

Submission ID: 31021

Dear Sir or Madam

We write on behalf of Affinity Water Limited (Affinity) in response to Examiner's Written Question DCO.1.20.

We attach a copy of Affinity's preferred Protective Provisions for inclusion in the Applicant's draft DCO. These present a balanced position between the interests of Affinity and the Applicant. Affinity would be pleased to establish an agreed position with the Applicant and in such case less detailed provisions may be submitted at a later date.

Kind regards

Charlotte

SCHEDULE 9  
PART [ ]  
FOR THE PROTECTION OF AFFINITY WATER LIMITED

1. The following provisions have effect for the protection of Affinity, unless otherwise agreed in writing between the undertaker and Affinity.

*Interpretation*

2. In this Part of this Schedule—

“Affinity” means Affinity Water Limited (Company Registration No. 02546950) whose registered office address is at Tamblin Way, Hatfield, Hertfordshire. AL10 9EZ or any wholly-owned subsidiary (as defined in section 1159 of the Companies Act 2006<sup>a</sup>);

“alternative apparatus” means alternative apparatus adequate to enable Affinity to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) mains, pipes, connections, reservoirs, or any other apparatus belonging to or maintained by Affinity for the purposes of water supply; and
- (b) mains, pipes, connections or any other apparatus that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991<sup>b</sup>;

“authorised works” means authorised development or ancillary works;

“commence” and “commencement” include any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, intrusive investigations for the purpose of assessing ground conditions, and the implementation of environmental mitigation, including planting;

“functions” includes powers and duties;

“HAUC Advice Note” means HAUC Advice Note No 2010/01 (available at [https://static.hauc-uk.org.uk/downloads/Advice\\_Note\\_No\\_2010-01.pdf](https://static.hauc-uk.org.uk/downloads/Advice_Note_No_2010-01.pdf)), including the Diversionary Works Calculator HAUC(UK) ([hauc-uk.org.uk](http://hauc-uk.org.uk)) (<https://www.hauc-uk.org.uk/resources/diversionary-works-calculator>) referred to at paragraph 29.4 of that advice note;

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

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

“specified works” means any authorised works or any other works in land purchased, held, appropriated or used under the Order (including any works of maintenance) that—

- (a) may in any way adversely affect any easement or other property interest held or used by Affinity;
- (b) are within the following distances of Affinity’s apparatus measured from the medial line of such apparatus, the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise—
  - (i) where the apparatus is a pipe, 2 metres where the diameter of the pipe is less than 150 millimetres;

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<sup>a</sup> 2006 c. 46.

<sup>b</sup> 1991 c. 56. Section 51A was amended by sections 10(2)(a) – (c) of the Water Act 2014 (c. 21) and sections 92(1) and 105(3) of the Water Act 2003 (c. 37).

- (ii) where the apparatus is a pipe, 3 metres where the diameter of the pipe is between 150 and 450 millimetres;
- (iii) where the apparatus is a pipe, 4 metres where the diameter of the pipe exceeds 450 millimetres;
- (iv) 4 metres of any other apparatus,  
or such other distances as may be set out in guidance relating to specific works issued by Affinity from time to time; or
- (c) will or may affect any apparatus, the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise.

*On street apparatus*

3. Except for paragraphs [ ] (*apparatus in stopped up streets*), [ ] (*retained apparatus: protection*), [ ] (*expenses*) and [ ] (*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 Affinity, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Affinity are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

*Apparatus in stopped up streets*

4.—(1) Where any street is stopped up under article [ ] (permanent stopping up of public rights of way), if Affinity has any apparatus in the street, Affinity shall have the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Affinity legal easements reasonably satisfactory to Affinity in respect of such apparatus, its maintenance and access to it, but nothing in this paragraph affects any right of the undertaker or of Affinity to require the removal of that apparatus under paragraph 7 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up, alteration, diversion or restriction of use of any street under the powers conferred by article [ ] (temporary closure of public rights of way) and article [ ] (temporary stopping up and restriction of use of streets), Affinity is at liberty at all times to take all necessary access across any such stopped up street and to execute and do all such works and things in, upon or under any such street 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 street.

*Protective works to buildings*

5. The undertaker, in the case of the powers conferred by article [ ] (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to, or maintenance of, any apparatus.

*Acquisition of land*

6. 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 undertaker must not (a) appropriate or acquire or take temporary possession of any apparatus or interest in land held by Affinity or (b) appropriate, acquire, extinguish, interfere with or override any easement or other interest or right of which Affinity or its apparatus has the benefit otherwise than with prior written consent of Affinity. Such consent may be subject to such conditions as Affinity may reasonably require and such conditions may include (but not be limited to) provisions to ensure the creation, grant or transfer of such alternative easements, interests or rights for the benefit of Affinity's apparatus (including any alternative apparatus) as Affinity may require.

### *Removal of apparatus*

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed or over which any access to any apparatus is enjoyed or requires that Affinity's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Affinity to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been granted, to the reasonable satisfaction of Affinity in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Affinity 56 days' written notice of that requirement, together with a plan and section 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 Affinity reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Affinity the necessary facilities, rights and consents, and the benefit of any statutory permits granted to the undertaker in respect of the apparatus in question (whether under the Environmental Permitting Regulations 2010 or other legislation), for the construction of alternative apparatus in other land of the undertaker and 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 the undertaker or land secured by the undertaker, or the undertaker 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, or the benefit of any statutory permits granted to the undertaker, Affinity may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities, rights and consents in the land in which the alternative apparatus is to be constructed, and any required statutory permits.

(4) Affinity will have an absolute discretion whether or not to use or seek any powers of compulsory acquisition that may be available to Affinity for the purposes of paragraph (3).

(5) Any alternative apparatus to be constructed in land of the undertaker or secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Affinity and the undertaker or in default of agreement settled by arbitration in accordance with article 47 (arbitration).

(6) Affinity must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 47 (arbitration), [and subject to any written diversion agreement having been entered into between the parties] and after the grant to Affinity of any such facilities and rights or statutory permits as are referred to in sub-paragraphs (2) or (3), proceed in accordance with a programme that has been agreed or settled by arbitration in accordance with article 47 (arbitration) to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(7) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to Affinity that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by Affinity, may be executed by the undertaker, with the prior written consent of Affinity (which must not be unreasonably withheld or delayed and is to be subject to any conditions as are reasonable and proper to protect the apparatus) in accordance with plans and sections and in a position agreed between Affinity and the undertaker, or in default of agreement determined by arbitration in accordance with article 47 (arbitration), without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Affinity.

(8) In carrying out any work under sub-paragraph (7), the undertaker must comply with all statutory obligations which would have been applicable had the works been carried out by Affinity.

(9) Nothing in sub-paragraph (7) authorises the undertaker to:

- (a) execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any excavation and filling around any apparatus (where the apparatus is laid in a trench) under this sub-paragraph (7) within 600 millimetres of any apparatus to be retained in situ; or
- (b) carry out any works in relation to any water mains.

(10) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking any steps which will trigger the need for those substitution works, use all reasonable endeavours to comply with Affinity's reasonable requests for a reasonable period of time to enable Affinity to:

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

#### *Facilities and rights for alternative apparatus*

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Affinity facilities and rights 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 undertaker and Affinity and must be no less favourable on the whole to Affinity than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by Affinity or in default of agreement settled, subject to sub-paragraphs (2) and (3) in accordance with article 47 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, any arbitrator or expert will—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with the proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator or expert less favourable on the whole to Affinity 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, the arbitrator or expert must make such provision for the payment of compensation by the undertaker to Affinity as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

#### *Retained apparatus*

9.—(1) Not less than 56 days before commencement of any specified works, the undertaker must submit to Affinity a plan, section and description in respect of the specified works.

(2) The plan, section and description must provide details of—

- (a) the exact position, including level, of the works and of all apparatus;
- (b) a method statement describing the manner of their construction or renewal including details of excavation and positioning of plant;
- (c) detailed drawings showing every alteration proposed to be made to or close to any such apparatus;
- (d) all effects (including but not limited to electromagnetic or high voltage effects) that the construction, maintenance or operation of the specified works may have on any apparatus,

the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; and

(e) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until the plan has been approved by Affinity.

(4) Any approval of Affinity given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5)(a); and

(b) must not be unreasonably withheld or delayed.

(5) Affinity may require—

(a) such modifications to be made to the plan, section and description as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to its apparatus; and

(b) the undertaker to re-submit the plan, section and description, as modified, for approval to Affinity, and Affinity must advise the undertaker within 14 days of submission of the revised plan, section and description whether it is approved.

(6) If the revised plan, section and description is not approved within 14 days, the undertaker may require a meeting to be held between the chief engineers of the undertaker and Affinity to agree the plan, section and description.

(7) If the undertaker and Affinity fail to reach an agreement on the plan, section and description, the dispute shall be settled by arbitration in accordance with article 47 (arbitration).

(8) Specified works must only be executed in accordance with—

(a) the plan, section and description submitted under sub-paragraph (1), as approved or as amended from time to time by agreement between the undertaker and Affinity; and

(b) all conditions imposed under sub-paragraph (5)(a),  
and Affinity will be entitled to supervise and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(9) Where Affinity requires any protective works to be carried out by itself or by the 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 Affinity's satisfaction prior to the commencement of any specified works for which protective works are required and Affinity must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(10) If Affinity in accordance with this paragraph and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(11) Nothing in this paragraph precludes the undertaker from submitting a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description, provided that the new plan, section and description is submitted at least 56 days before commencing the execution of any works, unless otherwise agreed with Affinity.

(12) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency works but in that case must give to Affinity notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with any reasonable requirements of Affinity in so far as is reasonably practicable in the circumstances.

(13) In this paragraph, “emergency works” means works which, at the time when they are executed are required in order to put an end to, or to prevent the occurrence of, existing or imminent

circumstances (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

(14) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that Affinity 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.

#### *Expenses and costs*

**10.—**(1) Subject to the following provisions of this paragraph, the undertaker must pay to Affinity within 30 days of receipt of an itemised invoice or claim from Affinity all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by Affinity in, or in connection with:

- (a) The supervision, inspection, removal, relaying, replacing, alteration or protection of any apparatus or the supervision, inspection, adoption and construction of any new apparatus or alternative apparatus which may be required in connection with the authorised works; and
- (b) the consideration and approval of any plan as required by this Schedule, including the costs of external consultants and contractors employed in connection with such activities

(2) The costs as referred to in sub-paragraphs (1)(a) and (1)(b) are to include but not be limited to:

- (a) any costs reasonably incurred by or compensation properly paid by Affinity in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by Affinity as a consequence of Affinity;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Affinity;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans, sections or descriptions;
- (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.

(3) The value of any apparatus that is removed and re-used by Affinity, or any value recovered by Affinity from the scrapping of any apparatus removed and not re-used, under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(4) 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 undertaker or, in default of agreement, is not determined in accordance with article 47 (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 Affinity by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus;
- (b) where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or to place it at the existing depth, the capacity, dimensions and depth of the apparatus is to be treated as if it has been agreed or so determined; and
- (c) 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 an inspection chamber is to be treated as if it also had been agreed or so determined.

(6) An amount which apart from this sub-paragraph would be payable to Affinity in respect of works by virtue of sub-paragraph (1) must, 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 Affinity 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.

(7) The amount of the reduction under sub-paragraph (6) must be calculated using the methodology set out in paragraph 29 of HAUC Advice Note and—

- (a) the 1991 Act and any regulations made under that Act (including the cost-sharing regulations made under section 85 (Sharing of cost of necessary measures) of that Act), and
- (b) any other codes of practice or guidance issued under the 1991 Act or regulations made under that Act,

do not apply in respect of any such calculation under sub-paragraph (6).

### *Indemnity*

**11.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, operation or maintenance of any of the authorised works or any such works referred to in paragraphs 5, 7 or 9(1), or by reason of any subsidence resulting from such development or 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 to property of Affinity, or there is any interruption in any service provided, or in the supply of any goods, by Affinity, or Affinity becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Affinity in making good such damage or restoring the supply; and
- (b) indemnify Affinity against all liabilities, claims, demands, losses, damages, proceedings, penalty or costs which may be made or taken against or recovered from or incurred by Affinity,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Affinity on behalf of the undertaker or in accordance with a plan, section or description approved by Affinity or in accordance with any requirement of Affinity or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1), unless Affinity 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, section of description.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of Affinity, its officers, servants, contractors or agents.



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

(5) Affinity must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) Affinity must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within Affinity's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of Affinity's control and if reasonably requested to do so by the undertaker Affinity must provide an explanation of how the claim has been minimised, where relevant.

(7) In sub-paragraph (1)-

(a) "costs" includes—

- (i) expenses and charges;
- (ii) staff costs and overheads;
- (iii) legal costs; and

(b) "losses" includes physical damage,

(c) "claims" and "demands" include as applicable—

- (i) costs incurred in connection with any claim or demand; and
- (ii) any interest element of sums claimed or demanded; and

(d) "liabilities" includes—

- (i) contractual liabilities;
- (ii) tortious liabilities (including liabilities for negligence or nuisance);
- (iii) liabilities to pay statutory compensation or for breach of statutory duty; and
- (iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

### *Cooperation*

**12.**—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Affinity requires the removal of apparatus under paragraph 7(2) or Affinity makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must 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 Affinity's undertaking and Affinity must use its best endeavours to co-operate with the undertaker for that purpose.

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

**13.** Where the undertaker discovers any apparatus which may belong to or be maintainable by Affinity, but which has not previously been identified by Affinity as apparatus belonging to it, the undertaker shall inform Affinity of the existence and location of the apparatus as soon as reasonably practicable. If Affinity confirms that it owns or maintains the apparatus, that apparatus shall then be afforded the same protection under this Part of this Schedule as other apparatus belonging to Affinity.

**14.** Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Affinity in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### *Access*

15. If in consequence of any agreement reached in accordance with paragraph 6 or the powers conferred by this Order, the access to any of Affinity's apparatus is obstructed, prior to obstructing such access, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Affinity to maintain or use the apparatus no less effectively than was possible before such obstruction.

### *Water demand*

16.—(1) The undertaker will, in the detailed design of the authorised development, include such water efficiency measures as are necessary, so far as reasonably practicable, to maintain water demand (excluding construction water demand) at the current baseline during the operation, use and maintenance of the authorised development.

(2) During the operation, use and maintenance of the authorised development, the undertaker will:

- (a) take all reasonable measures to ensure that its employees, contractors or agents or others do not use water in exceedance of the current baseline; and
- (b) procure monitoring data (including interpretative reports) of the water usage of the authorised development and provide that data to Affinity on a quarterly basis.

(3) If during the operation, use and maintenance of the authorised development, and notwithstanding the incorporation of the water efficiency measures referred to in sub-paragraph (1) and the reasonable measures referred to in sub-paragraph (2)(a), water demand is anticipated to exceed the current baseline, at least six months before such anticipated exceedance, the undertaker must provide Affinity with information about the anticipated additional water demand, including an estimate of the amount of additional water demand anticipated and the period over which the additional water demand is anticipated.

(4) In this paragraph, 'current baseline' means the 2019 baseline as detailed in [Volume 5 Environmental Statement and Related Documents, 5.02 Appendix 20.5 Water Cycle Strategy, paragraph 4.8 (water consumption and supply data)].

### *Management plans*

17.—(1) The undertaker must provide Affinity with a copy of the undertaker's programme for preparing the relevant management plans.

(2) The undertaker must update the programme referred to in subparagraph (1) on a quarterly basis and provide Affinity with the updated programme promptly thereafter, and in any event, within two weeks of the updated programme being prepared.

(3) The undertaker must procure the lead contractor to provide Affinity, within 28 days of Affinity's request, with monitoring data (including interpretative reports) produced pursuant to the relevant management plans and in accordance with the requirements under the relevant management plan.

(4) In this paragraph 'relevant management plans' means:

- (a) each construction surface water management strategy, prepared in accordance with paragraph 8(2)(c) of Part 2 of Schedule 2 to the Order;
- (b) each pollution incident control plan, prepared in accordance with paragraph 8(2)(g) of Part 2 of Schedule 2 to the Order;
- (c) each dust management plan, prepared in accordance with paragraph 8(2)(h) of Part 2 of Schedule 2 to the Order;
- (d) any written scheme and programme prepared in accordance with paragraph 12(2) of Part 2 of Schedule 2 to the Order;
- (e) any verification plan prepared in accordance with paragraph 12(4) of Part 2 of Schedule 2 to the Order; and

- (f) each set of written details of the surface and foul water drainage plan, prepared in accordance with paragraph 13 of Part 2 of Schedule 2 to the Order; and
- (g) the remediation strategy prepared in accordance with paragraph 17 of Part 2 of Schedule 2 to the Order.

*Code of Construction Practice*

**18.**The undertaker must carry out the authorised development in accordance with the code of construction practice and the plans approved under the code of construction practice pursuant to paragraph 8(2) of Schedule 2 of the Order.