



**Triton Knoll Offshore Wind Farm Limited
Triton Knoll Electrical System**



**Appendix 16: Development Consent
Order Schedule of Amendments
Explanatory Document**

Date: 24th February 2016

**Appendix 16 of the Applicant's
Response to Deadline 7**



Schedule of Amendments for Deadline 7

Explanatory Document

This Document sets out the changes to the draft DCO either proposed by the Examining Authority in their consultation draft DCO or proposed by the Applicant. Please note that a number of minor amendments have been made to the draft DCO to correct typographical errors, or to ensure consistency with drafting conventions which are not recorded in this table. The Protective Provisions have also been amended to reflect discussions or where agreed, the final agreed versions. The amendments to the Protective Provisions are not presented in this table.

Representations

1 PROPOSED AMENDMENTS IN RESPONSE TO EXAMINING AUTHORITY'S CONSULTATION DRAFT DCO			
	Article/Schedule	ExA's Recommended Amendment	Applicant's Response
1.1	Article 2 – Interpretation “limits of deviation”	“limits of deviation” means the situations limits for scheduled works as shown on the works plans	The Applicant accepts the ExA's recommended amendment to “limits of deviation”. The final draft DCO (Rev G) to be submitted at Deadline 7 has been amended to incorporate the ExA's recommended amendment.
1.2	Article 2 – Interpretation “mean high water springs” and “mean low water”		<p>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.</p> <p>The definition of Work No 2 has been amended in the deemed Marine Licence to delete reference to mean low water springs and is amended as follows:-</p> <p><i>“up to six cables for the transmission of high voltage alternating current electricity together with fibre optic cables for the transmission of electronic communications laid in cable ducts from mean low water springs connecting Work No 1 and Work No 3.”</i></p>

1.3	<p>Article 5(7)</p> <p>Transfer of benefit of Order</p>	<p>New provision:-</p> <p>“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 does not consider that the inclusion of the ExA’s suggested provision is required. The Applicant deleted the previous wording securing consultation with the MMO in respect of transfers without the consent of the Secretary of State under article 5(6) in DCO Rev F [REP5- 035] at the specific request of the MMO. The MMO’s view was that the wording effectively only served to act as notification as there was no requirement for the views of the MMO to be considered or acted upon prior to the transfer being enacted and as such it was not required.</p> <p>The MMO has since confirmed that the wording as proposed by the ExA would be helpful and wish to see it included but has requested that the provision require <u>notification of the MMO</u> rather than <u>consultation with MMO</u>.</p> <p>New sub-paragraph 5(7) is inserted as follows:-</p> <p><i>“The undertaker must notify the MMO at least 28 days before any transfer pursuant to paragraph 5(1) in a case where the Secretary of State’s consent to such a transfer is not required (because paragraph 5(6) applies).”</i></p>
1.4	<p>Article 6 - Application and modification of legislative provisions</p>	<p>(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–</p> <p>(a) section 109 (structures in, over or under a main river) of the Water Resources Act 1991(b);</p> <p>(b) the provision of any byelaws made under, or having effect as if made under,</p>	<p>Both the Environment Agency and the Internal Drainage Boards submitted letters of consent to the disapplication of legislation to the Examining Authority, on 18 and 24 February respectively.</p> <p>The Applicant has therefore retained the provisions relating to the disapplication of legislation in draft DCO Rev G.</p>

		<p>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;</p> <p>(c) section 23 (prohibition of obstructions etc. in watercourses) of the Land Drainage Act 1991(c);</p> <p>(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;</p> <p>(e) the provisions of the Lindsey County Council (Sandhills) Act 1932(d)</p>	
1.5	<p>Schedule 1 Part 3 - Requirement 5 (4)</p> <p>Detailed design onshore</p>	<p>(4) Any details provided by the undertaker pursuant to paragraphs (2) and (3) must where relevant be in accordance with the design principles document and be within the Order limits.</p>	<p>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:-</p> <p><i>“(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.”</i></p>
1.6	<p>Schedule 1 Part 3 - Requirement 5 (11)</p> <p>Detailed design onshore</p>	<p>(11) (a) At least three months prior to the commencement of the onshore cable works the undertaker must:</p> <p>(iii) notify the public and landowners of the <u>draft</u> sequencing of the onshore</p>	<p>An approval process for these plans by the relevant planning authorities to regulate the use of the compulsory acquisition powers granted under the Order would not meet the tests for the imposition of planning conditions or requirements. The Applicant does not consider the submission of these plans to the relevant planning authority to be necessary or appropriate but has included wording in</p>

		<p>cable works in accordance with the Communications Plan agreed as part of the Code of Construction Practice;</p> <p>(ii) <u>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</u></p> <p>(b) any cable route sequencing plan submitted <u>approved</u> in accordance with sub-paragraph (ii) may be updated, as required, from time to time, and communicated to <u>the relevant local planning authority</u>, landowners and the public in accordance with the Code of Construction Practice.</p> <p><u>(c) The works must be constructed in accordance with the approved cable route sequencing plan.</u></p> <p>(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.</p>	<p>the event that the Secretary of State disagrees.</p> <p><i>“(11) The undertaker must:</i></p> <ul style="list-style-type: none"> <i>(a) at least three months prior to the commencement of the onshore cable works:</i> <ul style="list-style-type: none"> <i>(i) submit to the relevant planning authority a cable route sequencing plan including details of the indicative sequencing of the onshore cable works; and</i> <i>(ii) notify the public of the sequencing of the onshore cable works in accordance with the Communications Plan approved as part of the Code of Construction Practice;</i> <i>(b) [prior to construction of any stage of the onshore cable works submit to the relevant planning authority 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</i> <i>(c) within three months of the completion of the installation of the cable circuits for any stage of the onshore cable works submit to the relevant planning authority as built plans for that stage showing the alignment of the cable circuits.]</i> <p><i>(12)Any plans submitted in accordance with paragraph[s] (11)(a) [and (11)(b)] may be updated from time to time and must be submitted to the relevant planning authority and communicated to the public in accordance with the Code of Construction Practice.]”</i></p> <p>The text is included in square brackets as it is considered not necessary.</p> <p>NOTE: this wording has been revised from that submitted in response to DCO 3.1 at Deadline 6.</p>
--	--	---	---

1.7	<p>Schedule 1 Part 3 – Requirement 8</p> <p>Highway accesses and improvements</p>	<p>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.</p> <p>(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 relevant planning authority.</p> <p>(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.</p>	<p>The Applicant accepts the ExA’s recommended deletion of “where relevant” in requirement 8. Draft DCO Rev G has been amended accordingly.</p>
1.8	<p>Schedule 1 Part 3 – Requirement 13</p> <p>Ecological management plan and removal of hedgerows</p>	<p>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 enhancement measures included in the environmental statement has after</p>	<p>The Applicant confirms that the commitment to replant hedgerows applies to all hedgerows removed pre-commencement and those hedgerows removed during construction. 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 and appropriate wording has been included in that document. As a result the Applicant does not consider that the inclusion of the ExA’s paragraph (4) is either</p>

		<p>consultation with the appropriate statutory nature conservation body been submitted to and approved by the relevant planning authority.</p> <p>(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</p> <p><u>(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 ecological management plan.</u></p> <p><u>(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.</u></p>	<p>necessary or appropriate for the body of the DCO.</p> <p>In order to secure this in the requirement, requirement 13(3) is amended as follows:-</p> <p><i>“Any hedgerow removal or replacement undertaken before approval of the written ecological management plan in accordance with paragraph (1) is to be carried out in accordance with the details set out in the outline landscape strategy and ecological management plan. must be carried out in accordance with the details set out in the outline landscape strategy and ecological management plan.”</i></p>
1.9	Schedule 1 Part 3 – Requirement 14 Code of construction	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,	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

	practice (onshore)	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, requirement 14 is amended as follows:- <i>“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”</i>
1.10	Schedule 1 Part 3 – New Requirement 23 Local Employment	<p><u>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.</u></p> <p><u>(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 authorised development.</u></p> <p><u>(3) The approved scheme must be implemented in full for the entire duration of the construction stage of the authorised development.</u></p>	<p>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. 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. 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.</p> <p>In the event that it is considered that it is appropriate for a new requirement to be added to the Triton Knoll Electrical System DCO, the Applicant has suggested the wording in square brackets as included in Requirement 23:-</p> <p><i>[“(1) No stage of the onshore works within the relevant planning authority’s area may commence until, following consultation with the relevant planning authority and 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.</i></p> <p><i>(2) The plan is to include proposals for working with the local enterprise partnership and the relevant planning authority to</i></p>

			<p><i>promote such local opportunities.</i></p> <p><i>(3) The employment and skills plan is to be implemented and maintained for the duration of the construction of the onshore works.</i></p> <p><i>(4) For the purpose of this requirement “the local enterprise partnership” means the Greater Lincolnshire Local Enterprise Partnership.]”</i></p>
--	--	--	---

OTHER AMENDMENTS TO DRAFT DCO REVISION G

	Article/Schedule	Recommended Amendment	Applicant’s Response
1.11	Schedule 1 Part 1 Authorised development	<p>Boston Borough Council</p> <p>“In the listing of the Works, the Council remains unclear as to why, at Work No 50, Work No 50A then follows it in the same paragraph rather than being spaced down to a new line as at, for example, Works 3, 3a, 3B; 9, 9A and 47(A). This is further unclear in that in that same paragraph 50A appears to include ‘substation enabling works’ which are previously listed earlier in that paragraph as Work 50.”</p>	<p>Work Nos 9 and 50 are drafted such that these are the overarching Work Nos which have multiple components comprising the enabling works, the respective compound for the IEC or substation, landscaping and drainage, utilities connections, access roads, security gate, cabling and ducting. Although they form part of Work Nos 9 and 50, the IEC and substation compounds are also listed separately as Works Nos 9A and 50A respectively to allow for sign-off of requirements which specifically relate to the compounds including elements of the detailed design in Requirement 5 and provision of landscaping in Requirement 6. The Applicant does not consider that any change is required to the DCO.</p> <p>The Applicant confirms that the second reference to ‘substation enabling works’ in Work No 50 is in error and this has been deleted.</p> <p>Draft DCO Rev G submitted for Deadline 7 has been amended to reflect this change.</p>
1.12	Article 38	Applicant’s amendment	The purpose of Article 38 is to restrict the exercise of compulsory purchase powers, which trigger compensation liability until such

	Guarantees in respect of payment of compensation		<p>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).</p> <p>Paragraph 38 (1) is amended as follows:-</p> <p><i>“The undertaker must not begin to exercise the powers in articles 15 (compulsory acquisition of land), 16 (compulsory acquisition of land – incorporation of the mineral code), 18 (compulsory acquisition of rights), 19 (private rights), 20 (power to override easements and other rights), 22 (acquisition of subsoil only), 23 (rights under and over streets), 25 25 (temporary use of land for carrying out the authorised project), 26 (temporary use of land for maintaining the authorised project) and 28 (statutory undertakers) of this Order in relation to any land unless it has first put in place either—</i></p> <p><i>(a) a guarantee in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land, which has been approved by the Secretary of State; or</i></p> <p><i>(b) an alternative form of security for that purpose which has been approved by the Secretary of State.”</i></p>
--	--	--	--

1.13	<p>Schedule 5</p> <p>Land in which only new rights etc. may be acquired</p>	Applicant's amendment	<p>To reflect the new definition of “unlicensed works” included in the draft DCO Revision F, the word ‘connection’ has been deleted from Schedule 5 of the final draft DCO Rev G:</p> <p><i>“Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised project to:</i></p> <ul style="list-style-type: none"> <i>(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;</i> <i>(b) lay down, use, repair, alter and remove steel plates for the purpose of access to adjoining land;</i> <i>(c) erect temporary bridges and supporting or protective structures for the purposes of access to adjoining land;</i> <i>(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</i> <i>(e) erect and remove temporary fencing.”</i>
1.14	<p>Schedule 5</p> <p>Land in which only new rights etc. may be acquired</p>	Applicant's amendment	<p>At a meeting held on 4th February 2016 between the Applicant and the Land Interest Group, the Land Interest Group requested that a couple of minor amendments be made to the revised form of restrictive covenant agreed with the Environment Agency and Internal Drainage Boards, and included in the draft DCO Rev F</p>

			<p>submitted at Deadline 5.</p> <p>The two minor amendments requested by, and agreed with, the Land Interest Group are:</p> <ul style="list-style-type: none"> i. Deletion of the words “<i>or the mudding out of dykes (i.e. the removal of silt sediment)</i>” from paragraph (c)(i) of the restrictive covenant; and ii. Replacement of the phrase “<i>active cultivation</i>” with “<i>acts of cultivation</i>” in paragraph (c) (iv). <p>The Environment Agency and Internal Drainage Boards have confirmed that they are happy with these changes.</p> <p>The draft DCO Rev G has been amended accordingly.</p>
1.15	<p>Schedule 9, Condition 3</p> <p>Offshore safety management</p>	Applicant’s amendment	<p>On 11 February, the Maritime and Coastguard Agency (MCA) published new guidance, MGN 543, which replaced guidance MGN 371. Therefore, the Applicant agreed with the MCA and the MMO that the references to MGN 371 in Condition 3 of the draft DML be deleted and replaced with MGN 543.</p> <p>The draft DCO Rev G has been amended to reflect this change.</p>