

**Application by Aquind Limited for an Order Granting Development Consent for the
Aquind Interconnector (Ref. EN020022)**

**TRANSCRIPT OF SUBMISSIONS TO OPEN FLOOR HEARING – OFH 1
PORTSMOUTH CITY COUNCIL
30 NOVEMBER 2020**

INTRODUCTION

1. These are the submissions summarising Portsmouth City Council's ('PCC' or 'the Council') representations to the Examining Authority (ExA) in respect of Aquind Limited's application for a DCO for the Aquind Interconnector and which PCC intends to make at the first open floor hearing (OFH1) of the examination.
2. As requested by the ExA they are based on PCC's Relevant Representations and Written Representations and it has sought not simply to repeat matters previously covered in a written submission but to draw attention to those submissions in summary form and provide further detail, explanation and evidential corroboration to help inform the ExA.
3. The following submission exceeds that which will be presented orally at the Open Floor Hearing but represents the case summary notes that PCC will use to provide an abridge statement to the Hearing within whatever time the ExA will allot the City Council.

PROCEDURAL & LEGAL ISSUES

4. The ExA will be aware of PCC's concerns and complaints about Aquind's failure effectively to engage with PCC and other stakeholders at the crucial 'frontload' stage of the DCO process in respect of key details of the scheme prior to the application. Whilst the applicant has provided lists of times it was in contact with PCC prior to the application, it is the sheer absence of any meaningful content and lack of information provided by Aquind as well as any

evidence of understanding and qualitative response to PCC's concerns that is telling in PCC's view.

5. PCC complained at the application stage in respect of the Aquind's failure properly to fulfil its role as a proposed applicant in respect of a DCO under the Planning Act 2008 but accepts the ExA agreed to accept the application notwithstanding.
6. PCC however considers its concerns have proven to be well founded and have led to an application that is poor and a DCO which must fail.
7. The draft DCO will require significant amendments both in its wording and approach. It still overreaches and fails to justify the powers it seeks in principle and detail.
8. In particular it has already been shown by the series of amendments the applicant now seeks that the extent of Order Land the applicant wanted to acquire and exercise rights over is excessive and unjustified. It is also seeking to add new land. The applicant even purported to impose this upon the ExA without going through the requisite process and had to be corrected by the ExA.
9. This is exacerbated by the fact that significant areas of Order Land exist for public use and there is still no certainty as to the duration of interference with the public's rights during and beyond construction. Instead, Aquind in effect seeks to reserve maximum flexibility for itself whilst, causing maximum uncertainty and inevitable disruption to the public.
10. Even where land is not to be compulsorily acquired, Aquind seeks to secure powers and special rights going forward and exceptions to the usual process. For example Aquind with respect to the felling etc. of trees, despite their immense value to the public on an island city.
11. The powers sought to allow maintenance of the development after completion are also wide ranging and onerous, for example, the draft powers seek to limit

development potential of land and deny access during maintenance operations.

12. Whilst PCC understands that the 2008 Act regime allows for the disapplication of certain statutory provisions in particular other consent regimes given the need to balance a number of interests such as highways and traffic; air quality issue; as well as interference with trees the Council takes the view that as local planning and local highway authority (as well as the LLFA) it is the Council which is best placed to carry that function out and ensure that Aquind's interests do not override the rights and needs of others.
13. Further or alternatively, if bespoke consenting regimes are to be imposed, it is clearly not appropriate for deemed consents to be imposed in the absence of a response from PCC within a short, fixed number of days. Instead a deemed refusal should be the correct provision (as recognised now in the case of Highways England consents).
14. PCC considers that Aquind has unjustifiably sought broad powers and flexibility through this DCO.
15. In relation to Special Category Land, which Aquind seeks to acquire it has wholly failed to satisfy the requirements of s132 of the Planning Act 2008. For example, no replacement land is being offered despite the permanent and continuing rights to enter into and disrupt the use of such land. This is highlighted by the breadth of land-take and the onerous restrictive covenants sought over public open space land, combined with short notice periods to enter onto the public open space land and take control of it represent an indeterminate, uncertain, fluctuating control of Council land that at short notice will deny the Council and the public possession of its land.
16. The proposed compulsory acquisition of subsoil to the highway is not justified as there is a clear and obvious alternative through the provisions of the New Roads and Street Works Act 1991 which are available to Aquind as undertaker. Further, the attempt by Aquind to acquire highway subsoil

unnecessarily will impact upon the Article 8 ECHR right to respect for private and family life where private homes adjoin affected highway and own that subsoil under the ad medium filum presumption. It is not clear that such persons have been properly consulted on the loss of this part of their property or at all - any suggestion that such interests are 'nominal' and somehow do not warrant full consultation with affected properties and cogent justification like any other interest in land proposed for compulsory acquisition, is wrong in law. Deprivation of such property without compensation would also offend Art 1 of the First Protocol of the ECHR and is counter to the Planning Act 2008 in any event.

17. PCC as an affected person has set out submissions in respect of the proposed CA powers both as part of the response to the DCO provisions (ISH1) but also the CA hearing (CA1). This explains how the applicant fails to meet the relevant legal tests to enable this private developer to be authorised to acquire land compulsorily.

18. The applicant failed to make any meaningful efforts to negotiate with PCC with regard to acquisition and other issues as to impact prior to the application being made to address the severe and long-lasting impacts of the Proposed Scheme. The users of Open Space land; allotment holders and Special Category Land as well as the users of the local highway network, have been poorly treated by the applicant - users of playing fields will be displaced with no replacement land provided, road users will face severe disruption and delays due to the poor routing solution adopted by the Applicant, where modifications and alternatives to the Proposed Development have failed to be considered.

19. The Applicant has also failed to confirm it will have the funds that it will need to secure the land included in the DCO and has sought to include development as part of this DCO project which cannot be included as it is neither associated development nor any form of development to which the 2008 Act can lawfully apply (ie the commercial FOCs and infrastructure). PCC has provided a critique and analysis of the applicant's funding statement in its Written

Representation at section 10 which confirms that there are clear issues with respect to the resources and potential viability of the scheme.

20. It has also failed to show it has explored all reasonable alternatives to CA and that there are no legal impediments to the implementation of the scheme in particular.
21. Lastly the applicant cannot in PCC's submission show that it requires all the Order land and that there is a compelling case in the public interest to justify the inevitable interference with the human rights of those affected and to grant this private company CA rights.
22. Additional questions must arise in respect of the viability of this project in light of the loss of PCI status and the heightened difficulty in gaining consent from the French authorities in the absence of such a support for this scheme. The open recognition by Aquind of "the legal impossibility for the applicant to operate the proposed interconnector in France without an exemption" pleaded in its case against ACER (see Aquind v ACER, Case T-735/18) and the fact that it argued a need for financial support and exemptions in the first place pulls into question the progress and viability as well as economic benefit of the scheme.

HIGHLIGHTED ISSUES AS TO IMPACT OF THE DCO

Traffic and transport

23. PCC has considerable concerns about the impacts the scheme will have upon its highways and the adequacy of Aquind's assessment and understanding of these likely impacts and which are of fundamental importance at this stage.
24. Given the density of population in Portsmouth and significantly congested road network, a development of this type in this location is highly unsuitable. The A2030 - Eastern Road - is a prime example; large parts of it will be significantly affected over an extended period of time. The A2030 conveys in excess of 40,000 vehicles per day and forms one of only three road links

between Portsea Island and the mainland. Any reduction in capacity on one of these three key routes will load further demand onto the other routes and as a consequence seriously reduce the resilience of an already strained highway network in Portsmouth.

25. Significant impacts would be experienced by all road users along the routing of the cable during construction. The roads proposed to form the cable route through Portsmouth are mostly classified roads and form a corridor linking the eastern areas of the city to the national strategic road network. It is expected that motorised users of the affected roads including Public Transport and Freight Vehicles; and non-motorised users, including pedestrians and cyclists, will be significantly affected.

26. The number and location of joint bays for the cabling are still unknown. Whilst it is suggested that the intention is to place these "off-carriageway", like the cable route, this will ultimately be decided by the contractor or contractors whom have yet to be appointed. Unlike the cable route, no suggested locations have even been given for these joint bays and as such their impact is impossible to assess. Furthermore, the location of the cable route and joint bays could prejudice future road improvement works as the cost of diverting such services would likely be prohibitive to undertaking a future scheme; this is especially the case were a contractor to choose a Highway route at A2030 Eastern Road.

27. The traffic modelling has been carried out in line with the scoping note previously submitted to and agreed by the LHA. In line with this approach, the applicant has attempted to replicate a "worst case" scenario. However, the modelling does not cover a possible cable route along the A2030 between Tangier Road and Eastern Avenue nor does it account for cumulative residual impacts of traffic merging to pass-by works or diverting away from works. It is noted that SRTM does make an assumption as to the redirection of traffic however it does not accurately predict vehicle movements at a microscopic

level and as a consequence, the overall impacts of the works are likely to be greater/wider than anticipated.

28. Further issues arise in respect of the Framework Traffic Management Plan which PCC is seeking to raise directly with the applicant however PCC would emphasise its view that the frequency and/or proposed route of abnormal loads have simply not been addressed or their impact assessed by the applicant and that Aquind is asking the Council and others to await the appointments of contractor(s) outside of the examination process which will then make important and fundamental determinations as to route and working methods.

29. No over-arching programme has been provided at sectional (and sub-sectional) level, as a consequence it is not possible to ascertain whether the various assumptions/restrictions applied to each section (and sub-section) will translate to a viable programme. In a "worst case" scenario, some elements of the provided programme would appear undeliverable. At engagement meetings with Aquind's transport consultants, it was suggested that due to the scale of the project, more than one contractor is likely to be granted contracts for work packages associated with this project. It is of paramount importance that coordination is achieved between the two (or more) contractors, delays to one (or more) of the contractors has the potential for additional and unnecessary delay especially of working on the same section of road. The CTMP should detail how this relationship would work if multiple contracts are to be awarded and who will ultimately be responsible for coordinating highways works on behalf of the applicant.

30. The Overarching National Policy Statement for Energy (ONPSE EN-1), in para 5.13.6, states that a new energy NSIP may give rise to substantial impacts on the surrounding transport infrastructure, including during the construction phase of the development. The applicant is required to mitigate these impacts with an aim to secure more sustainable patterns of transport development when considering mitigation measures (para 5.13.9); funding to bring forward

proposals for increased capacity in the Park and Ride at Tipner earlier may, for instance, present an effective management measure for road congestion and mitigate against contributing to poor air quality.

31. The proposed programme of works for the development will likely clash with significant schemes being delivered in Portsmouth and risks delaying these work packages; in the case of proposed works associated with the Transforming Cities Fund any delay could jeopardise the overall delivery given the time restrictions likely to be placed upon the funding. The City Council, in conjunction with Hampshire County Council and the Isle of Wight Council, has been shortlisted for a share of this Fund and will receive a decision from DfT in March 2020. The proposed cable route will intersect and travel along sections of the route proposed to form the new South East Hampshire Rapid Transit (SEHRT) network (both in Portsmouth and Hampshire authority areas). If successful in obtaining funding, the programme of works will run until March 2023 and is time limited. Implementation of what will be a congested delivery period could not be delayed nor could newly installed highway infrastructure be disturbed/undermined.

32. Through a PFI, Colas contractually undertake the network duty of coordination of third parties/statutory undertakers on the public highway acting as Local Highway Authority. All works on the public highway are required under the New Roads and Street Act 1991 and Traffic Management Act 2004 to have notices served correctly on the Street Works Register, appropriate traffic regulation orders etc. It is probable that Portsmouth will be operating a permit scheme by summer 2020, with a lane rental scheme to follow; any works on the highway associated with this development will be expected to adhere to the procedures set out by the Local Highway Authority. Portsmouth LHA objects to any deviation from or disapplication of the NRSWA 1991 (the '91 act). As statutory undertaker, the '91 act provides sufficient rights and protections to undertakers to install and maintain any apparatus or carry out any other activity related to the operation of that apparatus.

33. Portsmouth LHA objects to an undertaker having rights to make, alter, impose and enforce Traffic Regulation Orders (both permanent and temporary) as if it were the LHA. The LHA will be unable to properly manage and control its network should the Undertaker be given such powers. The LHA already has robust set processes for drafting, advertising and making TROs (both permanent and Temporary) that are used successfully for other undertakers carrying out works on the Highway. There appears to be no justification for obtaining this power other than previous precedent.

Air Quality implications.

34. The City Council is in receipt of ministerial directives from DEFRA with regard to the Air Quality in Portsmouth. Whilst the areas subject to these directives are not located along the proposed cable routing, it is highly likely that the works will result in diverting trips to the other two main routes which each have a ministerial directive placed upon them (A3 & A2047). This will lead to failures on PCC's part to comply with the aims of national Air Quality Policy and the ministerial directives which require compliance with NO₂ limits by mid-late 2021 (a date firmly within the construction period for this project). A sustained period of disruption as would be caused by the proposed works will contribute further to the serious issue of poor air quality in Portsmouth which the city is seeking to address and this in itself should be a key reason to consider alternative routes outside of the city.

Surface Water Resources and Flood Risk – Sequential Test

35. As set out in its written reps PCC has identified the fact a full sequential test should be applied to the proposed location of the ORS buildings and why it cannot reasonably be located within an area with the lowest probability of flooding (Flood Zone 1, or if no site is available then Flood Zone 2).

36. Aside from the fact that the ORS is not in PCC's assessment associated development within the meaning of the 2008 Act the DCO application and the ES is wholly deficient in this regard.

Heritage and design

37. PCC would also highlight the impact upon heritage as well as design issues which arise from the introduction of two buildings, power supply equipment and fuel tanks which are not justified at the proposed location (or at all).
38. It is proposed as part of the DCO application to erect the ORS buildings at Eastney which would significantly affect the setting of Fort Cumberland, a Scheduled Monument and in a group containing one Grade II* and three Grade II listed buildings. The ORS buildings are intended to be prominently sited in the car park, in close proximity to adjacent highway, within the 'fields of fire' from the ravelin towards Fort Cumberland Road.
39. PCC remains concerned about the proposed form of these buildings which appear as rectangular boxes with back-up power supply enclosures and fuel tanks, in a fenced compound. These are supposed to sit within the open coastal plain and within the setting of heritage assets.
40. It is clear such permanent structures would be dispiriting and out of place, would not represent the principles of 'good design' and have a significant adverse landscape and significant impact upon visual amenity. The suggestion made by Aquind that the ORS buildings are analogous with more simple electricity generation plant is nonsensical. Other small-scale infrastructure buildings are indeed often assimilated into the built environment but this is because they demonstrate a more appropriate or sympathetic approach to architectural quality.
41. There are also archaeological concerns in this location which the applicant has not properly considered or addressed.

Impact on trees

42. As explained in a number of its submissions, PCC considers trees as a valuable component of Portsmouth city's green infrastructure network and contribute to the city's environment by providing oxygen, improving air quality,

climate amelioration, conserving water, preserving soil and connectivity that provides movement corridors for wildlife. Trees and green infrastructure also provide a proven significant contribution to mental health and wellbeing and the wider public health of the city.

43. PCC has around 30,000 trees under its care in parks, other open spaces and adjacent to roads.

44. PCC's practice is not normally to TPO trees within its guardianship and consequently has important trees in the city that are not subject of a TPO.

45. The DCO allows for the widescale felling of any trees, including those protected by TPO, which is simply not considered acceptable.

46. As well as human health there is a rich variety of biodiversity within Portsmouth with 30% of the city covered by statutory national and international nature conservation designations. Langstone Harbour includes SSSI, Ramsar, SPA and part of the Solent Maritime SAC and sections of Portsdown Hill as designated SSSI. There are also a number of areas used as feeding sites by waders and Brent Geese or categorised as local wildlife sites, all of which add to the markedly more verdant character of the east side of the city along route options between Eastney and Portsdown Hill.

47. Felling of the existing trees, without replacement, which is what is achieved through the DCO currently would have a detrimental impact on the visual amenity of the site and its surroundings. It would also undermine the careful design and mitigation measures for North Portsea Island Phase 4 coastal defence works.

48. The impact upon eco-system services provided by the current trees potentially for removal has not been properly taken into account and PCC considers mitigation planting should be engineered to compensate for the total current eco-system services to be lost. Impacts of a loss of established or mature trees and their contribution to air quality, health and well-being that cannot be

readily compensated for in the shorter-term by equivalent numbers of replacement (smaller) tree planting. The proposed one-for-one replacement using nursery stock will take years to adequately recreate the current levels.

Socio-Economics/Human Health

49. Life expectancy for both males and females residing in Portsmouth is lower than the regional and national average. In general, the health of people in the city is worse than the rest of England, and there are significant health inequalities. Accessible sports facilities and opportunities to be physically active have a vital role to play in addressing local health inequalities.
50. The Interconnector route cuts through popular and well used sports pitches at Bransbury, Langstone and Farlington. This would result in the loss of sports provision for both football and cricket with no mitigation measures in place.
51. At Farlington the pitches and grounds are intensively used and there is no spare capacity to accommodate games including in particular Baffins Milton Rovers FC at alternative venues.
52. At Farlington Playing Fields, the potential but unspecified requirement for existing parking facilities that serve the football and cricket pitches is problematical. Parking provision at Farlington is oversubscribed on match days. Alternative parking facilities proximate to the pitches would be required to fulfil the sporting fixtures. Temporary loss of parking provision serving the open spaces during construction will also effect wider public access, with localised change to patterns of dog walker activity likely to impact recreational disturbance on the SPA for waders and Brent geese.
53. It is unclear whether the timing/duration of cabling activity on the playing fields recognises non-availability and prior reinstatement for bird foraging during overwintering periods (1st October to 31st March).

54. The ES suggests that the magnitude of impact to Farlington Playing Fields/Bransbury Park is 'moderate adverse' and to Langstone as 'low'. Such assertions lack credibility. It is PCC's view that without mitigation by re-provision elsewhere within the local area, the impact on players/followers, unable to complete football and cricket fixtures for up to three sporting seasons, will be devastating.
55. In the same breath the applicant has failed to recognise the length of time required for reinstatement of playing field surfaces to a condition where sport can once again be played; depending on timing of works re-seeding of grass (spring or autumn) will take 6-12 months, including reinstatement of existing land drainage schemes. This will only add to the detrimental impact of construction.
56. The timing and duration of temporary loss of open space and loss of pitches is also unclear. Unduly optimistic assumptions regarding the periods for work and reinstatement have been suggested. No mitigation strategy, by re-provision of open space and sports pitches during the period of works, has been devised with a resulting detrimental effect on leisure/recreational provision, play facilities serving local communities with consequential effects on the health and well-being of residents.
57. There will be significant impact on and loss of open space for the holding of events or use to support events elsewhere in the city. Off-site camping for 'Victorious Festival', the major yearly August Bank Holiday weekend event on Southsea Common, is accommodated across the whole of the Farlington Playing Fields. Mitigation measures to ensure the timing/duration of appropriate reinstatement of ground conditions suitable for camping, with associated car parking, are essential for the sports fields and car park for Victorious to operate.
58. Aside from the issues which have arisen in respect of the allotments and the impact upon the tenants and allotment holders at Eastney and Milton common overlooked by Aquind PCC would also highlight the interruption of use of the

allotments from the future maintenance rights acquired. These would impact upon the public open space as well as well as allotments and their long term use (eg the order permits broad maintenance of the works at short notice).

59. During the construction period there will be significant adverse effects due to temporary diversions of 7 PROW and four long distance footpaths and an off road cycle route.

Ground conditions/contamination

60. There are parcels of land with significant pollution along the route options. A detailed assessment of each of these parcels of land should been carried out by the applicant the desk study provided falls short and should have included a sampling rationale and progressed onto the testing of identified sites. Some of these areas have been previously remediated for their current use (Milton Common being the most obvious example). A desk study review of available records for several areas encountered by the route has been started but not completed. For each location of previously used land a conceptual model, as described in the relevant British Standard BS10175, should be created to risk assess the impact that the cable construction will have, to ensure exposure will not occur during or after works, and where remediation has been undertaken, show that remediation will not be compromised by the groundworks.

61. The limited data in the ES is not a pollution focused survey. It is baseline testing and the pollution focused survey is intended to be completed at a later date. A desk study of the route was to be created and any further sampling, as suggested from that preliminary Conceptual Model, is yet to be completed. This proposed testing should be summarised in the form of a sampling rationale. There are no proposals in the ES for consideration. Testing of these potentially polluted locations would normally already have been undertaken and no adequate justification for their absence is provided.

62. Any polluted locations that can be identified from historic records or local knowledge should be considered in advance, and the approach to these areas to ensure no new exposures, not allowing the movement of pollution, both during and after works should be documented in advance of works. There should also be a Watching Brief for the entire route for any unexpected areas of pollution that may be encountered. The details in the ES are therefore incomplete.
63. Whilst a Watching Brief and Method Statement should be in place to resolve unforeseen pollution that maybe encountered, there should also be site investigation and Remediation Method Statement documents to guide site working, remediation and waste disposal for any areas where pollution is reasonably foreseeable. In particular the remediation of any disused landfill sites that the cable route will encounter, such as Milton Common, must not be compromised. The quality of restoration soils left at the surface should be proven clean and documented as such, so that no concerns remain. The migration of bulk gases (both carbon dioxide and methane) must be prevented both during and after works are complete. Dust and exposure to landfill wastes by public and workers should be prevented. This requires a desk study to consider available records, site investigation to resolve any unknowns, and a remedial method statement to show what will be done to restore each of these areas. After works and remediation/restoration, a verification report will be needed to show each of the land areas is now suitable for use. The cable run is a linear feature and so is likely to encounter several areas of previously used land with pollution present.
64. The ES should in PCC's view have included a plan showing areas that have historical uses and indicating which areas that works will be undertaken by Method Statement with Watching Brief alone, and areas with Remedial Schemes. Any detailed mitigation must include the following requirements: (a) The Phase 1 desk study. This is in progress but not yet complete for all parcels of land with potential pollution present. Each area would need its own conceptual model (diagram, plan, and network diagram) showing the potential contaminant linkages, including proposals for the testing if required (the

sampling rationale for all proposed sample locations and depths should be linked to the conceptual model). Although commenced, this work is incomplete. (b) The Phase 2 site investigation report documenting the ground conditions of the various parcels of land. This should include testing as identified by the conceptual model, with the sampling rationale being linked to that model. The report should refine the conceptual model of the site and demonstrate how the route can be safely constructed over each parcel of land using, at its simplest level, the general Method Statement and Watching Brief, or indicate that a Remediation Method Statement will be required to work in this area and (c) For each of those identified areas, a Remediation Method Statement report detailing the remedial scheme and measures to be undertaken to avoid risk from contaminants and/or gases when the development should be provided.

Onshore Ecology

65. Until there is greater clarity on the final cable route there is potential for significant effects on bird disturbance to the Solent SPAs (notably the adjacent Langstone and Chichester Harbour SPA, designated predominantly to protect over-wintering birds) and Functionally Linked Land lying outside the physical boundaries of the SPA/Ramsar sites used by birds associated with the designated sites or measures for mitigation required to reduce impacts to acceptable levels to ensure the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) and integrity of any relevant European sites are met.
66. PCC has also raised concerns regarding the adequacy of ecological survey work within the Portsmouth area, with insufficient consideration of potential habitats for bats and reptiles impacted by the proposal.

Impact on Coastal Flood Defences

67. Eastern Solent Coastal Partnership (who provide a comprehensive coastal management service and is directly employed by PCC and three other partner authorities) raised concerns surrounding the adequacy of the impact mitigation and the impact being secured as part of coastal defence projects being undertaken to Portsea Island. Cumulative impacts are based on inaccurate information and requires updating to reflect overlap in construction and therefore in-combination impacts. The DCO needs to ensure any flood defences are retained or replaced, to ensure the same level of flood protection is maintained and Aquind reduce any cumulative impacts and disruption, to ensure ecological mitigation of sea defence works remains effective.
68. The project proposes HDD from Farlington to the north-west of Kendall's Wharf to avoid impacts on Langstone Harbour and Phase 1 of the North Portsea Island (NPI) coastal defence scheme. The project identifies a construction compound use of the yard to the south-west of Kendall's Wharf. Depending on timing there is the potential for conflict with delivery of NPI Phase 4 coastal defence works that already has its construction compound there.
69. To the south of Kendall's Wharf there are options for cabling (a) to the west of the Baffins Milton Rovers FC playing pitch, through the cricket pitch and the second southern football pitch before crossing a car park and into Eastern Road or (b) along the eastern side of the Baffins Milton Rovers FC pitch. If the latter option is used it would likely affect the landscaping/screening that will be installed as part of the NPI Phase 4 works to mitigate disturbance to birds using the Core SWBGS site (P11) from re-routing of the footpath landward of the Andrew Simpson Watersports Centre/Tudor Sailing Club.
70. Between Airport Service Road and the northern end of Milton Common the cabling options are in the carriageway and/or verge of the highway. The cumulative construction traffic effects and potential impacts on access to the

NPI construction compounds/haul roads requires assessment. However, the Access and Rights of Way Plans includes land to the east of the highway that raises potential concern that (a) south of the Langstone Harbour Viewing Car Park, this land will be realigned in 2022 as part of the NPI Phase 4 coastal defence works and (b) on the northern end of Milton Common, this area will be used as a construction compound during the NPI Phase 4 works and based on the current programme will be unavailable from April 2021 until September 2022.

71. Across Milton Common, it is anticipated that the cable will progress through the corridor adjacent to the path which runs from north-to-south through the Common, parts of which form the coastal flood defences. At the northern part of the coastal defences, a short HDD will be required below the bund of the coastal defences. The cable would then continue south, adjacent to the path to the south-east corner of Milton Common. This suggests that only the crossing of the secondary defence will be HDD and the remainder of the route across the common will be open trenched.

72. The HRA (ref 6.8.1) and the Winter working restrictions (ref 6.3.16.14) documents indicate that no works will be undertaken in SWBGS core, primary or secondary sites during October to March. There should, therefore, be no impact on the bird usage of the mitigation areas ESCP propose on Milton Common to offset the impact of the NPI Phase 4b Compound 6 on the SWBGS core site P23R during the winter (NB Aquind ES refers to P23R and P23A – in the latest [2018] version of the SWBGS these polygons have been merged and are both now included within P23R). However, these mitigation areas are very close and potentially overlapping the proposed route north-south across the common. The project must ensure that it would not inadvertently impact on the mitigation areas during construction works in the summer months and their need to be returned to grass by the end of September

Cumulative effects

73. PCC has set out in its Written Representations a number of other development that needs to be taken into account on a cumulative impacts basis.
74. In particular with regard to the Coastal Defence Schemes for Portsea Island, construction of Phase 4A works is underway and Phase 4B will begin next.
75. Furthermore, in December 2019 planning permission was granted for the £115 million Southsea Sea Defence project. It relates to a 55.75ha site along a 4.5km stretch of seafront, from Old Portsmouth to Eastney, designed to protect 8,077 homes and 704 businesses from the risk of tidal flooding for the next century. Construction was programmed to start in early 2020 and be completed in 2026.
76. The DCO related HRA for in-combination assessment of onshore aspects defers to the onshore ecology cumulative effects assessment. The NPI Phase 4 sea defence project (see above) has however been screened out of cumulative effects with the Aquind project at Stage 2 on the basis that *it "...will not interact with the Proposed Development to lead to cumulative effects."* This cannot be correct.
77. Based on the potential interactions outlined under 'Onshore Ecology' and 'Impact on Coastal Flood defences' and, in particular, the potential of the cable route and construction works to impact mitigation measures incorporated into the NPI Phase 4 works to avoid an adverse effect on the SWBGS sites there clearly would be such effects. The final cable route and its timing/access would require close working with the ESCP to ensure no adverse effect on brent geese and waders.

CONCLUSION

78. The City Council in light of all these matters considers that there are considerable issues with regard to the Aquind's case that this DCO should be confirmed. They range from a clear reliance upon the commercial FOC

development which cannot be lawfully consented through the 2008 Act to the absence of a clear case for recourse and finding. Further the impacts of the FOC related ORS are significant.

79. The impact from construction of the scheme as well as the continuing impact from future disruption from maintenance in terms of highways and traffic as well as the impact in socio economic terms have not been properly recognised by Aquind.

80. PCC considers also that there are fundamental issues with regard to the justification for CA and that the applicant has failed properly to grapple with the legislation and the nature of the impacts of the scheme and its construction on Portsmouth.

81. PCC will ask the ExA in light of all the issues raised by PCC to recommend that the DCO application be refused.