

## THE VPI IMMINGHAM OCGT PROJECT

### EXPLANATION OF CHANGES MADE TO THE DRAFT DEVELOPMENT CONSENT ORDER ('DCO') AT DEADLINE 5 (12 DECEMBER 2019)

Due to the insertion of new paragraphs/requirements in the updated draft DCO, the numbering and internal cross referencing (including the contents) within the draft DCO have been updated accordingly. These changes, along with minor typographical amendments for clarity and consistency are not set out below. The numbering referred to below is that in the updated draft DCO.

Article / Requirement number in draft DCO	Explanation of Change
Article 2 (Interpretation)	The definition of "emergency" has been moved from the requirements to article 2, so that it applies to the whole of the DCO. This relates to the changes made to the protective provisions - see further below in relation to Part 4 of Schedule 9.
Article 27 (Temporary use of land for carrying out the authorised development)	<p>Sub-paragraph (2) has been amended in order to replace the requirement for at least 28 days notice of intended entry to be given before taking temporary possession of land - a new sub-paragraph (3) has been inserted which specifies:</p> <ul style="list-style-type: none"> <li>• that at least three months notice must be given before the undertaker takes temporary possession; and</li> <li>• the notice given must specify the period for which the undertaker is to take temporary possession.</li> </ul> <p>The periods may be varied by agreement between the undertaker and the owner or occupier.</p> <p>These changes reflect the arrangements in section 20 of the Neighbourhood Planning Act 2017 and were agreed by the Applicant at DCO Hearing 2 on 4 December 2019.</p>
Article 28 (Temporary use of land for	Sub-paragraph (3) has been amended in order to replace the requirement for at least 28 days notice of intended entry before taking temporary possession of land - a new sub-

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maintaining the authorised development)	<p>paragraph (4) has been inserted which specifies:</p> <ul style="list-style-type: none"> <li>• that at least three months notice must be given before the undertaker takes temporary possession; and</li> <li>• the notice given must specify the period for which the undertaker is to take temporary possession.</li> </ul> <p>The periods may be varied by agreement between the undertaker and the owner or occupier.</p> <p>These changes reflect the arrangements in section 20 of the Neighbourhood Planning Act 2017 and were agreed by the Applicant at DCO Hearing 2 on 4 December 2019.</p>
Schedule 2, Requirement 18 (construction hours)	<p>Sub-paragraph (6) has been deleted as this provided a definition of “emergency” and this has been moved to article 2 so that it applies throughout the DCO.</p>
Schedule 2, Requirement 19 (control of noise - operation)	<p>Sub-paragraph (3) has been amended in order to require that the operational noise limit must be no greater than 3dB higher than the defined representative background sound level. The 3dB threshold replaces the previous 5dB threshold. As a consequence of this change, sub-paragraph (4) (the requirement to submit a report showing the extent to which the undertaker can achieve a noise level 2dB below the 5dB threshold) has been deleted.</p> <p>These changes address concerns expressed by North Lincolnshire Council (NLC) at Issue Specific Hearing 1 on 2 October 2019 and in NLC's response to Further Written Question Q2.4.1.</p>
Schedule 9 (various)	<p>Reference to "shall" has been deleted and replaced by alternative wording that is compliant with Office of the Parliamentary Counsel drafting guidance. The amendments address comments from the ExA in Further Written Question 2.3.1.</p>

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Schedule 9, Part 4 (Phillips 66 Limited)	<p>The protective provisions have been updated and merged with those provisions enclosed at Appendix 1 of the Applicant's Response to the Examining Authority's Further Written Questions dated 14 November 2019 (Document Ref: 7.15).</p> <p>Since Deadline 4 and as referenced at the Compulsory Acquisition Hearing the Applicant has further updated the protective provisions – see the Applicant's Written Submission of Oral Case - CA Hearing 2 (Document Ref. 7.19) submitted at Deadline 5.</p> <p>In addition to the changes noted in that document, the following changes have been made in order to address concerns expressed in P66's Deadline 4 submission and at CAH2:</p> <ul style="list-style-type: none"> <li>• The definition of P66 under paragraph 35 has been amended in order to specify that it includes subsequent owners of the pipelines. This avoids the benefit of the protective provisions being lost if P66 disposed of its interests in any part of the pipelines. Consequential changes have been made to the definition of "pipelines".</li> <li>• Sub-paragraph 49(2) has been amended in order to include consequential loss and damage as being covered by the undertaker's indemnity.</li> <li>• Paragraph 78 has been amended to require P66 to serve notice on the undertaker if it wishes to submit a further planning application, planning appeal or other representation to the relevant planning authority if new development has been prevented (for example by the refusal of planning permission) due to the position of the VPI apparatus. A new sub-paragraph has been inserted which requires the undertaker to use its reasonable endeavours to assist P66, and for P66 to comply with the requirements under paragraph 76 (to consult etc with the undertaker), if it elects to submit a further planning application, lodge an appeal or make any other representation to the relevant planning authority.</li> </ul> <p>In order to provide additional control, the Applicant has also inserted an approval process that requires the undertaker to obtain approval from P66 prior to carrying out works in the</p>

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	<p>exercise of the specified rights (i.e. rights acquired pursuant to Part 5 of the Order). The ExA is directed to the new definitions of "specified work" and "specified asset" in the interpretation paragraph of this Part 4 of Schedule 9, and the new paragraphs 55-56.</p> <p>In addition the Applicant has added a general saving for works that it needs to carry out in an emergency (see paragraph 74), to ensure that it can carry these out without (for example) having to receive the prior written approval of P66. The undertaker must still comply with relevant obligations in Part 4 as soon as reasonably practicable.</p>
Schedule 9, Part 7 (Centrica Storage Limited)	The protective provisions have been updated to align amendments requested by Centrica Storage Limited. The definition of "the pipeline" has been amended from being used by Centrica for the passage of "multi-purpose hydrocarbon fuels" to being used for the passage of "stabilised liquid condensate". A new paragraph 78 has been inserted which requires that the undertaker must indemnify Centrica for damage to the Centrica pipeline, or other Centrica property, as a consequence of the construction or operation of the authorised development, subject to a cap. The Applicant is awaiting confirmation from Centrica as to whether the amendments to the protective provisions are agreed.
Schedule 9, Part 8 (Able UK Limited)	The protective provisions have been updated to align with the agreed amendments enclosed with the Applicant's Deadline 3A submission (Document Ref 7.16). The ExA is directed to Able's response to ExQ1a.1.10 dated 1 November 2019 confirming that the protective provisions are agreed.
Schedule 9, Part 10 (Network Rail Infrastructure Limited)	A new Part 10 has been inserted containing protective provisions for the benefit of Network Rail Infrastructure Limited. The form of protective provisions proposed is considered to be sufficient to protect NRIL, given that the Order would not authorise any works in the vicinity of its apparatus or land, and to allow the Secretary of State to grant the Order in compliance with the terms of section 127 Planning Act 2008.
Schedule 9, Part 11 (Cadent Gas Limited)	A new Part 11 has been inserted containing protective provisions for the benefit of Cadent Gas Limited. The form of protective provisions proposed is considered to be sufficient to

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	<p>protect Cadent, given that the Order would not authorise any works in the vicinity of its apparatus or land, and to allow the Secretary of State to grant the Order in compliance with the terms of section 127 Planning Act 2008.</p> <p>The Applicant has received Cadent's comments on the draft protective provisions on 12 December, just before submission of this document, and is in the process of reviewing these.</p>
Schedule 9, Part 12 (Highways England)	<p>A new Part 12 has been inserted containing protective provisions for the benefit of Highways England. The form of protective provisions proposed is considered to be sufficient to protect Highways England, given that the Order would not authorise any works in the vicinity of its highways or land, and to allow the Secretary of State to grant the Order (note section 127 Planning Act 2008 does not apply to Highways England as it is not a statutory undertaker).</p> <p>Highways England has provided comments on a previous draft of the protective provisions and the provisions included in the latest dDCO seek to address the comments made. A copy of the latest version of the protective provisions has recently been issued to Highways England and the Applicant is awaiting further comments from Highways England.</p>
Schedule 9, Part 14 (Northern Powergrid (Yorkshire) PLC)	<p>A new Part 9 of Schedule 9 has been inserted which includes protective provisions requested by Northern Powergrid (Yorkshire) PLC. The protective provisions largely replicate the general protective provisions that benefit electricity undertakers under Part 1 of Schedule 9. Additional provisions have been inserted in order to require VPI to cover costs incurred by NPG for diverting or relocating apparatus as a result of the authorised development. The form of protective provisions proposed is considered to be sufficient to protect NPG and to allow the Secretary of State to grant the Order in compliance with the terms of section 127 Planning Act 2008.</p> <p>The protective provisions have been sent to NPG for comment and confirmation is awaited as to whether these are agreed.</p>

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Schedule 9, Part 14 (Hornsea 1 Limited)	A new Part 14 with a placeholder has been inserted for the protective provisions for the benefit of Hornsea 1. Draft protective provisions are awaited from Hornsea 1 Limited.
Schedule 9, Part 15 (Hornsea 2 companies)	A new Part 15 with a placeholder has been inserted for the protective provisions for the benefit of the Hornsea 2 companies. Draft protective provisions are awaited from the Hornsea 2 companies.
Schedule 11 (Documents and plans to be certified)	Amendments have been made to align the document referencing in the draft DCO with the updated documents submitted up to Deadline 5 and to ensure that sheets and version numbers are referenced where necessary.
Schedule 13 (Modifications to the Able Marine Energy Park Development Consent Order 2014)	Schedule 13 has been updated to align with the agreed amendments enclosed with the Applicant's Deadline 3A submission (Document Ref 7.16). The ExA is directed to Able's response to ExA Q1a.1.10 dated 1 November 2019 confirming that the amendments to Schedule 13 are now agreed.