

Thurrock Flexible Generation Plant

Response to the ExA's schedule of amendments to the dDCO and table of
amends to the dDCo, version 8, Deadline 7



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Response to the ExA schedule of changes to the dDCO

NO	ARTICLE/ SCHEDULE	TEXT AS SET OUT IN DRAFT DCO (VERSION 7) [REP6-003].	EXA'S RECOMMENDED AMENDMENT	REASON AND NOTES	Applicant's D7 Response
1.	Article 2 – Interpretation Definition of “Highways England”	...whose registered office is at Bridge House, Walnut Tree Close, Guilford, GU1 4ZZ;	...whose registered office is at Bridge House, Walnut Tree Close, Guilford, GU1 4ZZ; GU1 4LZ	Incorrect post code.	Change made in version 8 of the dDCO
2.	Article 2 – Interpretation <i>Definition of “maintain”</i>	...and remove, reconstruct or replace any part , provided...	...and remove, reconstruct or replace any part , provided....	Typographical error.	Change made in version 8 of the dDCO
3.	Article 2 – Interpretation <i>Definition of “NGET”</i>	....whose registered office is at 1 to 3 Strand, London, WE2N 5EH;	....whose registered office is at 1 to 3 Strand, London, WE2N 5EH WC2N 5EH;	Incorrect post code.	Change made in version 8 of the dDCO
4.	Article 2 – Interpretation <i>Definition of “NGG”</i>	...whose registered office at 1 to 3 Strand, London, WCN 5EH;	...whose registered office is at 1 to 3, Strand, London, WCN 5EH WC2N 5EH;	Typographical error and incorrect post code.	Change made in version 8 of the dDCO
5.	Article 2 – Interpretation <i>Definition of “Order limits”</i>	...shown on the works plan....	...shown on the works plans....	To correct a drafting error.	Change made in version 8 of the dDCO
6.	Article 2 – Interpretation <i>Definition of “preliminary Navigational risk assessment”</i>	“preliminary navigational risk assessment” means the document certified as the preliminary navigational risk assessment for the operation of the Thurrock Flexible Power Generation Plant Causeway, Revision R03-00 prepared by Nash Maritime	“preliminary navigational risk assessment” means the document certified as the preliminary navigational risk assessment for the operation of the Thurrock Flexible Power Generation Plant Causeway, Revision R03-00 prepared by	Superfluous wording removed/ consistency.	Change made in version 8 of the dDCO

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		limited and dated 11 December 2020 by the secretary of state for the purposes of the Order;	Nash Maritime limited and dated 11 December 2020 by the secretary of state for the purposes of the Order;		
7.	Article 2 – Interpretation <i>Definition of “replacement land”</i>	...and shown on the special category land plan of the lands plans ...	...and shown on the special category lands plan of the land plans...	To correct a drafting error.	Change made in version 8 of the dDCO
8.	Article 2 – Interpretation <i>Definition of “special category land”</i>	...registered as common land under the Commons Act 2006 and shown on the special category land plan of the lands plans;	...registered as common land under the <u>Commons Registration Act 1965</u> Commons Act 2006 and shown on the special category land plan of the lands plans;	Thurrock Council is not a 'pioneer authority'. The ExA understands that Walton Common is registered under the Commons Registration Act 1965. Typographical error.	Change made in version 8 of the dDCO
9.	Article 2 – Interpretation <i>Definition of “undertaker”</i>	...whose registered office is at 1 st Floor, Kensington Church Street, London, W8 7LP;	...whose registered office is at 1 st Floor, <u>145</u> Kensington Church Street, London, W8 7LP;	Incomplete address (as listed at Companies House).	Change made in version 8 of the dDCO
10.	Article 8 – Consent to transfer benefit of Order	N/A	N/A	The ExA notes PoTLL's request for this article to provide for consultation by the SoS with PoTLL prior to any consent being given to transfer the benefit of the Order. While the ExA notes that other DCO's have made provision for such consultation, the ExA considers it is a matter for the SoS as to who to consult in the event that consent is sought under Article 8.	No change made
11.	Article 8(5) – Consent to transfer benefit of Order	(5) Where the consent of the Secretary of State is not required under paragraph (4) the undertaker must notify the Secretary of State in writing before transferring or granting	(5) Where the consent of the Secretary of State is not required under paragraph (4) the undertaker must notify the Secretary of State <u>and the Port of</u>	The ExA considers that the notification provisions requested by PoTLL are reasonable in the circumstances and would not be onerous on the applicant.	Change made in version 8 of the dDCO

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		a benefit referred to in paragraph (1).	<u>Tilbury London Limited</u> in writing before transferring or granting a benefit referred to in paragraph (1).		
12.	Article 8(7) – Consent to transfer benefit of Order	(7) The date specified under paragraph (6)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice.	(7) The date specified under paragraph (6)(b) must not be earlier than the expiry of five working days <u>fourteen days</u> from the date of the receipt of the notice.	The ExA notes a number of made DCOs have included the 5 working day time limit. However, in the Wheelabrator Kemsley K3 Generating Station Order 2021, the SOS inserted provisions requiring the undertaker to notify the SOS at least 14 days before a transfer not requiring consent. The ExA considers this is a good indication of the SOS's preferred notice provisions. The Applicant agreed at ISH4 to amend the dDCO accordingly.	Change made in version 8 of the dDCO
13.	Article 10(1)	...any operation for the purpose of or in connection with, the construction....	...any operation for the purpose of, or in connection with, the construction...	Typographical error.	Change made in version 8 of the dDCO
14.	Article 10(4)	(4) In so far as any of: (a) the works to be carried out as part of Work nos. 12(a), 12(e) and 15; or (b) any ancillary work listed in Schedule 1; or (c) the use of Work no. 12 or the passage of construction, maintenance or decommissioning vehicles utilised for the authorised development; or	(4) In so far as any of: (a) the works to be carried out as part of Work nos. 12(a), 12(e) and 15; or (b) any ancillary work listed in Schedule 1; or (c) the use of Work no. 12 or the passage of construction, maintenance or decommissioning vehicles utilised for the authorized development; or	The ExA notes that PoTLL is the undertaker for the Port of Tilbury (Expansion) Order 2019. The ExA also notes the broad scope of section 120 and Schedule 5 of the Planning Act 2008. The ExA considers the drafting proposed by PoTLL provides greater certainty as to what parts of the Port of Tilbury (Expansion) Order 2019 are affected.	Change made in version 8 of the dDCO

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		(d) any activities carried out pursuant to the requirements set out in Schedule 2; would result in conflict or non-compliance with the requirements of Schedule 2 to The Port of Tilbury (Expansion) Order 2019(h), then the requirement to comply with The Port of Tilbury (Expansion) Order 2019 is disapplied by this Order.	<p>(d) any activities carried out pursuant to the requirement set out in Schedule 2; Would result in conflict or non-compliance with the requirements of Schedule 2 to The Port of Tilbury (Expansion) Order 2019(h), then the requirement to comply with The Port of Tilbury (Expansion) Order 2019 is disapplied by this Order.</p> <p><u>(4) The carrying out of any of the following works and operations:</u> <u>(a) Work Nos.12 (a), 12(e), and 15;</u> <u>(b) any ancillary work listed in Schedule 1;</u> <u>(c) the use of Substation Road for the passage of construction, maintenance of decommissioning vehicles utilized for the authorized development; and</u> <u>(d) any activities carried out pursuant to the requirements set out in Schedule 2.</u> <u>is not to be regarded as conflicting, or constituting non-compliance by Port of Tilbury London Limited, with the following requirements in Schedule 2 to the Port of</u></p>		

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			<u>Tilbury (Expansion) Order 2019:</u> <u>(e) Requirement 4;</u> <u>(f) Requirement 5;</u> <u>(g) Requirement 11 (c), (d), (f) and (h); and</u> <u>(h) Requirement 12.</u>		
15.	Article 15	N/A	<u>(13) In this article, "completion of the authorised development" means the date on which the authorised development commences operation by generating power on a commercial basis, but excluding the generation of power during commissioning.</u>	The ExA considers the term "completion of the authorised development" should be clearly defined.	The Applicant does not object to the change in principle but suggest that this is better included in Article 2.
16.	Article 18(10)(a)	...must be sent by the undertaker to the Registrar General by the undertaker giving the date...	...must be sent by the undertaker to the Registrar General by the undertaker giving the date...	To correct a drafting error.	Change made in version 8 of the dDCO
17.	Article 20(1)(b)	...as to use of and arising by virtue of contract.	.....as to use of land arising by virtue of contract.	To correct a drafting error.	Change made in version 8 of the dDCO
18.	Article 20(2)(b)	...as to use land arising ....	...as to use of land arising....	To correct a drafting error.	Change made in version 8 of the dDCO
19.	Article 19(3); Article 22(3); Article 29(11); Schedule 2,	Work No....	Work No.	Typographical error/consistency.	Changes made in version 8 of the dDCO

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	Paragraph 24; Schedule 8, Paragraph 3(2)(a)				
20.	Article 22(3)(a) and (b)	...lands plans....	...land s plans....	To correct a drafting error.	Change made in version 8 of the dDCO
21.	Article 26(4)	(4) in section 22(2)...	(4) i n section 22(2)...	Typographical error.	Change made in version 8 of the dDCO
22.	Article 27(1)	...may be required for the purposes of the authorised development any may use the....	...may be required for the purposes of the authorised development andy may use the....	Typographical error.	Change made in version 8 of the dDCO
23.	Article 28(1)(a)(iii)	Use of colon	Replace with full stop	Typographical error.	The Applicant notes that this is part of the list and a full stop is therefore not appropriate as the list continues
24.	Article 30(5)	...to the owners and occupiers of land which temporary possession is taken...	...to the owners and occupiers of land <u>of</u> which temporary possession is taken...	To correct a drafting error.	Change made in version 8 of the dDCO
25.	Article 31	Reference to Article 12 (temporary restriction on use of streets)	Change to Article 13	Incorrect reference.	Change made in version 8 of the dDCO
26.	Article 33(2)	"(2) On the requirements of paragraph (1) being satisfied,	"(2) On the requirements of paragraph (1) being satisfied,	The ExA considers the Order already makes provision for the special	Change made in

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		the special category land is to vest in the undertaker and be discharged from all rights, trusts and incidents to which it was previously subject."	the special category land is to vest in the undertaker and be discharged from all rights, trusts and incidents to which it was previously subject." “(2) On the date on which the special category land vests in the undertaker by virtue of any power granted by this Order, the special category land is discharged from all rights, trusts and incidents to which it was previously subject.”	category land to vest in the undertaker by virtue of either a notice to treat or a vesting declaration.	version 8 of the dDCO
27.	Article 33(5)	...under that Act [and s193 of the Law of Property Act 1925.	...under that Act and [s193 of the Law of Property Act 1925.	Typographical error.	Change made in version 8 of the dDCO
28.	Article 37(3)	(3) An application for approval under paragraph (2) must provide details of the proposed suspension or extinguishment, including particulars of— (a) its commencement date; (b) the duration of any suspension; and (c) the affected area, (d) and must include an explanation of the need for any proposed suspension.	(3) An application for approval under paragraph (2) must provide details of the proposed suspension or extinguishment, including particulars of— (a) its commencement date; (b) the duration of any suspension; and (c) the affected area; and (d) and must include an explanation of the need for any proposed suspension.	Clarity and formatting issues.	Change made in version 8 of the dDCO

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29.	Article 37(9)	...have been permanently extinguished pursuant to paragraph (1)(b) the PLA may issue...	...have been permanently extinguished pursuant to paragraph (1)(b). the PLA may issue... ..	Missing comma.	Change made in version 8 of the dDCO
30.	Article 38(3)	(3) No materials dredged under the powers of this Order may be disposed of in the UK marine area except in accordance with an approval from	Insert hyphen after 'from'	Typographical error.	Change made in version 8 of the dDCO
31.	Article 41(1)	...(o) the preliminary navigational risk assessment (issue number R03-00); (p) the outline local employment and skills strategy (document number []); and (q) any other plans or documents referred to in this Order as requiring certification, for certification that they are true copies of the documents referred to in this Order.	...(o) the preliminary navigational risk assessment (issue number R03- 00); (p) the outline local employment and skills strategy (document number []); (q) <u>the concept causeway design (document number [])</u> ; and (q) any other plans or documents referred to in this Order as requiring certification, for certification that they are true copies of the documents referred to in this Order.	Does not currently include the 'concept causeway design' in the list of plans etc to be certified by SoS. (See also item 38 below)	Change made in version 8 of the dDCO
32.	Article 10(3) and (4); Article 19(3); Article 22(3); Article 37(10), Article 38(3) Schedule 2 – various including R5(2), R6(2), R10(2), R17(6), R18(6), R19(3)	Use of colon/missing hyphen	Replace with hyphen	Consistency. The ExA notes that colons and hyphens are used interchangeably. This should be reviewed and made consistent throughout the dDCO.	Change made in version 8 of the dDCO

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	Schedule 9 – various including Part 5, Paragraph 11(6); Part 6, Paragraphs 2 and 3(3); Part 7, Paragraphs 6(1), 8(1), 9(1), 9(2), 9(3), 9(7) and (13); Part 8, Paragraph 7; Part 10 Paragraphs 2 and 3; Part 11, Paragraph 3.				
33.	Schedule 1, Work no.1	...together with associated development comprising.	...together with associated development comprising	To correct a drafting error.	Change made in version 8 of the dDCO
34.	Schedule 1, Work no.14	"Work no. 14 – Creation of common land with planting and landscaping."	"Work no. 14 – Creation of approximately 11.60 hectares of common land with planting and landscaping."	The ExA considers this should include a reference to the amount of replacement land being proposed.	Change made in version 8 of the dDCO
35.	Schedule 2, Part 1, Paragraph 1 <i>Definition of "CCR area"</i>	Reference to ' work plans'	Change to 'works plans'	To correct a drafting error.	Change made in version 8 of the dDCO
36.	Schedule 2, Part 1, Paragraph 1 <i>Definition of "concept causeway design"</i> .	"concept causeway design" means the report entitled Concept Design of Causeway for Delivery of AILs (document number A7.8) prepared by AECOM Infrastructure & Environment UK Limited, revision D dated 11 February 2020;	"concept causeway design" means the report entitled Concept Design of Causeway for Delivery of AILs (document number A7.8) prepared by AECOM Infrastructure & Environment UK Limited, revision D dated 11 February 2020; "concept causeway design" means	The ExA considers this should be a document certified under Article 41.	Change made in version 8 of the dDCO

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			the document certified as the concept causeway design by the Secretary of State for the purposes of the Order;		
37.	Schedule 2, Part 1, Paragraph 1 <i>Definition of "CoCP"</i> .	"CoCP" means the Code of Construction Practice;	Remove definition	Consistency (e.g see Schedule 2, Part 1, Paragraphs 6 and 7). See also item 41 below	Change made in version 8 of the dDCO
38.	Schedule 2, Part 1, Paragraph 2(b)	..of up to 2.84 m above...	...of up to 2.84m above...	Extra spacing/consistency.	Change made in version 8 of the dDCO
39.	Schedule 2, Part 1, Paragraph 4(4)	...pond east of For Road...	...pond east of Fort Road....	Typographical error.	Change made in version 8 of the dDCO
40.	Schedule 2, Part 1, Paragraph 4(7)	...Work no 10 ...	Work no.10	Typographical error.	Change made in version 8 of the dDCO
41.	Schedule 2, Part 1, Paragraph 5	References to "CoCP"	Change to "Code of Construction Practice"	Consistency (e.g see Schedule 2, Part 1, Paragraphs 6 and 7). See also item 37 above.	Change made in version 8 of the dDCO
42.	Schedule 2 – various including Paragraphs 4(1) and (3), 5(1), 6(1), 7(1), 10(1), 13(1), 14(1) Schedule 8, Part 2, Paragraphs 15(1) and 16(1)	Use of the terms "can commence" and "can be commenced".	Suggest use "can commence" in all cases.	Inconsistent use of terms.	Change made in version 8 of the dDCO

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43.	Schedule 2, Part 1, Paragraph 6(1)	...in consultation with the highway authority Highways England, Network Rail...	...in consultation with the highway authority, Highways England, Network Rail...	Missing comma.	Change made in version 8 of the dDCO
44.	Schedule 2, Part 1, Paragraph 10(2)	These details submitted under....	The se details submitted under...	To correct a drafting error.	Change made in version 8 of the dDCO
45.	Schedule 2, Part 1, Paragraph 12(2)	...mentioned in sub-paragraph 1....	...mentioned in sub-paragraph (1) ...	Typographical error/consistency.	Change made in version 8 of the dDCO
46.	Schedule 2, Part 1, Paragraph 12(3) – (7)	12.—(1) If contaminated land is found during preliminary works or construction of the authorised development, no further development can be carried out in the affected area until an investigation and remediation scheme has been submitted to and approved by the relevant planning authority; and the scheme must include details of— (a) how the contaminated land is to be identified and assessed; (b) where remediation is required by the scheme, the remediation measures; (c) timescales for carrying out the remediation measures; and (d) any ongoing monitoring or mitigation requirements.	12.—(1) If contaminated land is found during preliminary works or construction of the authorised development, no further development can be carried out in the affected area until an investigation and remediation scheme has been submitted to and approved by the relevant planning authority; and the scheme must include details of— (a) how the contaminated land is to be identified and assessed; (b) where remediation is required by the scheme, the remediation measures; (c) timescales for carrying out the remediation measures; and (d) any ongoing monitoring or mitigation requirements.	Repetition with Schedule 8, condition 14. The applicant indicated at ISH4 that they considered this would be better located in Schedule 8. The ExA is minded to agree.	Change made in version 8 of the dDCO

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		<p>(2) Any remediation measures identified in the investigation and remediation scheme mentioned in sub-paragraph 1 must be carried out in accordance with the approved scheme.</p> <p>(3) The undertaker must, prior to the commencement of Work no.10, carry out further sediment sampling of the river bed and analysis of those samples.</p> <p>(4) The further sediment sampling and analysis carried out under sub-paragraph (3) must be carried out in accordance with a plan which has been submitted to and approved by the MMO and the PLA.</p> <p>(5) The plan described in sub-paragraph (4) must include—</p> <p>(a) details of the sampling locations with surface, mid and depth levels which will provide a representative sediment assessment; and</p> <p>(b) details of an alternative method of dredging to the use of water injection dredging if the further sediment sampling and analysis carried out in accordance with sub-paragraph (3) identifies that</p>	<p>(2) Any remediation measures identified in the investigation and remediation scheme mentioned in sub-paragraph 1 must be carried out in accordance with the approved scheme.</p> <p>(3) The undertaker must, prior to the commencement of Work no.10, carry out further sediment sampling of the river bed and analysis of these samples.</p> <p>(4) The further sediment sampling analysis carried out under subparagraph (3) must be carried out in accordance with a plan which has been submitted to and approved by the MMO and the PLA</p> <p>(5) The plan described in sub-paragraph (4) must include—</p> <p>(a) details of the sampling locations with surface, mid and depth levels which will provide a representative sediment assessment; and</p> <p>(b) details of an alternative method of dredging to the use of water injection dredging if the further sediment sampling and analysis carried out in accordance with sub-paragraph (3) identifies that</p>		

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		the sediment contains contaminants which, in the reasonable opinion of the MMO or the PLA, make the use of water injection dredging unsuitable for the construction of Work no.10. (6) The results and analysis of the further sediment sampling carried out in accordance with the plan approved under sub-paragraph (3) must be provided to the MMO and the PLA. (7) Where the further sediment sampling and analysis carried out in accordance with subparagraph (3) identifies, in the reasonable opinion of the MMO or the PLA, that the sediment contains contaminants no water injection dredging must be carried out for the construction of Work no.10 and dredged material must be removed to a licenced waste disposal site.	the sediment contains contaminants which, in the reasonable opinion of the MMO or the PLA, make the use of water dredging unsuitable for the construction of Work no.10 (6) The results and analysis of the further sediment sampling carried out in accordance with the plan approved under sub-paragraph (3) must be provided to the MMO and the PLA. (7) Where the further sediment sampling and analysis carried out in accordance with subparagraph (3) identifies, in the reasonable opinion of the MMO or the PLA, that the sediment contains contaminants no water injection dredging must be carried out for the construction of Work no.10 and dredged material must be removed to a licenced waste disposal site.		
47.	Schedule 2, Part 1, Paragraph 15(1)	..all of the construction compounds areas...	...all of the construction compounds areas...	Typographical error.	Change made in version 8 of the dDCO
48.	Schedule 2, Part 1, Paragraph 17(8)	..or revised under sub-paragraph (6).	...or revised under sub-paragraph (76) (76).	Incorrect sub-paragraph reference.	Change made in version 8 of the dDCO

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49.	Schedule 2, Part 1, Paragraph 18	18.—(1) No later than five years from the commencement of operation of Work no.1A, the undertaker must submit a report of the review of access options for transportation of AILs to or from Work no.1 in writing to the relevant planning authority and send a copy to Highways England. (2) ... (3) ... (a) submit applications for any consents required for that alternative AIL access within 6 months of the date of the issue of a notice under this sub-paragraph by relevant planning authority, and (b) advise the relevant planning authority of the outcome of any applications under this subparagraph which were not determined by that planning authority within five business days of the undertaker being notified of that outcome.	18.—(1) No later than five one year s from <u>the coming into force of this Order, commencement of operation of Work no.1A</u> , the undertaker must submit a report of the review of access options for transportation of AILs to or from Work no.1 in writing to the relevant planning authority and send a copy to Highways England. (2)... (3).... (a) submit applications for any consents required for that alternative AIL access within 6 months of the date of the issue of a notice under this sub-paragraph by <u>the relevant</u> planning authority, and (b) advise the relevant planning authority <u>and the Port of Tilbury London Limited</u> of the outcome of any applications under this subparagraph which were not determined by that planning authority within five business days of the undertaker being notified of that outcome.	The ExA notes that AIL access via Work no. 15 is the applicant's preferred option where the necessary agreements can be secured and that this is supported by a number of IPs. The ExA is therefore proposing that a review of AIL access is carried out before work on the causeway commences (ie within the first year following any grant of consent) with subsequent reviews every 5 years thereafter. This will give the SoS some further assurance that if an alternative AIL access route becomes available prior to construction on the causeway commencing, the alternative route would be brought into use instead. The ExA does not however, consider that the report prepared under this requirement should be prepared in consultation with the Port of Tilbury London Limited, who the ExA notes is a consultee under Requirement 18(2) in any event.	Change made in version 8 of the dDCO
50.	Schedule 2, Part 1, Paragraph 18 (3), (5) and (6)	Use of semi colon.	Change to hyphen.	Consistency.	Change made in version 8 of the dDCO

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51.	Schedule 2, Part 1, Paragraph 19	...the Environment Agency, Natural England Port of Tilbury London Limited...	...the Environment Agency, Natural England, Port of Tilbury London Limited...	Typographical error.	Change made in version 8 of the dDCO
52.	Schedule 2, Part 1, Paragraph 19(4)	Decommissioning of Works 10 and 11...	Decommissioning of Works <u>no.</u> 10 and 11...	Typographical error/consistency.	Change made in version 8 of the dDCO
53.	Schedule 2, Part 1, Paragraph 24(1)(a)	(1) The undertaker must make a report ('carbon capture readiness monitoring report') to the Secretary of State— (a) on or before the date on which three months have passed from the date of Work No. 1A full commissioning; and...	(1) The undertaker must make a report ('carbon capture readiness monitoring report') to the Secretary of State— (a) on or before the date on which three months have passed from the date Work No. 1A full <u>commissioning; and</u> <u>(a) no later than three months from the date of full commissioning of Work no. 1A and.....</u>	Suggest amending for clarity and consistency.	Change made in version 8 of the dDCO
54.	Schedule 2, Part 2, Paragraph 31(2)	(2) Any fee paid under this Schedule must be refunded to the undertaker within 4 weeks of— (a) the application being rejected as invalidly made.	(2) Any fee paid under this Schedule must be refunded to the undertaker within 4 weeks of— (a) the application being rejected as invalidly made.	Formatting error.	Change made in version 8 of the dDCO
55.	Schedule 3, Schedule 4, Schedule 5, Schedule 6	Various punctuation and formatting issues including inconsistent use of full stops, spacing.	Include consistent use of full stops and spacing.	Consistency.	Change made in version 8 of the dDCO
56.	Schedule 7, Paragraph 3	3. Without limitation on the scope of paragraph 1, the Land Compensation Act	3. — (1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to	To correct a drafting error.	Change made in version 8 of the dDCO

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		1973(a) has effect subject to the modifications; (a) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 4(3)— (b) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and (c) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”. (d) Application of Part 1 of the 1965 Act.	the modifications <u>set out in sub-paragraph (2)</u> ; (a)(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 4(3)— (b)(a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and (c)(b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”. (d) Application of Part 1 of the 1965 Act. <u>Application of Part 1 of the 1965 Act</u>		
57.	Schedule 8, Part 1, Paragraph 1	Missing semi-colons after definition of “statutory historic body” and Marine Management Organisation”.	Include semi-colons.	Typographical error/Consistency.	Change made in version 8 of the dDCO
58.	Schedule 8, Part 1, Paragraph 1 Definition of “undertaker”	...whose registered office is at 1st Floor, Kensington Church Street, London, W8 7LP.	...whose registered office is at 1st Floor, <u>145</u> Kensington Church Street, London, W8 7LP.	Incomplete address (as listed at Companies House).	Change made in version 8 of the dDCO

NO	ARTICLE/ SCHEDULE	TEXT AS SET OUT IN DRAFT DCO (VERSION 7) [REP6-003].	EXA'S RECOMMENDED AMENDMENT	REASON AND NOTES	Applicant's D7 Response
59.	Schedule 8, Part 1, Paragraph 3(a) and (b) – Tables 1 and 2	Tables 1 and 2 contain various references to +/- 5% which does not accord with the maximum parameters set out in Table 2.2 of ES Chapter 2.	Remove all references to +/- 5%	Applicant's response to ExQ1 (1.11.4) indicates the maximum parameters in Tables 1 and 2 of Schedule 8 were adjusted to match those in Table 2 of ES Chapter 2. It is unclear whether the +/- 5% parameter has been assessed in the ES.	The +/- have been removed from version 8 of the dDCO.
60.	Schedule 8, Part 1, Paragraph 3(e)	Missing full stop	Add full stop after 'authorised development'	Typographical error.	Change made in version 8 of the dDCO
61.	Schedule 8, Part 2, Paragraphs 7 (a) and (b)	Repetition of "the undertaker's registered office;"	Remove duplication	To correct a drafting error.	Change made in version 8 of the dDCO
62.	Schedule 8, Part 2, Paragraph 22(2)	Reference to paragraph 18	Change to paragraph 20	Incorrect paragraph reference.	Change made in version 8 of the dDCO
63.	Schedule 9, Part 1, Paragraph 2	In this Part of this Schedule— "alternative apparatus" means— (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that utility undertaker;...	In this Part of this Schedule— "alternative apparatus" means <u>alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;</u> "apparatus" means— (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or	The ExA considers that these PPs should include the usual definitions of 'apparatus' and 'alternative apparatus'.	Change made in version 8 of the dDCO

NO	ARTICLE/ SCHEDULE	TEXT AS SET OUT IN DRAFT DCO (VERSION 7) [REP6-003].	EXA'S RECOMMENDED AMENDMENT	REASON AND NOTES	Applicant's D7 Response
			maintained by that utility undertaker; ... (b)		
64.	Schedule 9, Part 2, Paragraph 14(4)(b)	...made by Anglian Water fir the alteration or otherwise...	...made by Anglian Water foir the alteration or otherwise...	Typographical error.	Change made in version 8 of the dDCO
65.	Schedule 9, Part 2, Paragraph 14(5)	... which apparatus is places...	... which apparatus is place ds ...	To correct a drafting error.	Change made in version 8 of the dDCO
66.	Schedule 9, Part 3, Paragraph 2 <i>Definition of "the 2003 Act"</i>	Unused brackets.	Remove brackets	Typographical error.	These are not unused brackets but a footnote the reference for which had gone astray, reference reinstated.
67.	Schedule 9, Part 4, Paragraph 6(4)	...Protective provisions...	... Pp rotective provisions...	Typographical error.	Change made in version 8 of the dDCO
68.	Schedule 9, Part 4, Paragraphs 9(4) and 11	References to 'the Applicant'.	Change to 'the undertaker'	To correct a drafting error.	Change made in version 8 of the dDCO
69.	Schedule 9, Part 4, Paragraph 12	Incorrect font.	Amend font	Consistency/typographical error.	Change made in version 8 of the dDCO
70.	Schedule 9, Part 6, Paragraph 2	Missing punctuation.	Include colon or hyphen	Typographical error.	Change made in

NO	ARTICLE/ SCHEDULE	TEXT AS SET OUT IN DRAFT DCO (VERSION 7) [REP6-003].	EXA'S RECOMMENDED AMENDMENT	REASON AND NOTES	Applicant's D7 Response
	Definition of "specified work"				version 8 of the dDCO
71.	Schedule 9, Part 6, Paragraphs 3(1), 3(5), 9(1)(b)(iii), 15(2), 18(1)(c)	Missing punctuation in para 3(1)(a-c), 3(5)(c), 9(1)(b)(iii), 15(2), 18(3) Extra full stop after the word 'function' in paragraph 3(1) Extra semicolon after the word 'or' in paragraph 18(1)(c)	Amend accordingly	Typographical error.	Change made in version 8 of the dDCO
72.	Schedule 9, Part 6, Paragraph 6(5)	...under paragraph [19] or...	...under paragraph [19] or	Typographical error.	Change made in version 8 of the dDCO
73.	Schedule 9, Part 6, Paragraph 9(2)	...the undertaker making goof the site...	...the undertaker making good f the site	Typographical error.	Change made in version 8 of the dDCO
74.	Schedule 9, Part 6, Paragraph 11(4)	(4) Following the any submission of...	(4) Following the any submission of...	To correct a drafting error.	Change made in version 8 of the dDCO
75.	Schedule 9, Part 6, Paragraph 12(1)(b)	...at the time the survey carried out;	at the time the survey is carried out;	To correct a drafting error.	Change made in version 8 of the dDCO
76.	Schedule 9, Part 6, Paragraph 13(3)(b)	(b) the PLA's reasons for reach that opinion.	(b) the PLA's reasons for reach ing that opinion.	To correct a drafting error.	Change made in version 8 of the dDCO
77.	Schedule 9, Part 7 Paragraph 2	Various references to Network Rail Infrastructure Limited	Alter to accord with definition (ie Network Rail)	Consistency.	Change made in version 8 of the dDCO

NO	ARTICLE/ SCHEDULE	TEXT AS SET OUT IN DRAFT DCO (VERSION 7) [REP6-003].	EXA'S RECOMMENDED AMENDMENT	REASON AND NOTES	Applicant's D7 Response
78.	Schedule 9, Part 7 Paragraph 2	Reference to Network Rail Limited	Change to Network Rail to accord with definition in Paragraph 2	Consistency.	Change made in version 8 of the dDCO
79.	Schedule 9, Part 7 – throughout	Various references to ' Work No '	Change to Work no. for consistency	Consistency.	Change made in version 8 of the dDCO
80.	Schedule 9, Part 10	FOR THE PROTECTION OF RWE GENERATION UK LIMITED	FOR THE PROTECTION OF RWE GENERATION (UK) PLC-LIMITED	To correct a drafting error.	Change made in version 8 of the dDCO

Applicant's table of amends to the dDCO version 8

Article / Paragraph	Amendment	Reason
Article 19 Compulsory acquisition of land Article 22 Compulsory acquisition of rights	Amend to paragraph (3) in both cases where the undertaker serves notice of entry to treat under section 44 5 of the 1965 Act, or makes a declaration under section 4 of the 1981 Act over any of the land specified in either (i) or (ii), it must	Following request by RWE the Applicant agrees that this change is acceptable
Article 28 Temporary use of land for carrying out the authorised development	Insertion in sub-paragraph (1) but may not use the power granted under this article to construct any new means of access within Work no.s 12(c) or 12(d) unless details of the design for the new road section to be constructed as part of that work have been approved under paragraph 4 of Schedule 2 to this Order.	To address concern raised by RWE that temporary possession could be used to create and use more than one of the two access route options from the south of the national grid substation to the main site (12(c) and 12(d)) contrary to the requirements.
Schedule 2 Requirement 1 definitions	Insertion of definition of Network Rail property "Network Rail property" means any railway belonging to Network Rail Infrastructure Limited within the Order limits and - (a) any station, land, works, apparatus and equipment belonging to Network Rail Infrastructure Limited or connected with any such railway; and (b) any easement or other property interest held or used by Network Rail Infrastructure Limited for the purposes of such railway or works, apparatus or equipment; and	Required for changes to requirement 4
Schedule 2 Requirement 4 Detailed design	Insertion of new sub-paragraph 11 (11) In so far as the details submitted under paragraph (1) relate to Work Nos. 4, 6 and 7, the	As requested by Network Rail

	relevant planning authority must consult Network Rail on those details where the relevant works may impact Network Rail property and: (a) in respect of Work No. 4, any part of that work is situated over 200 metres from Network Rail property; (b) in respect of Work No. 6, any part of that work is situated over 15 metres from Network Rail property; and (c) in respect of Work No. 7, any part of that work is situated over 15 metres from Network Rail property.	
Schedule 9 protective provisions Part 5	Updated to agreed form	As agreed with National Grid
Schedule 9 protective provisions Part 7	Updated to agreed form	As agreed with Network Rail
Schedule 9 protective provisions Part 8	Updated	Please see separate note on status of protective provisions
Schedule 9 protective provisions Part	Amend to paragraph 5 to delete 'together comprising the HE costs'	Remnant drafting which should have been deleted at deadline 6, amends agreed with Highways England
Schedule 9 protective provisions Part 8	Updated	Please see separate note on status of protective provisions
Schedule 9 protective provisions Part 11	Updated to agreed form	As agreed with Thurrock Council