



**Marine
Management
Organisation**

Marine Development
Lancaster House
Hampshire Court
Newcastle Upon Tyne
NE4 7YH

T +44 (0) 300 123 1032
F +44 (0) 191 376 2681
www.gov.uk/mmo

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

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

11 February 2016

Dear Mr Macdonald,

**PROPOSED TRITON KNOLL ELECTRICAL SYSTEM
DEVELOPMENT CONSENT ORDER: RESPONSE TO EXAMINING AUTHORITY'S
THIRD ROUND OF WRITTEN QUESTIONS (ExQ – Deadline 6)**

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 third round of written questions on 10 February 2016.

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,



Andrew Souter
Marine Licensing Case Officer
D: 0208 026 5096
E: andrew.souter@marinemanagement.org.uk

CC:

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



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Appendix MMO Response to the Examining Authority's Deadline 6

AGENDA ID	TOPIC HEADING AND QUERY	QUESTION	MMO RESPONSE
DCO 3.1	Draft Development Consent Order	<p>The ExA have issued their recommended draft Development Consent Order (DCO) in the form of a Schedule of ExA's recommended amendments to the Applicant's draft DCO version F.</p> <p>a) All parties are requested to provide comments and, if relevant, suggestions for amendments to the entirety of the ExA's recommended draft DCO.</p> <p>b) In particular, all parties are requested to provide comments and, if relevant, suggestions for amendments to wording to the ExA's recommended additional wording, including a recommended new Requirement on local employment.</p> <p>c) All parties are also requested to check the Schedule of ExA's recommended amendments to the Applicant's draft DCO version F taken with the Applicant's Revised draft DCO [REP5-035] and inform the ExA if they consider that any matters that they have raised in respect to the draft DCO during the course of the Examination have not been dealt with.</p>	<p>The only outstanding matter of concern to the MMO is regarding Article 5 Transfer of Benefit of the Order which is detailed within the Statement of Common Ground between the applicant and the MMO (submitted by the applicant at Deadline 5) referenced "Appendix 32 of the Applicant's response to Deadline 5" which contains a Joint Position Statement (attached as Appendix B) between Triton Knoll Offshore Wind Farm Limited and the MMO.</p> <p>The joint position statement details the agreed position and the DCO drafting on Transfer of Benefit.</p>

DCO 3.9	Article 5 - Transfer of benefit of Order	<p>Article 5 - Transfer of benefit of Order The version of the Revised Draft DCO (version F) submitted for Deadline 5 removes the words:</p> <p>“save that, at least 28 days prior to any partial transfer or grant of the deemed marine licence under this paragraph, the undertaker must consult the MMO on the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted”</p> <p>The Applicant’s Written Summary of the oral case put at the DCO Hearing on 22 January 2016 [REP5-016] (paragraph 1.10) states that:</p> <p>“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.”</p> <p>State whether, in light of your concern that there is no requirement for consultation prior to grant or transfer in the joint position statement, you agree that the wording above is not required.</p>	<p>The MMO can confirm that the Article 5 drafting submitted at Deadline 5 (1 February 2016) by the applicant has been agreed by the MMO.</p> <p>The wording was originally included by the applicant to address concerns raised by the MMO regarding whether all the liabilities and restrictions would be transferred to for partial transfers to section 6 licence holders.</p> <p>Due to amending of other parts of Article 5 which ensures that Art 5(4) applies to all transfers it was agreed that the additional wording referenced in DCO 3.9 was not required.</p> <p>However, to be clear, it is our view that all transfers, partial or otherwise, should be carried out in accordance with Art. 5 (1) and (2) i.e. via approval by the Secretary of State in consultation with MMO.</p>
DCO 3.10	Article 5 - Transfer of benefit of Order	<p>The MMO In the event that the transfer without consent provisions in 5(6) are included in the DCO, would the MMO welcome the inclusion of this provision? “The undertaker must consult the MMO at least 28 days before the transfer of relevant provisions pursuant to an agreement under paragraph (1) in a case where the Secretary of State’s consent to such a transfer is not required (because paragraph (6) applies).”</p> <p>The Applicant</p>	<p>The MMO’s position on Article 5 is that stated within the Statement of Common Ground submitted by the applicant at Deadline 5.</p> <p>The proposed wording effectively only serves to act as notification as there is no requirement for the views provided by MMO to be considered or acted upon prior to the transfer being enacted. However, a 28 day prior notification to</p>

		Comment on the suggested wording above.	any transfer of benefit would ensure that the MMO could fully communicate any transfer to interested 3 rd parties (i.e. Navigational Bodies, Natural England etc) and would potentially aid our monitoring and compliance powers as a legislative body.
EOf 3.1	Condition 12 of the <i>draft Deemed Marine Licence</i> [REP5-035]	<p>Natural England</p> <p>Condition 12 of the draft Deemed Marine Licence [REP5-035] requires pre-construction monitoring and surveys to be undertaken. Condition 13 requires post construction surveys.</p> <p>However the ExA is concerned that neither of these makes adequate provision for reef survey work to be undertaken prior to any maintenance activities; that Condition 13 seeks to determine the effects of construction activity only. Notwithstanding the Statement of Common Ground between the Applicant and Natural England [REP5-044] which states that the Outline Offshore Operations and Maintenance Plan [APP-114] (O&M Plan) “is appropriate and reasonable to inform the final O&M plan”, the ExA is concerned that the O&M plan is not particularly detailed in regard to the requirements for cable and reef surveys, and the ExA notes that reef surveys prior to maintenance activities are not secured in the draft Deemed Marine Licence.</p> <p>Comment and explain whether the O&M Plan and the draft DML need to be updated in this respect.</p>	<p>The MMO have a compliance interest in all pre and post construction survey events secured within the Deemed Marine Licence.</p> <p>We are content that the updated surveying events secured through conditions 7, 12 and 13 of Version F of the Draft DCO are sufficient enough to ensure that pre and post construction survey commitments are/will be detailed enough to ensure the security of any reef/annex 1 habitat.</p> <p>However should Natural England (NE) wish to revise any of the DML conditioning then the MMO would request that we are included in any discussions between the applicant and NE to ensure that any revised condition is appropriate, necessary and enforceable within our legislative remit.</p>