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By email

Planning Inspectorate comments on the draft Triton Knoll Electrical System (TKES) Report to Inform Appropriate Assessment (RIAA)

Dear Kim

Triton Knoll Offshore Wind Farm Limited (the applicant) requested comments from the Planning Inspectorate on a draft Report to Inform Appropriate Assessment (RIAA) which they submitted on 26 February 2015. The Planning Inspectorate welcomes the opportunity to comment on draft documents as this enables us to provide advice about any omissions or procedural risks for the acceptance or examination stages. This advice forms parts of our pre-application service, details of which are available in the Planning Inspectorate's pre-application prospectus which outlines the structured and facilitative approach to support the Planning Inspectorate can offer during the pre-application stage.

Please see below the Planning Inspectorate's comments on the applicant's draft RIAA. Please note that the comments provided are without prejudice to any decisions taken by the Secretary of State during acceptance or the Examining Authority during examination, if the proposed development is accepted for examination. These comments are not intended to be a detailed review of the draft RIAA and its findings, but are a high level review intended to provide helpful comments/observations as appropriate.

Overarching screening process

1.1 The Planning Inspectorate notes that the European sites of interest to the Habitats Regulations Assessment (HRA) process was determined during the Evidence Plan discussions and agreed to be "*specifically on those within the Inner Dowsing, Race Bank, and North Ridge Site of Community Importance (IDRBNRSCI)*" (paragraph 1.1 of the RIAA). The Planning Inspectorate welcomes that the applicant and consultees have worked together to refine the assessment. However, the RIAA would benefit from providing greater clarity in setting out the screening process followed, including an explanation of all sites initially considered.

- 1.2 The Planning Inspectorate would expect the RIAA to identify and justify a study area within which the potential for a likely significant effect (LSE) on European sites is considered. It is acknowledged that the IDRBNRSCI is the only European site that overlaps with the boundary of the proposed development; however in order to provide clarity to the process followed the RIAA should identify all European sites in the vicinity of the proposed development that were considered and ruled out. It will also be important to explain the reasons or provide justification as to why the sites are not likely to experience an impact. Presumably due to there being no impact pathway from the proposed development to the European site.
- 1.3 Paragraph 1.2 of the RIAA states that the report relates to offshore components of the TKES; however the Planning Inspectorate strongly advises the onshore components of the proposed development are not ignored in the report. It is important that in meeting the obligations specified in the Habitats Regulations (the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007 (as amended)) the applicant provides information relevant to the proposed development in its entirety rather than a selective and discreet element.
- 1.4 Paragraph 1.12 of the RIAA refers to the HRA completed for the Triton Knoll Offshore Array and identifies "two SPAs (North Norfolk Coast, and Flamborough Head and Bempton Cliffs) and three SACs, The Wash and North Norfolk Coast, Humber Estuary (Annex II grey seal) and the IDRBNR SCI". The Planning Inspectorate assumes that this is in response to NE's request that "the two SPA and 3 SACs are identified" (Row 6 of Table 2; the RIAA confirms this information is included in section 2.1.1, however there is no section 2.1.1 to the RIAA). It is unclear why these sites have not been considered for the TKES given the spatial overlap with the offshore array and the inherent link between the two projects.
- 1.5 The Planning Inspectorate notes that the applicant's scoping report for the TKES (dated April 2014) also identified the following additional European sites which have not been considered in the RIAA:
1. Humber Estuary Special Protection Area (SPA) (which the Planning Inspectorate notes is also a Ramsar site)
 2. Saltfleetby-Theddlethorpe Dunes and Gibraltar Point Special Area of Conservation (SAC), and
 3. North Norfolk Coast Ramsar site.
- 1.6 It is noted that row 25 of Table 2 which reports on NE's section 42 consultation response states that NE identified the need to assess the effects on Saltfleetby-Theddlethorpe Dunes and Gibraltar point SAC; however, this European site has not been considered further in the RIAA.
- 1.7 It is also noted that NE identified the need for consideration of potential impacts to coastal SACs from disruption to longshore sediment transportation (row 4 of

Table 2). The RIAA confirms that Potential impacts to coastal SACs are considered within the Marine Physical Environment and Conservation chapters of the Environmental Statement (ES). However, the Planning Inspectorate recommends this information (or cross references to specific paragraphs of the ES) is included in the RIAA so all information relevant to European sites can be found together.

- 1.8 Paragraph 1.3 of the RIAA also states that an area of search has been identified within the Greater Wash for a potential SPA. The RIAA states that it was confirmed during the EIA Evidence Plan process that there would be no likely significant effect on the future Greater Wash SPA, however no further details or explanation are provided. The RIAA should explain the basis upon which this conclusion was reached.
- 1.9 The RIAA does not currently provide a complete explanation of the screening process followed. Instead the report currently focuses on the one site for which detailed assessment has been undertaken. Screening is an important step in the process and should be explained in detail to provide confidence to the approach taken. To support with this it would be useful to include a figure identifying the proximity of all European sites considered in the RIAA. The RIAA should clearly identify all features of the relevant European sites and all of the potential impacts that were considered in the screening process. It is acknowledged that a LSE may have been ruled out at an early stage in the screening assessment; however this should be recorded in the RIAA. Screening matrices should be provided for all European sites considered within the applicant's screening process and should include a row for every designated feature of the European sites.

Use of terminology

- 1.10 The applicant has set out the HRA process in Table 1 of the RIAA which includes four 'steps'; the subsequent sections of the RIAA refer to these as 'stages'. These steps differ from the stages set out in the Planning Inspectorate Advice Note 10 (Habitat Regulations Assessment relevant to nationally significant infrastructure projects). The Planning Inspectorate considers that this has resulted in some confusion between terminologies within the RIAA. For example, paragraph 1.45 comes under the section "HRA Stage 2 - Test of Likely Significant Effect", yet it refers to the Stage 1 Matrix. The matrices themselves are titled with reference to the stages in the Planning Inspectorate advice note and as such do not accord with the steps of the applicant's methodology. The Planning Inspectorate recommends this is clarified within the RIAA.

No LSE Report

- 1.11 The RIAA refers to a No LSE report on a number of occasions which was consulted upon during the pre-application stage. The Planning Inspectorate reminds the applicant to ensure that all relevant information necessary to demonstrate the robust execution of the process is included within the report. In this regard it is important to ensure that information referred to in the No

LSE report is either removed (if not required) or included within the report.

- 1.12 The Planning Inspectorate also recommends that references to Preliminary Environmental Information (e.g. at paragraph 1.34 and row 8 of Table 1) are avoided, and references to the application documents (e.g. the ES) are provided in their place.

Specific comments

- 1.13 For ease of reference the following comments are prepared following the order of the RIAA.
- 1.14 Paragraph 1.8 states that the RIAA addresses step two of the applicant's HRA process (as defined in Table 1). This is incorrect as the report also address step 3 of the applicant's HRA process.
- 1.15 Table 1, Step 2 - It is unclear what is meant by "If MMO conclude a LSE, [Go to Step Three]". The applicant is reminded that the competent authority for applications under the Planning Act will be the Secretary of State.
- 1.16 Paragraph 1.9 – this paragraph appears to be more relevant to the assessment of impacts for the proposed development rather than under the generic heading of 'HRA Process'.
- 1.17 Paragraph 1.11 contains an explanation for why sandbank features of the IDRBNRSCI are not considered further in the RIAA. As per the comment above, the text referring to sandbanks appears to be more relevant to the screening assessment rather than under the generic heading of 'HRA Process'. The Planning Inspectorate assumes that the applicant has therefore concluded no LSE on this feature and recommends that this is confirmed in the Stage 1 Matrix for the European site. By way of reminder the applicant is referred to the advice in Advice Note 10 specifically the statement that Stage 1 matrices '*may include European sites and features screened out at the very beginning of the process, for example, those not mentioned by the consulted SNCBs as having the potential to be affected.*'
- 1.18 Table 2:
- (i) A number of the paragraph references provided within the table appear to be incorrect. The Planning Inspectorate recommends that these are checked and corrected prior to submission.
 - (ii) Row 2 – The Planning Inspectorate recommends that a draft version of the pre-construction Annex 1 habitat survey and mitigation plan with the agreed minimum measures necessary is provided with the application. It would also be useful if an outline of the proposed future surveys could be agreed and provided.
 - (iii) Row 4 – The Planning Inspectorate reiterates the need for the RIAA to provide details of the screening process as a whole. It would be useful if the meeting minutes referred to were appended to the RIAA.
 - (iv) Row 31 – justification should be provided as to why the wider benthic

communities associated with the SCI are beyond the scope of the RIAA and evidence of the agreement with the Evidence Plan Offshore Review Panel should be provided.

- 1.19 'Existing Environment' section – this appears to be a description of the sources of information rather than a description of the baseline environment. It would be useful if a clear description of the baseline environment was also included in the RIAA.
- 1.20 Paragraph 1.26 – it is assumed that the terms “*non-physical disturbance*” and “*Natural Environmental Quality*” used at paragraph 1.73, may refer to “*increased suspended sediment/smothering*” as described in paragraphs 1.33 to 1.35 and Table 4; however it would be useful if the terms used in the report were clearly defined and used consistently throughout the RIAA.
- 1.21 Paragraph 1.26 – the RIAA should justify why “*the pressure categories toxic contamination, non-toxic contamination and biological disturbance are not considered to have effect-receptor pathways arising from the Triton Knoll Electrical System and as such are not considered further*”.
- 1.22 Paragraph 1.31 – it would be useful if the RIAA provided further details relating to the “*40 small and 2 pull ahead anchors per km*”; for example what they are used for, how are they installed and what is their size.
- 1.23 Paragraph 1.34 bullet point 2 refers to the “*immediate vicinity*” of cabling; it would be useful if a distance was provided to provide a quantitative assessment.
- 1.24 Paragraph 1.35 refers to “*Favourable Condition Factors in paragraphs 1.24*”, however the Planning Inspectorate has been unable to locate this information.
- 1.25 Table 4 – the Planning Inspectorate welcomes the inclusion of this table.
- 1.26 Paragraph 1.40 – it is unclear how replacement/remedial activities have been calculated to be 1.5%; an explanation should be provided. Likewise, the number of cable replacements during the operational phase is identified as 12 discrete repair operations; it would be useful if the RIAA identified what information this was based on.
- 1.27 Table 5:
- (i) The assessment has been based on a worst case scenario of a given number of anchors, therefore the applicant may wish to consider whether there is a need to reference the use of anchors within the DCO or DML.
 - (ii) It would be useful if the required pipeline crossings were identified on a figure within the RIAA.
 - (iii) The cable protection area of 30,000km² does not match the figure provided in the DML Condition 2 and this should be explained.
- 1.28 Table 6 – it is unclear how the total temporary habitat loss has been calculated as 0.044% as taking the figures of the bottom three columns of the report

equates to 0.042%.

- 1.29 Paragraph 1.42 – the first sentence appears to be unfinished.
- 1.30 Paragraph 1.45 states that *“At the pre-Scoping phase and subsequently under the auspices of the Triton Knoll EIA Evidence Plan (Offshore Ecology Technical Review Panel) a No Likely Significant Effect report was submitted for consideration. The report was agreed as adequate for the purposes of demonstrating that the Triton Knoll Electrical System project alone would not have a Likely Significant Effect on the Sabellaria spinulosa biogenic features if the IDRBNR SCI during the construction, operation and decommissioning phases.”* As stated above it is important that all relevant information that was contained within the no LSE report is included in the RIAA. It would also be useful if an explanation was provided as to why it was not possible to conclude no LSE from operational phase impacts in-combination with other projects.
- 1.31 Table 7:
- (i) Footnote (a) states that *“the proposed development boundary avoids any known reef locations as defined within the Regulation 35 advice package and subsequent MMO reef protection byelaw areas and it is therefore not possible for those construction, operation or decommissioning impacts associated with the proposed development to impact these.”* This conclusion is supported by Figure 1. However, Table 6 identifies the potential for a loss of the functional biological community present within the SCI according to the Humber Regional Environmental Characterisation (REC). Paragraph 1.19 states that the REC data is *“considered to represent an appropriate a priori source of distribution of reef potential in the absence of contemporary survey data”* therefore it is unclear why it has not been taken into consideration in the conclusions drawn. Likewise, Figure 2 identifies records of *Sabellaria spinulosa* within the cable corridor from a CMACS survey and a *“potential reef”* area identified by Marine Aggregate Regional Environmental Assessment (MAREA) of the Humber and Outer Wash Region. Again, these areas do not appear to have been taken into consideration in the conclusions drawn either in the footnotes of Table 7 and only limited consideration has been given to these data sources within paragraphs 1.48 to 1.77 of the RIAA (at paragraphs 1.50 and 1.60). The applicant should ensure that the conclusions drawn within the RIAA are clearly justified.
 - (ii) Footnote (c) – it would be useful if an explanation was provided as to why the in-combination assessment is focussed on the Lincs and LID offshore wind farms.
- 1.32 The Planning Inspectorate queries whether the heading on page 25 (HRA Stage 3 – Information to Inform an Appropriate assessment) has been incorrectly included as the text provided in paragraphs 1.48 to 1.77 appear to refer to Step 2 of the applicant’s assessment (i.e. the conclusion of no LSE). If so, it would appear logical to move to Table 7 to the end of the discussion of HRA Step 2 in

order to provide an overview of the screening assessment.

- 1.33 Paragraphs 1.48 to 1.62 regularly refer to the '*Regulation 35 advice package*'. For ease of reference, and to ensure readers are referring to the correct information, it would be useful if this terminology was also included on the key of the figures within the RIAA.
- 1.34 Paragraph 1.48 – the Planning Inspectorate queries whether this should refer to JNCC/Natural England data dated 2013 not 2010?
- 1.35 With reference to paragraph 1.20 of this letter, it would be useful for the baseline conditions of the "*Natural Environmental Quality*" to be provided.
- 1.36 Paragraph 1.83 – it would be useful if the RIAA explained why *Sabellaria* reef within the context of the IDRBNRSCI was scoped out from the Appropriate Assessment conducted for the Docking Shoal, Race Bank, and Dudgeon offshore wind farms. The Planning Inspectorate notes from Figure 3 of the RIAA that these wind farms are located within the IDRBNRSCI and it is unclear why they have not been considered in the in-combination assessment. If it was agreed with NE to omit these wind farms from the assessment then this should be recorded and evidenced.
- 1.37 Paragraph 1.88 refers to the "*potential for a significant effect*". However, when a LSE is identified, the next stage of the assessment is to consider the potential for adverse effects on the integrity of a site, as detailed in Step 3 of Table 1 of the RIAA. The Planning Inspectorate recommends that the conclusions drawn within Step 3 accurately reflect the stages of the assessment to mirror the final conclusion drawn in paragraph 1.91.
- 1.38 Figure 3 – it is difficult to distinguish between the IDRBNRSCI boundary and the Aggregate Application 439 area given the similar colours used.
- 1.39 Table 11 (Integrity matrix) – the footnote refers to construction; however a LSE was identified in Table 7 (Screening matrix) for the operation and maintenance phase only. The footnote of Table 11 should be clarified with a clear justification as to why an adverse effect on integrity can be ruled out.

Other comments

- 1.40 Where possible, evidence of agreements reached with relevant bodies during the pre-application phase should be provided.

I hope you find these comments useful. Please do not hesitate to contact me should you have any queries.

Yours sincerely

Hannah Pratt

Hannah Pratt
Senior EIA and Land Rights Advisor

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