Triton Knoll Offshore Wind Farm Limited
Triton Knoll Electrical System

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Appendix 1: Applicant's comments on the ExA consultation draft DCO

Date: 17th February 2016

Appendix 1 of the Applicant's response to Deadline 6

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Triton Knoll Offshore Wind Farm Limited

Triton Knoll Electrical System

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Appendix 1 of the Applicant's response to Deadline 6

Date: 17th February 2016

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Reference	Text as at version draft DCO version F	ExA's recommended amendment	Reason and Notes
Article			
Article 2 – Interpretation "limits of deviation"	"limits of deviation" means the situations as shown on the works plans	"limits of deviation" means the limits for the scheduled works as shown on the works plans	The ExA acknowledge that the revised definition contained in version F does refer to the works plan but consider that the definition is not precise enough or effective in terms of, for example, in Article 3 or Schedule 8, Part 1.
The Applicant's Comments The Applicant accepts the ExA's recommended amendment to "limits of deviation". The final draft DCO (Rev G) to be submitted at Deadline 7 will be amended to incorporate the ExA's recommended amendment.			
Article 2 – Interpretation "mean high water springs" and "mean low water"			Please note that there is a **question** relating to this definition at ExA's questions DCO 3.7

The Applicant's Comments The Applicant refers to its response to DCO 3.7. The DCO has been deliberately drafted to refer to "mean high water springs" and "mean low water" to reference the extent of the Marine Management Organisation (MMO) and East Lindsay District Council's jurisdiction. As explained in that response the Applicant does not consider that any amendment to the DCO is necessary.			
Article 5 - Transfer of benefit of Order			Please note that there are **questions** relating to this Article at ExA's questions DCO 3.8, 3.9 and 3.10
The Applicant's Comments The Applicant refers to its responses to DCO 3.8 and 3.10.			
Article 6 - Application and modification of legislative provisions	(2) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project– (a) section 109 (structures in, over or under a main river) of the Water	(2) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project– (a) section 109 (structures in, over or under a main river) of the Water	s. 150 of the 2008 Planning Act states that an order granting development consent may include provision the effect of which is to remove a requirement for a prescribed consent or authorisation to be granted, only if the relevant body has consented to the inclusion of the

	Resources Act 1991(b); (b) the provision of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991, which requires consent or approval for the carrying out of works; (c) section 23 (prohibition of obstructions etc. in watercourses) of the Land Drainage Act 1991(c); (d) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act which require consent or approval for the carrying out of works; (e) the provisions of the Lindsey County	Resources Act 1991(b); ~~(b) the provision of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991, which requires consent or approval for the carrying out of works;~~ ~~(c) section 23 (prohibition of obstructions etc. in watercourses) of the Land Drainage Act 1991(c);~~ ~~(d)~~ (a) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act which require consent or approval for the carrying out of works; (~~e~~b) the provisions of the Lindsey	provision. Draft Article 6(a) - (c) requires the consents of the Environment Agency and the Internal Drainage Board. The Applicant should delete these parts of this Article if such consents are not submitted in writing to the ExA on or before Deadline 7 (24 February 2016)

	Council (Sandhills) Act 1932(d).	County Council (Sandhills) Act 1932(d)	
The Applicant's Comments The Applicant notes the ExA's comments and recommended amendments in the event that the letters of consent are not issued by 24 February. The Applicant confirms that both the Environment Agency and the Internal Drainage Boards have agreed to the disapplication of legislative provisions in principle, and the Applicant understands that the letters of consent from both parties will be submitted to the ExA before Deadline 7, and in any event, will at the very latest be submitted before the close of the examination of 3 March.			
Article 13 - Authority to survey and investigate the land			Please note that there are **questions** relating to this Article at ExA's questions DCO 3.11 and CA 3.5 and CA 3.6.
The Applicant's Comments The Applicant refers to its response to DCO 3.11 and CA 3.5. The Applicant does not consider that any amendment to the DCO is necessary.			
Schedule 1: Part 3: Requirements			
Requirement 5 (4) -	(4) Any details provided by the undertaker pursuant to paragraphs (2)	(4) Any details provided by the undertaker pursuant to paragraphs (2)	The ExA consider that the retention of the phrase 'where relevant' in this

Detailed design onshore	and (3) must where relevant be in accordance with the design principles document and be within the Order limits.	and (3) must ~~where relevant~~ be in accordance with the design principles document and be within the Order limits.	Requirement has the potential to allow a broad and lax interpretation of which parts of the design principles document and whether these should be within the Order limits. The ExA consider that, in practice, if there are parts of the design principles document that are not relevant, then these should be identified in the details provided.

The Applicant's Comments

The Applicant refers to its response to DCO 1.35 of the ExA's First Written Questions. The Applicant confirms that the phrase "where relevant" is used to ensure that the details being provided are relevant to the specific stage of the authorised development, in this case being the IEC or substation, as the Design Principles Document covers a number of elements of the proposed development. To clarify, and to remove any potential for a broad or lax interpretation of the application of the design principles document, the Applicant proposes that Requirement 5(4) is amended as follows:-

"(4) Any details provided by the undertaker pursuant to paragraph (2) and (3) must where relevant ***to that stage*** *be in accordance with the design principles document and be within the Order limits."*

The final draft DCO (Rev G) to be submitted at Deadline 7 will be amended with this additional wording.			
Requirement 5 (11) - Detailed design onshore	(11) (a) At least three months prior to the commencement of the onshore cable works the undertaker must: (i) submit a cable route sequencing plan to the relevant planning authority including details of the indicative sequencing of the onshore cable works; and (ii) notify the public and landowners of the sequencing of the onshore cable works in accordance with the Communications Plan agreed as part of the Code of Construction Practice; (b) any cable route sequencing plan submitted in accordance with sub-paragraph (i) may be updated, as	(11) (a) At least three months prior to the commencement of the onshore cable works the undertaker must: (~~ii~~i) notify the public and landowners of the draft sequencing of the onshore cable works in accordance with the Communications Plan agreed as part of the Code of Construction Practice; (ii) submit to the relevant planning authority for its comments and approval a cable route sequencing plan including details of width and alignment of the cable corridor post construction and of the indicative sequencing of the onshore cable works; and (b) any cable route sequencing plan	The ExA considers that the cable route sequencing plan provides a potentially useful means whereby landowners and the public may be informed of, and comment on, the final alignment and width of the cable corridor as well as its sequencing in order to reduce potential uncertainty about the final scale and location of land to be used and land potentially subject to powers of compulsory acquisition and the imposition of a restrictive covenant. The ExA further consider that the ability of the local planning authority to comment on and approve the sequencing plan would provide a further check on the width and alignment given that the Applicant has stated that, for example, it

	required, from time to time, and communicated to landowners and the public in accordance with the Code of Construction Practice. (12) For the purposes of paragraph (11) "onshore cable works" means works Nos 3, 5, 8, 11, 14, 17, 19, 21, 22, 24, 26, 29, 31, 33, 37, 39, 42, 44, 46 and 52.	~~submitted~~ approved in accordance with sub-paragraph (ii) may be updated, as required, from time to time, and communicated to the relevant local planning authority, landowners and the public in accordance with the Code of Construction Practice. (c) The works must be constructed in accordance with the approved cable route sequencing plan. (12) For the purposes of paragraph (11) "onshore cable works" means works Nos 3, 5, 8, 11, 14, 17, 19, 21, 22, 24, 26, 29, 31, 33, 37, 39, 42, 44, 46 and 52.	is not possible or practicable to have carried out all the investigations required to identify all the possible constraints at this stage (paragraph 1.65 of the *Written Summary of The Applicant's Oral Case put at Compulsory Acquisition Hearing on the afternoon Wednesday 20 January and Thursday 21 January 2016* [REP5-015]).
The Applicant's Comments The Applicant notes the drafting proposed by the ExA, and the reasons for it. However, the Applicant does not consider that this wording meets the tests for a			

requirement (which are the same as those for the imposition of a planning condition and set out in paragraph 226 of the National Planning Policy Framework), which are that it must be:

- necessary;
- relevant to planning and;
- to the development to be permitted;
- enforceable;
- precise and;
- reasonable in all other respects

Is the requirement necessary?

The Applicant does not consider that this wording is necessary to control the development proposed by the Applicant. The ExA's purpose behind the proposed revised text does not identify why, in planning or development control terms, it is necessary for the local planning authorities to control the width and alignment of the cable corridor. Rather, the underlying purpose of the suggested revision appears to be in connection with the control of the exercise by the Applicant of powers of compulsory acquisition. As explained by the Applicant in paragraphs 1.70—1.77 of its CA Hearing Case Summary [REP5-015], the exercise of compulsory acquisition powers is controlled by statute and judicial authority. The existing legislative and judicial framework ensures that it is inherent in the nature of compulsory acquisition that, when exercising the powers under any DCO, only such land as is actually needed for the development can be acquired. It would be unlawful for the Applicant to seek to exercise any power of compulsory acquisition under the DCO to acquire land which it did not then require. In addition, the ability to challenge the exercise of compulsory acquisition powers provides the necessary check and balance. To introduce an approval procedure from the relevant planning authorities to control the exercise of compulsory acquisition powers, is neither necessary nor appropriate in such circumstances, and

would go beyond the scope of a local planning authority's statutory powers and functions.

If the primary purpose of the suggested revision to the requirement is to 'remove uncertainty' over the final scope of land acquisition and 'inform' those affected, this has already been addressed by the Applicant within the Outline Soils Management Plan Rev C [REP5-027], which provides for notification of the likely extent of the permanent easement to all landowners, including those over whose land compulsory acquisition powers would be exercised. Paragraph 2.9 includes a requirement that the ALO will be responsible for providing landowners and tenants, as relevant to 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 prior to the start of construction works on their landholding. In addition, as built plans will be provided to the landowners and tenants that show the actual 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.

Is the requirement relevant to planning and to the development permitted?

As set out above, the Applicant does not consider that the requirements of the DCO are the appropriate place to seek to impose controls on the exercise of compulsory acquisition powers.

The Applicant would also highlight that the responsibility of the relevant planning authority is to sign off planning matters. The width and alignment of the cable route within the consented order limits is not considered to be a planning matter, and the Applicant respectfully submits, is outwith the expertise of the relevant planning authority who would be expected to determine the appropriateness and location of the cable circuits to be installed under the DCO, having regard to factors such as thermal conductivity and cable rating requirements, as well as potentially the extent of any horizontal directional drills or other trenchless techniques. The Applicant considers that the requirements, including requirements 12 (archaeology) and 14 (code of construction practice), provide sufficient

and appropriate planning controls to be exercised by the relevant planning authority in respect of the construction of the authorised development.

Is the requirement enforceable, precise and reasonable in all other respects?

For the reasons given above, the Applicant does not consider that the ExA's proposed wording is reasonable as a matter of principle, and is also concerned that the drafting is not sufficiently enforceable or precise. In particular:

(~~ii~~i) notify the public and landowners of the draft sequencing of the onshore cable works in accordance with the Communications Plan agreed as part of the Code of Construction Practice;

The Applicant is unclear what purpose is served by notifying the public of the "draft" sequencing of the onshore cable works. The Applicant intends to provide a plan, and then update it as necessary to reflect any changes that need to be made during construction. In the event that the plan does not change it will be the final sequencing plan.

(ii) submit to the relevant planning authority for its comments and approval a cable route sequencing plan including details of width and alignment of the cable corridor post construction and of the indicative sequencing of the onshore cable works; and

For the reasons given above this drafting is not considered to meet the relevant tests, for the imposition of a planning requirement, or be an appropriate control on the exercise of compulsory acquisition powers under the DCO.

(b) any cable route sequencing plan ~~submitted~~ approved in accordance with sub-paragraph (ii) may be updated, as required, from time to time, and communicated to the relevant local planning authority, landowners and the public in accordance with the Code of Construction Practice.

The Applicant is unclear how, if the first plan should be approved, it could legitimately be updated without further approval from the relevant planning authority. This is a further reason why the arrangement proposed would be unworkable.

(c) The works must be constructed in accordance with the approved cable route sequencing plan.

This is unnecessary as requirement 24(1) secures adherence to the approved plans for all the requirements.

In the event the ExA consider it necessary to include additional wording in requirement 5(11) relating to cable installation plans, the Applicant considers that the appropriate procedure would be to notify the relevant planning authority and deposit a set of the cable installation plans, as provided to landowners in accordance with the outline Soil Management Plan, to be kept on public record. The applicant proposes the following wording is applied:-

"11(a) At least three months prior to the commencement of the onshore cable works the undertaker must:

(i) submit to the relevant planning authority a cable route sequencing plan, and copies of the cable installation plans provided to the landowners in accordance with the Soil Management Plan approved as part of the Code of Construction Practice; and

(ii) notify the public of the cable sequencing of the onshore cable works in accordance with the Communications Plan approved as part of the Code of Construction Practice.

(b) Within three months of the completion of the installation of the cable circuits for any stage of the onshore cable works the undertaker must submit to the relevant planning authority as built plans for that stage showing the alignment of the cable circuits.

(c) Any cable route sequencing plan submitted in accordance with sub-paragraph (i) may be updated from time to time and any updated plan must be submitted to the relevant planning authority, and communicated to the public in accordance with the Code of Construction Practice."			
Requirement 8 (2) and (4) - Highway accesses and improvements	(2) The highway accesses for that stage must, where relevant, be constructed or altered, and the works described in paragraph (1) in relation to access management measures must be carried out, in accordance with the approved details before the relevant highway accesses are brought into use for the purposes of the authorised development. (3) No stage of the onshore works shall commence until for that stage a scheme of temporary highways alterations within the highway boundary has after consultation with the highway authority been submitted to and approved by the	(2) The highway accesses for that stage must, ~~where relevant,~~ be constructed or altered, and the works described in paragraph (1) in relation to access management measures must be carried out, in accordance with the approved details before the relevant highway accesses are brought into use for the purposes of the authorised development. (3)No stage of the onshore works shall commence until for that stage a scheme of temporary highways alterations within the highway boundary has after consultation with the highway authority been submitted to and approved by the	The ExA consider that the retention of the phrase 'where relevant' in this Requirement has the potential to allow a broad and lax interpretation of which parts of the approved details must be adhered to. The ExA consider that, in practice, if there are parts of the approved details that are not relevant, then these should be identified in advance of construction or alteration.

	relevant planning authority. (4) The temporary highways alterations for that stage must, where relevant, be constructed in accordance with the approved details before they are brought into use for the purposes of the authorised development.	relevant planning authority. (4) The temporary highways alterations for that stage must, ~~where relevant,~~ be constructed in accordance with the approved details before they are brought into use for the purposes of the authorised development.	
The Applicant's Comments The Applicant accepts the ExA's recommended deletion of "where relevant" in requirement 8. The final draft DCO (Rev G) to be submitted at Deadline 7 will be amended to reflect this change.			
Requirement 13 - Ecological management plan and removal of hedgerows	13.—(1) No stage of the onshore works shall commence until for that stage a written ecological management plan (which accords with the outline landscape strategy and ecological management plan) reflecting the survey results and ecological mitigation and	13.—(1) No stage of the onshore works shall commence until for that stage a written ecological management plan (which accords with the outline landscape strategy and ecological management plan) reflecting the survey results and ecological mitigation and	The ExA consider that the Requirement as drafted: a) does not cover the position if, for whatever reason, either construction does not commence or is abandoned post hedgerow removal; and

	enhancement measures included in the environmental statement has after consultation with the appropriate statutory nature conservation body been submitted to and approved by the relevant planning authority. (2) The ecological management plan must include an implementation timetable and measures to be taken to reinstate hedgerows on completion of the relevant stage of the onshore works. (3) Any hedgerow removal must be carried out in accordance with the details set out in the outline landscape strategy and ecological management plan.	enhancement measures included in the environmental statement has after consultation with the appropriate statutory nature conservation body been submitted to and approved by the relevant planning authority. (2) The ecological management plan must include an implementation timetable and measures to be taken to reinstate hedgerows on completion of the relevant stage of the onshore works (3) Any hedgerow removal undertaken before approval of the written ecological management plan in accordance with paragraph (1) must be carried out in accordance with the details set out in the outline landscape strategy and	b) does not cover the position if hedgerows are removed before the written ecological management plan has been submitted to and approved by the relevant planning authority. Please also note that there is a **question** relating to this definition at ExA's questions DCO 3.6

		ecological management plan. (4) If the consented scheme does not commence within six months of the removal of any hedgerow, or commences but works cease and there is inactivity for a period no greater than six months from the date of commencement of works, all removed hedgerows shall be replaced in their entirety and to their original condition within one year from the date of the cessation of construction works or in the earliest planting season, whichever is the soonest.	
The Applicant's Comments The Applicant notes the ExA's comments and refers to its response to DCO 3.6. The Applicant confirms that the commitment to replant hedgerows applies to			

all hedgerows removed pre-commencement and those hedgerows removed during construction and that the words “during the construction period” are now removed from paragraph 6.18 of the Outline Landscape Strategy and Ecological Management Plan (Revision C). The Applicant does not consider that the inclusion of the ExA’s paragraph (4) is either necessary or appropriate for the body of the DCO. The Applicant considers that the Outline Landscape Strategy and Ecological Management Plan is the appropriate document to include the detail regarding the replacement of hedgerows (as this is where all other detail is secured) and has amended section 6 (paragraph 6.26) to include the following wording:

“*If the authorised development does not commence within 12 months of the removal of any hedgerow, or commences but works cease and there is no activity from any part of the authorised development for a period greater than six months from the date of commencement of works, all removed hedgerows shall be replaced in their entirety in the next planting season and within 18 months of the date of the cessation of construction works”*

In order to secure the effect of this change in the requirement, the Applicant proposes that requirement 13(3) is replaced with the following:-

“(3) Any hedgerow removal <u>or replacement</u> undertaken before approval of the written ecological management plan in accordance with paragraph (i) must be carried out in accordance with the details set out in the Outline Landscape Strategy and Ecological Management Plan."

The final draft DCO (Rev G) to be submitted at Deadline 7 will be amended to reflect this change.

Requirement 14 (1) - Code of construction practice (onshore)	14.—(1) No stage of the onshore works shall commence until for that stage a code of construction practice in accordance with the outline code of	14.—(1) No stage of the onshore works shall commence until for that stage a code of construction practice in accordance with the outline code of	The ExA consider that the retention of the phrase ‘where relevant’ in this Requirement has the potential to allow a broad and lax interpretation of which

	construction practice (onshore) has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority. The code of construction practice must, where relevant, cover all the matters set out in the outline code of construction practice.	construction practice (onshore) has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority. The code of construction practice must, ~~where relevant,~~ cover all the matters set out in the outline code of construction practice.	parts of the outline code of construction practice must be covered in the code of construction practice. The ExA consider that, in practice, if there are parts of the outline code of construction practice that are not relevant, then the code of construction practice should identify these.
The Applicant's Comments The Applicant confirms that the phrase "where relevant" is intended to indicate that the code of construction practice must cover those matters that are relevant to that specific stage of the authorised development. To clarify, and to remove any potential for a broad or lax interpretation of the application of the code of construction practice, the Applicant proposes requirement 14 is amended as follows:- 14.—(1) No stage of the onshore works shall commence until for that stage a code of construction practice in accordance with the outline code of construction practice (onshore) has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority. The code of construction practice must, where relevant **to that stage**, cover all the matters set out in the outline code of construction practice.			
ExA's Recommended new			

Requirement			
Requirement xx – Local employment		xx. – (1) No stage of the authorised development may commence until for that stage a written scheme for the promotion of local employment opportunities and the development of local skills has been submitted to and approved in writing by the relevant planning authority. (2) The scheme must set out the means by which the undertaker will work with local agencies, including the relevant local enterprise partnership and local authorities, to secure as far as reasonably practicable the use of local labour, contractors, goods and services during the construction stage of the	The ExA have taken into account the Applicant's stated approach to local employment and skills development as set out in paragraphs 1.43 to 1.53 of the Applicant's Written Summary of the Oral Case put at the DCO Hearing held on 22 January [RE5-016] and welcome this statement. The ExA consider that the inclusion of this additional Requirement will support and help to secure the achievement of such an approach by the undertaker of the project should the DCO be granted. The ExA further consider that the wording of the proposed Requirement does not conflict with any relevant procurement legislation or other binding

		authorised development. (3) The approved scheme must be implemented in full for the entire duration of the construction stage of the authorised development.	requirements.

The Applicant's Comments

The ExA has proposed a new requirement relating to the provision of an employment and skills development plan. As set out in previous responses [REP5-016] the Applicant does not consider this to be a relevant or appropriate requirement for this consent which solely captures the Electrical System for the offshore wind farm which is one component of a much larger-scale project. Instead, a more holistic approach is needed to look at the project as a whole and the wider benefits it can bring when considered in the round alongside port development, turbine procurement amongst many potential benefits. This holistic approach is not something that either the ExA or the SoS can adopt as the DCO requirements can only relate to the works covered by this application, namely the Electrical System, and not the consented Array.

Regulation 26 of the *Contract for Difference (Allocation) Regulations 2014* requires that a comprehensive supply chain plan that covers all areas of the Triton Knoll Offshore Wind Farm is submitted to and evaluated by DECC through the project's application for a Contract for Difference (CfD). This requires the Secretary of State to scrutinise and then approve or reject a supply chain plan based upon specified criteria. These criteria include the development of skills in the supply chain and as such, Triton Knoll Offshore Wind Farm will not be eligible to apply for a CfD if it does not have a supply chain plan approved by DECC

which attains a certain level of skills development.

In summary, any low carbon generation project with a generating capacity of greater than 300 MW which applies for a CfD must provide evidence that the Secretary of State has approved its supply chain plan. Until this evidence is submitted, projects are unable to go forward to the CfD process. Under the *Contract for Difference (Allocation) Regulations 2014* the Secretary of State has a legal obligation to assess applicants' supply chain plans and a timeline for this assessment is set out for each CfD round. It is expected that all supply chain plans will need to be submitted around 2 months prior to the next CfD auction. It is possible that the Triton Knoll project may have to submit such a plan to DECC in summer 2016, in advance of any DCO award for the TKES.

These regulations enable the Secretary of State to approve or reject supply chain plans on the basis of whether they set out sufficient evidence that the project will make a material contribution to the economic growth and viability of the industrial supply chain. The Secretary of State will therefore assess the extent to which plans:

- support the development of competition in supply chains
- support innovation in supply chains; and
- support the development of skills in supply chains.

Each supply chain plan is assessed using a prescribed scoring system for above the three criteria: competition, innovation and skills. The three criteria are equally weighted and DECC scores each of the three criteria against the following:

- The commitments or actions that the project has either already undertaken or will undertake in the future (score out of 100).

- The impact on the supply chain as a whole (score out of 100).
- The wider long term impacts across the relevant low carbon electricity generation industry (score out of 100)

For this reason, requiring a subset of this comprehensive project-wide plan (i.e. the electrical system element) to be provided to the relevant planning authority for approval on a different time-line to the authorisation by DECC is not only unnecessary, but also could result in inconsistencies if the planning authority requires a different approach to the Secretary of State.

In the event that it is considered that it is appropriate for a new requirement to be added to the Triton Knoll Electrical System (TKES) DCO, the Applicant suggests that the following wording is applied:

(1) No stage of the onshore works within the relevant planning authority's area shall commence until, following consultation with the relevant planning authority and the local enterprise partnership, a plan detailing arrangements to promote employment and skills development opportunities related to the onshore works has been notified to the relevant planning authority.

(2) The plan must include proposals for working with the local enterprise partnership and the relevant planning authority to promote such local opportunities

(3) The employment and skills plan must be implemented and maintained for the duration of the construction of the onshore works.

(4) For the purpose of this requirement "the local enterprise partnership" means the Greater Lincolnshire Local Enterprise Partnership (GLLEP).

It is important that any new requirement is limited to the onshore element of the TKES only. The project has not selected a port for the construction and operation of the offshore components of the Triton Knoll Offshore Wind Farm. This could be located in the Humber area or elsewhere and therefore, the construction and operation of the offshore export cabling of the TKES could well be outside of either of the two relevant local planning authorities for the TKES and outside of the administrative county of Lincolnshire. All offshore elements relating to the skills and supply chain will be comprehensively covered in the Supply Chain Plan that is submitted to DECC in advance of the relevant CfD auction process.

At the time of the submission of any plan relating to the employment and skills to the planning authorities in advance of construction a Supply Chain Plan that has been approved by DECC will be in place. As such, the Applicant's suggested wording for any new requirement states that the relevant local authorities should be notified of the plan following consultation, rather than requiring their approval. This ensures that there is no conflict between the DECC-approved plan and any later plan submitted to the relevant planning authorities.

Other changes to be included in the Applicant's final draft DCO to be submitted at Deadline 7

Article 38

The Applicant refers to its response to ExA question CA 3.9. The purpose of Article 38 is to restrict the exercise of compulsory purchase powers, which trigger compensation liability until such time that a guarantee approved by the Secretary of State is in place. The Applicant therefore considers that Article 38 should be amended so that it refers only to those articles which confer a power to compulsorily acquire and/or interfere with land and/or interests in land, i.e. Article 15

(Compulsory acquisition of land), Article 16 (Compulsory acquisition of land- incorporation of the mineral code), Article 18 (Compulsory acquisition of rights), Article 19 (Private rights), Article 20 (Power to override easements and other rights), Article 22 (Acquisition of subsoil only), Article 23 (Rights under or over streets), Article 25 (Temporary use of land for carrying out the authorised project), Article 26 (Temporary use of land for maintaining the authorised project), and Article 28 (Statutory undertakers).

The other articles in Part 5 of the draft DCO do not in themselves confer powers of acquisition or give rise to compensation liability, but either further restrict the operation of a compulsory acquisition power (Article 17- Time limit for exercise of authority to acquire land compulsorily); confirm procedural requirements (Article 21- Application of the Compulsory Purchase (Vesting Declarations) Act 1981 and Article 24- Acquisition of part of certain properties); and/ or clarify the consequences of the exercise of compulsory acquisition powers (Article 27- Protective provisions for specified undertakers; Article 29- No double recovery; Article 30- Recovery of cost of new connections; and Article 31- Special category land). It is not therefore necessary or appropriate to require that a guarantee is in place for the purposes of these articles.

Article 38(1) of the Applicant's final draft DCO (Rev G) to be submitted at Deadline 7 will therefore read as follows (amended text in **bold**):

> **"Guarantees in respect of payment of compensation**
> ***38.**—(1) The undertaker must not begin to exercise the powers in articles **15, 16, 18 to 20, 22, 23, 25, 26 and 28** of this Order in relation to any land unless it has first put in place either— "*

Schedule 5- Land in which only new rights etc. may be acquired

To reflect the new definition of "unlicensed works" included in the draft DCO submitted at Deadline 5 (Revision F) [REP5-035], the word 'connection' will be

deleted from Schedule 5 of the final draft DCO (Rev G) to be submitted at Deadline 7 (as shown struck through below):

"Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised project to:

(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of the unlicensed ~~connection~~ works and the drainage works, the inspection, testing, maintenance, renewal, upgrading, replacement and removal of the cables and connection into any adjacent cables and associated works, plant and equipment on adjoining land and to make such investigations in or on the land which is ancillary for the purposes of exercise of the rights;

(b) lay down, use, repair, alter and remove steel plates for the purpose of access to adjoining land;

(c) erect temporary bridges and supporting or protective structures for the purposes of access to adjoining land;

(d) fell, lop, cut, coppice, uproot trees or hedges or shrubs which now or hereafter may be present on the land for the purpose of enabling the right to pass and re-pass to adjoining land; and

(e) erect and remove temporary fencing."

Schedule 5- Land in which only new rights etc. may be acquired

The Applicant refers to its response to ExA question DCO 3.2. At a meeting held on the 4th of February between the Applicant and the Land Interest Group, the Land Interest Group requested that a couple of minor amendments be made to the revised from of restrictive covenant agreed with the Environment Agency

and Internal Drainage Boards, and included in the draft Development Consent Order (Revision F) submitted at Deadline 5 [REP5-035].

The two minor amendments requested by, and agreed with, the Land Interest Group are:

i. Deletion of the words "*or the mudding out of dykes (i.e. the removal of silt sediment)"* from paragraph (c)(i) of the restrictive covenant; and
ii. Replacement of the phrase *"active cultivation"* with *"acts of cultivation"* in paragraph (c) (iv).

The Environment Agency and Internal Drainage Boards have confirmed that they are happy with these changes. The Applicant therefore intends to include the above amendments in paragraph (c) in Schedule 5 of the Applicant's final draft DCO (Revision G) to be submitted for Deadline 7

Schedule 9, Paragraph 2 – Definition of Work No 2

The reference to "mean low water springs" in the description of Work No 2 is incorrect. The correct reference is "mean low water". The final draft DCO (Rev G) to be submitted at Deadline 7 will be amended to reflect this change.

Schedule 9, Condition 3 – Offshore safety management

On 11 February, the Maritime and Coastguard Agency (MCA) published new guidance, MGN 543, which replaced guidance MGN 371. Therefore, the Applicant has agreed with the MCA and the MMO that the references to MGN 371 in Condition 3 of the draft DML shall be deleted and replaced with MGN 543. The final draft DCO (Rev G) to be submitted at Deadline 7 will be amended to reflect this change.