
NORTH LONDON WASTE AUTHORITY

NORTH LONDON HEAT AND POWER PROJECT

EN010071

STATEMENT OF THE FINAL POSITION CONCERNING OUTSTANDING OBJECTIONS TO COMPULSORY ACQUISITION

The Planning Act 2008 The Infrastructure
Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009
Regulation 5 (2) (d)

AD07 . 31

August 2016

North London Heat and Power Project (EN010071)
Statement of the Final Position Concerning Outstanding Objections to Compulsory Acquisition
Submitted by the Applicant on 22 August 2016 to Meet Deadline 8 of the Examination Timetable

Table of Contents

1. Canal and River Trust.....	Page 4
2. Kennet Properties Limited.....	Page 14
3. Lee Valley Regional Park Authority.....	Page 16
4. National Grid.....	Page 18
5. Thames Water Utilities Limited.....	Page 20
6. Transport for London.....	Page 22
7. Zayo Group UK Limited.....	Page 27
Schedule 1: Comments by the Applicant on the CRT Preferred Protective Provisions.....	Page 28
Schedule 1, Annex 1: The CRT Preferred Protective Provisions.....	Page 33
Schedule 1, Annex 2: The Applicant’s Amendments to the CRT Preferred Protective Provisions (Tracked Changes).....	Page 45
Schedule 1, Annex 3: Clean Version of the CRT Preferred Protective Provisions Incorporating the Applicant’s Amendments..	Page 54
Schedule 2: Negotiations Between the Applicant and TfL.....	Page 60
Schedule 3: Comments by the Applicant on the National Grid Standard Protective Provisions.....	Page 62
Schedule 3, Annex 1: National Grid Standard Protective Provisions.....	Page 68

Schedule 3, Annex 2: The Applicant's Amendments to the National Grid Standard Protective Provisions (Tracked Changes).. Page 79

INTRODUCTION

1. The ExA requested that the Applicant provide an update at Deadline 7 of the progress being made with its negotiations for private agreements with various interested parties, and the interaction between the draft agreements and the draft DCO. This note sets out the status of those negotiations to date.
2. The Applicant is satisfied that the extinguishment or removal of rights of the following parties is necessary for the purpose of carrying out the development to which the order relates.
3. The Applicant is satisfied that its proposals will not cause serious detriment to the carrying on of the relevant party's undertaking and that any detriment that is caused can be made good.
4. The settlement agreements referred to in this Note will annex the relevant property documents also to be entered into (in an agreed form).

1. Canal and River Trust (CRT)

A draft settlement agreement was submitted to CRT for review and comment on 2 December 2015. The Applicant has invited CRT to amend the draft agreement to address its concerns and representations which have been set out below for ease of reference. The Applicant received comments from CRT on 5 August 2016. No further substantive progress has been made in relation to the settlement agreement or the protective provisions. The Applicant has provided information relating to the impacts of the Project on CRT interests and land on several occasions and in several formats; despite meetings between the Applicant and CRT it has not been possible to reach agreement. Details relating to the protective provisions are contained in this table and in Schedule 1.

Representations made	Response/action by the Applicant
<p>CRT object to any compulsory acquisition of any of its interests in land and is in discussions with the Applicant to grant such rights in, or over the CRT's land as might be required in connection with the Project.</p>	<p>The Applicant does not propose to compulsorily acquire title to any land interests of CRT.</p> <p>The Applicant is seeking powers to temporarily possess a very small part of the River Lee Navigation (plots 11 and 12) and temporarily suspend CRT's rights in plots 13, 17 and 23 whilst it carries out the authorised development.</p> <p>The Applicant started meetings with CRT to discuss the description of the proposed works and the impact of the proposals on CRT property and the River Lee Navigation in March 2015. Further meetings have been held and regular correspondence has been sent by the Applicant to CRT subsequent to that, all relating to the detail and the impact of the proposals on CRT property and the River Lee Navigation .</p> <p>A draft settlement agreement was sent to CRT by the Applicant for review and comment on 2 December 2015. The Applicant invited CRT to amend the draft agreement to address its concerns and representations (including those relating to the exercise of compulsory acquisition</p>

Representations made	Response/action by the Applicant
	<p>powers). The Applicant received comments from CRT on 5 August 2016.</p> <p>In that response, CRT proposed to enter into an agreement that grants all necessary rights required by the Applicant to carry out the Authorised Works without the need for the exercise of compulsory powers. Negotiations are ongoing.</p>
<p>Request the inclusion of protective provisions within the DCO in terms previously imposed in a DCO for a power generating facility adjoining an inland waterway (Knottingley).</p> <p>The proposed protective provisions remove control from the Trust over the River Lee Navigation which it requires to ensure that the adjoining internal waterway is not adversely affected by works during the Project</p> <p>Requires the proposed protective provisions to be amended to provide that where there is a conflict between those measures and the "Code of Practice for Works Affecting the Canal & River Trust", the latter will take precedence.</p>	<p>Part 3 of Schedule 13 of the draft DCO currently contains the form of protective provisions benefitting CRT that was in the version of the draft DCO submitted with the application (Original CRT Protective Provisions).</p> <p>The Original CRT Protective Provisions are based on a number of DCOs granted in relation to energy projects which also contained protective provisions benefitting CRT, including The Knottingley Power Plant Order 2015 and the Willington C Gas Pipeline Order 2014. Further detail on the precedents used for the draft protective provisions in the draft DCO is contained in the revised explanatory memorandum (AD03.02), submitted to the ExA at deadline 8.</p> <p>At deadline 2 of the Examination, CRT submitted a request for a revised version of the Original CRT Protective Provisions based on that contained in the Knottingley Power Plant Order (REP1-001).</p> <p>The Applicant responded to this at deadline 3 (in section 2.4 of AD07.05) stating that it had based the Original CRT Protective Provisions on other DCOs made by the Secretary of State (including Knottingley) and that what the Applicant would find helpful, would be for CRT to provide</p>

Representations made	Response/action by the Applicant
	<p>details of the specific drafting amendments that it would like to see to the Original CRT Protective Provisions.</p> <p>At deadline 6 of the Examination (on 19 June 2016), CRT submitted its proposed amendments to the Original CRT Protective Provisions (CRT Preferred Protective Provisions).</p> <p>The Applicant does not agree with a number of the amendments shown in the CRT Preferred Protective Provisions. An explanation of why certain amendments shown in the CRT Preferred Protective Provisions are not acceptable to the Applicant or need to be changed to be relevant to the Application are set out in Schedule 1 to this Note.</p> <p>Despite on-going negotiations, the Applicant and CRT have not been able to reach agreement on the content of the protective provisions to be inserted into Part 3 of Schedule 13 of the draft DCO.</p> <p>The Applicant preferred position is that no amendments are made to the Original CRT Protective Provisions, because they already reflect the provisions of the Knottingley DCO that the Applicant is prepared to accept. It is for this reason that the Applicant has not made any amendments to Part 3 of Schedule 13 of the draft DCO submitted to the ExA at deadline 8.</p> <p>If, however, the ExA wishes to consider the amendments shown in the CRT Preferred Protective Provisions, the Applicant has attached at Schedule 1 Annexes 2 and 3 to this Note an amended form of the CRT Preferred Protective Provisions which reflects what could be acceptable</p>

Representations made	Response/action by the Applicant
	<p>to the Applicant.</p> <p>The only parts of the River Lee Navigation that would be within the Order land are plots 11 and 12. The applicant does not propose works that will adversely affect the degree of control for the CRT over the River Lee Navigation.</p>
<p>Proposed protective measures to be drafted based on the "Code of Practice for Works Affecting the Canal & River Trust".</p>	<p>The Applicant has seen the Code of Practice for Works Affecting the Canal & River Trust and will take it into account in detailed design, in consultation with CRT.</p>
<p>CRT to be consulted on any landscaping to the towpath and waterside and to have final approval of such landscaping.</p>	<p>The Applicant does not agree that CRT should have final approval of such landscaping. The Applicant would propose to include a settled landscaping plan in the private agreement which is still being negotiated with CRT, which would be consistent with the landscaping proposals and plans in the DAS.</p>
<p>Only local native plant species to be planted in proximity to its inland waterways and any trees/shrubs planted near the canal wall will not impact the structural integrity of the wall.</p>	<p>The Applicant does not agree that CRT should have final approval of such landscaping. The reason for this is that an overarching landscaping plan has been prepared in order to ensure consistency of landscaping approach across the area of the Lee Valley Regional Park, and to ensure that landscaping is consistent with both the wishes of land owners and the requirements of the Lee Valley Regional Park Authority. This plan takes full account of the expressed views of CRT during consultation prior to submission of the application and during the examination. Consultation with CRT would ensure that any concerns about whether the landscaping proposed at detailed design stage meets their stated</p>

Representations made	Response/action by the Applicant
	<p>objectives could be taken into account, while not undermining the essential consistency of the landscape management across the area.</p> <p>The Applicant agrees that CRT's comments on landscaping proposals relating to species that have potential to cause damage to waterway walls will be taken into account and further details on soft landscaping will be shared at the detailed design stage.</p>
<p>Requested the first sentence in requirement 10(1) and 10(2) of]to be changed so that CRT's approval to the landscaping scheme is required</p>	<p>This is not agreed The amendments proposed by CRT are not necessary. The wording of Requirement 10(1) states that "no development within any stage shall commence" which in itself will already catch development adjoining land 20m from the eastern towpath. Furthermore, where CRT is a relevant or appropriate statutory consultee, the relevant planning authority would be obliged to consult CRT pursuant to Article 37(6) of the revised draft DCO (AD03.01/REP3-018). In light of this, the Applicant does not agree to an amendment of Requirement 10(1) and 10(2) so that CRT has final approval.</p>
<p>Provision required in the DCO for step free pedestrian and cycle access from the road bridge to the towpath and for London signage at the towpath entrance.</p>	<p>It is not possible to create step free access to either side of the bridge therefore no amendment to the draft DCO is agreed. Requirement 4 (detailed design) of the DCO deals with signage.</p>
<p>Concerns about wind-blown waste and management of site litter.</p>	<p>The Applicant expects this to be covered in the management plan currently being negotiated with LVRPA. Paragraph 3.6 of the Statement of Common Ground submitted on 21 June 2016 with CRT states that CRT is satisfied with this approach.</p>

Representations made	Response/action by the Applicant
<p>Specific requirements of operational site management should be imposed.</p>	<p>The Applicant is negotiating a management plan with LVRPA which covers, amongst other things, wind-blown litter and would implement management arrangements on plots 17, 14, 21, 29, 22, 23, 28, 24, 25, 27 and 26. Paragraph 3.6 of the Statement of Common Ground with CRT states that CRT is satisfied with this approach.</p>
<p>Site lighting to be designed to reduce light spill over the River Lee and disturbance to bats.</p> <p>Planning condition required in relation to these lighting assurances.</p>	<p>Site lighting design would avoid light spill over the River Lee.</p> <p>The obligations in the Design Code Principles regarding lighting are included in the ECMS, which is secured through requirement 6 of the draft DCO which states that the authorised development must be implemented in accordance with the ECMS.</p>
<p>Recommends further surveys to assess the presence or likely absence of roosting bats.</p>	<p>Further assessments would be carried out as required by the CoCP.</p>
<p>Concerns on movement of waste by water.</p> <p>Potential conditions to be imposed to reduce road network usage by requiring waste residue to be transported by water.</p> <p>The CRT would at least require a wharf to be constructed under the DCO to facilitate this.</p>	<p>The Water Transport Study submitted as part of the Transport Assessment (AD05.11) concludes that while the transport of Incinerator Bottom Ash (IBA) and municipal solid waste (MSW) by water would have environmental benefits, the overall cost of transporting IBA and/or MSW via the waterways would be substantially more expensive than road transport and without significant investment in the waterways would not be feasible. Water transport is therefore not included as a part of the proposals. The Trust is aware that other projects in the Lee Valley may be looking to upgrade the waterway infrastructure to facilitate waterborne freight, and this may provide future opportunity to transport</p>

Representations made	Response/action by the Applicant
	<p>materials/waste in this way.</p> <p>This is the position stated in the agreed Statement of Common Ground with CRT.</p>
<p>Concerns relating to soil contamination from surface water discharge and pollution protection methods to be taken.</p>	<p>Surface water would be managed through the installation and use of stormwater attenuation tanks. The Applicant will make an application for the relevant consent addressing this point prior to commencing the authorised development.</p> <p>Arrangements for pollution protection methods are contained in Requirement 14 of the revised draft DCO.</p>
<p>Concerns relating to surface water run off discharge to Enfield Ditch along Pymmes Brook and Salmon's Brook.</p>	<p>Surface water would be managed through the installation and use of stormwater attenuation tanks. The Applicant will make a full consent application addressing this point when preparing its detailed design.</p>
<p>Any provision in the DCO relating to the nature and volume of discharges into watercourses and pollution protection measures is to be first approved by CRT.</p>	<p>Article 16(2) of the draft DCO prohibits the undertaker from discharging water into any watercourses without the consent of person to whom the watercourse belongs. Article 16(2) also states that any such consent from an owner can be subject to such terms and conditions as that owner may reasonably impose. Pollution protection methods must be approved by the relevant planning authority (pursuant to requirement 14 of the draft DCO), which would need to consult CRT where relevant (pursuant to paragraph 2(2) of Schedule 3 of the draft DCO).</p>
<p>Concerns regarding the use of the River Lee for cooling.</p>	<p>The use of the River Lee for cooling is not part of the proposed scheme.</p>

Representations made	Response/action by the Applicant
	The proposed ERF would employ an air cooling system.
CRT would like to see details of the proposed boat canopy for the Edmonton Sea Cadets.	The Design Code Principles (AD02.02/APP-008) contains indicative details of the proposed boat canopy. Detail design of the boat canopy would be submitted under requirement 4 of the revised draft DCO and CRT would be consulted by the relevant planning authority (pursuant to paragraph 2(2) of Schedule 3 of the draft DCO) where relevant.
Concerns over the refuse facilities for boaters.	This is outside the scope of the Application, because the western bank of the River Lee Navigation is an operational waste management site and not open to landing by the public, and the eastern side of the river has the towpath (plot 17).
The application includes a public visitor facility therefore an increased need in the management of boats and refuse in the area is required.	EcoPark House will not be open to visitors other than in connection with visits to the RRC or for education visits or visitor tours of the Edmonton Eco Park and the proposed ERF.
NLWA has not discharged its obligation to negotiate with CRT in relation to seeking powers of compulsory acquisition.	<p>The Applicant is unclear why CRT takes this view and will continue to work towards a private agreement covering CRT's concerns about application.</p> <p>The Applicant started meetings with CRT to discuss the description of the proposed works and the impact of the proposals on CRT property and the River Lee Navigation in March 2015. Further meetings have been held and regular correspondence has been sent to CRT by the Applicant subsequent to that, all relating to the detail and the impact of the</p>

Representations made	Response/action by the Applicant
	<p>proposals on CRT property and the River Lee Navigation.</p> <p>An initial letter was sent on 1 June 2015. Having followed up with various chasers, a draft settlement agreement was sent to CRT by the Applicant for review and comment on 2 December 2015, after further explanatory details had been provided to CRT's legal representatives relating to impact. The Applicant invited CRT to amend the draft agreement to address its concerns and representations (including those relating to the exercise of compulsory acquisition powers). It should be noted that CRT changed its legal representatives in March/April of 2016 and the Applicant provided the new legal representatives with details of the impact upon CRT. The Applicant has chased the Applicant's legal representatives regularly (every one/two weeks) since originally providing the draft settlement agreement in an effort to address the CRT's concerns.</p> <p>The Applicant received substantive comments from CRT on 5 August 2016. Within those substantive comments, CRT proposed to enter into an agreement that grants all necessary rights required by the Applicant to carry out the Authorised Works without the need for the exercise of compulsory powers. Negotiations are ongoing.</p>
<p>Requests an explanation of the circumstances which outweigh the inappropriate development of the land to the west of the Lee Navigation as a Temporary Laydown Area for construction purposes (which is formally within the Metropolitan Green Belt).</p>	<p>The application constitutes special circumstances because there is an overwhelming need for the Project and the benefits outweigh any impacts upon the Green Belt. The reasons are set out in full in the Planning Statement (AD05.02).</p>

Representations made	Response/action by the Applicant
CRT require a Statement of Common Ground	The Statement of Common Ground (AD03.04_CRT) has been entered into with CRT and was submitted to the ExA on 21 June 2016.
Concerns regarding the Flood Risk Assessment.	A Flood Risk Assessment is included within the application documents and has been reviewed by the Environment Agency. As stated in the Statement of Common Ground, the Trust agrees that the Applicant acknowledges that a future licence will be required for the discharge of surface water from the Temporary Laydown Area to the River Lee Navigation and that appropriate measures would need to be put into place to prevent pollution from entering the River Lee Navigation. Such a licence is expected to include details on the nature and volume of discharges, and arrangements for the prevention and management of pollution. Application(s) for discharge of surface water to the River Lee Navigation will be made once the Applicant has sufficient information arising from the detailed design process.
Impact on CRT's infrastructure.	As mentioned above, negotiations are continuing with CRT in relation to a private agreement that cover CRT's concerns.

How does the settlement agreement relate to the provisions in the draft DCO?

While there is no completed settlement agreement, the current draft of the settlement agreement does not envisage any changes to the draft DCO.

2. Kennet Properties Limited (KP)

The Applicant is of the view that the settlement agreement and related property documents are close to agreement.

Representations made	Response/action by the Applicant
Only a right of way or easement over Plot 34 is needed for the Applicant's proposed project, not a compulsory purchase order.	KP has confirmed as part of the private negotiations that Plot 34 would form part of land to be purchased by the Applicant.
Required confirmation of the impact of the compulsory acquisition of Deephams Farm Road and Ardra Road to provide a new northern access to the proposed development on the operations currently using this access.	Deephams Farm Road/Ardra Road is currently unadopted and is owned by KP. At present, Deephams Farm Road/Ardra Road is not used as a main access point to the Eco Park. If any works are required to Ardra Road, the Applicant will carry out such works in sections so that access for operations is maintained at all times
NLWA should pursue the adoption of Ardra Road and the acquisition of the freehold in respect of Plot 7.	The Applicant only requires a right of way over Plot 7 (Ardra Road) and it is not appropriate for it to take on responsibility for a road used by a number of organisations with associated maintenance obligations.
KP objects to the acquisition of the freehold of the land in respect of Plots 6 and 34 when it believes that the acquisition of rights of way or other easements over these plots would be more proportionate.	The Applicant maintains that acquisition of the freehold is essential. This is because the use of Plot 6 and 34 are directly related to the development of the water pumping station on Plots 9 and 10 and the Eco Park itself. Therefore the Applicant will require control over these plots. In any event, the Applicant and KP are in advanced negotiations for the Applicant to purchase plots 6 and 34.

How does the settlement agreement relate to the provisions in the draft DCO?

- 1 In respect of Plots 6, 9, 10 and 34, the agreement would prevent the Applicant from exercising its compulsorily purchase powers contained in article 19 because the agreement would allow the Applicant to purchase those plots.
- 2 In respect of Plot 7, the agreement would prevent the Applicant from exercising its powers to extinguish rights contained in Article 21 and compulsorily acquiring rights contained in Article 23. This is because a right of way would be granted to the Applicant over Plot 7 pursuant to the private agreement.

3. Lee Valley Regional Park Authority (LVRPA)

The Applicant is of the view that the private property documents are close to agreement. A joint statement is being submitted at Deadline 8.

Representations made	Response/action by the Applicant
<p>Agreed to the use of the Lee Park Way for the light construction traffic.</p>	<p>The Applicant would impose restrictions on access by vehicles to Lee Park Way to ensure that suitable vehicles (as agreed with LVRPA) only are able to use Lee Park Way.</p>
<p>Raised concerns regarding Lee Valley Regional Park including:</p> <ul style="list-style-type: none"> ▪ the impacts on the visual and ecological impact; ▪ wanting to ensure that the open space and recreational assets of the Park are protected and that adverse impacts arising from the Works are minimised and that opportunities to enhance the landscape and ecology are maximised; ▪ the final landscape treatment and reinstatement of the Temporary Laydown area which forms part of the Park; ▪ a wish to be consulted on the final treatment of the 'public' entrance to the EcoPark from Advent Way and along Lee Park Way as this will also function as the gateway to the Park. 	<p>These matters were considered in the agreed Statement of Common Ground with LVRPA (AD03.04_LVRPA) submitted on 6 April 2016.</p> <p>Where LVRPA are a relevant or appropriate statutory consultee, the relevant planning authority would be obliged to consult LVRPA pursuant to paragraph 2(2) of Schedule 3 of the draft DCO. Therefore, LVRPA would be involved in the decision making process and it is therefore not necessary to make any further amendments to the requirements.</p> <p>The Applicant is engaged in private negotiations with LVRPA to cover restoration of those areas of concern to LVRPA that fall within the Application Site.</p> <p>These wider estate issues are being resolved through the negotiation of a management plan.</p> <p>In addition, the Applicant is required (pursuant to Article 27 of the draft DCO) to restore this area to the reasonable satisfaction of the landowner and to a condition that is no worse than the state it was in before the Applicant took possession of the temporary laydown area.</p>

Representations made	Response/action by the Applicant
Concerns regarding the road traffic layout and the control of the same.	<p>Requirement 12 of the draft DCO requires the Applicant to submit written details of the design, layout and management of any new means of access , or the improvement of any existing access, from the Order Land to the public highway. The draft management plan currently being negotiated with LVRPA also deals with road layout and traffic control.</p> <p>Drafts of the relevant private agreements are under discussion and the final issues are currently being resolved.</p>
Proposes to enter into a management agreement with LVRPA in order to fulfil the relevant powers of LVRPA in relation to litter management, acting as agent for LVRPA.	The management plan currently being negotiated would deal with this.

How does the settlement agreement relate to the provisions in the draft DCO?

- 1 In respect of LVRPA's interest in Plots 14, 15, 21 and 32, the settlement agreement would prevent the Applicant from exercising its powers to compulsorily acquire rights under Article 23 of the DCO. This is because LVRPA has agreed in principle to grant a lease over these Plots to the Applicant.

4. National Grid

A joint statement is being submitted at Deadline 8.

Representations made	Response/action by the Applicant
<p>Objects to Articles 21 -23 of the DCO as these authorise interference with/extinguishment of National Grid's existing rights in respect of its apparatus within and in close proximity to the Order Land. National Grid prefers its template protective provisions to the protective provisions in the draft DCO.</p>	<p>At the Issue Specific Hearing into the drafting of the DCO, the ExA requested that the Applicant: (i) amend Part 2 of Schedule 13 of the draft DCO to make it clear that Part 2 did not apply to National Grid: and (ii) create a new Part within Schedule 13 to contain an amended form of National Grid's proposed protective provisions (the amendments to be agreed between National Grid and the Applicant). The Applicant and National Grid have not been able to reach agreement on this process and so the settlement agreement currently being negotiated between National Grid and the Applicant will no longer seek to amend the protective provisions benefitting National Grid. Please see Schedule 3 for the Applicant's comments on the National Grid standard protective provisions and a tracked change version of those protective provisions showing the amendments made. The version of National Grid's protective provisions shown in Schedule 13 Part 5 of the draft DCO is a clean version of this tracked change document.</p> <p>The Applicant has explained to National Grid that it has no intention to compulsorily acquire Plot 4. All the draft DCO seeks to do is allow the undertaker to temporarily interfere with National Grid's interests and rights.</p>
<p>Issue of National Grid securing access to its gas distribution governor.</p>	<p>This issue of access is in the protective provisions that will benefit National Grid.</p>

Issue of National Grid's existing rights in respect of the gas pipes along the western boundary of the proposed site.	This issue of National Grid's existing rights in respect of these gas pipes is addressed in protective provisions.
---	--

How does the settlement agreement relate to the provisions in the draft DCO? At the Issue Specific Hearing into the drafting of the DCO, the ExA requested that the Applicant: (i) amend Part 2 of Schedule 13 of the draft DCO to make it clear that Part 2 did not apply to National Grid; and (ii) create a new Part within Schedule 13 to contain an amended form of National Grid's proposed protective provisions. Following on from negotiations, it no longer envisaged that protective provisions will amend the DCO.

A settlement agreement between the Applicant and National Grid will provide for a practical approach to dealing with any overlaps between the exercise of the North London Heat and Power Project and The National Grid (North London Reinforcement Project) Order 2014.

The ExA is also referred to the following:

1. Joint Statement on the interaction between the NLHPP and the National Grid (North London Reinforcement Project) Order 2014, submitted for deadline 5;
2. Practical Management of the interactions with the National Grid DCO, submitted at deadline 7;
3. Note regarding the rights held by National Grid, submitted at deadline 7.

5. Thames Water (TWUL)

The settlement agreements and related property documents are close to agreement.

Representations made	Response/action by the Applicant
TWUL is concerned that the reinstatement requirements that would be imposed on it because of the Applicant's proposed project would restrain its further use of the land.	This would be agreed within the private agreement which is currently being negotiated.
Reserved its position until all planning conditions and agreements had been published and made available.	The Applicant has directed TWUL to the relevant documentation.
Land can only be released once it is proven it is no longer needed for TWUL's operational use but TWUL have submitted their application for operational clearance to use its land for other purposes – such clearance hasn't been received yet.	The Applicant understands TWUL has obtained the relevant internal approvals.
Temporary Laydown Area will be needed for use during the period of the Applicant's proposed project. TWUL will only agree to the use of its land if it is reinstated later in a manner which does not restrict its future use.	The draft lease of the temporary laydown area between the Applicant and TWUL which is currently being finalised places an obligation on the Applicant to yield up the demised premises at the end of the term with vacant possession.
Concerned about the flood relief strategy for Meridian Water.	The application does not relate to the Meridian Water development and flood mitigation for that scheme is not required for this proposed scheme.
TWUL claims that Plot 22 is operational land for the use of pipes and other conduits.	The private agreement that is currently being finalised would grant an easement to the Applicant over the roadway located on Plot 22. This

Representations made	Response/action by the Applicant
	easement would not interfere with TWUL's right to use the pipes and conduits located in this plot.
TWUL asked for a detailed consideration of what alternatives have been considered for the site proposed for the Temporary Laydown Area.	This would be agreed within the private agreement that is currently being finalised, through a lease of the Temporary Laydown Area which is currently being negotiated.

How does the settlement agreement relate to the provisions in the draft DCO?

- 1 In respect of Plots 16, 18, 19 and 20, the settlement agreement would prevent the Applicant from exercising its powers to (1) temporarily use the land for carrying out the authorised development pursuant to Article 27. This power would not be required as the parties would enter into a lease of the temporary laydown area and associated access point over Plots 18, 19 and 20.
- 2 In respect of Plot 22, the settlement agreement would prevent the Applicant from exercising its power to compulsorily acquire an easement over Lee Park Way. This power would not be required because the parties would enter into a deed of easement which would grant a right of way to TWUL over Plot 22.
- 3 As there are no proposals to compulsorily acquire TWUL's title to land within the Order limits, the settlement agreement is silent in relation to this power.

6. Transport for London (TfL)

A summary of the negotiations between TfL and the Applicant is contained at Schedule 3 to this document.

Representations made	Response/action by the Applicant
TfL wishes to protect the land it owns around the application site and its transport and highways authority functions.	The Applicant proposes to cover these concerns in the settlement agreement. The Applicant has provided a draft settlement agreement to TfL. After the hearing into compulsory acquisition matters on 6 July 2016 TfL stated that they would be providing substantive comments on the draft settlement agreement. The Applicant received these on 16 August 2016 and the Applicant has responded with comments as to how the proposals would operate while also allowing the Applicant to carry out landscaping and other related works. Negotiations are ongoing.
Objects to land that is part of the DCO being compulsorily purchased.	The Applicant does not intend to compulsorily acquire the land where TfL is the freehold owner. The Applicant: <ul style="list-style-type: none">▪ Proposes to use plots 24, 26 and 27 for landscaping.▪ Proposes to use plots 28 and 29 temporarily.▪ May need to temporarily stop up plot 31 in connection with works proposed to the existing southern entrance to the Edmonton EcoPark and works proposed over the Enfield Ditch. Therefore, while the works above are essential and the plots cannot be excluded from the Order limits, TfL's interests in these plots are not being compulsorily acquired. The settlement agreement would cover the grant of the necessary rights

Representations made	Response/action by the Applicant
	to the Applicant. Negotiations are continuing.
Believes that the use of TfL owned land will allow TfL and the Applicant to plan for London's future waste and transport needs more easily.	The Applicant is encouraged by these comments.
Would like to exclude TfL land from the order limits.	This would not be possible because the proposed uses of the TfL land and any land which TfL has rights over are essential for implementing the proposed scheme.
Stated that TfL is responsible for traffic signals and wishes to retain powers to operate traffic signals.	There are no proposals to change any traffic signals.
TfL has not been invited to be party to a s106 obligation and so it seeks to secure commitments from the Applicant.	TfL's concerns are secured through requirement 12 of the revised DCO and the Development Consent obligations (DCOb). It is therefore not necessary for TfL to be party to the s106 obligation.
Transport Assessment report should be in line with TfL's guidance and should be required to comply with the Transport Assessment's findings in preparing documents to discharge requirements in the DCO or obligations in a s106 obligation.	The Transport Assessment (AD05.11) findings are in the Environmental Commitments and Mitigation Schedule (ECMS) (AD06.03/REP7-010). Requirement 6 of the draft DCO requires the Applicant to comply with the ECMS.
Concerned about the impact on TLRN and local bus services if access arrangements are not implemented in accordance with the Transport Assessment assumptions.	The Transport Assessment (AD05.11) findings are in the Environmental Commitments and Mitigation Schedule (ECMS) (AD06.03/REP7-010). Requirement 6 of the draft DCO requires the Applicant to comply with the ECMS.

Representations made	Response/action by the Applicant
Stated that the design of junctions, cycle routes and other transport aspects have to be undertaken with specific guidance.	The Applicant confirms that all applicable guidance will be applied.
Walking, cycling and public transport access requirements may change.	Promoting walking, cycling and public transport is a key theme of the Framework Construction Travel Plan.
Expects a Delivery and Servicing Plan to be prepared.	This is provided for in the DCOB.
Stated that the provision and management of parking needs to be secured by a s106 obligation or as a requirement of the DCO.	These are covered in the ECMS (AD06.03). Requirement 6 of the draft DCO requires the Applicant to comply with the ECMS.
Issue of a number of implementation matters including the Delivery and Servicing Plan and the approach to traffic management measures.	This is provided for in the DCOB.
Stated that the DSP, CWTP and CLP will be prepared in accordance with TfL guidance and consultation.	The Delivery and Servicing Plan (DSP) is provided for in the DCOB. The Construction Workers Travel Plan (CWTP) is provided for by the DCO requirements and the DCOB.
Stated it may be necessary to change local bus services.	The Transport Assessment (AD05.11) concluded that there will be no requirement for changes to local bus services.
Concerned about construction impacts which have been assessed.	The Transport Assessment assesses and the Code of Construction Practice manages the impacts of construction. The Applicant has noted TfL's concern and has provided a draft settlement agreement to TfL which would cover this issue. After the CPO Hearing on [] TfL stated that they would be providing substantive comments. The Applicant received these on 16 August 2016 and the Applicant has responded with

Representations made	Response/action by the Applicant
	comments as to how the proposals would operate while also allowing the Applicant to carry out landscaping and other related works.
TfL relies on it being consulted on specific stages of the project.	At the hearing on 6 July 2016 into compulsory acquisition matters, London Borough of Enfield confirmed to the ExA that it will consult TfL on relevant matters relating to the detailed design of the Project. TfL confirmed at that same hearing that it was satisfied with LBE's confirmation.
Recommends that the draft DCO is amended to reflect TfL strategic interest.	This is not necessary. The Applicant is continuing to negotiate these issues within a settlement agreement.
<p>Concerned that traffic generated by the development causes knock-on impacts onto the A406 North Circular Road or on local bus routes.</p> <p>TfL would like to be consulted to the operation of the A406, local bus services, construction and promotion of travel by bus, cycle and foot.</p>	<p>The Transport Assessment (AD05.11) has concluded that the impact on the A406 North Circular Road would be negligible. The assessment shows that for all stages of the Project, the additional traffic generated by the Project would not result in any significant increases on the local highway network with only minor increases and, in some time periods, decreases in the traffic flows on the A406 North Circular Road and other key routes.</p> <p>TfL would be consulted by the London Borough of Enfield under paragraph 2(2) of Schedule 3 of the draft DCO.</p>
NLWA should be required to refer to guidance relating to non-road mobile machinery.	The CoCP commits to using non-road mobile machinery listed on the Energy Saving Trust's NRMM Register where reasonably available.
Suggested refinements to the CoCP including minimising peak hour	Changes to the CoCP have been made to cover this.

Representations made	Response/action by the Applicant
traffic movements, managing lorries and encouraging car sharing, walking, cycling and public transport use for construction workers.	
Encouraged the use of water freight.	The Water Transport Study submitted as part of the Transport Assessment (AD05.11) concludes that while the transport of Incinerator Bottom Ash (IBA) and municipal solid waste (MSW) by water would have environmental benefits, the overall cost of transporting IBA and/or MSW via the waterways would be substantially more expensive than road transport and without significant investment in the waterways would not be feasible. As such water transport is not included as a part of the proposals.
Stated that a Construction Logistics Plan and a Construction Workers Travel Plan should be created.	A Construction Logistics Plan is secured under the CoCP. The Construction Workers Travel Plan is in the DCOB.
Seeks further reduction in general car park spaces, provision for disabled car parking, provision for electric car charging point and encouragement of car sharing.	The provisions in the ECMS relating to parking reflect TfL's representations.

How does the settlement agreement relate to the provisions in the draft DCO?

There is currently no agreed settlement agreement.

7. Zayo Group UK Limited

The settlement agreement is agreed and has been executed by both parties. Completion of the settlement agreement is imminent. Once completed, the settlement agreement obliges Zayo to formally withdraw its representations to the ExA. A joint statement is being submitted at Deadline 8.

How does the settlement agreement relate to the provisions in the DCO?

The Settlement Agreement contains notification requirements additional to those contained in the draft DCO.

Schedule 1

COMMENTS BY THE APPLICANT ON THE CRT PREFERRED PROTECTIVE PROVISIONS

At Deadline 6 CRT submitted its preferred form of protective provisions to be inserted into the draft DCO (**the CRT Preferred Protective Provisions**). The Applicant does not agree with a number of amendments shown in the CRT Preferred Protective Provisions. The Applicant's preferred protective provisions are as submitted with the Application and included in the draft DCO submitted at this Deadline 8. This Schedule 1 sets out the Applicant's comments on the CRT Preferred Protective Provisions, followed by:-

Annex 1: The CRT Preferred Protective Provisions

Annex 2: The Applicant's Amendments to the CRT Preferred Protective Provisions (Tracked Changes)

Annex 3: Clean Version of the CRT Preferred Protected Provisions Incorporating the Applicant's Amendments

1. Paragraph 2, definition of "code of practice" – a date or a version of the code should be inserted to ensure the correct one is being referred to. It is important for the Applicant to know which version of the code is being referred to.
2. Paragraph 2, definition of "detriment" –limb (a) should be deleted because it will be interfering with the use of the waterway by temporarily possessing part of it and it will also be difficult to quantify the loss suffered. Also, limb (g) should be deleted as the draft DCO grants the undertaker the power to interfere with the exercise of any person of his rights over CRT's property. The undertaker should not need to compensate CRT for limbs (a) and (g) as articles 27 (temporary possession) and 21 (interference with rights) already provide that compensation is payable. On a general point, it is unclear how CRT would establish that the undertaker has caused the elements in the definition of "detriment". The Applicant would like this definition and paragraph 11 to be amended so that the undertaker is only liable for costs of a detriment if the undertaker can be shown to have caused the detriment and the costs are reasonable.
3. Paragraph 2 - The undertaker also prefers to reinstate the original wording of paragraph 3(2) which requires CRT to co-operate with the undertaker in order to avoid undue delay.

4. Paragraph 3 (1) – The Applicant disagrees with paragraph 3(1) and it should be deleted. Articles 10 to 15 (inclusive) and schedules 6, 7, 8 and 9 of the draft DCO go into detail on, and will grant the undertaker powers to, obstruct and interfere with pedestrian and vehicular access. The Applicant should not have to obtain CRT's prior consent before it exercises these powers also because: (a) access is a matter of detailed design subject to prior approval by the relevant planning authority; and (b) CRT can cause significant delays and its requirements may conflict with the relevant planning authority's conditions.
5. Paragraph 3(2) – The Applicant disagrees with paragraph 3(2) and it should be deleted. Article 16(2) of the draft DCO already requires the undertaker to obtain the consent of the person who owns the watercourse before any discharges are made. It is therefore not necessary to duplicate the provisions of Article 16 in Part 3 of Schedule 13, especially given that it is only a very small part of the Waterway that is within the Order limits (plots 11 and 12).
6. Paragraph 3(3) – The Applicant disagrees with paragraph 3(3) and it should be deleted. CRT owns plots 11, 13, 17 and 23. Article 18 of the draft DCO requires the undertaker to give 14 days prior notice to owners before it enters land to survey and investigate it. It is not agreed that the undertaker's exercise of Article 18 powers should be subject to prior consent from CRT. Waiting for CRT consent could also lead to delay. Article 18(5) obliges the undertaker to compensate owners for any loss or damage caused.
7. Paragraph 3(4) – The Applicant disagrees with paragraph 3(4) and it should be deleted. The Applicant is not proposing to divert access to CRT land, but it is proposing to temporarily suspend public rights of way to and temporarily stop up the part of the towpath (approx. 26m) under the bridge (plot 14) which will be caught by articles 12 and 13. The same points set out at point 3 above would apply here.
8. Paragraph 3(5) – The Applicant disagrees with paragraph 3(5) and it should be deleted. Article 27 gives the undertaker the power to temporarily possess (amongst other plots) plot 11 (part of the River) and part of plot 17 (towpath) in order to construct the development. Article 28 gives the undertaker the power to temporarily possess any land within the Order limits to maintain the authorised development. The important premise of a DCO is so that the undertaker does not have to obtain consents of individual owners to use their land, and this amendment by CRT will defeat that purpose and could cause delay to the deliverability of the project. The plots that are affected by article 27 are crucial to the delivery of the project. Articles 27 and 28 also contain sufficient protections for owners and any additional specific points of detail can be dealt with in a private agreement.
9. The second paragraph 3(6) in the CRT proffered Protective Provisions –References to specific paragraphs should be deleted so that it is more of a general statement. This is because there could be other circumstances where approval or consent is needed from CRT and a more general statement would be appropriate. It would also benefit CRT to not specify which conditions it can impose in this paragraph.

10. Paragraph 4(1) – The Applicant disagrees with CRT’s amendments and the wording CRT has deleted should be reinstated. This is because it is wholly appropriate for CRT to: (i) be obliged to be reasonable when approving details; (ii) have due and proper regard to our construction timetable; and (iii) not unreasonably withhold or delay their approval, and unclear why they would not be willing to agree to this. Also, this paragraph needs to be amended so that the undertaker is not obliged to submit details to CRT if those are required to be submitted to the relevant planning authority pursuant to a requirement or article in the DCO (because in these cases, the relevant planning authority would be required to consult CRT on the detail pursuant to paragraph 2(2) of Schedule 3).
11. Paragraph 4(2) – The Applicant would accept a deemed consent period of 28 days, but it would also need to carve out situations where the details are required to be submitted to the relevant planning authority pursuant to the DCO (in which case, CRT would be consulted by the relevant planning authority pursuant to paragraph 2(2) of Schedule 3 and para 4(2) of the protective provisions cannot apply). The word "intimated" should also be replaced with the words "confirmed in writing".
12. Paragraph 4(3) – The words "to avoid detriment" should be deleted. "Detriment" (as currently defined) includes interfering with rights and using CRT land and the undertaker may not be able to avoid this type of detriment in some cases. The protective works specified by the engineer should also be required to be reasonable and necessary.
13. Paragraph 4(4) – This should be amended to refer to article 35 (arbitration) (not article 34). This should also be amended to make the engineer's consent subject to a timeframe (21 days) otherwise there is deemed consent. The obligation to pay for the protective works should be limited to reasonable and necessary costs.
14. Paragraph 5 –the reference to materials and environmental effects should be deleted as these have already been assessed and are recorded in the environmental statement. The Applicant would only carry out more environmental assessments if it steps outside the envelope of what has been assessed and stepping out is not its intention. This paragraph should also be amended to say it only applies to reasonable suggestions, approaches etc.
15. Paragraph 6: it is unclear what the words “provide support for the Waterway and to CRT’s Property” mean in paragraph 6(2)(a). This should be amended to simply refer to CRT’s Property and the Waterway. Also, wording should be inserted so that the undertaker will only pay for reasonable and proper costs and will only need to provide an electronic copy and one hard copy of the survey (an unlimited number is inappropriate in this electronic age).

16. Para 7(1) – This should be amended to 14 days advance notice. This will make it consistent with the periods of prior notification in the DCO (such as in articles 17, 18 and 28). From a practical perspective, the undertaker will need consistency in prior notification periods.
17. Para 7(2)(a) –the deleted wording (which requires work on CRT land to be carried out in accordance with the construction timetable) should be reinstated. Without it, the undertaker would be obliged to carry out the work “with reasonable dispatch”. The stages of the authorised development will be approved by the relevant planning authority pursuant to requirement 3 and the undertaker would be obliged to follow it. The protective provisions should not oblige the undertaker to do works any time sooner or quicker than what is in the approved timetable.
18. Para 8 – This should be deleted. The undertaker is already required to deal with pollution and remediation in requirement 14 and Requirement 14 will effectively prevent the undertaker from commencing works within the Order land until the relevant planning authority has approved a written scheme dealing with pre-existing contamination. Requirement 14 also requires the undertaker (if required by the relevant planning authority) to stop works if previously undiscovered contamination is discovered during construction, and submit a remediation strategy to the relevant planning authority for approval. The works must then be carried out in accordance with the approved strategy. It is therefore unnecessary for the remediation strategies approved by the relevant planning authority to then be subject to measures required by CRT’s engineer. Also, paragraph 2(2) of Schedule 3 of the draft DCO requires the relevant planning authority to consult all relevant and appropriate statutory consultees, in relation to which CRT would be a consultee if a remediation strategy involves CRT Property or the Waterway.
19. Para 9 – This should be deleted. Lighting will require the consultation of multiple parties which will be carried out by LBE and so cannot also be subject to the consent of CRT’s engineer. CRT would if relevant be consulted under paragraph 2(2) of Schedule 3.
20. Para 10 (2) – The payment of capitalised sums is not agreed. It is not possible to know whether these sums would be required and the Applicant needs to be able justify payments from the public purse. A more balanced and reasonable approach would be to simply rely on the wording that the undertaker will pay CRT’s reasonable costs.
21. Paras 10(3) and 10(4) – This should be deleted. These relate to capitalised sums, which in principle are not accepted.
22. Para 10(5) – this is not agreed. The timetable for construction of the specified works cannot be set by CRT. Requirement 3 requires details of the stages of development to be submitted to and approved by the relevant planning authority, which would control the timing of the works.
23. Para 10(6), (7) and (8) - As a result of the deletion of paragraphs 10(2) to 10(5), it will be necessary to delete paragraphs 10(6), 10(7) and 10(8).
24. Para 11 – This is not acceptable to the Applicant. The draft DCO contains sufficient provisions relating to compensation.

25. Para 12 – This should be amended to cover reasonable and proper expenses incurred by CRT. Paragraph (a) should also be deleted, as the Applicant would expect the approval of plans to come from someone within CRT. Please delete para 12(b) – the Applicant would expect that CRT already employs personnel to watch, inspect and lighting CRT property. Also please delete para 12(d) – it is unclear why such a relatively small task be singled out.
26. Para 15 – This should be deleted on the basis that in principle, the Applicant does not accept to pay capitalised sums for the reasons set out in paragraph 20 above.

ANNEX 1 - The CRT Preferred Protective Provisions.

1~~Error! Reference source not found.~~PART 3

Protection of Canal and River Trust

1. The provisions of this Part have effect for the protection of ~~Canal & River Trust~~CRT, unless otherwise agreed in writing between the undertaker and ~~Canal & River Trust~~the CRT.

2. In this Part—

"1965 Act" means the Compulsory Purchase Act 1965;

"~~Canal & River Trust~~"CRT" means the Canal & River Trust ~~acting as a trustee of the Waterways Infrastructure Trust or~~ and any successor body performing the same functions which holds or manages any ~~waterways~~of CRT's Property within the ~~works~~-order limits;

"CRT's Property" means each and every part of land owned by CRT (whether beneficially or as trustee of the Waterways Infrastructure Trust) within the order limits and includes the Waterway and any other land covered with water, sub-soil, air space and waterways;

"code of practice" means the ~~code of practice for works affecting British waterways (April 2010)~~"Code of Practice for Works Affecting the Canal & River Trust" as amended from time to time;

"construction" includes execution, placing, alteration and reconstruction,~~—~~ and "construct" and "constructed" have corresponding meanings;

"detriment" means any damage to the Waterway or any other of CRT's Property caused by the undertaking or presence of the specified works and, without prejudice to the generality of that meaning, includes:

(a) any obstruction of, or interference with, or hindrance or danger to, navigation or to any use of the Waterway ;

- ~~(b) the erosion of the bed or banks of the Waterway, or the impairment of the stability of any works, lands or premises forming part of the Waterway;~~
- ~~(c) the deposit of materials or the siltation of the Waterway so as to damage the Waterway;~~
- ~~(d) the pollution of the Waterway;~~
- ~~(e) any significant alteration in the water level of the Waterway, or significant interference with the supply of water thereto, or drainage of water therefrom;~~
- ~~(f) any harm to the ecology of the Waterway (including any adverse impact on any site of special scientific interest comprised within any of CRT's Property);~~
- ~~(g) any interference with the exercise by any person of rights over CRT's Property;~~

~~"engineer" means an engineer appointed by Canal & River Trust and approved by the undertaker CRT for the relevant purposes of this Order (and includes a suitably qualified employee of CRT so appointed);~~

~~"plans" includes sections, designs, design data, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), programmes and details of the extent, timing and duration of any proposed use or occupation of any Canal & River Trust property of CRT's Property;~~

~~"specified work" means so much of any of the authorised development to be situated upon, across, under, over or within the waterway or that may in any way adversely affect the waterway; CRT's Property, or which may in any way cause detriment to the Waterway;~~

~~"Canal & River Trust property" means any land owned by Canal & River Trust within the works limits and includes land covered with water, sub-soil, air space and waterways;~~

~~"waterway" means the canal within the works limits and includes any pond or other waterway or course situated on Canal & River Trust property, any works, services, apparatus, equipment, lands (including subsoil) or premises belonging to or under the control of~~

~~Canal & River Trust~~ "Waterway" means each and every part of the River Lee Navigation within the order limits, together with its waterway wall and towing path, and any pond or other waterway or course situated on CRT's Property, any works, services, apparatus, equipment, lands (including subsoil) or premises belonging to or under the control of CRT and held or used by it in connection with its statutory functions.

~~3. (1) Where, under this Part or anywhere else under this Order, Canal & River Trust (or the engineer) is required to give its consent or approval in respect of any matter, that consent or approval must not be unreasonably withheld or delayed.~~

~~(1) In respect of any specified work or the acquisition of rights under or over or use of Canal & River Trust property, Canal & River Trust must co-operate with the undertaker with a view to avoiding undue delay.~~

~~(2) Error! Reference source not found.~~

Powers requiring CRT's consent

~~3. (1) In the exercise of the powers conferred by this Order the undertaker shall not obstruct, or interfere with, pedestrian or vehicular access to the Waterway, unless such obstruction or interference with such access is with the consent of CRT.~~

~~(2) In the exercise of the powers conferred under article 15 (discharge of water) the undertaker shall not discharge water into the Waterway, or in any way interfere with the supply of water to, or drainage of water from, the Waterway unless such exercise is with the consent of CRT (save in relation to surface water through undefined channels, which shall not require the consent of CRT).~~

~~(3) The undertaker shall not exercise the powers conferred under article 18 (authority to survey and investigate land) or section 11(3) of the 1965 Act, in relation to CRT's Property unless such exercise is with the consent of CRT.~~

~~(4) The undertaker shall not exercise the powers conferred under articles 10 to 13 and article 26 (powers in relation to streets and public rights of way) so as to divert any means of access to CRT's Property unless with the consent of CRT.~~

~~(5) The undertaker shall not exercise the powers conferred under articles 27 and 28 (powers as to the use of land for the authorised development) in relation to any of CRT's Property unless with such exercise is with the consent of CRT.~~

~~4.(6) The undertaker shall not use any land or of CRT's property of Canal & River Trust forming part of the waterway for the passage or siting of vehicles, plant or machinery employed in the construction of the specified works other than than-~~

~~(a) with the consent in writing of the engineer whose consent shall not be unreasonably withheld or delayed; and~~

- (b) ~~subject to compliance with such reasonable requirements as the engineer may from time to time specify—specify-~~
- i. ~~(i)for the prevention of detriment; or~~
 - ii. ~~in order to avoid or reduce any inconvenience to Canal & River Trust CRT, its officers, agents and all other persons lawfully on such land or property, but nothing in this paragraph~~
- (6) ~~The consents required pursuant to sub-paragraphs (1) to (6) shall not be unreasonably withheld or delayed but may be given subject to reasonable terms and conditions which, in the case of article 15 (discharge of water), may include conditions:~~
- (a) ~~specifying the maximum volume of water which may be discharged in any period; and~~
 - (b) ~~authorising CRT, on giving reasonable notice to the undertaker (except in an emergency, when CRT may require immediate suspension), to require the undertaker to suspend the discharge of water or reduce the flow of water where this is necessary by reason of any operational or environmental requirement of CRT;~~
- ~~(ii)(7) Nothing in this paragraph 3 shall apply in relation to anything done in accordance with any approval given by Canal & River Trust CRT under paragraph 64.~~

Approval of plans, protective works etc.

4. ~~5. 5.-(1) The undertaker must, before commencing construction of any specified work or carrying out any works on Canal & River Trust property, supply to Canal & River Trust CRT proper and sufficient plans of that work for the reasonable approval (having due and proper regard to the undertaker's timetable for the construction of the authorised development) approval of the engineer, and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer (such approval not to be unreasonably withheld or delayed) or settled by arbitration in accordance with article 34 (arbitration) of this Order..~~
- ~~(1)If by the end of the period of 14 days beginning with the date on which such plans have been supplied to Canal & River Trust (2) If the engineer has not intimated disapproval of these plans supplied, and the grounds of disapproval the engineer is, by the end of the period of 35 days beginning with the date on which the last of such required plans have been submitted to CRT by the undertaker, the engineer shall be deemed to have approved the plans as submitted.~~

~~(3) When signifying approval of the plans supplied, the engineer may specify any protective works (whether temporary or permanent) that and which, for the avoidance of doubt, may include requirements to fence any specified works in order to separate the same from the Waterway or any other of CRT's Property) which, in the engineer's reasonable opinion, should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of the waterway or the continued safe and efficient use of the waterway or any Canal & River Trust property, and such protective works (which for the avoidance of doubt may include requirements to fence any proposed works in order to separate the same from the waterways, ponds or watercourses situated on Canal & River Trust property either on a permanent or temporary basis) as may be reasonably necessary for those purposes must be constructed by the undertaker, as, or during the undertaking of those specified works, to avoid detriment.~~

~~(2)(4) Such protective works as may be agreed between the parties or settled by arbitration in accordance with article 34 (arbitration) of this Order, and such protective works must be carried out at the expense of the undertaker must be constructed by the undertaker, at no expense to CRT, with all reasonable dispatch, and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the such of those protective works as are required to be undertaken prior to commencement of construction have been completed to the engineer's reasonable satisfaction.~~

Design of specified works

~~5. Without prejudice to its obligations as to the delivery of plans to CRT under the foregoing provisions of this Part, the undertaker must consult, collaborate and respond constructively to any approach, suggestion, proposal or initiative made by CRT as to the design and appearance of the specified works, including the materials to be used for their construction and the environmental effects of those works, and shall have regard to such views as may be expressed by CRT in response to such consultation pursuant in particular to the requirements imposed on CRT by section 22 (general environmental and recreational duties) of the British Waterways Act 1995 and to the interest of CRT in preserving and enhancing the environment of the Waterway.~~

Surveying of Waterway

~~6. (1) Both before commencing any specified works upon any land or works which may provide support for the Waterway, and again following practical completion of those specified works, the undertaker shall procure, at no expense to CRT, the carrying out of a survey (including a dip-survey to measure the depth of the Waterway), by an appropriately qualified structural engineer (the "structural surveyor"), approved by CRT~~

(whose approval shall not be unreasonably withheld or delayed), of so much of the Waterway as may be affected by the specified works("the survey").

(2) For the purposes of the survey the undertaker and CRT shall:

(a) afford reasonable facilities to the surveyor for access to the site of the specified works; to any land and existing works of the undertaker which may provide support for the Waterway and to CRT's Property as will or may be affected by the specified works; and

(b) supply the surveyor as soon as reasonably practicable with all such information as he may reasonably require with regard to such existing works of the undertaker; to the specified works and the proposed method of their construction, and with regard to the Waterway.

(3) The reasonable costs of the survey shall include the costs of any dewatering or reduction of the water level of any part of the Waterway (where reasonably required) which may be effected to facilitate the carrying out of the survey and the provisions of this Part shall apply with all necessary modifications to any such dewatering or reduction in the water level as though the same were specified works.

(4) Copies of the survey shall be provided to CRT at no cost to CRT.

Undertaking of works

7. (1) The undertaker shall give to the engineer 30 days' notice of its intention to commence the construction of any of any specified works or protective works (or such notice as may be reasonably practicable in the case of repair carried out in an emergency), so that, where appropriate, CRT may publish notices bringing the undertaking of those works to the attention of users of the Waterway.

~~6. — 6. Any specified work and any protective works to be constructed by virtue of paragraph 5(3) must~~ (2) All specified work, and all protective works, when commenced, ~~be constructed~~ must be constructed:

(a) with all reasonable dispatch ~~(having regard to the undertaker's timetable for construction of the authorised development)~~ in accordance with the plans approved or deemed to have been approved or settled under paragraph 54;

(b) in accordance with the code of practice and under the supervision (where appropriate ~~and if given~~), and to the reasonable satisfaction of-, the engineer;

(c) in such manner as to cause as little damage or disturbance as is possible to ~~the waterway~~; CRT's Property; and

~~(d) in such a manner to ensure that as few materials are discharged or deposited into any stream, watercourse, waterway, pond or any other water feature on or forming part of Canal & River Trust property as reasonable practicable; and~~

(d) ~~(e)~~ so far as is reasonably practicable, so as not to interfere with the safe use of the ~~w~~Waterway.

~~(2)(2) If any damage to the waterway CRT's Property is caused by the carrying out of, or in consequence of, the construction of a, any specified work, the undertaker must make good such damage and must pay to Canal & River Trust CRT all reasonable and proper expenses that Canal & River Trust CRT actually incurs by reason of such damage, interference or obstruction.~~

~~(3)(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligent act or default of Canal & River Trust CRT or its servants, contractors or agents or any liability on Canal & River Trust CRT with respect to any damage, costs, expenses or loss attributable to the negligent act or default of the undertaker or its servants, contractors or agents.~~

~~-(4) The undertaker must—must –~~

~~(a) at all times afford reasonable facilities to the engineer for access to a specified works during its construction; and~~

~~(b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.~~

~~Canal & River Trust (5) CRT must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by 8.—Canal & River Trust CRT under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.~~

Prevention of Pollution

~~8. The undertaker shall not in the course of constructing any specified work or protective work, or otherwise in connection therewith, do or permit anything which may result in the pollution of the Waterway or the deposit of materials therein, and shall take such steps as the engineer may reasonably require to avoid or make good any breach of its obligations under this paragraph 8.~~

Lighting

9. The undertaker shall provide and maintain at its own expense in the vicinity of the specified works, and any protective works, such temporary lighting and such signal lights for the control of navigation as the engineer may reasonably require during the construction of those specified works or protective works.

Effect of specified works

~~9. The undertaker must repay to Canal & River Trust all reasonable and proper fees, costs, charges and expenses reasonably and actually incurred by Canal & River Trust in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified.~~

10. (1) If at any time during the construction of, or after the completion of a, any specified work, Canal & River Trust CRT gives notice to the undertaker informing it that the state of maintenance of any part of the those specified work appears to be such as adversely affects the operation of the wWaterway, or otherwise adversely affects CRT's Property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that such specified work in such state of maintenance as to not adversely affect the operation of the waterway shall no longer have such adverse effect.

(2) If during the construction of any specified work or a protective work, or during a period of twenty four (24) months after the completion of those works, any alterations or additions, either permanent or temporary, to the Waterway are necessary in consequence of the construction of those specified work or protective work in order to avoid detriment, and CRT gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (as are detailed in that notice, the undertaker shall pay to CRT the reasonable costs of those alterations or additions including, in respect of any such alterations or additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by CRT in maintaining, working and, when necessary, renewing any such alterations or additions.

(3) If the cost of maintaining, working or renewing CRT's Property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving is to be set off against any sum payable by the undertaker to the CRT under this paragraph.

(4) The undertaker shall pay to CRT a capitalised sum representing the reasonably increased or additional cost of maintaining and, when necessary, renewing any works, including any permanent protective works provided under sub-paragraph 10(3), and of carrying out any additional dredging of the waterway reasonably necessitated by the exercise of any of the powers under this Order

(5) In the event that the undertaker fails to complete the construction of, or part of, the specified works or protective works CRT, in order to avoid detriment, may serve a notice in writing on the undertaker requiring that construction be completed. Any notice served under this paragraph

shall state the works that are required to be completed by the undertaker, and shall lay down a timetable for their completion. If the undertaker fails to comply with this notice within 35 days, CRT may itself construct the works stated in such notice, (together with any ancillary works) and the undertaker shall reimburse CRT all costs, fees, charges and expenses it has reasonably incurred in carrying out such works.

(6) CRT must, on receipt of a request from the undertaker provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim or to be made pursuant to this Part.

~~**11.**—The undertaker and Canal & River Trust may enter into, and carry into effect, agreements for the transfer to the undertaker of—~~

~~(a) any Canal & River Trust property shown on the works or land plans and described in the book of reference;~~

~~any lands, works or other property held in connection with (b) — any such Canal & River Trust property; and~~

~~any rights and obligations (whether or not statutory) of Canal & River Trust relating to any of Canal & River Trust property or (c) — any lands, works or other property referred to in this paragraph.~~

~~**12.**—The undertaker shall repay to Canal & River Trust all fees, costs, charges and expenses reasonably and properly actually incurred by Canal & River Trust—~~

~~(a) in constructing any protective works under the provisions of paragraph 5(3);~~

~~(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer (if reasonably required) of the construction or repair of a specified work and any protective works;~~

~~(c) in bringing the specified works or any protective works to the notice of users of CRT's network.~~

~~**13.**—(3) If any permanent or temporary alterations or additions to Canal & River Trust property are reasonably necessary in consequence of the construction of a specified work, or during a period of 12 months after the completion of the authorised development in order to ensure the safety of Canal & River Trust property or the continued safe operation of the waterway, such alterations and additions~~

~~may be carried out by Canal & River Trust, and if Canal & River Trust gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Canal & River Trust the proper and reasonable cost of those alterations or additions.~~

~~(1) If the cost of maintaining, working or renewing Canal & River Trust property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Canal & River Trust under this paragraph.~~

~~**14.** (4) Canal & River Trust must, on receipt of a request from the undertaker provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part.~~

~~(1) In respect of any sums due to the Canal & River Trust from the undertaker referred to in this Part, the Canal & River Trust (7) In respect of any sums due to the CRT from the undertaker referred to in this Part, CRT shall provide such details of the formula by which those sums have been calculated and a breakdown of those sums as the undertaker may reasonably require.~~

~~(2)(8) In the assessment of any sums payable to Canal & River Trust CRT under this Part, there must not be taken into account any increase in the sums claimed that are attributable to any action taken by or any agreement entered into by Canal & River Trust CRT if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.~~

Compensation and indemnity, etc.

~~11. (1) If any detriment shall be caused by the construction or failure of the specified works or the protective works if carried out by the undertaker, the undertaker (if so required by CRT) shall make good such detriment and shall pay to CRT all reasonable expenses to which CRT may be put, and compensation for any loss which CRT may sustain, in making good or otherwise by reason of the detriment.~~

~~(2) The undertaker shall be responsible for and make good to CRT all costs, charges, damages, expenses and losses not otherwise provided for in this Schedule which may be occasioned to and reasonably incurred by CRT:~~

- (a) by reason of the construction of a specified work or a protective work or the failure of such a work; or
(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction of a specified work or a protective work;
and subject to sub-paragraph 11(4) the undertaker shall effectively indemnify and hold harmless CRT from and against all claims and demands arising out of or in connection with any of the matters referred to in paragraphs (a) and (b) (provided that, save as expressly set out in this paragraph, CRT shall not be entitled to recover any consequential losses from the undertaker).
- (3) The fact that any act or thing may have been done by CRT on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision or in accordance with any directions or awards of an arbitrator shall not (if it was done without negligence on the part of CRT or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.
- (4) Nothing in sub-paragraph 11(2) shall impose any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the neglect or willful default of CRT, its officers, servants, contractors or agents.
- (5) CRT shall give the undertaker reasonable notice of any such claim or demand as aforesaid and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.
- (6) The aggregate cap of the undertaker's gross liability for consequential losses shall be limited to £10,000,000 (ten million pounds) for any one occurrence or all occurrences of a series arising out of the one original cause.

Repayment of CRT's fees etc.

12. The undertaker shall repay to CRT in accordance with the code of practice all fees, costs, charges and expenses reasonably incurred by CRT:
- (a) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction or repair of a specified work and any protective works;
(b) in respect of the employment during the construction of the specified works or any protective works of any inspectors, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, watching and lighting any of CRT's Property;
(c) for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works or any protective works; and
(d) in bringing the specified works or any protective works to the notice of users of the Waterway.

Agreements

13. The undertaker and CRT may enter into, and carry into effect, agreements for the transfer to the undertaker of:
- (a) any of CRT's Property shown on the works or land plans and described in the book of reference;
 - (b) any lands, works or other property held in connection with any such of CRT's Property; and
 - (c) and rights and obligations (whether or not statutory) of CRT relating to any of CRT's Property or any lands, works or other property referred to in this paragraph.

Arbitration

14. ~~15.~~ Any difference or dispute arising between the operator and the undertaker under this Part of this Schedule shall, unless otherwise agreed in writing between the operator and the undertaker, be referred to and settled by arbitration under article 34 (arbitration).

Capitalised sum

15. Any capitalised sum which is required to be paid under this Schedule shall be calculated by multiplying the cost of the maintenance or renewal works to the waterway necessitated as a result of the operation of the authorised development by the number of times that the maintenance or renewal works will be required during the operation of the authorised development.

ANNEX 2 - The Applicant's amendments to the CRT Preferred Protective Provisions (Tracked Changes)

PART 3

Protection of Canal and River Trust

1. The provisions of this Part have effect for the protection of CRT, unless otherwise agreed in writing between the undertaker and ~~the~~ CRT.

2. In this Part-

"1965 Act" means the Compulsory Purchase Act 1965;

"CRT" means the Canal & River Trust and any successor body performing the same functions which holds or manages any of CRT's Property within the order limits;

"CRT's Property" means each and every part of land owned by CRT (whether beneficially or as trustee of the Waterways Infrastructure Trust) within the order limits and includes the Waterway and any other land covered with water, sub-soil, air space and waterways;

"code of practice" means the ""Code of Practice for Works Affecting the Canal & River Trust" dated [] and as amended from time to time;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"detriment" means any damage to the Waterway or any other of CRT's Property CRT demonstrates to the reasonable satisfaction of the undertaker that the undertaker has caused by the undertaking or presence of the specified works and, without prejudice to the generality of that meaning, includes:

~~(a) any obstruction of, or interference with, or hindrance or danger to, navigation or to any use of the Waterway ;~~

(~~a~~b) the erosion of the bed or banks of the Waterway, or the impairment of the stability of any works, lands or premises forming part of the Waterway;

(~~b~~e) the deposit of materials or the siltation of the Waterway so as to damage the Waterway;

~~(cd)~~ the pollution of the Waterway;

~~(de)~~ any significant alteration in the water level of the Waterway, or significant interference with the supply of water thereto, or drainage of water therefrom; and

~~(ef)~~ any harm to the ecology of the Waterway (including any adverse impact on any site of special scientific interest comprised within any of CRT's Property).~~;~~

~~_(g) any interference with the exercise by any person of rights over CRT's Property;~~

"engineer" means an engineer appointed by CRT for the relevant purposes of this Order (and includes a suitably qualified employee of CRT so appointed);

"plans" includes sections, designs, design data, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), programmes and details of the extent, timing and duration of any proposed use or occupation of any of CRT's Property;

"specified work" means so much of any of the authorised development to be situated upon, across, under, over or within CRT's Property, or which may in any way cause detriment to the Waterway;

"Waterway" means each and every part of the River Lee Navigation within the order limits, together with its waterway wall and towing path, and any pond or other waterway or course situated on CRT's Property, any works, services, apparatus, equipment, lands (including subsoil) or premises belonging to or under the control of CRT and held or used by it in connection with its statutory functions.

In respect of any specified work or the acquisition of rights under or over or use of CRT's Property. CRT must co-operate with the undertaker with a view to avoiding undue delay.

Powers requiring CRT's consent

~~3. (1) In the exercise of the powers conferred by this Order the undertaker shall not obstruct, or interfere with, pedestrian or vehicular access to the Waterway, unless such obstruction or interference with such access is with the consent of CRT.~~

~~(2) In the exercise of the powers conferred under article 15 (discharge of water) the undertaker shall not discharge water into the Waterway, or in any way interfere with the supply of water to, or drainage of water from, the Waterway unless such exercise is with the consent of CRT (save in relation to surface water through undefined channels, which shall not require the consent of CRT).~~

~~(3) The undertaker shall not exercise the powers conferred under article 18 (authority to survey and investigate land) or section 11(3) of the 1965 Act, in relation to CRT's Property unless such exercise is with the consent of CRT.~~

~~_(4) The undertaker shall not exercise the powers conferred under articles 10 to 13 and article 26 (powers in relation to streets and public rights of way) so as to divert any means of access to CRT's Property unless with the consent of CRT.~~

~~_(5) The undertaker shall not exercise the powers conferred under articles 27 and 28 (powers as to the use of land for the authorised development) in relation to any of CRT's Property unless with such exercise is with the consent of CRT.~~

(6) The undertaker shall not use any of CRT's property for the passage or siting of vehicles, plant or machinery employed in the construction of the specified works other than-

(a) with the consent in writing of the engineer; and

(b) subject to compliance with such reasonable requirements as the engineer may from time to time specify-

i. for the prevention of detriment; or

ii. in order to avoid or reduce any inconvenience to CRT, its officers, agents and all other persons lawfully on such land or property

(6) The consents required pursuant to ~~sub-paragraphs (1) to (6)~~ this Part 3 shall not be unreasonably withheld or delayed but may be given subject to reasonable terms and conditions, ~~which, in the case of article 15 (discharge of water), may include conditions: specifying the maximum volume of water which may be discharged in any period; and authorising CRT, on giving reasonable notice to the undertaker (except in an emergency, when CRT may require immediate suspension), to require the undertaker to suspend the discharge of water or reduce the flow of water where this is necessary by reason of any operational or environmental requirement of CRT;~~

(7) Nothing in this paragraph 3 shall apply in relation to anything done in accordance with any approval given by CRT under paragraph 4.

Approval of plans, protective works etc.

4. (1) Except for works the details of which are required under Schedule 2 (Requirements) to be submitted to the relevant planning authority for approval), the undertaker must, before commencing construction of specified work or carrying out any works on CRT's property, supply to CRT proper and sufficient plans of that work for the reasonable approval (having due and proper regard to the undertaker's timetable for the construction of the authorised development) of the engineer, and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer (such approval not to be unreasonably withheld or delayed) or settled by arbitration in accordance with article 35 (Arbitration) of this Order.~~The undertaker must, before commencing construction of any specified work, supply to CRT proper and sufficient plans of that work for the approval of the~~

~~engineer, and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration in accordance with article 34 (arbitration) of this Order.~~

(2) If the engineer has not ~~confirmed~~ intimated disapproval of the plans supplied pursuant to paragraph 4(1) above, and the grounds of disapproval, in writing by the end of the period of 35-28 days beginning with the date on which the last of such required plans have been submitted to CRT by the undertaker, the engineer ~~shall~~ will be deemed to have approved the plans ~~as submitted~~ pursuant to paragraph 4(1).

(3) When ~~signifying~~ confirming approval of the plans supplied pursuant to paragraph 4(1), the engineer may specify reasonable and necessary ~~any~~ protective works (whether temporary or permanent and which, for the avoidance of doubt, may include requirements to fence any specified works in order to separate the same from the Waterway or any other of CRT's Property) which, in the engineer's reasonable opinion, should be carried out before the commencement of the construction of a specified work, or during the undertaking of those specified works, ~~to avoid detriment~~.

(4) Such protective works as may be agreed between the parties or settled by arbitration in accordance with article 3~~5~~4 (arbitration) must be constructed by the undertaker at a reasonable and necessary cost, ~~at no expense to CRT~~, with all reasonable dispatch, ~~and the~~. The undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that such of those protective works as are required to be undertaken prior to commencement of construction have been completed to the engineer's reasonable satisfaction. If the engineer has not confirmed his reasonable satisfaction of the completion of the protective works within 21 days of the undertaker's notification, the engineer will be deemed to have confirmed his reasonable satisfaction.

Design of specified works

5. Without prejudice to its obligations as to the delivery of plans to CRT under the foregoing provisions of this Part, the undertaker must consult, collaborate and respond constructively to any approach, suggestion, proposal or initiative made by CRT as to the design and appearance of the specified works, including the materials to be used for their construction ~~and the environmental effects of those works~~, and shall have regard to ~~such~~ reasonable views as may be expressed by CRT in response to such consultation pursuant in particular to the requirements imposed on CRT by section 22 (general environmental and recreational duties) of the British Waterways Act 1995 and to the reasonable interest of CRT in preserving and enhancing the environment of the Waterway.

Surveying of Waterway

6. (1) Both before commencing any specified works upon ~~any CRT's Property land or works which may provide support for or~~ the Waterway, and ~~again~~ following practical completion of those specified works, the undertaker shall procure, ~~at no expense to CRT~~, at a reasonable and necessary expense to the undertaker, the carrying out of a survey (including a dip-survey to measure the depth of the

Waterway), by an appropriately qualified structural engineer (the "structural surveyor"), approved by CRT (whose approval shall not be unreasonably withheld or delayed), of so much of the Waterway as may be affected by the specified works("the survey").

(2) For the purposes of the survey the undertaker and CRT shall:

~~(a)~~(c) afford reasonable facilities to the surveyor for access to the site of the specified works; to any land and existing works of the undertaker which may provide support for the Waterway and to CRT's Property as will or may be affected by the specified works; and

~~(b)~~(d) supply the surveyor as soon as reasonably practicable with all such information as he may reasonably require with regard to such existing works of the undertaker; to the specified works and the proposed method of their construction, and with regard to the Waterway.

(3) The reasonable and necessary costs of the survey shall include the costs of any dewatering or reduction of the water level of any part of the Waterway (where reasonably required) which may be effected to facilitate the carrying out of the survey and the provisions of this Part shall apply with all necessary modifications to any such dewatering or reduction in the water level as though the same were specified works.

(4) One electronic copy and one hard copy ~~Copies~~ of the survey shall be provided to CRT at no cost to CRT.

Undertaking of works

7. (1) The undertaker shall give to the engineer 30-14 days' notice of its intention to commence the construction of any of any specified works or protective works (or such notice as may be reasonably practicable in the case of repair carried out in an emergency), so that, where appropriate, CRT may publish notices bringing the undertaking of those works to the attention of users of the Waterway.

(2) All specified work, and all protective works, when commenced, must be constructed:

- (a) with all reasonable dispatch (having regard to the undertaker's timetable for construction of the authorised development) in accordance with the plans approved or deemed to have been approved or settled under paragraph 4;
- (b) in accordance with the code of practice and under the supervision (where appropriate), and to the reasonable satisfaction of, the engineer;
- (c) in such manner as to cause as little damage or disturbance as is possible to CRT's Property; and
- (d) so far as is reasonably practicable, so as not to interfere with the safe use of the Waterway.

(2) If any damage to CRT's Property is caused by the carrying out of, or in consequence of the construction of, any specified work, the undertaker must make good such damage and must pay to CRT all reasonable and proper expenses that CRT actually incurs by reason of such damage, interference or obstruction.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligent act or default of CRT or its servants, contractors or agents or any liability on CRT with respect to any damage, costs, expenses or loss attributable to the negligent act or default of the undertaker or its servants, contractors or agents.

(4) The undertaker must –

~~(a)(c)~~ at all times afford reasonable facilities to the engineer for access to a specified works during its construction; and
~~(b)(d)~~ supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

(5) CRT must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by CRT under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them

Prevention of Pollution

~~8. The undertaker shall not in the course of constructing any specified work or protective work, or otherwise in connection therewith, do or permit anything which may result in the pollution of the Waterway or the deposit of materials therein, and shall take such steps as the engineer may reasonably require to avoid or make good any breach of its obligations under this paragraph 8.~~

Lighting

~~9. The undertaker shall provide and maintain at its own expense in the vicinity of the specified works, and any protective works, such temporary lighting and such signal lights for the control of navigation as the engineer may reasonably require during the construction of those specified works or protective works.~~

Effect of specified works

10. (1) If at any time during the construction of, or after the completion of, any specified work, CRT gives notice to the undertaker informing it that the state of maintenance of those specified work appears to be such as adversely affects the operation of the Waterway, or otherwise adversely affects CRT's Property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put such specified work in such state of maintenance as shall no longer have such adverse effect.

~~(2) If during the construction of any specified work or a protective work, or during a period of twenty four (24) months after the completion of those works, any alterations or additions, either permanent or temporary, to the Waterway are necessary in consequence of the construction of those specified work or protective work in order to avoid detriment, and CRT gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (as are detailed in that notice, the undertaker shall pay to CRT the reasonable costs of those alterations or additions including, in respect of any such alterations or additions as are to be permanent, a~~

~~capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by CRT in maintaining, working and, when necessary, renewing any such alterations or additions.~~

~~(3) — If the cost of maintaining, working or renewing CRT's Property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving is to be set off against any sum payable by the undertaker to the CRT under this paragraph.~~

~~(4) — The undertaker shall pay to CRT a capitalised sum representing the reasonably increased or additional cost of maintaining and, when necessary, renewing any works, including any permanent protective works provided under sub paragraph 10(3), and of carrying out any additional dredging of the waterway reasonably necessitated by the exercise of any of the powers under this Order~~

~~(5) — In the event that the undertaker fails to complete the construction of, or part of, the specified works or protective works CRT, in order to avoid detriment, may serve a notice in writing on the undertaker requiring that construction be completed. Any notice served under this paragraph shall state the works that are required to be completed by the undertaker, and shall lay down a timetable for their completion. If the undertaker fails to comply with this notice within 35 days, CRT may itself construct the works stated in such notice, (together with any ancillary works) and the undertaker shall reimburse CRT all costs, fees, charges and expenses it has reasonably incurred in carrying out such works.~~

~~(6) — CRT must, on receipt of a request from the undertaker provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim or to be made pursuant to this Part.~~

~~(7) — In respect of any sums due to the CRT from the undertaker referred to in this Part, CRT shall provide such details of the formula by which those sums have been calculated and a breakdown of those sums as the undertaker may reasonably require.~~

~~(8) — In the assessment of any sums payable to CRT under this Part, there must not be taken into account any increase in the sums claimed that are attributable to any action taken by or any agreement entered into by CRT if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.~~

Compensation and indemnity, etc.

~~11. (1) — If any detriment shall be caused by the construction or failure of the specified works or the protective works if carried out by the undertaker, the undertaker (if so required by CRT) shall make good such detriment and shall pay to CRT all reasonable expenses to which CRT may be put, and compensation for any loss which CRT may sustain, in making good or otherwise by reason of the detriment.~~

~~(2) — The undertaker shall be responsible for and make good to CRT all costs, charges, damages, expenses and losses not otherwise provided for in this Schedule which may be occasioned to and reasonably incurred by CRT:~~

~~(a) — by reason of the construction of a specified work or a protective work or the failure of such a work; or~~

~~(b) — by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction of a specified work or a protective work;~~

~~and subject to sub-paragraph 11(4) the undertaker shall effectively indemnify and hold harmless CRT from and against all claims and demands arising out of or in connection with any of the matters referred to in paragraphs (a) and (b) (provided that, save as expressly set out in this paragraph, CRT shall not be entitled to recover any consequential losses from the undertaker).~~

~~(3) — The fact that any act or thing may have been done by CRT on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision or in accordance with any directions or awards of an arbitrator shall not (if it was done without negligence on the part of CRT or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.~~

~~(4) — Nothing in sub-paragraph 11(2) shall impose any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the neglect or willful default of CRT, its officers, servants, contractors or agents.~~

~~(5) — CRT shall give the undertaker reasonable notice of any such claim or demand as aforesaid and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.~~

~~(6) — The aggregate cap of the undertaker's gross liability for consequential losses shall be limited to £10,000,000 (ten million pounds) for any one occurrence or all occurrences of a series arising out of the one original cause.~~

Repayment of CRT's fees etc.

12. The undertaker shall repay to CRT in accordance with the code of practice all fees, costs, charges and expenses reasonably and properly incurred by CRT:

~~(a) — in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction or repair of a specified work and any protective works;~~

~~(b) — in respect of the employment during the construction of the specified works or any protective works of any inspectors, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, watching and lighting any of CRT's Property;~~ for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works or any protective works; and

~~(c) — in bringing the specified works or any protective works to the notice of users of the Waterway.~~

Agreements

13. The undertaker and CRT may enter into, and carry into effect, agreements for the transfer to the undertaker of:

(a) any of CRT's Property shown on the works or land plans and described in the book of reference;

(b) any lands, works or other property held in connection with any such of CRT's Property; and

(c) and rights and obligations (whether or not statutory) of CRT relating to any of CRT's Property or any lands, works or other property referred to in this paragraph.

Arbitration

14. Any difference or dispute arising between the operator and the undertaker under this Part of this Schedule shall, unless otherwise agreed in writing between the operator and the undertaker, be referred to and settled by arbitration under article 34 (arbitration).

Capitalised sum

15. ~~Any capitalised sum which is required to be paid under this Schedule shall be calculated by multiplying the cost of the maintenance or renewal works to the waterway necessitated as a result of the operation of the authorised development by the number of times that the maintenance or renewal works will be required during the operation of the authorised development.~~

ANNEX 3 – Clean Version of the CRT Preferred Protective Provisions Incorporating the Applicant’s Amendments

PART 3

Protection of Canal and River Trust

1. The provisions of this Part have effect for the protection of CRT, unless otherwise agreed in writing between the undertaker and CRT.
2. In this Part–
 - "1965 Act" means the Compulsory Purchase Act 1965;
 - "CRT" means the Canal & River Trust and any successor body performing the same functions which holds or manages any of CRT's Property within the order limits;
 - "CRT's Property" means each and every part of land owned by CRT (whether beneficially or as trustee of the Waterways Infrastructure Trust) within the order limits and includes the Waterway and any other land covered with water, sub-soil, air space and waterways;
 - "code of practice" means the ""Code of Practice for Works Affecting the Canal & River Trust" dated [] and as amended from time to time;
 - "construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;
 - "detriment" means any damage to the Waterway or any other of CRT's Property CRT demonstrates to the reasonable satisfaction of the undertaker that the undertaker has caused by the undertaking or presence of the specified works and, without prejudice to the generality of that meaning, includes:
 - (a) the erosion of the bed or banks of the Waterway, or the impairment of the stability of any works, lands or premises forming part of the Waterway;
 - (b) the deposit of materials or the siltation of the Waterway so as to damage the Waterway;
 - (c) the pollution of the Waterway;

- (d) any significant alteration in the water level of the Waterway, or significant interference with the supply of water thereto, or drainage of water therefrom; and
- (e) any harm to the ecology of the Waterway (including any adverse impact on any site of special scientific interest comprised within any of CRT's Property).

"engineer" means an engineer appointed by CRT for the relevant purposes of this Order (and includes a suitably qualified employee of CRT so appointed);

"plans" includes sections, designs, design data, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), programmes and details of the extent, timing and duration of any proposed use or occupation of any of CRT's Property;

"specified work" means so much of any of the authorised development to be situated upon, across, under, over or within CRT's Property, or which may in any way cause detriment to the Waterway;

"Waterway" means each and every part of the River Lee Navigation within the order limits, together with its waterway wall and towing path, and any pond or other waterway or course situated on CRT's Property, any works, services, apparatus, equipment, lands (including subsoil) or premises belonging to or under the control of CRT and held or used by it in connection with its statutory functions.

In respect of any specified work or the acquisition of rights under or over or use of CRT's Property. CRT must co-operate with the undertaker with a view to avoiding undue delay.

Powers requiring CRT's consent

3. (1) The undertaker shall not use any of CRT's property for the passage or siting of vehicles, plant or machinery employed in the construction of the specified works other than-
 - (a) with the consent in writing of the engineer; and
 - (b) subject to compliance with such reasonable requirements as the engineer may from time to time specify-
 - i. for the prevention of detriment; or
 - ii. in order to avoid or reduce any inconvenience to CRT, its officers, agents and all other persons lawfully on such land or property
- (2) The consents required pursuant to this Part 3 shall not be unreasonably withheld or delayed but may be given subject to reasonable terms and conditions.;

(3) Nothing in this paragraph 3 shall apply in relation to anything done in accordance with any approval given by CRT under paragraph 4.

Approval of plans, protective works etc.

(1) Except for works the details of which are required under Schedule 2 (Requirements) to be submitted to the relevant planning authority for approval), the undertaker must, before commencing construction of specified work or carrying out any works on CRT's property, supply to CRT proper and sufficient plans of that work for the reasonable approval (having due and proper regard to the undertaker's timetable for the construction of the authorised development) of the engineer, and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer (such approval not to be unreasonably withheld or delayed) or settled by arbitration in accordance with article 35 (Arbitration) of this Order.

(2) If the engineer has not confirmed disapproval of the plans supplied pursuant to paragraph 4(1) above and the grounds of disapproval in writing by the end of the period of 28 days beginning with the date on which the last of such required plans have been submitted to CRT by the undertaker, the engineer will be deemed to have approved the plans submitted pursuant to paragraph 4(1).

(3) When confirming approval of the plans supplied pursuant to paragraph 4(1), the engineer may specify reasonable and necessary protective works (whether temporary or permanent and which, for the avoidance of doubt, may include requirements to fence any specified works in order to separate the same from the Waterway or any other of CRT's Property) which, in the engineer's reasonable opinion, should be carried out before the commencement of the construction of a specified work, or during the undertaking of those specified works.

(4) Such protective works as may be agreed between the parties or settled by arbitration in accordance with article 35 (arbitration) must be constructed by the undertaker at a reasonable and necessary cost, with all reasonable dispatch. The undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that such of those protective works as are required to be undertaken prior to commencement of construction have been completed to the engineer's reasonable satisfaction. If the engineer has not confirmed his reasonable satisfaction of the completion of the protective works within 21 days of the undertaker's notification, the engineer will be deemed to have confirmed his reasonable satisfaction.

Design of specified works

4. Without prejudice to its obligations as to the delivery of plans to CRT under the foregoing provisions of this Part, the undertaker must consult, collaborate and respond constructively to any approach, suggestion, proposal or initiative made by CRT as to the design and appearance of the specified works, including the materials to be used for their construction, and shall have regard to reasonable views as may be expressed by CRT in response to such consultation pursuant in particular to the requirements imposed on CRT by section 22

(general environmental and recreational duties) of the British Waterways Act 1995 and to the reasonable interest of CRT in preserving and enhancing the environment of the Waterway.

Surveying of Waterway

5. (1) Both before commencing any specified works upon CRT's Property or the Waterway, and following practical completion of those specified works, the undertaker shall procure, at a reasonable and necessary expense to the undertaker, the carrying out of a survey (including a dip-survey to measure the depth of the Waterway), by an appropriately qualified structural engineer (the "structural surveyor"), approved by CRT (whose approval shall not be unreasonably withheld or delayed), of so much of the Waterway as may be affected by the specified works("the survey").
- (2) For the purposes of the survey the undertaker and CRT shall:
 - (a) afford reasonable facilities to the surveyor for access to the site of the specified works; to any land and existing works of the undertaker which may provide support for the Waterway and to CRT's Property as will or may be affected by the specified works; and
 - (b) supply the surveyor as soon as reasonably practicable with all such information as he may reasonably require with regard to such existing works of the undertaker; to the specified works and the proposed method of their construction, and with regard to the Waterway.
- (3) The reasonable and necessary costs of the survey shall include the costs of any dewatering or reduction of the water level of any part of the Waterway (where reasonably required) which may be effected to facilitate the carrying out of the survey and the provisions of this Part shall apply with all necessary modifications to any such dewatering or reduction in the water level as though the same were specified works.
- (4) One electronic copy and one hard copy of the survey shall be provided to CRT at no cost to CRT.

Undertaking of works

6. (1) The undertaker shall give to the engineer 14 days' notice of its intention to commence the construction of any of any specified works or protective works (or such notice as may be reasonably practicable in the case of repair carried out in an emergency), so that, where appropriate, CRT may publish notices bringing the undertaking of those works to the attention of users of the Waterway.
- (2) All specified work, and all protective works, when commenced, must be constructed:

- (a) with all reasonable dispatch (having regard to the undertaker's timetable for construction of the authorised development) in accordance with the plans approved or deemed to have been approved or settled under paragraph 4;
 - (b) in accordance with the code of practice and under the supervision (where appropriate), and to the reasonable satisfaction of, the engineer;
 - (c) in such manner as to cause as little damage or disturbance as is possible to CRT's Property; and
 - (d) so far as is reasonably practicable, so as not to interfere with the safe use of the Waterway.
- (2) If any damage to CRT's Property is caused by the carrying out of, or in consequence of the construction of, any specified work, the undertaker must make good such damage and must pay to CRT all reasonable and proper expenses that CRT actually incurs by reason of such damage, interference or obstruction.
- (3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligent act or default of CRT or its servants, contractors or agents or any liability on CRT with respect to any damage, costs, expenses or loss attributable to the negligent act or default of the undertaker or its servants, contractors or agents.
- (4) The undertaker must –
- (a) at all times afford reasonable facilities to the engineer for access to a specified works during its construction; and
 - (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.
- (5) CRT must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by CRT under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them

Effect of specified works

7. If at any time during the construction of, or after the completion of, any specified work, CRT gives notice to the undertaker informing it that the state of maintenance of those specified work appears to be such as adversely affects the operation of the Waterway, or otherwise adversely affects CRT's Property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put such specified work in such state of maintenance as shall no longer have such adverse effect.

Repayment of CRT's fees etc.

8. The undertaker shall repay to CRT in accordance with the code of practice all fees, costs, charges and expenses reasonably and properly incurred by CRT for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works or any protective works.

Agreements

9. The undertaker and CRT may enter into, and carry into effect, agreements for the transfer to the undertaker of:
- (a) any of CRT's Property shown on the works or land plans and described in the book of reference;
 - (b) any lands, works or other property held in connection with any such of CRT's Property; and
 - (c) and rights and obligations (whether or not statutory) of CRT relating to any of CRT's Property or any lands, works or other property referred to in this paragraph.

Arbitration

10. Any difference or dispute arising between the operator and the undertaker under this Part of this Schedule shall, unless otherwise agreed in writing between the operator and the undertaker, be referred to and settled by arbitration under article 34 (arbitration).

Schedule 2

NEGOTIATIONS BETWEEN THE APPLICANT AND TFL

1. At the hearing on 6 July 2016 into compulsory purchase matters, TfL made representations to the ExA that the Applicant had not engaged with it sufficiently to enter into a private agreement. Schedule 3 of this note sets out an account of all the actions the Applicant has taken with respect to discussing the impacts of the proposals on TfL and reaching a private agreement.
2. The Applicant commenced a programme of informal consultation with TfL on the North London Heat and Power Project in June 2014 to discuss details of the emerging scheme and associated transport implications.
3. The Applicant's lawyers sent letters to TfL setting out the impact of the North London Heat and Power Project (Project) on 2 April 2015 and on 1 June 2015.
4. The Applicant's lawyers then sent a letter chasing a response from TfL on 19 June 2015. The Applicant's lawyers received a telephone message from TfL on 25 June 2015. The Applicant's lawyers returned this call on 26 June 2015.
5. The Applicant's lawyers received a letter by email from TfL on 29 June 2015 relating to the impacts of the proposals of the Project and requesting further information.
6. The Applicant's lawyers responded on 13 July 2015 providing consolidated information.
7. On 27 August 2015 the Applicant's lawyers sent TfL a draft settlement agreement to which TfL acknowledged receipt. On 5 October 2015, the Applicant's lawyers sent TfL a chaser email asking for its comments on the draft Settlement Agreement.
8. TfL sent documents relating to a statement of common ground on 14 October 2015. The Applicant's lawyers called TfL on 26 October 2015 to discuss the position and TfL stated that it would be useful if details of all impacts of the Project were set out in correspondence. On 22 February 2016, the Applicant's lawyers emailed TfL with an interests table and suggested progress. The Applicant's lawyers then sent a chaser email to TfL on 29 February 2016. The Applicant's lawyers received a telephone call from TfL on 7 March 2016 explaining that TfL are considering the requirements and will revert with proposals for a settlement agreement.
9. The Applicant's lawyers were then informed that TfL had instructed solicitors. On 3 May 2016, the Applicant's lawyers emailed TfL asking for details of TfL's solicitors who were dealing with this matter. The Applicant's lawyers chased for a response on 6 May 2016. The Applicant's lawyers received an email from Bircham Dyson Bell (BDB) on 10 May 2016. The Applicant's lawyers sent further comments on the draft settlement agreement on 26 May 2016. BDB responded with further amendments to the settlement agreement on 1 June 2016 and the Applicant's lawyers had a telephone conversation with BDB on 10 June 2016.

10. On 17 June 2016, BDB requested an update from the Applicant's lawyers on the settlement agreement. The Applicant's lawyers replied on the same date saying that the amendments were being considered. On 22 June 2016, the Applicant's lawyers received an email from BDB asking for a substantive response to their comments on the settlement agreement. On 4 July 2016, the Applicant's lawyers sent an email to BDB accepting the amendments proposed by BDB and setting out only minor additional amendments in a further draft settlement agreement.
11. At the hearing on matters relating to compulsory acquisition on 6 July 2016, TfL confirmed that they had further comments on the settlement agreement. After the hearing, on 21 July 2016, the Applicant met with TfL to discuss further the impact of the Project on TfL's interests and the impact of the A406 North Circular Road (Silver Street to Hall Lane Section) CPO 1992 (CPO). TfL agreed to provide a plan showing the overlap between the Project and the CPO.
12. On 29 July 2016, the Applicant's lawyers sent an email chasing the plan showing the overlap between the CPO and the Project. Again, on 2 August 2016 the Applicant's lawyers chased BDB for the plan and comments on the settlement agreement. On 2 August 2016, the Applicant's lawyers received an email from BDB stating that TfL are having a more detailed plan produced but in the meantime attaching a general overlap plan. BDB also stated that they were meeting with TfL during the week commencing 8 August 2016 and that they hope to provide substantive comments on the settlement agreement following that meeting.
13. On 8 August 2016, the Applicant's lawyers sent an email to BDB chasing TfL's comments on the settlement agreement and also querying further the CPO and whether it continues to subsist. BDB reconfirmed that they were meeting with their client that week and that they would provide a response.
14. On 10 August 2016, the Applicant's lawyers sent an email to the London Borough of Enfield (LBE) to seek confirmation regarding the status of the CPO. LBE responded to state that they had looked into the CPO with their legal team and it seemed to them that the CPO "relates to the A406 widening scheme that the Department for Transport were proposing back in the late 80s early 90s. The scheme never materialised and I expect the CPO has now expired. I would however suggest that you contact TfL for confirmation of this."
15. On 15 August 2016, the Applicant's lawyers sent an email to BDB asking whether they had received instructions and also requesting confirmation as to whether the CPO is still valid. The Applicant's lawyers informed BDB in that email that its investigations at the local authority indicated that the CPO was no longer subsisting (the Applicant's lawyer's local search results did not reveal the CPO). BDB replied on 15 August 2016 with its amendments to the settlement agreement.
16. Based on the amendments sought by TfL in the settlement agreement, on 16 August 2016, the Applicant's lawyers sought further clarification from BDB regarding the status of the CPO. The Applicant's lawyers have yet to receive a response from BDB.
17. On 18 August 2016, the Applicant's lawyers wrote to TfL setting out why it is unable to agree the amendments to the settlement agreement. The Applicant's lawyers have asked BDB what, in its view, could be inserted into a joint statement.

Schedule 3

COMMENTS BY THE APPLICANT ON THE NATIONAL GRID STANDARD PROTECTIVE PROVISIONS

1. This Schedule 3 sets out the Applicant's comments on the National Grid Standard Protective Provisions, and contains two annexes:
 - a. annex 1: the National Grid Standard Protective Provisions (as submitted by National Grid for Deadline 3 of Examination) (**NG Standard Protective Provisions**);
 - b. annex 2: the Applicant's amendments to the National Grid Standard Protective Provisions shown in tracked changes (**the Applicant's Preferred NG Protective Provisions**).
2. A clean version of the Applicant's preferred NG Protective Provisions has been inserted into Part 5 of Schedule 13 of the draft DCO submitted at Deadline 8, for incorporation into the draft DCO for approval if the ExA agrees with the amendments the Applicant proposes to the NG Standard Protective Provisions.
3. The Book of Reference (AD04.03/APP-057), the CA Powers Roadmap (AD04.04/REP7-008) and the CA Statement of Reasons (AD04.01/REP7-006) set out the proposed interferences with National Grid interests and apparatus on the application site, and justifications. Those proposed interferences with regards to apparatus are:
 - a. Decommission and remove 1 medium pressure gas main and 1 low pressure gas main that are currently situated within plots 1, 2, 30 and 31. Please see drawing number 35180/LON/CVD/004/F at Appendix A to the Utility Strategy (AD05.10/APP-029) which shows the location of these existing gas mains. Page 49 of the Applicant's CA Statement of Reasons (AD04.01/REP7-006) provides further detail on this proposal.
 - b. Protective works to a gas chamber owned by NG (also known as the gas governor) situated within plot 4. Works (including utilities works) will be carried out in the vicinity of plot 4, which may mean that NG access to the gas governor on plot 4 may need to be temporarily interfered with. The Applicant will seek to minimise any compromise in access at a practical level.
 - c. Reposition an underground cable that is currently situated beneath plot numbers 16 and 21. The location of this cable is shown on drawing number 35180/GOS/CVD/004/A attached at Appendix A of the Utility Strategy.
 - d. Power to temporarily limit access to gas pipes running from Meridian Way down Ardra Road and onto Deephams Farm Road, whilst resurfacing works are carried out on Ardra Road (if needed). The location of these gas pipes is shown on drawing numbers 35180/GOS/CVD/001/C and 35180/GOS/CVD/007/C at Appendix C of the Utility Strategy.
 - e. Power to temporarily limit access to two overhead lines that run over the proposed Temporary Laydown Area (Plot 16) and land to the east of the Edmonton EcoPark whilst the construction of Temporary Laydown Area is carried out. The location of these overhead lines is

shown on drawing number 35180/GOS/CVD/004/A attached at Appendix A of the Utility Strategy. The requested clearances would be maintained throughout. The Applicant has also submitted a joint note with National Grid to the ExA setting out the interactions between the draft NLHPP DCO and the National Grid (North London Reinforcement Project) Order 2014 and commentary on the degree of interaction. A private agreement is being negotiated with National Grid to deal with the practicalities of liaison between the Applicant and National Grid in relation to the interactions between the draft NLHPP Order and the National Grid Order.

Applicant's amendments to the NG Standard Protective Provisions at Annex 2 – Explanations and Justification

4. Certain elements of the NG Standard Protective Provisions are not acceptable to the Applicant or are not relevant to the Application. Please see Annex 2 to this Schedule 3, which shows the drafting amendments sought by the Applicant to the NG Standard Protective Provisions. The following is commentary to be read alongside the amendments shown at Annex 2. The references to paragraph numbers below are to the paragraph numbers in the National Grid Standard Protective Provisions:
 - a. As requested by the ExA at the hearing on 5 July 2016 regarding issue-specific matters relating to the draft DCO, all references to "promoter" throughout the NG Standard Protective Provisions need to be replaced with "undertaker" so that the protective provisions are consistent with the rest of the draft DCO. Also as requested by the ExA at the same hearing, all references to "undertaker" (which is National Grid in this context) throughout the NG Standard Protective Provisions, need to be replaced with "statutory undertaker".
 - b. Definition of "apparatus" – wording is required in limb (a) of this definition to make it clear that apparatus in the case of electrical lines or plant belonging to National Grid is for the purposes of electricity supply, transmission or distribution – this is consistent with limb (b) of this definition, insofar as it relates to gas apparatus. As these provisions are only for the benefit of National Grid, the reference to "gas transporter" in limb (b) of this definition should be replaced with "statutory undertaker".
 - c. Definition of "authorised works" – the words "includes any associated development authorised by the Order and" need to be deleted as the preceding words will cover associated development.
 - d. Definition of "deed of consent" - this definition needs to be deleted because it is only used in paragraph 5 (Acquisition of land) of the NG Standard Protective Provisions and paragraph 5 needs to be deleted in its entirety (see below).
 - e. Definition of "parent company" – this definition needs to be deleted as the Applicant was established by statute and does not have a parent company.
 - f. Paragraph 4 (Apparatus of Undertakers in stopped up streets) - in the NG Standard Protective Provisions, this paragraph provides that despite the temporary stopping up of a highway, National Grid is at liberty at all times to access its apparatus across that highway. In addition, paragraph 4 allows National Grid to do all such works and things in, upon or under such highway as may be reasonably necessary or desirable to enable it to maintain apparatus during a temporary stopping up. The only National Grid apparatus identified by the Applicant running beneath a street within the Application site, access to which may be temporarily affected, is a gas pipe that originates at the intersection of Ardra Road and Meridian Way and then splits into three separate gas pipes following different routes.

Parts of these gas pipes run beneath Ardra Road and Deephams Farm Road (both owned by Kennet Properties Ltd). Please see drawing number 35180/LON/CVD/003/A at Appendix A of the Utility Strategy to see the location of these pipes. The Applicant's proposals include carrying out some utilities works on the southern part of Ardra Road and to also resurface Ardra Road, should resurfacing be necessary. Paragraph 4 would take away powers that would allow the undertaker to temporarily interfere with National Grid's access during its works and is also therefore impractical as there may be occasions, albeit very few in number and limited in time, when National Grid would not be able to access its apparatus due to works on Ardra Road. Paragraph 4 also allows National Grid to carry out works on Ardra Road at a time that may conflict with any works under the proposals. There is no provision for advance notice and no procedure to liaise with the undertaker should access be required.

The Applicant has therefore replaced paragraph 4 of the NG Standard Protective Provisions with wording that is acceptable to it. The Applicant's preferred wording states that if as a consequence of the exercise of powers of the Order, access to National Grid apparatus is materially obstructed, the undertaker will provide such reasonable alternative means of access to such apparatus as will enable National Grid to operate, maintain, repair or replace, or use its apparatus. This is all subject to cases of emergency, where National Grid will be at liberty to access and execute all necessary works within the Application site and in such cases, must provide alternative access to the undertaker. The Applicant believes that its alternative wording for paragraph 4 will ensure that there is adequate protection for National Grid in that it will always have access in cases of emergency and that the undertaker must provide alternative means of access to National Grid should there be a material obstruction. The Applicant's alternative wording for paragraph 4 will also still allow the undertaker to carry out the relevant part of the works.

- g. Paragraph 5 (Protective works to buildings) – There is only one building belonging to National Grid within the Application site that will require protective works. That building is a gas governor located and is located on plot 4. Paragraph 5 therefore only needs to apply to plot 4. The carrying out of protective works could, by definition, temporarily obstruct or render less convenient access whilst the protections are put into place. Whilst alternative access may be possible during the protective works, it is difficult for the Applicant to know for certain at this stage whether alternative accesses would be similarly convenient (i.e. not be "less convenient"). Therefore the words "or render less convenient" need to be deleted; instead, Paragraph 5 should be amended so that it states that the exercise of the power to carry out protective works should not "materially obstruct" the access to National Grid's apparatus.
- h. Paragraph 6 (Acquisition of land) – paragraph 6 needs to be deleted in its entirety. Paragraph 6(1) of the NG Standard Protective Provisions prohibits the exercise of compulsory acquisition powers in relation to National Grid interests and rights, otherwise than by agreement and regardless of the compulsory acquisition powers contained in the DCO. This is not acceptable to the Applicant because, whilst it is hopeful that a private agreement would be reached with National Grid in order to acquire the interests the Applicant requires, the Applicant (like any other promoter, and in the spirit of the aims of the Planning Act 2008) requires powers of compulsory acquisition should an agreement not be reached, in order to secure the delivery of the project. National Grid benefits from a large number of interests in and rights over the Application Site, all of which are described in the Book of Reference (AD04.03/APP-057). The Statement of Reasons (AD04.01/REP7-006) also sets out in detail how NG's apparatus and rights may be affected (see pages 49, 54, 64, 67, 74,

105, 106, 107 and 108 of the Statement of Reasons). Paragraph 6(2) of the NG Protective Provisions requires that a condition of any agreement reached with National Grid is that the Applicant must enter into deeds of consent where the proposed works conflict with any interest or right belonging to National Grid. This would be impractical given the large number of rights and interests involved and with no certainty that agreement could be reached in every case. The underlying basis of a development consent order is to act as a one-stop shop to enable development without the undertaker having to obtain large number of third party consents separately. Paragraph 6(2) could cause considerable uncertainty and potentially significant delays to the delivery of the project. The Applicant does not consider that paragraphs 6(3) and 6(4) are relevant.

- i. Paragraph 7 (Removal of apparatus) – the reference to agreements reached pursuant to paragraph 6 needs to be deleted in light of the deletion of paragraph 6. Paragraphs 7(2) to 7(5) are not relevant to what is being proposed under the Project. Paragraphs 7(2) to 7(5) deal with the provision of alternative apparatus where the Applicant requires the removal of any National Grid apparatus within the Order land. They also require the Applicant to provide the alternative apparatus before removing existing apparatus. The Applicant does not deem these provisions necessary because the only apparatus belonging to National Grid that could be removed under the proposals are two existing National Grid gas mains which lie within the Edmonton EcoPark (within plot 1 of the application site). The location of these mains is shown on drawing number 35180/GOS/CVD/004/F at Appendix A of the Utility Strategy. These two mains only serve certain existing facilities at the Edmonton EcoPark. When those particular facilities are removed and the existing mains are decommissioned and removed from the Edmonton EcoPark, there would be no need to provide alternative gas mains on the terms within the NG Standard Protective Provisions, and certainly no need to provide alternative mains before the existing mains are decommissioned and removed. Furthermore, the Applicant is already proposing the construction of a new gas main within the Edmonton EcoPark to serve the proposed development (the indicative location of the proposed gas main is shown on drawing number 35180/LON/CVD/014/E attached at Appendix C of the Applicant's Utility Strategy. The Applicant has been engaging with National Grid Gas since January 2015 in relation to the construction of this new gas main and its connection to a National Grid medium gas pressure main that is located approximately 200m away from the application site. As stated in paragraph 10.5 of the Applicant's CA Statement of Reasons (AD04.01/REP7-006), the Applicant would make a formal application for this connection nearer to the time the actual works are carried out. This is because National Grid Gas Plc quotes are only valid for a finite period of time.
- j. Paragraph 9 (Retained apparatus: protection Gas Undertakers) – the Applicant considers that it will be able to undertake a significant amount of its works without affecting any of National Grid's gas apparatus, although it remains alive to the need for safety at all times. The National Grid standard provisions are too restrictive, effectively requiring National Grid approval to any works within the Application Site. The Applicant has sought to streamline the provisions, such that prior to undertaking any "specified works", it would submit details to National Grid, but National Grid would only be permitted to withhold its approval where the Applicant's works would pose a risk to safety or the integrity or apparatus. Where approval cannot be withheld (due to there being no safety or integrity concerns), National Grid would be entitled to make suggestions which the Applicant would take due account of.

- k. Paragraph 10 (Retained apparatus: protection electricity undertakers) – it is not clear why a larger scope of works is covered by paragraph 10(1) and 10(2) than is covered by paragraph 9(1) in relation to gas apparatus. Paragraph 10(1) and 10(2) should both relate to “specified works” which are the subject matter of these protective provisions. The amendments made to this paragraph effectively mirror those made to the gas apparatus provisions, for the same reasons.
- l. Paragraph 11 (Expenses) –
- Paragraph 11(1)(a) should be deleted because of the deletion of paragraph 7 (Removal of apparatus) (the reasons for deleting paragraph 7 are set out above). Paragraph 11(1)(a) should also be deleted because the Applicant will not need to transfer the benefit of compulsory purchase powers under the Order to National Grid. The reference to “or the provision of any alternative apparatus” needs to be deleted on the basis that it will not be necessary for alternative apparatus to be provided (please see the explanation above in relation to paragraph 7).
 - Paragraph 11(1)(d) specifies that National Grid’s costs relating to the approval of plans need to be reimbursed. The Applicant cannot see why these expenses should be included as it would expect the approval of plans to come from an engineer within National Grid. Therefore paragraph 11(1)(d) should also be deleted.
 - Paragraph 11(1)(e) should be amended so that it only covers protective works. This is because the Applicant does not see why it should be obliged to pay a capitalised sum in relation to protective works that are not foreseeable. The Applicant is a public authority that has to be able to justify payments from the public purse. A more balanced and reasonable approach would be for National Grid’s expenses in relation to protective works it needs to carry out to be covered by the general wording in paragraph 11(1) and for the words “plus a capitalised sum to cover the cost of retaining and renewing permanent protective works” to be deleted from paragraph 11(1)(e).
 - Paragraph 11(2) should be amended so that provisions relating to the provision of alternative apparatus are deleted. Annex 2 reflects the amendments that should be made in this respect.
- m. Paragraph 12 (Indemnity) – the reference to alternative apparatus in paragraph 12(1) should be deleted as no alternative apparatus will be necessary. Paragraph 12(1) also needs to be amended to refer to reasonable and proper costs and expenses. The drafting in paragraph 12(2) needs to be tidied up so that it is clear that it relates to an act or thing done by the undertaker with the agreement of National Grid and on behalf of National Grid, or in accordance with a plan submitted by the undertaker to National Grid. The notice referred to in paragraph 12(4) needs to be in writing. The words “considering their representations” should be tightened to state “taking into account the undertaker’s representations”.
- n. Paragraph 16 (Arbitration) – There is no reason why the arbitration provisions in paragraph 16 should not apply to the whole set of protective provisions, and it is unclear why certain paragraphs have been carved out in the NG Standard Protective Provisions. The exception should therefore be deleted.

- o. New wording - Deemed consent – the NG Standard Protective Provisions do not make provision for deemed consent where an approval or refusal by National Grid has not been communicated within a certain amount of time. Deemed consent provisions are important as they would ensure that the delivery of the proposals are not delayed or stalled. Deemed consent wording should therefore be inserted into paragraphs 9 (Retained apparatus: Gas undertakers) and 10 (Retained apparatus: electricity undertakers)
- p. New wording - Approvals process – The Applicant has inserted a new paragraph specifying what the accepted method is of formally submitting details to National Grid (which supplements Schedule 3 on this specific point). This is to avoid any argument in the future as to whether details were submitted in the correct manner and to the correct person. This provision is important to avoid delays in obtaining approvals or consents from National Grid and more importantly, will count towards establishing when time starts to run under the paragraphs relating to retained gas and electricity undertakers (paragraphs 9 and 10 of the National Grid Standard Protective Provisions).

ANNEX 1 – National Grid Standard Protective Provisions

FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY AND GAS UNDERTAKER

Application

1. For the protection of the undertaker referred to in this Part of this Schedule the following provisions will, unless otherwise agreed in writing between the promoter and the undertaker, have effect.

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of the undertaker to enable the undertaker to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by that undertaker and any of its entities;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply and any of its entities;

together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of the undertaker or any of its entities for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term "authorised development" in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works;

“commence” has the same meaning as in article 2 of this Order and commencement shall be construed to have the same meaning;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the undertaker (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the promoter to submit for the undertaker's approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of the undertaker including construct, use, repair, alter, inspect, renew or remove the apparatus

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“parent company” means a parent company of the promoter acceptable to and which shall have been approved by the Undertaker acting reasonably

“promoter” means the undertaker as defined in article 2 of this Order;

“undertaker” means, as appropriate—

- (a) National Grid Electricity Transmission plc, an electricity undertaker being a licence holder within the meaning of Part 1 of the Electricity Act 1989; and
- (b) National Grid Gas plc, a gas transporter within the meaning of Part 1 of the Gas Act 1986.

"specified works" means any of the authorised works or activities undertaken in association with the authorised works which:

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the promoter under paragraph 7(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the promoter under paragraph 7(2) or otherwise; and/or
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22;

3. Except for paragraphs 4 (*apparatus in stopped up streets*), 9 and 10 (*retained apparatus: protection*), 11 (*expenses*) and 12 (*indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of the undertaker, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the promoter and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of Undertakers in stopped up streets

4.—(1) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 13 (*temporary stopping up of streets and rights of way*), an undertaker will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5.—(1) The promoter, in the case of the powers conferred by article 17 (*protective work to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of the undertaker and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertaker or any interruption in the supply of electricity and/or gas, as the case may be, by the undertaker is caused, the promoter must bear and pay on demand the cost reasonably incurred by the undertaker in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

- (a) pay compensation to the undertaker for any loss sustained by it; and
- (b) indemnify the undertaker against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by that undertaker, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the promoter with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of an undertaker or its contractors or workmen; and the undertaker will give to the promoter reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by the undertaker, save in respect of any payment required under a statutory compensation scheme, without first consulting the promoter and giving the promoter an opportunity to make representations as to the claim or demand.

Acquisition of land

6. (1) *Regardless* of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the promoter may not acquire any land interest or apparatus or override any easement and/or other interest of the undertaker otherwise than by agreement.

(2) As a condition of agreement between the parties in paragraph 6(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between the undertaker and the promoter) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or

breach the terms of any easement and/or other legal or land interest of the undertaker and/or affects the provisions of any enactment or agreement regulating the relations between the undertaker and the promoter in respect of any apparatus laid or erected in land belonging to or secured by the promoter, the promoter must as the undertaker reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between the undertaker and the promoter acting reasonably and which must be no less favourable on the whole to the undertaker unless otherwise agreed by the undertaker, and it will be the responsibility of the promoter to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The promoter and the undertaker agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by the undertaker and/or other enactments relied upon by the undertaker as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by the undertaker under paragraph [9] or [10] or any other paragraph of this part of this Schedule, shall not be taken to constitute agreement under sub-paragraph 6(1).

Removal of apparatus

7.—(1) If, in the exercise of the agreement reached in accordance with paragraph 6 or in any other authorised manner, the promoter acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this part of this Schedule and any right of an undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of the undertaker in question in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the promoter requires the removal of any apparatus placed in that land, it must give to the undertaker 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order the undertaker reasonably needs to remove any of its apparatus) the promoter must, subject to sub-paragraph (3), afford to the undertaker to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights

- (a) for the construction of alternative apparatus in other land of or land secured by the promoter; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the promoter, or the promoter is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the undertaker must, on receipt of a written notice to that effect from the promoter, take such steps as are reasonable in the circumstances in an endeavour to obtain the

necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for the undertaker to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the promoter under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the undertaker and the promoter.

(5) The undertaker must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to the undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the promoter to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the promoter affords to or secures for the undertaker facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the promoter and the undertaker and must be no less favourable on the whole to the undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by the undertaker.

(2) If the facilities and rights to be afforded by the promoter and agreed with the undertaker under paragraph 8(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to the undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph [16] (*Arbitration*) of this Part of this Schedule and, the arbitrator shall make such provision for the payment of compensation by the promoter to the undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection Gas Undertakers

9.—(1) Not less than 56 days before the commencement of any specified works the promoter must submit to the undertaker a plan and, if reasonably required by the undertaker, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to the undertaker under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

- (f) any intended maintenance regimes.
- (3) The promoter must not commence any works to which sub-paragraphs (1) and (2) apply until the undertaker has given written approval of the plan so submitted.
- (4) Any approval of the undertaker required under sub-paragraph (2)—
 - (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,
 - (b) must not be unreasonably withheld.
- (5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, the undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.
- (6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (4), as approved or as amended from time to time by agreement between the promoter and the undertaker and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by the undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the undertaker will be entitled to watch and inspect the execution of those works.
- (7) Where the undertaker requires any protective works to be carried out by itself or by the promoter (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the undertakers' satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and the undertaker must give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).
- (8) If the undertaker in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the promoter, reasonably requires the removal of any apparatus and gives written notice to the promoter of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the promoter under paragraph 7(2).
- (9) Nothing in this paragraph precludes the promoter from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.
- (10) The promoter will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the undertaker notice as soon as is reasonably practicable and a plan of those works and must—
 - (a) comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and
 - (b) comply with sub-paragraph (11) at all times.
- (11) At all times when carrying out any works authorised under the Order the promoter must comply with the undertaker's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the promoter shall implement an appropriate ground mitigation scheme save that the undertaker retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 10.

Retained apparatus: Protection: Electricity Undertakers

10.—(1) Not less than 56 days before the commencement of any authorised works that are near to, or will or may affect, any apparatus the removal of which has not been required by the promoter under paragraph 7(2) or otherwise, the promoter must submit to the undertaker a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity tower foundations.

(2) In relation to works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to the undertaker under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing; -

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by the undertaker's engineers.
- (h) evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic

- (4) The promoter must not commence any works to which sub-paragraphs (2) or (3) apply until the undertaker has given written approval of the plan so submitted.
- (5) Any approval of the undertaker required under sub-paragraphs (2) or (3)—
- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,
 - (b) must not be unreasonably withheld.
- (6) In relation to any work to which sub-paragraphs (2) or (3) apply, the undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.
- (7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the promoter and the undertaker and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by the undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the undertaker will be entitled to watch and inspect the execution of those works.
- (8) Where the undertaker requires any protective works to be carried out by itself or by the promoter (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the undertakers' satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and the undertaker shall give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).
- (9) If the undertaker in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the promoter, reasonably requires the removal of any apparatus and gives written notice to the promoter of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the promoter under paragraph 7(2).
- (10) Nothing in this paragraph precludes the promoter from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.
- (11) The promoter will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the undertaker notice as soon as is reasonably practicable and a plan of those works and must—
- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
 - (b) comply with sub-paragraph (12) at all times.
- (12) At all times when carrying out any works authorised under the Order, the promoter must comply with the undertaker's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

11.—(1) Subject to the following provisions of this paragraph, the promoter must pay to the undertaker on demand all charges, costs and expenses reasonably anticipated or incurred by the undertaker in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by the undertaker in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by the undertaker as a consequence of the undertaker;
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3); and/or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting the undertaker;
 - (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
 - (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
 - (d) the approval of plans;
 - (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
 - (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.
- (2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.
- (3) If in accordance with the provisions of this Part of this Schedule—
- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
 - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the promoter or, in default of agreement, is not determined by arbitration in accordance with article 34 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertaker by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the promoter.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

12.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the promoter or in consequence of any act or default of the promoter (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the promoter under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the undertaker, or there is any interruption in any service provided, or in the supply of any goods, by the undertaker, or the undertaker becomes liable to pay any amount to any third party, the promoter will—

- (a) bear and pay on demand the cost reasonably incurred by the undertaker in making good such damage or restoring the supply; and
- (b) indemnify the undertaker for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the undertaker, by reason or in consequence of any such damage or interruption or the undertaker becoming liable to any third party as aforesaid other than arising from any default of the undertaker..

(2) The fact that any act or thing may have been done by the undertaker on behalf of the promoter or in accordance with a plan approved by the undertaker or in accordance with any requirement of the undertaker or under its supervision will not (unless sub-paragraph (3) applies), excuse the promoter from liability under the provisions of sub-paragraph (1) unless the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the promoter in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of the undertaker, its officers, servants, contractors or agents; and
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by the undertaker as an assignee, transferee or lessee of the promoter with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 8 (*consent to transfer benefit of order*) subject to the

proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11.

(4) The undertaker must give the promoter reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the promoter and considering their representations.

Enactments and agreements

13. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between the undertaker and the promoter, nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the promoter and the undertaker in respect of any apparatus laid or erected in land belonging to the promoter on the date on which this Order is made.

Co-operation

14.(1) Where in consequence of the proposed construction of any of the authorised development, the promoter or the undertaker requires the removal of apparatus under paragraph 7(2) or the undertaker makes requirements for the protection or alteration of apparatus under paragraph (9), the promoter shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the undertaker’s undertaking and the undertaker shall use its best endeavours to co-operate with the promoter for that purpose.

(2) For the avoidance of doubt whenever the undertaker’s consent, agreement or approval to is required in relation to plans, documents or other information submitted by the promoter or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

15. If in consequence of the agreement reached in accordance with paragraph 6(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the promoter must provide such alternative means of access to such apparatus as will enable the undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

16. Save for differences or disputes arising under paragraph 7(2), 7(4), 8(1), 9 and 11(5) any difference or dispute arising between the promoter and the undertaker under this Part of this Schedule must, unless otherwise agreed in writing between the promoter and the undertaker, be determined by arbitration in accordance with article 34 (*arbitration*).

ANNEX 2 – Applicant’s Amendments to the National Grid Standard Protective Provisions (Tracked Changes)

FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY AND GAS UNDERTAKER

Application

1. For the protection of the [statutory](#) undertaker referred to in this Part of this Schedule the following provisions will, unless otherwise agreed in writing between the ~~promoter~~ [undertaker](#) and the [statutory](#) undertaker, have effect.

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of the [statutory](#) undertaker to enable the [statutory](#) undertaker to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

(a) in the case of an electricity undertaker, electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by ~~that the~~ [statutory](#) undertaker [for the purposes of electricity supply, transmission or distribution](#) and any of its entities;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by ~~a gas transporter~~ [the statutory undertaker](#) for the purposes of gas supply and any of its entities;

together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of the [statutory](#) undertaker or any of its entities for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term "authorised development" in article 2 of this Order and ~~includes any associated development authorised by the Order and~~ for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works;

“commence” has the same meaning as in article 2 of this Order and commencement shall be construed to have the same meaning;

~~“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;~~

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the [statutory](#) undertaker (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the [promoter-undertaker](#) to submit for the [statutory](#) undertaker's approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of the [statutory](#) undertaker including construct, use, repair, alter, inspect, renew or remove the apparatus

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

~~“parent company” means a parent company of the promoter acceptable to and which shall have been approved by the Undertaker acting reasonably~~

~~“promoter”~~ [“undertaker”](#) means the undertaker as defined in article 2 of this Order;

[“statutory](#) undertaker” means, as appropriate—

- (c) National Grid Electricity Transmission ~~ple, Plc~~ [as](#) an electricity undertaker being a licence holder within the meaning of Part 1 of the Electricity Act 1989; and
- (d) National Grid Gas ~~ple, Plc~~ [as](#) a gas transporter within the meaning of Part 1 of the Gas Act 1986.

"specified works" means any of the authorised works or activities undertaken in association with the authorised works which:

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus-, [the](#) removal of which has not been required by the [promoter undertaker](#) under paragraph 6(2) or otherwise;

(b) may in any way adversely affect any apparatus the removal of which has not been required by the ~~promoter-undertaker~~ under paragraph 6(2) or otherwise; and/or

(c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22;

3. Except for paragraphs 4 (*apparatus in stopped up streets*), ~~9-8~~ and ~~10-9~~ (*retained apparatus: protection*), ~~11-10~~ (*expenses*) and ~~12-11~~ (*indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of the statutory undertaker, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the ~~promoter-undertaker~~ and the statutory undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of Statutory Undertakers in stopped up streets

~~3.—3. Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 13 (*temporary stopping up of streets and rights of way*), an undertaker will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.~~

4.—(1) Subject to paragraph 4(2), if as a consequence of the exercise of the powers of this Order access to the apparatus is materially obstructed, the undertaker must provide such reasonable alternative means of access to such apparatus as will enable the statutory undertaker to operate, maintain, repair or replace, or use the apparatus.

(2) In the event of an emergency, the statutory undertaker will be at liberty to access and execute and do all such works and things in, upon or under the Order land if it reasonably considers that immediate measures must be taken. In such circumstances, the statutory undertaker must notify the undertaker as soon as reasonably practicable of such emergency measures and must provide details of the emergency measures and any alternative means of access to the relevant part of the Order land so far as is reasonably safe and practicable.

Protective works to bBuildings

5.—(1) ~~The promoter, in the case of~~ In relation to plot 4 the undertaker, in exercising the powers conferred by article 17 (*protective work to buildings*), must exercise those powers so as not to materially obstruct ~~or render less convenient~~ the access to any apparatus without the written consent of the statutory undertaker and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the statutory undertaker or any interruption in the supply of electricity and/or gas, as the case may be, by the statutory undertaker is caused, the ~~promoter-undertaker~~ must bear and pay on demand the cost reasonably incurred by the statutory undertaker in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

(a) pay compensation to the statutory undertaker for any loss sustained by it; and

(b) indemnify the statutory undertaker against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by that statutory undertaker, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the ~~promoter-undertaker~~ with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of ~~an a statutory~~ undertaker or its contractors or workmen; and the statutory undertaker will give to the ~~promoter undertaker~~ reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by the statutory undertaker, save in respect of any payment required under a statutory compensation scheme, without first consulting the ~~promoter-undertaker~~ and giving the ~~promoter-undertaker~~ an opportunity to make representations as to the claim or demand.

Acquisition of land

~~5.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the promoter may not acquire any land interest or apparatus or override any easement and/or other interest of the undertaker otherwise than by agreement.~~

~~(2) As a condition of agreement between the parties in paragraph 6(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between the undertaker and the promoter) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of the undertaker and/or affects the provisions of any enactment or agreement regulating the relations between the undertaker and the promoter in respect of any apparatus laid or erected in land belonging to or secured by the promoter, the promoter must as the undertaker reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between the undertaker and the promoter acting reasonably and which must be no less favourable on the whole to the undertaker unless otherwise agreed by the undertaker, and it will be the responsibility of the promoter to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.~~

~~(3) The promoter and the undertaker agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by the undertaker and/or other enactments relied upon by the undertaker as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.~~

~~(4) Any agreement or consent granted by the undertaker under paragraph [9] or [10] or any other paragraph of this part of this Schedule, shall not be taken to constitute agreement under sub-paragraph 6(1).~~

Removal of apparatus

~~6.—(1)6. If, in the exercise of the agreement reached in accordance with paragraph 6 or in any other authorised manner, the promoter the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this part of this Schedule and any right of an a statutory undertaker to~~

maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of the statutory undertaker in question ~~in accordance with sub-paragraph (2) to (5) inclusive~~ or the statutory undertaker has confirmed that no alternative apparatus is required.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the promoter-undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker 56 days' advance written notice of that requirement, together with a plan of the work proposed, ~~and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order the undertaker reasonably needs to remove any of its apparatus) the promoter must, subject to sub-paragraph (3), afford to the undertaker to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights.~~

~~(a) for the construction of alternative apparatus in other land of or land secured by the promoter; and~~

~~(b) subsequently for the maintenance of that apparatus.~~

~~(2) — If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the promoter, or the promoter is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the undertaker must, on receipt of a written notice to that effect from the promoter, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for the undertaker to use its compulsory purchase powers to this end unless it elects to so do.~~

~~(3) — Any alternative apparatus to be constructed in land of or land secured by the promoter under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the undertaker and the promoter.~~

~~(4) — The undertaker must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to the undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the promoter to be removed under the provisions of this Part of this Schedule.~~

Facilities and rights for alternative apparatus

7.—~~(1)~~7. Where, in accordance with the provisions of this Part of this Schedule, the promoter-undertaker affords to or secures for the statutory undertaker facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the promoter-statutory undertaker and the undertaker and must be no less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by the statutory undertaker.

(2) If the facilities and rights to be afforded by the [promoter-undertaker](#) and agreed with the [statutory](#) undertaker under paragraph 8(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to the [statutory](#) undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph ~~f16~~ (Arbitration) of this Part of this Schedule and, the arbitrator shall make such provision for the payment of compensation by the [promoter-undertaker](#) to the [statutory](#) undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection Gas Undertakers

8.—~~(1)8.~~ Not less than 56 days before the commencement of any specified works, the [promoter-undertaker](#) must submit to the [statutory](#) undertaker a plan and, if reasonably required by the [statutory](#) undertaker, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to the [statutory](#) undertaker under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The [promoter-undertaker](#) must not commence any works to which sub-paragraphs (1) and (2) apply until the [statutory](#) undertaker has given written approval of the plan so submitted, such approval only to be withheld where such works would pose a risk to safety or the integrity of any of the statutory undertaker's apparatus. Subject to compliance with the approval process in paragraph 17, if, 56 days after the details set out in sub-paragraph (2) have been submitted to the statutory undertaker, the statutory undertaker has not notified the undertaker of its disapproval or grounds of disapproval, the statutory undertaker will be deemed to have approved the details.

(4) Any approval of the [statutory](#) undertaker required under sub-paragraph (2)—

- (a) may be ~~given subject to~~ accompanied by reasonable ~~conditions recommendations~~ for any purpose mentioned in sub-paragraphs (5) or (7); and,
- (b) must not be unreasonably withheld or delayed.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, the [statutory](#) undertaker may ~~require such modifications to be made to the plans propose~~ reasonable recommendations as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and ~~convenient necessary~~ means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (4), as approved or as amended from time to time by agreement between the ~~promoter-undertaker~~ and the statutory undertaker and in accordance with such reasonable ~~requirements-recommendations~~ as may be made in accordance with sub-paragraphs (5) or (7) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker will be entitled to watch and inspect the execution of those works.

(7) Where the statutory undertaker requires any protective works to be carried out by itself or by the ~~promoter-undertaker~~ (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the statutory undertakers' satisfaction (the statutory undertaker to provide confirmation of whether it is satisfied or not within 14 days of the completion of the relevant protective works) prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and the statutory undertaker must give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If the statutory undertaker in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the ~~promoterundertaker~~, reasonably requires the removal of any apparatus and gives written notice to the ~~promoter-undertaker~~ of that requirement, paragraphs 1 to 3 and **Error! Reference source not found.** ~~Error! Reference source not found.~~ to ~~8-6~~ apply as if the removal of the apparatus had been required by the ~~promoter-undertaker~~ under paragraph 6(2).

(9) Nothing in this paragraph precludes the ~~promoter-undertaker~~ from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The ~~promoter-undertaker~~ will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the ~~promoter-undertaker~~ must comply with the statutory undertaker's policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22” and HSE’s “HS(~G)47 Avoiding Danger from underground services”.

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the ~~promoter-undertaker~~ shall implement an appropriate ground mitigation scheme save that the statutory undertaker retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 101.

Retained apparatus: Protection: Electricity Undertakers

~~9.—(1)9.~~ Not less than 56 days before the commencement of any ~~authorised-specified~~ works ~~that are near to, or will or may affect, any apparatus the removal of which has not been required by the promoter under paragraph 7(2) or otherwise, the promoter the undertaker~~ must submit to the statutory undertaker a plan of the

works to be executed and seek from ~~National Grid~~ the statutory undertaker details of the underground extent of their electricity tower foundations. The statutory undertaker must provide those details within 14 days of the request

(2) ~~In relation to works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the~~ The plan to be submitted to the statutory undertaker under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing; -

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by the statutory undertaker's engineers.
- (h) evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic

(4) The ~~promoter~~ undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until the statutory undertaker has given written approval of the plan so submitted, such approval only to be withheld where the works would pose a risk to safety or the integrity of any apparatus. Subject to compliance with paragraph 17, if, 56 days after the details set out in sub-paragraph (2) have been submitted to the statutory undertaker, the statutory undertaker has not notified the undertaker of its disapproval or grounds of disapproval, the statutory undertaker will be deemed to have approved the details.

(5) Any approval of the statutory undertaker required under sub-paragraphs (2) or (3)—

- (a) may be ~~given subject to~~ accompanied by reasonable ~~conditions~~ requirements for any purpose mentioned in sub-paragraphs (6) or (8); and,
- (b) must not be unreasonably withheld or delayed.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, the statutory undertaker may ~~require such modifications to be made to the plans~~ propose reasonable recommendations as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and ~~convenient~~ necessary means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the ~~promoter~~ undertaker and the statutory undertaker and in accordance with such reasonable ~~requirements~~ recommendations as may be made in accordance with sub-paragraphs (6) or (8) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker will be entitled to watch and inspect the execution of those works.

(8) Where the statutory undertaker requires any protective works to be carried out by itself or by the ~~promoter~~ undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the statutory undertakers' satisfaction (the statutory undertaker to provide confirmation of whether it is satisfied or not within 14 days of the completion of the relevant protective works) prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and the statutory undertaker shall give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If the statutory undertaker in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the ~~promoter~~ undertaker, reasonably requires the removal of any apparatus and gives written notice to the ~~promoter~~ undertaker of that requirement, paragraphs 1 to 3 and **Error! Reference source not found.** **Error! Reference source not found.** to 8-8 apply as if the removal of the apparatus had been required by the ~~promoter~~ undertaker under paragraph 6(2).

(10) Nothing in this paragraph precludes the ~~promoter~~ undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The ~~promoter~~ undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the ~~promote~~ undertaker must comply with the statutory undertaker's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

10.—~~(1)10.~~ Subject to the following provisions of this paragraph, the ~~promoter-undertaker~~ must pay to the statutory undertaker on demand all charges, costs and expenses reasonably anticipated or reasonably and properly incurred by the statutory undertaker in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

~~(a) any costs reasonably incurred by or compensation properly paid by the undertaker in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by the undertaker as a consequence of the undertaker;~~

~~(i) — using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3); and/or~~

~~(ii) — exercising any compulsory purchase powers in the Order transferred to or benefitting the undertaker;~~

~~(a)~~ (b) in connection with the cost of the carrying out of any diversion work ~~or the provision of any alternative apparatus;~~ and

~~(b)~~ (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus; and

~~(d) the approval of plans;~~

~~(c)~~ (e) the carrying out of protective works, ~~plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;~~ and

~~(d)~~ (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule ~~and which is not re-used as part of the alternative apparatus~~, that value being calculated after removal.

~~(3) — If in accordance with the provisions of this Part of this Schedule —~~

~~(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or~~

~~(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,~~

~~and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the promoter or, in default of agreement, is not determined by arbitration in accordance with article 34 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertaker by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the promoter.~~

- ~~(4) — For the purposes of sub-paragraph (3) —~~
- ~~(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and~~
 - ~~(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.~~
- ~~(5) — An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.~~

Indemnity

- ~~11.—(1)++.~~ Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the promoter-undertaker or in consequence of any act or default of the promoter-undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the promoter-undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any ~~apparatus or alternative~~ apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the statutory undertaker, or there is any interruption in any service provided, or in the supply of any goods, by the statutory undertaker, or the statutory undertaker becomes liable to pay any amount to any third party, the promoter-undertaker will—
- (a) bear and pay on demand the cost reasonably and properly incurred by the statutory undertaker in making good such damage or restoring the supply; and
 - (b) indemnify the statutory undertaker for any other proper and reasonable expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the statutory undertaker, by reason or in consequence of any such damage or interruption or the statutory undertaker becoming liable to any third party as aforesaid other than arising from any default of the statutory undertaker..
- (2) The fact that any act or thing may have been done by the statutory undertaker with the agreement of and on behalf of the promoter-undertaker or in accordance with a plan ~~approved-submitted~~ by the undertaker and approved by the statutory undertaker or in accordance with any requirement of the statutory undertaker or under its supervision will not (unless sub-paragraph (3) applies), excuse the promoter-undertaker from liability under the provisions of sub-paragraph (1) unless the statutory undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.
- (3) Nothing in sub-paragraph (1) shall impose any liability on the promoter-undertaker in respect of-
- (a) any damage or interruption to the extent that it is attributable to the neglect or default of the statutory undertaker, its officers, servants, contractors or agents; and

- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by the [statutory](#) undertaker as an assignee, transferee or lessee of the [promoter-undertaker](#) with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 8 (*consent to transfer benefit of order*) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11.
- (4) The [statutory](#) undertaker must give the [promoter-undertaker](#) reasonable [written](#) notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the [promoter and considering their undertaker and taking into account undertaker’s](#) representations.

Enactments and agreements

[12.12](#). Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between the [statutory](#) undertaker and the [promoter-undertaker](#), nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the [promoter-undertaker](#) and the [statutory](#) undertaker in respect of any apparatus laid or erected in land belonging to the [promoter-undertaker](#) on the date on which this Order is made.

Co-operation

[13.13](#).(1) Where in consequence of the proposed construction of any of the authorised development, the [promoter-undertaker](#) or the [statutory](#) undertaker requires the removal of apparatus under paragraph 6(2) or the [statutory](#) undertaker makes requirements for the protection or alteration of apparatus under paragraph (9), the [promoter-undertaker](#) shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the [statutory](#) undertaker’s undertaking and the [statutory](#) undertaker shall use its best endeavours to co-operate with the [promoter-undertaker](#) for that purpose.

(2) For the avoidance of doubt whenever the [statutory](#) undertaker’s consent, agreement or approval to is required in relation to plans, documents or other information submitted by the [promoter-undertaker](#) or the taking of action by the [statutory](#) undertaker, it must not be unreasonably withheld or delayed.

Access

[14.14](#). If in consequence of the agreement reached in accordance with paragraph 6(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the [promoter-undertaker](#) must provide such alternative means of access to such apparatus as will enable the [statutory](#) undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

~~15.15.~~ ~~Save for differences or disputes arising under paragraph 7(2), 7(4), 8(1), 9 and 11(5) any~~ Any difference or dispute arising between the ~~promoter undertaker~~ and the ~~statutory~~ undertaker under this Part of this Schedule must, unless otherwise agreed in writing between the ~~promoter undertaker~~ and the ~~statutory~~ undertaker, be determined by arbitration in accordance with article 34 (*arbitration*).

~~SDS/SDS/80035/120019/UKM/74280322.1~~

Approval Process

~~16.~~ When submitting the plans to the statutory undertaker for approval under paragraph 7 or paragraph 8 the undertaker must send the plans to the statutory undertaker (in hard copy only) by recorded post to National Grid Plant Protection, Brick Kiln Street, Hinkley, Leicestershire LE10 0NA and the registered office of National Grid (or such other address as National Grid may notify the undertaker in writing from time to time) and (by email) to plantprotection@nationalgrid.com and clearly bearing the name of the project, contact details for responses and citing the relevant periods for response pursuant to these protective provisions, unless otherwise agreed with statutory undertaker.

~~17.~~

~~18.~~

~~19.~~16.

**NORTH LONDON WASTE
AUTHORITY**

1b Berol House, 25 Ashley Road
Tottenham Hale
N17 9LJ

Telephone: 020 8489 5867

Fax: 020 8365 0254

Email: project@northlondonheatandpower.london