stakeholders is being undertaken.
- 1.49 The Greater Lincolnshire Local Enterprise Partnership is an important stakeholder in this process and an initial call on 21st January 2016 has led to a meeting being arranged for 3rd February 2016. The Applicant would wish to ensure that this meeting is the first of a regular dialogue where the parties collaborate on shared objectives throughout the pre-construction, construction and operational phases of the project. Similar working relationships will be established with other key stakeholders.
- 1.50 The Applicant is seeking to develop appropriate training to support the wind farm project. This will include working with stakeholders to design a programme of schools engagement. As the wind farm construction strategy and contracting strategy develops, the skills that the project requires will be assessed and then the Applicant will work with stakeholders to understand where there are shortfalls and how any gaps may be bridged. Training will be developed by building on the project owners' experience and, as other offshore wind projects have been developed in the area, the Applicant will seek to build upon existing training resources where this is appropriate to the project.
- 1.51 The Applicant believes there are a range of potential options to provide visibility of the supply chain and employment opportunities that the project presents for local businesses and people. These ideas will be developed in plans over the coming months through engagement with stakeholders, including the relevant LEPs.
- 1.52 The Applicant considers that the imposition of a requirement specifying how this process should run is premature and would not assist it, or the LEPs, and would not necessarily secure the best outcomes and opportunities for local people and companies.
- 1.53 In conclusion, actively engaging the local supply chain is secured by the very fact that it is of commercial benefit for the Applicant in taking the TKES forward as part of the wind farm project. Therefore it is not necessary to constrain and further complicate the procurement processes by conditioning this in the DCO.
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## **Requirement 5 – Provision for sign off of all stages of works including each stage of cable works**

- 1.54 The Applicant noted the ExA's suggestion that an additional provision is included in Requirement 5 for all stages of the works authorised by the DCO to be signed off by the relevant planning authorities.
- 1.55 The Applicant is unclear why the ExA considers such a requirement to be necessary as sufficient and proportionate controls are considered to be included within the draft DCO to ensure that the relevant planning authority can regulate the construction and operation of the proposed Triton Knoll Electrical System.
- 1.56 These requirements require the approval of the relevant planning authority to the following elements of the TKES before or during construction:
- Requirement 5 – the IEC and substation enabling works, and the detailed design of both the IEC and substation.
  - Requirement 6 – the landscaping schemes for both the IEC and substation;
  - Requirement 8 – highways accesses for the proposed development;
  - Requirement 9 – fencing;
  - Requirement 10 – Surface water drainage
  - Requirement 11 – Foul water drainage scheme
  - Requirement 12 – Archaeology
  - Requirement 13 – Ecological Management
  - Requirement 14 – Code of Construction Practice and related management plans
  - Requirement 15 – Unexpected contamination
  - Requirement 17 - Construction hours
  - Requirement 19 – Construction Traffic
  - Requirement 20 – European Protected Species

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- 1.57 Each of these requirements address issues that could otherwise be of concern to the relevant planning authorities and/or other statutory bodies and therefore it is appropriate for the relevant planning authorities to exercise control to ensure impacts are properly mitigated and managed. In addition, these are all matters where the relevant planning authorities and statutory bodies have the experience and expertise, by reference to published standards and guidance, to assess and consider the information that will be submitted to discharge each requirement.
- 1.58 The Applicant does not consider that this would be the case if the relevant planning authorities were required to approve the detail of each stage of the TKES works, including the cable sections. The Applicant is not clear what this requirement could involve, but the final design and engineering of the cable circuits can only be determined by the Applicant. The detail as to how the cable circuits will be installed will be determined by the Applicant following pre-construction surveys and investigations. It will also be heavily influenced by the results of the procurement exercise, and the overriding need for the Applicant to deliver an economic and efficient network. With respect to the relevant planning authorities, these are not matters over which they should, or could, exercise control.
- 1.59 The Applicant has, however, recognised that it would be helpful for landowners to be provided with information regarding the final design of the cable circuits in their land, and "as built" drawings showing the final location of the installed cables. As discussed at the Compulsory Acquisition hearing, and suggested by the Land Interest Group (LIG), the Applicant has included the following additional wording in the updated Outline Soil Management Plan, submitted at Appendix 14 to the Applicant's Deadline 5 submission that will be approved and secured as part of the relevant Code of Construction Practice:
- 1.60 Para 2.9

*"The ALO will be responsible for providing the following plans to landowners and tenants as relevant to their landholding:*

- Prior to the start of the construction works on their landholding, cable installation plans showing the proposed locations of the cable trenches, soil storage areas, temporary haul road, joint bays and link boxes within the Order limits: and*
- Following the installation of the cable circuits on their landholding, "as built" plans showing the location of cable ducts, joint bays, link boxes and cable safety zones and within the Order land the extent of the easement and restrictive covenant over their land.*

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- *The as built plans will not necessarily accord with the cable installation plans as it may be necessary for changes to be made to the cable installation plans to accommodate unforeseen site or engineering constraints. In the event that changes are needed to the cable installation plans the ALO will provide revised plans to the landowners and tenants.”*

#### 1.61 Para 3.18

*“During construction, accurate records using GPRS co-ordinates will be taken of the location of all installed infrastructure, including records of existing and remedial drainage, and of the cable safety zones. Once installation is complete, as-built plans will be produced and provided to the landowners and tenants in respect of their landholdings. The as-built plans will also record the corresponding extent of the easement and the restrictive covenant over that part of their landholding that is required for the authorised project.”*

- 1.62 The Applicant will discuss these amendments with the LIG at the meeting on 4th February but considers that these measures are properly secured through the Outline SMP and will ensure that landowners are provided with the necessary information regarding the final design and construction of the project at the relevant time to understand where permanent rights will be sought by the Applicant.

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## ANNEX 1

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### Note on need for vertical limits of deviation

- 1.1 At the DCO issue specific hearing on Friday 22<sup>nd</sup> January the ExA asked whether the Applicant had considered including vertical limits of deviation in the draft DCO to prescribe the minimum and maximum depths at which the Triton Knoll Electrical System (TKES) cable circuits could be installed. In addition to its hearing summary the Applicant agreed to provide this note setting out the consideration it had given to this, and why it does not consider the inclusion of such limits of deviation to be necessary for the TKES DCO.
- 1.2 The Applicant is aware that vertical limits of deviation have been included in other development consent orders for buried linear infrastructure. However, these are limited to gas pipeline projects (examples include the Willington gas pipeline<sup>1</sup>, the Thorpe Marsh gas pipeline<sup>2</sup> and the proposed River Humber gas pipeline project<sup>3</sup>). None of the offshore wind farm development consent orders that include the relevant electrical system works include vertical limits of deviation for the underground electrical circuits. This includes the following offshore wind projects that include a significant length of underground cable circuits:
- Dogger Bank Creyke Beck (2015)**
- 1.3 Article 3(1) of the Creyke Beck DCO states that the authorised development is to be carried out within the order limits<sup>4</sup>. The Order Limits are defined as the limits shown on the Order Limits Plan, including any limits of deviation. The limits of deviation are however not expressed in the DCO itself, and are defined as being contained in the Onshore Works Plan. The onshore works plan does not contain any vertical limits of deviation, and is concerned with horizontal deviation only<sup>5</sup>.

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<sup>1</sup><http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN060001/3.%20Post%20Decision%20Information/Development%20Consent%20Order/Development%20Consent%20Order%20as%20made%20by%20the%20Secretary%20of%20State%20for%20Energy%20and%20Climate%20Change.pdf>

<sup>2</sup>[http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070003/Events/DEADLINE%206%20-%2028-08-2015/Thorpe%20Marsh%20Power%20Limited%20\(2\).pdf](http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070003/Events/DEADLINE%206%20-%2028-08-2015/Thorpe%20Marsh%20Power%20Limited%20(2).pdf)

<sup>3</sup><http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN060004/Events/Deadline%206%20-%202013-01-2016/3.1C%20Draft%20Development%20Consent%20Order.pdf>

<sup>4</sup><http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010021/3.%20Post%20Decision%20Information/Development%20Consent%20Order/Development%20Consent%20Order%20as%20made%20by%20the%20Secretary%20of%20State%20for%20Energy%20and%20Climate%20Change.pdf>

<sup>5</sup>[http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010021/2.%20Post-Submission/Representations/Comments/Responses%20to%20ExA%20Questions/Comments%20on%20repsponses%20to%20ExA%20questions/Forewind%20Appendix%2023\(1\)-%20Amended%20works%20plan.pdf](http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010021/2.%20Post-Submission/Representations/Comments/Responses%20to%20ExA%20Questions/Comments%20on%20repsponses%20to%20ExA%20questions/Forewind%20Appendix%2023(1)-%20Amended%20works%20plan.pdf)

### Dogger Bank Teesside (2015)

- 1.4 As with Dogger Bank Creyke Beck, Article 3(1) of the Dogger Bank Teesside DCO states that authorised development is to be carried out within the Order Limits<sup>6</sup>. The Order Limits are defined as the limits shown on the Onshore Order Limits and Grid Co-ordinates Plan. There is no express reference to any vertical limits of deviation within the DCO or in the Works Plan<sup>7</sup>.

### East Anglia 1 (2014)

- 1.5 The East Anglia 1 DCO follows the same approach as the Dogger Bank Teesside DCO<sup>8</sup>. There is no express reference in the East Anglia 1 DCO to any deviation limits, and the Order Limits are expressed as those defined on the Works Plan<sup>9</sup>. The Works Plan does not make any reference to any vertical limits of deviation.

### Galloper (2013)

- 1.6 The Galloper DCO follows the same approach as the Dogger Bank Teesside DCO<sup>10</sup>. There is no express reference in the Galloper DCO to any deviation limits, and the Order Limits are expressed as those defined in the order limits plan<sup>11</sup>. The Order Limits Plan does make a limited reference to a permitted vertical tolerance of between -100mm and +300mm for earthworks. This relatively small tolerance however seems to be concerned with earthworks relating to the access road and the substation site rather than the cable route itself.

### Burbo Bank Extension (2014)

- 1.7 The Burbo Bank DCO follows the same approach as the Dogger Bank Teesside DCO<sup>12</sup>. There is no express reference in the Burbo Bank DCO to any deviation limits,

<sup>6</sup> <http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010051/3.%20Post%20Decision%20Information/Decision/Development%20Consent%20Order%20as%20made%20by%20the%20Secretary%20of%20State%20for%20Energy%20and%20Climate%20Change.pdf>

<sup>7</sup> <http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010051/2.%20Post-Submission/Application%20Documents/Plans/2.2.2%20Order%20Limits%20and%20Grid%20Co-ordinates%20Plan%20Onshore.pdf>

<sup>8</sup> <http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010025/3.%20Post%20Decision%20Information/Decision/East%20Anglia%20One%20Development%20Consent%20Order.pdf>

<sup>9</sup> [http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010025/2.%20Post-Submission/Application%20Documents/Plans/2.3%20\(e\)%20Work%20Plan\(s\)%20\(20%20-%2024\).pdf](http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010025/2.%20Post-Submission/Application%20Documents/Plans/2.3%20(e)%20Work%20Plan(s)%20(20%20-%2024).pdf)

<sup>10</sup> <http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010003/3.%20Post%20Decision%20Information/Decision/The%20Galloper%20Wind%20Farm%20Order%202013.doc.pdf>

<sup>11</sup> [http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010003/2.%20Post-Submission/Application%20Documents/Plans/2\\_9\\_a\\_Onshore\\_Connection\\_and\\_Transmission\\_Works\\_General\\_Arrangement\\_Omitting\\_Works\\_8.pdf](http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010003/2.%20Post-Submission/Application%20Documents/Plans/2_9_a_Onshore_Connection_and_Transmission_Works_General_Arrangement_Omitting_Works_8.pdf)

<sup>12</sup> <http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010026/3.%20Post%20Decision%20Information/Development%20Consent%20Order/Development%20Consent%20Order%20as%20made%20by%20the%20Secretary%20of%20State%20for%20Energy%20and%20Climate%20Change.pdf>

and the Order Limits are expressed as those defined on the Works Plan<sup>13</sup>. The Works Plan does not make any reference to any vertical limits of deviation.

#### Hornsea One (2014)

- 1.8 The Hornsea One DCO specifies at Article 3(1) that the development is to be carried out within the Order Limits, as expressed on the Works Plan, and within the limits of deviation<sup>14</sup>. These limits of deviation can be found in in Schedule 1 but are concerned with horizontal and not vertical deviation. The Works Plan also does not contain any vertical limits of deviation<sup>15</sup>.

#### Rampion (2014)

- 1.9 The Rampion DCO follows the same approach as the Dogger Bank Teesside DCO<sup>16</sup>. There is no express reference in the Rampion DCO to any deviation limits, and the Order Limits are expressed as those defined in the works plan<sup>17</sup>. The Works Plan does not make any reference to any vertical limits of deviation.

#### Walney Extension (2014)

- 1.10 The Walney Extension DCO follows the same approach as the Teesside DCO<sup>18</sup>. There is no express reference in the Walney Extension DCO to any deviation limits, and the order limits are expressed as those defined in the works plan<sup>19</sup>. The works plan does not make any reference to any vertical limits of deviation.

## Discussion

- 1.11 Whilst the Applicant accepts that the lack of vertical limits of deviation being included within other relevant offshore wind farm DCOs is not a binding precedent or definitive, it

<sup>13</sup><http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010026/2.%20Post-Submission/Application%20Documents/Plans/2.3%20Works%20Plan.pdf>

<sup>14</sup><http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010033/3.%20Post%20Decision%20Information/Development%20Consent%20Order/Hornsea%20Project%20One%20Offshore%20Wind%20Farm%20Order%202014%20as%20made.pdf>

<sup>15</sup>[http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010033/2.%20Post-Submission/Application%20Documents/Plans/5.2%20Works%20Plans\\_Onshore%20Part%202%20of%202.pdf](http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010033/2.%20Post-Submission/Application%20Documents/Plans/5.2%20Works%20Plans_Onshore%20Part%202%20of%202.pdf)

<sup>16</sup><http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010032/3.%20Post%20Decision%20Information/Decision/Rampion%20Development%20Consent%20Order.pdf>

<sup>17</sup>[http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010032/2.%20Post-Submission/Application%20Documents/Plans/2.5.2%20Onshore%20Works%20Plan%20sheets%201%20-%202012%20\(FINAL\).pdf](http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010032/2.%20Post-Submission/Application%20Documents/Plans/2.5.2%20Onshore%20Works%20Plan%20sheets%201%20-%202012%20(FINAL).pdf)

<sup>18</sup><http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010027/3.%20Post%20Decision%20Information/Development%20Consent%20Order/Development%20Consent%20Order%20as%20made%20by%20the%20Secretary%20of%20State.pdf>

<sup>19</sup><http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010027/2.%20Post-Submission/Hearings/Issue%20Specific%20Hearing%20-%202026-03-2014%20-%201000%20-%20Lancaster%20Town%20Hall/Appendix%2016d%202.3.2%20Order%20Limits%20and%20Grid%20Coordinates%20Plan%20-%20offshore%20-%20sheet%204%20deadline%20V%20update.pdf>

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does demonstrate that it would be a departure from recognised practice for such limits to be included within the Triton Knoll Electrical System DCO and therefore, the Applicant submits, would require a robust justification.

1.12 The Applicant does not consider that there is a robust justification for the inclusion of vertical limits of deviation in the TKES DCO. Where cables are buried in agricultural land the Applicant has made a commitment that these will be at a minimum 1.2m depth. However, this cannot be applied as a blanket requirement (as it would be if a vertical limit of deviation was included within the TKES DCO) as there will be a number of areas where the cables will need to enter land, for example at the entry and exit to the IEC, substation and Bicker Fen connection point. To apply a blanket obligation would unnecessarily and unreasonably constrain the cable installation and would prevent the Applicant from burying the cables at a shallower depth where this is needed for technical or engineering reasons.

1.13 The approach that has been followed through the TKES application and examination has been to use the outline plans and documents to secure the detailed commitments made by the Applicant in respect of the construction methodologies and approach. This approach has been subject to scrutiny through the application and examination process, but has not been questioned by any party. In response to discussion at the open floor hearings and issues raised by Interested Parties, and meetings with the Land Interest Group (LIG), the Applicant has already committed to a minimum burial depth of 1.2 metres for the cable circuits and has updated the Outline Construction Method Statement submitted at Appendix 21 to the Applicant's Deadline 4 submission [REP4-048] to state at paragraph 5.5:

*"Where open cut trenches are used for the excavation of the cable route, the following measures will be implemented:*

- Cable ducts will be laid at a minimum depth of 1.2 m below the ground surface in agricultural land.*
- Cables will be buried to a sufficient depth to allow maintenance and repair of drainage systems to be carried out in a safe and controlled manner.*
- Burial depth may be shallower at points where cables transition areas where burial depth is shallower than for agricultural land, such as approaches to substation compounds.*
- Deep excavations may require de-watering. Water pumped or removed from excavations would be passed through a silt-separator tank or equivalent, and discharge to ground or surface water. An environmental permit would be sought from the EA prior to undertaking such operations.*

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- *Extended excavations would be arranged so as not to create preferential drainage pathways with the potential to cause flooding of lower land.*
  - *Consideration will be given as to whether the inclusion of clay stanks/plugs along trenches will be designed into the cable trench sections to mitigate against the creation of preferential pathways for contaminant migration or drainage.”*

1.14 The Applicant discussed this drafting with the LIG at the meeting on 22nd December 2015 (the minutes of which are at Appendix 5 submitted at Deadline 5) and although the burial depth has not yet been agreed no concerns were raised about this being secured through the Outline CMS. In the same way as the Outline CMS sets out the Applicant’s commitments with regard to the construction methods used in relation to the Lincolnshire Coastal Grazing Marsh sites, the Applicant is of the firm view that the Outline CMS is the appropriate document to secure the minimum cable burial depth.