



Triton Knoll Offshore Wind Farm Limited Triton Knoll Electrical System

**Appendix 12: Response to
Lincolnshire County Council
Matters Not Agreed**

Date: 29th February 2016

**Appendix 12 of the Applicant's
response to Deadline 8**

Triton Knoll Offshore Wind Farm Limited

Triton Knoll Electrical System

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Date: 29th February 2016

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TABLE OF CONTENTS

1. Introduction	4
Purpose of this document	5
2. Engagement with LCC	6
EIA Evidence Plan Process	6
Statement of Common Ground Engagement	8
SoCG Agreement Process	9
3. The Applicant's comments on Matters Not Agreed	11
Approach to EIA	11
Land Use, Agriculture and Soils	14
Geology, Hydrogeology and Ground Conditions	16
Landscape and Visual	17
Socio-Economic Tourism and Recreation	17
Terrestrial Ecology	19
Historic Environment	20
Development Consent Order (DCO)	23

1. Introduction

- 1.1 The Applicant has engaged with Lincolnshire Country Council in relation to the proposed development since 2008. At that time the discussions related to the entire project, both the offshore array and the Triton Knoll Electrical System (TKES).
- 1.2 The engagement has covered many stages including the Alternatives Consultation for the proposed development undertaken between 19th February and 30th April 2013 and statutory consultation in November 2014 on the preliminary environmental information (PEI) which included a draft Environmental Statement (ES). Discussions in relation to securing land rights on LCC-owned land and the EIA Evidence Plan commenced in May 2014.
- 1.3 Throughout this process the Applicant has sought to engage with any concerns raised by LCC in a proactive and timely fashion with the objective, where possible, of seeking to agree all aspects of the proposed development and its assessment, ultimately including the draft DCO and mitigations captured by certified documents and management plans. Where agreement has not been possible the Applicant has sought to understand the precise nature of LCC's disagreement.
- 1.4 The Applicant consider that, through this extensive consultation (set out in more detail in the Consultation Report. document reference 5.1), LCC has had adequate and sufficient opportunity to raise all matters of concern, in order that they could have been understood and addressed, where possible, at the earliest opportunity.
- 1.5 Unfortunately, the Applicant has not been able to address all LCC's outstanding concerns. In some cases this is due to a lack of detailed information relating to the concern, which would facilitate a meaningful response. In others this is due to new concerns being raised very late in the process, many of which on points that the Applicant had understood were agreed through the EIA Evidence Plan and subsequent post-submission meetings.
- 1.6 In seeking to agree a Statement of Common Ground with LCC, the Applicant was unable to provide detailed responses to the matters not agreed in the SoCG submitted as Appendix 11 of the Applicant's Response to Deadline 8 as the Applicant was informed that LCC would not be able to sign a SoCG with responses to their outstanding concerns.

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- 1.7 As a result the Applicant has submitted this separate document to the ExA responding to LCC's position as set out in section 5 of the SoCG dated 29th February 2016 (Appendix 11 of the Applicant's response to Deadline 8).

Purpose of this document

- 1.8 This document sets out the Applicant comments on the matters which have not been able to be agreed with LCC and therefore are reported in Section 5 'Matters not agreed' in the SoCG between the Applicant and LCC, submitted as Appendix 11 of the Applicant's response to Deadline 8.

2. Engagement with LCC

EIA Evidence Plan Process

- 2.1 The Triton Knoll EIA Evidence Plan [APP-132], submitted with the Application, provides an overview of the aims and objectives of the EIA Evidence Plan process, as well as the roles of those involved.
- 2.2 Paragraphs 3.2 – 3.3 of the SoCG confirm LCC’s participation in the EIA Evidence Plan process and the topic-specific review panels that LCC was involved in.
- 2.3 Despite the assertions made by LCC throughout the examination process, the Applicant feels obliged to highlight that a number of representatives of LCC attended the EIA Evidence Plan Kick-Off Meeting in May 2014 where the aims and objectives of the EIA Evidence Plan process were made clear to all those involved. The intention of the meetings held and the benefit of this additional non-statutory consultation was communicated to all parties involved; and the Applicant had no indication that the discussions and agreements reached with LCC would subsequently be challenged during the examination of the Application.
- 2.4 Representatives of LCC were members of the EIA Evidence Plan Steering group. The role of the Steering Group was to:
- Agree the principles, programme and specific working arrangements for the development and delivery of the EIA Evidence Plan;
 - Oversee the delivery of the Plan;
 - Agree any updates or changes to the Plan;
 - Discuss, agree and sign off specific issues and decisions arising from the work of the topic-specific Review Panel Groups; and
 - Where necessary to discuss and where possible resolve any differences or disagreements prior to the application being made.
- 2.5 LCC was involved in the following review panel meetings throughout 2014 and early 2015 during the preparation of the Environmental Statement:
- Traffic and Access
 - Onshore Historic Environment
 - Hydrology and Flood Risk
 - Landscape
 - Socio Economics, Tourism and Recreation

- 2.6 The content of the EIA Evidence Plan relating to traffic and access was agreed by Andy Ratcliffe by email received on 21st April 2015 (see Appendix 2). In brief this review panel agreed the following (taken from paragraphs 5.37 and 5.38 of the EIA Evidence Plan):

“The study area extents, baseline traffic data, road crossing methodologies, access routes, locations of temporary construction compounds and assessment approaches for the assessment of traffic and access aspects of the Triton Knoll Electrical System have been agreed with all Review Panel members, either through the scoping process or directly addressed through discussions and provision of evidence as part of this EIA Evidence Plan. It has also been agreed that a traffic management plan will be adopted for the construction of the project.

There is a single aspect for which discussion is on-going with Boston Borough Council, relating to the utilisation of access routes by construction traffic required for the National Grid enabling works at the existing Bicker Fen substation.”

The content of the EIA Evidence Plan relating to Historic Environment was agreed by Jan Allen by email received on 17th April 2015 (see Appendix IV of the EIA Evidence Plan).

- 2.7 The content of the EIA Evidence Plan relating to Hydrology and Flood Risk was agreed by David Hickman by email received on 17th April 2015 (see Appendix IV of the EIA Evidence Plan). In brief this review panel agreed the following (taken from paragraphs 5.19 and 5.21 of the EIA Evidence Plan):

“The data requested for use in the assessment has been reviewed with the Environment Agency and the other Review Panel stakeholders and agreed as being adequate. Methods for the crossing of IDB, EA and Canal and Rivers Trust maintained watercourses have been agreed with consultees, as has the approach to and process for approving drainage schemes, including SuDS, as considered within the flood risk assessment (FRA). Agreement has also been reached with all of the Review Panel members on provisions for flood protection for critical equipment at the substation and IEC, to be confirmed by topographic survey post consent.

Agreement has also been reached with all Review Panel members on the acceptability of the use of alternative methods to HDD - pipe-jacking and micro-bore techniques, both of which are now included in the application. Both of these alternatives provide for the installation of electricity export cables beneath the existing flood defences at the landfall, certain watercourses (adjacent to rail infrastructure) but potentially also other watercourses and at the NG substation.

The Flood Risk Assessment (FRA) for the unlicensed works at the National Grid Bicker Fen substation has also been provided to the Environment Agency and to

Boston Borough Council and has subsequently been agreed by the Environment Agency.”

2.8 The content of the EIA Evidence Plan relating to Human Environment (Landscape) and Human Environment (Socio Economics, Tourism and Recreation) was agreed by Phil Hughes by email received on 17th April 2015 (see Appendix IV of the EIA Evidence Plan).

2.9 In brief the Human Environment (Landscape) Review Panel agreed the following (taken from paragraphs 5.26 of the EIA Evidence Plan):

“The study area extents, selection of viewpoints and production of photomontages, baseline characterisations and assessment approaches for landscape and visual receptors topics have been agreed with all members through review panel discussions and provision of evidence as part of this EIA Evidence Plan process. There are no outstanding areas of disagreement or ongoing discussions related to this topic.”

2.10 In brief the Socio-economic, Recreation and Tourism Review Panel agreed the following (taken from paragraphs 5.33-5.34 of the EIA Evidence Plan):

“The study area extents, baseline characterisations, including source data, and assessment approaches for the socioeconomics, tourism and recreation topic have been agreed with all Review Panel members, either through the scoping process or directly addressed through discussions and provision of evidence as part of this EIA Evidence Plan.

There are on-going discussions in relation to the management measures that will be adopted in relation to the Lincolnshire coastal grazing marsh areas (as noted under the Terrestrial Ecology RP summary above).”

Statement of Common Ground Engagement

2.11 Post application the Applicant met with LCC representatives in relation to progressing a SoCG, following the publication of the Rule 6 letter, on the following dates:

- The Applicant met with Phil Hughes on 20th August 2015 to introduce the SoCG approach and agree broad areas of content.
- The Applicant met with Phil Hughes on 9th September 2015 to review the first draft SoCG
- The Applicant met with LCC highways officers including Roy Rayman, Andrew Ratcliffe, Dean Myhill, Andy Wharff and Martyn Allen on 11th November 2015,

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- The Applicant met with Chris Miller to discuss public rights of way on the 13th January 2016.
 - The Applicant met with Ian Kitchen to the traffic and access assessment on the 13th January 2016.
 - The Applicant met with Mandy Wood, Andy Ratcliff and Phil Hughes to discuss all outstanding matter under discussion or matters not agreed in the SoCG on 12 February 2016.

SoCG Agreement Process

2.12 A SoCG agreed by the Applicant and Lincolnshire County Council (LCC) was submitted as Appendix 30 to the Applicant's response to Deadline 1 [REP1-079].

2.13 Page 4 of the SoCG submitted at Deadline 1 and the attached insert page with emailed confirmation of agreement set out that the SoCG was agreed by both the Applicant and LCC and included both matters that were agreed (sections 1-4), matters under discussion (section 5) and matters that were not agreed (section 6).

2.14 The email confirmation received from Phil Hughes on 5th October 2015 stated:

*"Please find attached the **signed** SoCG as the currently agreed version. Please acknowledge receipt"* (Applicant's emphasis added)

2.15 On 26 October 2015 the Applicant was informed by LCC that it had notified the Planning Inspectorate that the agreed SoCG should be marked as "draft" on the basis that this would accord with the SoCGs with both of the local planning authorities (Boston Borough Council and East Lindsey District Council) that had been submitted at Deadline 1. LCC did not contact the Applicant or seek to discuss this prior to requesting the change to the document.

2.16 In order to clarify the position, at Deadline 1 it had not been possible to complete SoCGs with either Boston Borough Council or East Lindsey District Council and as a result these were submitted as drafts with the agreement of the local planning authorities. Conversely, agreement had been reached with LCC on the SoCG (including on the matters not agreed) and the completed SoCG with that authority was submitted at Deadline 1.

2.17 As the SoCG with LCC had been agreed prior to Deadline 1, the Applicant has both referred to and relied upon its content in the detail of its Deadline 1 and Deadline 2 responses.

2.18 Since submitting its response to Deadline 1, the Applicant has continued to discuss the matters included within sections 5 and 6 of the agreed SoCG with LCC in an attempt to reach further agreement. The Applicant provided an

updated SoCG to LCC on the 9 December 2015. LCC informed the Applicant on the 5 January 2016 that it had decided not to update the SoCG at Deadline 4 and would aim for 1st February 2016.

- 2.19 LCC provided the Applicant with its comments on the SoCG at 16.28 pm on 1st February 2016. The Applicant confirmed to LCC that it did not have any objection to LCC submitting this version of the SoCG to the examination at Deadline 5, as long as it was made clear that this version was the Council's mark up and the Applicant has not had the opportunity to review in detail or to comment on it.
- 2.20 The Applicant has been in discussion with LCC on the SoCG in relation to areas of outstanding discussion and on which LCC officers have a mandate to approve the SoCG. The Applicant met with LCC on the 12th February 2016 to discuss the SoCG. LCC representatives for tourism, LCCP and historic environment were not available to attend that meeting and discuss any issues in person, however, progress was made on a range of topics and agreed actions were identified.
- 2.21 The Applicant issued an updated SoCG (version 8) to LCC on the 16th February 2016 and received comments on the 23rd February 2016. Further iterations of the SoCG were provided by the Applicant and LCC on 23rd, 24th and 29th February resulting in the final agreed SoCG being submitted at Deadline 8.

3. The Applicant's comments on Matters Not Agreed

Approach to EIA

- 3.1 The Applicant has sought to be explicit in the agreements reached in relation to its approach to the EIA undertaken with all consultees that have been engaged in agreeing a SoCG. This has included agreements to the scope and methodology of the assessment; the baseline study and characterisation of the existing environment; the key parameters for the assessment and embedded mitigation; the assessment of impacts; the assessment of cumulative impacts; and the assessment of inter-related effects.
- 3.2 In seeking detailed agreement, the Applicant has sought to understand where issues lie with any matter not agreed with respect to the EIA; and sought to work with consultees in order to resolve any disagreement in relation to those matters or to ensure that each party's position is clearly set out.
- 3.3 Whilst LCC has confirmed its agreement in paragraph 4.11 of the SoCG to the overall approach to the EIA process, as set out in Volume 1, Chapter 3 *Approach to EIA* of the ES [APP-022], LCC has not agreed to certain aspects of the assessment across a number of topics relevant to its remit. These are the cumulative assessment and assessment of inter-related effects.
- 3.4 The Applicant has detailed the disagreements set out in the SoCG which relate to these two aspects of the assessment below, and has set out its position in relation to those.

Cumulative Assessment

- 3.5 Paragraphs 5.7, 5.10 and 5.15 in the 'matters not agreed' of the SoCG set out that LCC does not agree that the cumulative effects of the project have been adequately considered in Volume 3 of the ES for the following topics:
- Land use, agriculture and soils;
 - Geology, hydrogeology and ground conditions; and
 - Socio-economics, tourism and recreation.
- 3.6 Further, paragraphs 4.45 to 4.48 of the SoCG set out that, whilst LCC agrees with the assessment of cumulative effects with respect to landscape and visual, it does not agree to these aspects of the assessment in so far as they relate to the National Grid Viking Link Limited (NGVLL) Viking Link project (Viking Link). Also, paragraphs 4.78 to 4.80 set out specific agreements to the assessment of

cumulative effects with respect to land use, agriculture and soils but state that these are agreed save in relation to Viking Link.

- 3.7 The Applicant notes that paragraphs 4.58 to 4.59 of the SoCG confirm that LCC agrees that the projects scoped in to the assessment of cumulative effects on socio-economics, tourism and recreation is appropriate. Paragraphs 4.119 to 4.121 of the SoCG, set out that LCC agree to the adequacy of the assessment of cumulative effects on hydrology and flood risk. Further, paragraph 4.144 confirms LCC's agreement with the projects scoped in for the purpose of the cumulative assessment on traffic and access. The Applicant welcomes LCC's agreement with this aspect of the assessment for these topics.
- 3.8 Whilst for some topic areas LCC has not substantiated its position in relation to not agreeing with the assessment of cumulative effects; for those which it has, it is the Applicant's understanding that LCC's view is that further consideration should have been given to Viking Link in the assessment of cumulative impacts.
- 3.9 LCC has set out its position in the following examination submissions:
- LCC's Relevant Representation [RR-062]
 - LCC's Local Impact Report [LIR-003]
 - LCC's Response to Viking Link's Representations [REP2-002]
 - LCC's written representation submitted to Deadline 3 [REP3-024]
 - LCC's written representation submitted to Deadline 5 [REP5-005]
- 3.10 The Applicant has set out its position with respect to Viking Link in response to EOn 1.1 of the ExA's first written questions [REP1-044]. This confirms that the Viking Link Project has been classed as a "Tier 3 project". Paragraph 1.59 of Volume 1, Annex 3.1 *Cumulative Impact Assessment Annex* of the ES [APP-025] sets out that the lack of information for projects categorised as Tier 3 prevents a meaningful assessment of the such projects to be undertaken and therefore no detailed Tier 3 assessment has been presented for the Viking Link Project.
- 3.11 No further formal information has been made available regarding the Viking Link project during the examination that could be used to inform an update to the cumulative impact assessment.
- 3.12 The Applicant consulted with NGVLL at the beginning of the examination to verify the status of the Viking Link project. A SoCG was agreed between the parties and submitted as Appendix 22 of the Applicant's response to Deadline 1 [REP1-071]. Paragraphs 3.3 – 3.10 of the SoCG set out specific agreements in relation to the Applicant's consideration of Viking Link and confirms that:

“It is agreed that at the present time there is insufficient information available on which to undertake a reliable or effective assessment of cumulative effects of the two projects”.

3.13 Further the SoCG confirmed that:

“It is agreed that any relevant interactions between the TKES and Viking Link will be appropriately addressed as part of any application(s) made by NGVLL to the relevant planning authority/authorities once the location of the landfall, converter station and the cable route for Viking Link in the UK have been identified.”

3.14 The Applicant considers the approach taken to the assessment of cumulative effects to be appropriate, and in accordance with relevant policy and guidance.

3.15 The approach has been supported by other consultees in relation to the TKES; and is also comparative to precedent set by other consented DCOs.

3.16 The Applicant highlights that paragraphs 1.6 to 1.11 of Volume 1 Annex 3.1 Cumulative Impact Assessment Annex of the ES sets out the Applicant’s approach to cumulative impact assessment has been in accordance with the relevant guidance note (Planning Inspectorate (PINs) has produced a guidance note on the Rochdale Envelope (April 2012)), which states that:

“The ES should not be a series of separate unrelated topic reports. The interrelationship between aspects of the proposed development should be assessed and careful consideration should be given by the developer to explain how interrelationships have been assessed in order to address the environmental impacts of the proposal as a whole. It need not necessarily follow that the maximum adverse impact in terms of any one topic impact would automatically result in the maximum potential impact when a number of topic impacts are considered collectively. In addition, individual impacts may not be significant but could become significant when their interrelationship is assessed. It will be for the developer to demonstrate that the likely significant impacts of the project have been properly assessed”.

Inter-related Effects

3.17 Paragraphs 5.11, 5.12, 5.16 and 5.31 in the ‘matters not agreed’ of the SoCG set out that LCC does not agree that the assessment of inter-related effects of the project have been adequately considered in Volume 3 of the ES for the following topics:

- Geology, hydrogeology and ground conditions;
- Landscape and visual;
- Socio-economics, tourism and recreation; and

- Historic environment.

3.18 The Applicant notes that paragraphs 4.71 of the SoCG set out that LCC agrees with the assessment of inter-related effects on terrestrial ecology; and that paragraph 4.122 of the SoCG sets out that LCC agrees to the assessment of inter-related effects on hydrology and flood risk. The Applicant welcomes LCC's agreement with this aspect of the assessment for these topics.

3.19 LCC has failed to substantiate its case with respect to not agreeing with the assessment of inter-related effects and the Applicant has not seen a robust case evidenced in either the written submission made to the examination, or been presented with any justification during the meetings held with separate technical officers, or other representatives for the Council.

3.20 Volume 3, Chapter 12 *Inter-related Effects (onshore)* of the ES [APP-053] sets out the approach taken by the Applicant to the assessment of inter-related effects.

3.21 The Applicant considers the approach taken to the assessment of inter-related effects to be appropriate, and in accordance with relevant policy and guidance.

3.22 The approach has been supported by other consultees in relation to the TKES; and is also comparative to precedent set by other consented DCOs.

Land Use, Agriculture and Soils

Outline Soil Management Plan (SMP)

3.23 The Applicant notes that paragraphs 5.6 and 5.8 of the SoCG sets out that LCC does not agree that the Outline SMP [REP7-039] provides a suitable indicative form for the final SMP required to be submitted and approved under the draft DCO (Revision G) and further that LCC does not agree that the implementation of a Soil Management Plan (SMP), and the employment of a suitably qualified Agricultural Liaison Officer (ALO), will ensure appropriate protection, conservation and reinstatement of the land during and following the construction phase. It is understood that LCC has concerns as to whether a single ALO will have the capacity to deal with the entire scheme, and if they will be available at times when needed.

3.24 The Applicant met with LCC on 12th February 2016 to discuss outstanding matters and in order to finalise the SoCG. The matters outstanding with relation to the Outline SMP, which LCC subsequently submitted in its response to Deadline 6 [REP6-007] (but that the Applicant recognises were intended for submission to Deadline 5 as noted within the response), were discussed during the meeting. At the meeting on 12th February, the Applicant detailed for the

representatives from LCC where the Outline SMP had been updated, in ongoing consultation with the Land Interest Group, and discussed how the Applicant considered that many of the concerns raised by LCC has already been addressed through amendments to the Outline SMP.

- 3.25 The Applicant and LCC were not able to progress any further agreements on 12th February 2016 following detailed discussions as the relevant technical officers were not able to be in attendance at the meeting or any time in the preceding or following days.
- 3.26 The Applicant has provided detailed comments on each of the points raised by LCC relating to the Outline SMP, in Appendix 4 of the Applicant's response to Deadline 8. The Applicant considers that all known issues have been adequately addressed and that LCC has failed to provide further evidence in support of the position it maintains.
- 3.27 The Applicant would highlight that, whilst LCC does not agree to the specific matters detailed in paragraphs 5.6 and 5.8 of the SoCG, and in its response to Deadline 6, paragraph 4.77 of the SoCG confirms that LCC and the Applicant have agreed to the assessment of impacts during the construction phase, which will be managed by the commitments set out in the Outline SMP, and that the effects arising from the construction have been appropriately identified as follows:

*"It is agreed that the impacts on land subject to agri-environmental schemes during the construction phase have been adequately assessed in paragraphs 5.74 – 5.77 of Volume 3, Chapter 5 of the ES and effects of **negligible significance** have been appropriately identified."*

Peat Soils

- 3.28 The Applicant notes that paragraph 5.9 of the SoCG sets out that LCC does not agree that the description and occurrence of peat and peaty soils in the Study Area, as set out in paragraphs 6.71 – 6.81 of Volume 3, Chapter 6 of the ES is accurate and appropriate.
- 3.29 LCC sets out its position with respect to the approach to assessing impacts on agriculture in its response to Deadline 3 [REP3-024].
- 3.30 The Applicant set out its position with respect to the assessment of impacts on agriculture and summarised its approach and methodologies used, including the data sources used to inform the baseline study, in Appendix 6 of the Applicant's response to Deadline 4 [REP4-033].

- 3.31 It is the Applicant's position that the methodology undertaken to characterise the existing land use, agriculture and soils environment around the proposed development takes account of the particular features relevant to the Fens.
- 3.32 Reference to soil handling, placing, compaction and management being undertaken in accordance with best practice (DEFRA, 2009) forms part of the mitigation measures that were identified and adopted as part of the evolution of the project design (embedded into the project design).
- 3.33 The baseline and impact assessment have been agreed with Natural England, as stated within the SoCG with Natural England [REP1-072] Statement of Common Ground with Natural England. Specific points of agreement with NE include (but are not limited to):

"It is agreed that, given the limited access granted by landowners for the purpose of pre-application site investigations, an appropriate suite of data sources, listed in paragraph 5.16 of Volume 3, Chapter 5, have been used to inform the baseline."

"It is agreed that the impact assessment approach presented in paragraphs 5.17 – 5.22 of Volume 3, Chapter 5 the ES is based on appropriate methodologies and is fit for purpose for use in the assessment of land use, agriculture and soils impacts."

"It is agreed that the implementation of a Soil Management Plan (SMP), and the employment of a qualified Agricultural Liaison Officer (ALO), will ensure appropriate protection, conservation and reinstatement of the land during and following the construction phase."

"It is agreed that the commitment that soil handling, placing, compaction and management will be undertaken in accordance with best practice (Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, DEFRA, 2009) as set out in paragraph 5.1 of the Outline Soil Management Plan (SMP) (document reference 8.7.5), in addition it is agreed that this is appropriate mitigation for the management of best and most versatile agricultural land."

- 3.34 The Applicant is confident that it has provided a robust response with respect to this outstanding matter. It has not been possible to discuss this further with a view to reaching agreement with LCC as, despite the Applicant's meeting requests and clarifications, it maintains its position.

Geology, Hydrogeology and Ground Conditions

- 3.35 The Applicant notes that paragraphs 5.10 and 5.11 of the 'matters not agreed' section of the SoCG relate to cumulative impact assessment and the

assessment of inter-related effects only. The Applicant has set out its comments and detailed its position in relation to these two aspects of the assessment in paragraphs 3.5 to 3.21 above.

3.36 The Applicant has no further comment in relation to these matters not agreed.

Landscape and Visual

3.37 The Applicant notes that paragraph 5.12 of the 'matters not agreed' section of the SoCG relates to inter-related effects only. The Applicant has set out its comments and detailed its position in relation to the assessment of inter-related effects in paragraphs 3.16 to 3.21 above.

Socio-Economic Tourism and Recreation

Assessment of impacts

3.38 The Applicant notes that paragraphs 5.13 and 5.14 of the SoCG set out that LCC does not agree that the potential impacts predicted on socio-economics, tourism and recreation are *minor adverse* and therefore *not significant*.

3.39 Further, paragraph 5.14 details that LCC considers that there have been no consideration of the nature of Lincolnshire's tourism and the potential impact on visitor numbers and the impact of negative PR.

3.40 LCC has made extensive representations on a number of aspects with respect to impacts on tourism which have related to various matters. A number of the matters raised by LCC have been in relation to the effects on the Lincolnshire Coastal Country Park (LCCP). The Applicant has responded in detail to all points raised.

Lincolnshire Coastal Country Park (LCCP)

3.41 The Applicant recognised the concerns raised in relation to the LCCP early in the examination process and provided the LCCP Clarification Note, submitted as the Applicant's response to Appendix 27 [REP2-027], in order to provide further clarity on how the assessment had considered the LCCP. It concluded the following:

- 1) There are three potential ways in which the proposed development may have an impact on the LCCP. These are landscape and visual impacts; tourism and recreation impacts; and terrestrial ecology impacts

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- 2) Consultees raised issues in relation to the LCCP during Scoping and PEI consultation and the application demonstrates where these issues have been acknowledged and addressed pre-application
 - 3) The agreed description of the LCCP is that it is a council-promoted project with no national or local statutory designations
 - 4) The LCCP has been adequately considered through the site selection and alternatives process for the proposed development
 - 5) Volume 3, Chapter 2 of the ES assesses the landscape and visual impacts predicted on the LCCP. The assessment identifies some temporary significant landscape and visual effects within the LCCP during the construction of the cable route. However, embedded mitigation measures within the proposed cable route development will restore the landscape to its former condition following completion of construction and there are no predicted residual significant effects.
 - 6) Volume 3, Chapter 3 of the ES assesses the tourism and recreation impacts predicted in the area of the LCCP and concludes that no significant impacts are predicted to arise from the construction, operation or decommissioning of the proposed development.
 - 7) Volume 3, Chapter 4 of the ES assess the terrestrial ecology impacts including within the LCCP, however given the LCCP is not designated for nature conservation purposes it has not been assessed as a designated site, however the habitats within it have been assessed. This approach is supported by Natural England.

3.42 Further representations with respect to tourism were made by LCC at the Socio-economic Issue-Specific hearing held on the 19th November 2015, and the Local Impacts Issue Specific hearing held on 19th January 2016. Information was referred to at these hearings that was not publically available and had not been provided to the Applicant. Written summaries of the Applicant's oral case were submitted as Appendix 5 to Deadline 3 [REP3-041] and Appendix 1 to Deadline 5 [REP5-014] respectively.

3.43 The Applicant also subsequently provided a Tourism Clarification Note, submitted as Appendix 10 of the Applicant's response to Deadline 5 [REP5-023], which responded to the matters raised by LCC during the January 2016 hearing with respect to tourism and the LCCP.

3.44 The Applicant is confident that the positions it has set out and the responses it has provided throughout the examination identify that an appropriate assessment

has been undertaken using appropriate data and that the outcomes of the assessment relating to socio-economics, tourism and recreation are robust.

- 3.45 The Applicant's position is supported by the agreements reached with the relevant planning authorities, East Lindsey District Council and Boston Borough Council. Both Council's have agreed to the following in paragraphs 7.13 to 7.16 of the SoCG between the Applicant and both parties, submitted as Appendices 20 and 19 of the Applicants response to Deadline 2 (respectively) which state that:

"It is agreed that paragraphs 3.102 – 3.170 of Volume 3, Chapter 3 of the ES present an assessment of the potential impacts on socio-economics, tourism and recreation arising from the construction and operation of the development, in accordance with the requirements of relevant policy and legislation.

It is agreed that the decommissioning phase has been appropriately scoped out of the assessment.

It is agreed that the assessment of the proposed development on quality of life and specific health issues of identified receptors in paragraphs 3.111 – 3.116 of Volume 3, Chapter 3 of the ES is appropriate.

- 3.46 *It is agreed that all potential impacts on socio-economics, tourism and recreation are predicted to be Minor adverse or below and are therefore Not Significant as summarised in Table 3-12 of Volume 3, Chapter 3 of the ES."*

Terrestrial Ecology

Assessment of impacts

- 3.47 The Applicant notes that paragraphs 5.17 and 5.18 of the SoCG set out that LCC does not agree that Volume 3, Chapter 4 Terrestrial Ecology of the ES presents an assessment of the potential impacts on terrestrial ecology which is in accordance with the requirements of relevant policy and legislation and that it does not agree that all potential impacts are predicted to be Minor Adverse or below and are therefore Not Significant.
- 3.48 The Applicant considers that LCC has not, through its written submissions, or during the meetings held with the Applicant, substantiated its case with respect to its disagreement to these aspects of the assessment.
- 3.49 It is the Applicant's position that a robust assessment of the likely effects on terrestrial ecology has been undertaken, as presented in Volume 3, Chapter 4 of the ES. The Applicant highlights that paragraph 4.79 of the SoCG between the Applicant and Natural England states that:

“It is agreed that paragraphs 4.109 – 4.162 of Volume 3, Chapter 4 of the ES present an assessment of the potential impacts on terrestrial ecology arising from the construction, operation and decommissioning of the development, as per the requirements detailed in the relevant policy and legislation.”

3.50 It also notes that 4.80 of the SoCG between the Applicant and Natural England states that:

“It is agreed that all potential impacts are predicted to be minor adverse or below and are therefore not significant as summarised in Table 4-33 of Volume 3, Chapter 4 of the ES.”

3.51 The Applicant therefore considers that its assessment is adequate, as has been agreed with the statutory advisor to the Government on nature conservation.

3.52 The Applicant also considers that appropriate measures, which have been embedded in to the project design, are secured in order to minimise harm to terrestrial ecology. Requirement 13 Ecological management plan and removal of hedgerows of the draft DCO (Revision G) secures that no stage of the onshore works may commence until an Ecological Management Plan for that stage has been submitted to and approved by the relevant planning authority, which must be in accordance with the Outline Landscape Strategy and Ecological Management Plan (LSEMP) (Revision C) [REP6-032]. The Applicant notes and welcomes that paragraph 4.67 of the SoCG between the Applicant and LCC confirms that:

“It is agreed that the Outline Landscape Strategy and Ecological Management Plan (LSEMP) (document reference. 8.8) provides overarching principles and a suitable basis for the Ecological Management Plan (EMP) required to be submitted and approved pre-construction under the draft DCO (Revision G).”

3.53 Further the Applicant notes and welcomes that paragraph 4.150 of the SoCG between the Applicant and LCC confirms that:

“It is agreed that the wording of Requirement 13 Ecological Management Plan of the draft DCO (Revision G) adequately secures an Ecological Management Plan (EMP), which accords with the principles set out in the Outline LSEMP (document reference 8.8).”

Historic Environment

LCC’s position on archaeological evaluation

3.54 The Applicant notes that paragraphs 5.19 to 5.31 set out the ‘matters not agreed’ by LCC in relation to historic environment. It is the Applicant’s

understanding that these matters, relating to the approach to EIA and the assessment of impacts, cannot be agreed with LCC given its position is that *“field evaluation has not been undertaken, the results of which are required to understand the impact upon surviving but currently unknown archaeology and to inform effective mitigation”*.

- 3.55 As noted in the EIA Evidence Plan (document reference 8.16) [APP-132], and in the Applicant’s submission to Deadline 5 (Appendix 1 *Written Summary of The Applicant’s Oral Case put at Local Impacts Issues Specific Hearing on 19 January 2016* [REP5-014]), the Applicant has acknowledged LCC’s position with respect to timing of the archaeological investigation work throughout the development of the project.
- 3.56 It is the Applicant’s position that geophysical survey and trial trenching were not considered necessary prior to determination of the application because the baseline study, which has been agreed with Natural England, is considered sufficiently robust to develop a mitigation strategy which can accommodate the discovery of any archaeological remains.
- 3.57 Previous comparable nationally significant infrastructure projects (NSIPs), such as East Anglia One Onshore Cable, which included around 37 km of onshore cabling have been determined without pre-determination geophysical survey and trial trenching investigations. It is therefore considered that this approach has been tested and found suitable in the NSIP process.
- 3.58 The EIA Evidence Plan logs for onshore Historic Environment (document reference 8.16) following the Historic Environment Review Panel meeting in Lincoln on 7 August 2014 captured that pre-determination geophysical survey and trial trenching of targets across the Proposed Development Boundary, ahead of determination of the application, was not an option. The range of reasons, including limited access available, cost and timing are further set out below:
- Access constraints for environmental survey in relation to land within the Order Limits is set out in paragraphs 6.10 – 6.29 in the Statement of Reasons [REP7-029]
 - The cost of undertaking geophysical survey and trial trenching is considerable over a 60 km linear project and is not proportionate to the potential impact on the historic environment. This is confirmed by the fact that any risk to the historic environment can be appropriately quantified and mitigated post consent through the application of a written scheme of investigation (WSI).
 - The time required to undertake a full suite of geophysical survey and trial trenching would have delayed the consent submission date and the

applicant considers that it would not reduce the potential impact on the historic environment.

- The Applicant considers that undertaking geophysical survey and trial trenching pre-consent does not reduce the potential impact on the historic environment or improve the efficacy of mitigation measures as the implementation of a WSI is secured through Requirement 12 of the draft DCO (Revision G)
- Further, undertaking geophysical survey and trial trenching pre-consent does have a material impact on cost due to the early nature of the expenditure and the fact that it is at risk.

3.59 Following further discussion and agreement on a range of historic environment issues, Historic England set out in its Section 42 (S42) consultation response that *“in the light of the work already done on desk and aerial survey assessment and route refinement, commitments to post consent geophysical survey and intrusive investigation and crucially RWE’s commitment to a suite of mitigation measures (including where appropriate preservation in situ through Horizontal Direct Drilling alongside archaeological mitigation solutions), we are satisfied that we can proceed on the basis RWE put forwards.”*

Study Area

3.60 The Applicant notes that paragraph 5.20 sets out that LCC does not agree to the study area which has been identified for the purposes of describing the baseline historic environment.

3.61 The study area which was identified for the purpose of assessing the historic environment is a 500m wide corridor encompassing the proposed development cable corridor, as shown in Figure 1.1, Maps 1 – 11 of Volume 3 Annex 8.1 Historic Environment Baseline of the ES (document reference 6.2.5.8.1).

3.62 It is the Applicant’s position that the study area is adequate for the purposes of describing the baseline environment and understanding the potential impacts upon known and potential heritage assets as a result of the proposed development. The Applicant is not aware that an alternative study area has ever been suggested by LCC.

3.63 It should be noted that, as set out in paragraph 8.24 of Volume 3, Chapter 8 Historic Environment (document reference 6.2.3.8) *“the research area for the historic environment data collection has varied depending upon the type of data under consideration. General published archaeological sources and Historic Landscape Characterisation for the wider region have been examined in so far as they shed light on archaeological potential within the Proposed Development Boundary.”*

3.64 It should also be noted that, with respect to impacts on the settings of all above ground designated heritage assets such as Listed Buildings (LBs) and Scheduled Monuments (SMs), impacts arising during the operation of the development from visual impact from the Substation and Intermediate Electrical Compound has been considered. Early assessment of possible receptors (irrespective of grade of designation) within a 3km radius of both, and a review with the consultees established that there would be no significant visual impacts upon heritage assets from the development.

Baseline study and existing environment

3.65 The Applicant notes that paragraph 5.21 and 5.22 sets out that LCC does not agree to the data sources used to inform the baseline study and the methodology undertaken to characterise the existing environment.

3.66 Appendix III of the EIA Evidence Plan (document reference 8.16) [APP-132] sets out that during a Historic Environment review panel meeting held on 7th August 2014 “*the Baseline Data Chapter for historic environment [was] accepted as a thorough review of desk-based information*” and that “*no additional desk based research [was] required*”. It is therefore the Applicant’s position that the data sources used to inform the baseline study, so far as desk based information is concerned, have been agreed as adequate.

3.67 It is the Applicant’s position that the baseline study is considered sufficiently robust and low risk to develop a mitigation strategy which can appropriately and adequately accommodate the discovery of any archaeological remains.

3.68 The adequacy of the baseline study has been further substantiated through agreements confirmed with Historic England, ELDC and BBC in the SoCG. ELDC (paragraph 9.4 – 9.6 of Appendix 20 of the Applicants Response to Deadline 2), BBC (paragraph 9.4 – 9.6 of Appendix 19 of the Applicants Response to Deadline 2) and Historic England (paragraph 4.7 Appendix 20 of the Applicant's Response to Deadline 1 [REP1-069])

Development Consent Order (DCO)

3.69 The Applicant notes and welcomes LCC’s agreement in paragraphs 4.145 – 4.153 of the SoCG to the adequacy of the following Requirements of the draft DCO (Revision G):

- Requirement 1 *Interpretation*;
- Requirement 6 *Provision of landscaping*;
- Requirement 10 *Requirement for surface water drainage scheme*;
- Requirement 13 *Ecological management plan and removal of hedgerows*;
- Requirement 14 *Code of construction practice (onshore)*;

- Requirement 17 *Construction hours*; and
- Requirement 21 *Restoration of land used temporarily for construction*.

3.70 Where agreement has not been reached with respect to specific requirements, set out in paragraphs 5.3 – 5.5 of the SoCG, the Applicant has provided its comments and set out its position below.

Requirement 8 Highway accesses and improvements

3.71 LCC made specific representations with respect to Requirement 8 of the draft DCO late in the examination in response to DCO 3.12 of the ExA's third written questions [REP6-007]. The Applicant and LCC discussed outstanding matters with respect to traffic and access at the meeting held on 12th February 2016; the Outline Access Management Plan (AMP) [APP-113] was reviewed in detail on screen and amendments were agreed to address all of the points raised. An updated Outline AMP (Revision B) was submitted as Appendix 12 of the Applicant's response to Deadline 6 [REP6-028].

3.72 The Applicant has set out its detailed comments with respect to LCC's position on Requirement 8 in Part x of its main response to Deadline 8 under comments on other interested parties responses to DCO 3.12.

3.73 The Applicant is disappointed that LCC has not been able to provide any alternative suggested wording or substantiate its case with regards to its disagreement with the wording of Requirement 8.

Requirement 12 Archaeology

3.74 The Applicant considers that LCC's disagreement to Requirement 12 relates to its overarching position with respect to archaeological evaluation, discussed in paragraphs 3.54 – 3.68 above.

3.75 LCC have made no representations with respect to the specific nature of its disagreement to the drafting of Requirement 12; and discussions between the Applicant and LCC have been limited. The Applicant and LCC did engage in January 2016 to discuss additions made to Requirement 12 by the Applicant in responses to questions from the ExA, and following consultation with Historic England. The background and explanation to the evolution of the drafting of Requirement 12, which has taken place during the examination, was discussed at the Local Impacts Issue Specific hearing held on 19th January 2016. The Applicant's case is detailed in the summary of oral case submitted as Appendix 1 of the Applicant's response to Deadline 5 [REP5-014].

3.76 Whilst the Applicant acknowledges LCC's position with respect to archaeological evaluation, as set out in paragraph 3.55 above, it does not consider that this has

bearing on the adequacy or appropriateness of the drafting of Requirement 12. The Applicant understands the point of principle that LCC have presented however consider that, as Requirement 12 secures that no stage of the onshore works can commence until pre-construction archaeological investigations, which includes intrusive evaluation as secured in the Outline WSI [REP7-035], have been undertaken in order to inform refinements to the construction phase mitigation and the each stage specific WSI for the onshore works.

- 3.77 The Applicant is confident that Requirement 12 secures the appropriate measures for the control of investigation and mitigation of the onshore historic environment; which is supported by agreements reached with other consultees including ELDC (paragraph 13.11 of Appendix 20 of the Applicants Response to Deadline 2), BBC (paragraph 13.11 of Appendix 19 of the Applicants Response to Deadline 2) and Historic England (paragraph 4.11 Appendix 20 of the Applicant's Response to Deadline 1 [REP1-069])

Requirement 19 Construction Traffic

- 3.78 LCC made specific representations with respect to Requirement 19 (previously 18) of the draft DCO late in the examination in response to DCO 3.14 of the ExA's third written questions [REP6-007]. The Applicant and LCC discussed outstanding matters with respect to traffic and access at the meeting held on 12th February 2016; the Outline Traffic Management Plan (TMP) [APP-110] was reviewed in detail on screen and amendments were able to be agreed to address all of the points raised. An updated Outline TMP (Revision B) was submitted as Appendix 14 of the Applicant's response to Deadline 6 [REP6-030].
- 3.79 The Applicant has set out its detailed comments with respect to LCC's position on Requirement 8 in Part 2 of its main response to Deadline 8 under comments on other interested parties responses to DCO 3.14.
- 3.80 The Applicant is disappointed that LCC has not been able to provide any alternative suggested wording or substantiate its case with regards to its disagreement with the wording of Requirement 19.