

**From:** [REDACTED]  
**To:** [Mona Offshore Wind Project](#)  
**Cc:** [REDACTED]; [REDACTED]  
**Subject:** Mona Offshore Wind Project - Deadline 6 - Submission of National Grid Electricity Transmission plc [ADDGDD-LIVE.FID4589617]  
**Date:** 20 December 2024 16:44:17  
**Attachments:** [image001.png](#)  
[image002.jpg](#)  
[RE Enquiry in relation to Examination Timetable ADDGDD-LIVE.FID4589617.msg](#)  
[Deadline 6 - NGET Written Representation.pdf](#)

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Dear Sir or Madam

**Interested Party Number: 20048454**

Further to the correspondence attached, we attach National Grid Electricity Transmission plc's response to the Applicant's Response to Examining Authority's Written Question 2.6.9 regarding Statutory Undertakers (ExQ2) at Deadline 5 and Action 28 in the List of Hearing Action Points from ISH6.

We would be grateful if you could please confirm safe receipt.

Kind regards

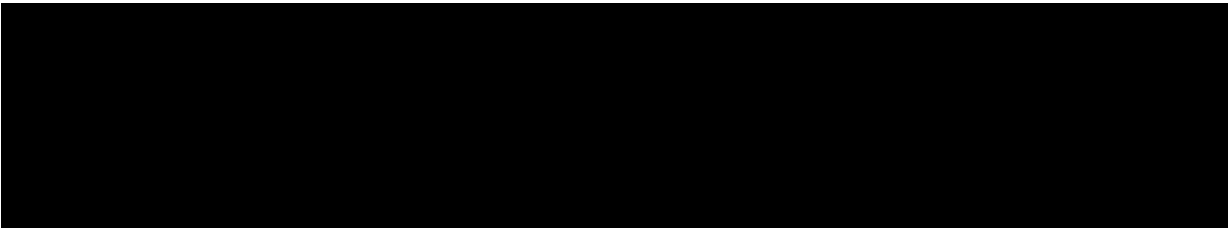
Charlotte

[REDACTED]  
Associate

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[REDACTED]

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**To:** [REDACTED]  
**Cc:** [Mona Offshore Wind Project](#); [REDACTED]  
**Subject:** RE: Enquiry in relation to Examination Timetable [ADDGDD-LIVE.FID4589617]  
**Date:** 20 December 2024 08:51:15  
**Attachments:** [image003.jpg](#)  
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[image011.jpg](#)  
[image012.jpg](#)

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Dear Michael,

Thank you for your response.

There have been three sets of hearings during the course of the Examination and therefore ample opportunity for parties to state their case orally. There will be no further changes to the existing timetable. As it is primarily a written process, it is suggested that you state your position clearly at D6 (20 December 2024). Following this, the ExA has invited all parties to submit closing statements at D7 (14 January 2025), setting out a concise record of the party's position prior to the close of the Examination, specifically where it sees that areas of disagreement remain (although they must not introduce new evidence).

You are encouraged to use the remaining time to negotiate with the Applicant to narrow the areas of disagreement as much as possible. If you are not able to agree on the wording of PPs prior to the close of the Examination, then it will be for the ExA to adjudicate on this matter in the recommendation report.

Your email below has been published as an [Additional Submission](#) on the project web page and has been brought to the attention of the Applicant.

I hope this is helpful.

Kind regards,  
Jake



**Jake Stephens | Rheolwr Achos / Case Manager**  
**Seilwaith Cenedlaethol (Ynni) /**  
**National Infrastructure (Energy)**  
Yr Arolygiaeth Gynllunio / The Planning Inspectorate  
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**From:** [REDACTED] [REDACTED]@addleshawgoddard.com>

**Sent:** Tuesday, December 17, 2024 6:04 PM

**To:** Mona Offshore Wind Project <MonaOffshoreWindProject@planninginspectorate.gov.uk>; [REDACTED] [REDACTED]@addleshawgoddard.com>

**Subject:** RE: Enquiry in relation to Examination Timetable [ADDGDD-LIVE.FID4589617]

**Importance:** High

Dear Jake

Thank you for your e-mail.

It is certainly NGET's intention to make a further written submission prior to Deadline 6 in order to respond to the Promoter's Response to the Examining Authority's Written Question 2.6.9 regarding Statutory Undertakers (ExQ2) (the Promoter's Response) and the accompanying set of protective provisions for the benefit of NGET submitted at Deadline 5. This submission also goes to issue 28 in the action points from ISH6.

The reason for such submission and for enquiring about a possible appearance/hearing date is because NGET has a number of concerns about the Promoter's account of the position with NGET set out in section 1.5 of the Promoter's Response - in particular, its summary of NGET's position, negotiations to date, the outstanding issues and the adequacy of the Promoter's suggested protective provisions. NGET's written submission will address these matters in detail. However, in summary, NGET does not accept the Promoter's assertion that the Promoter's suggested protective provisions would avoid serious detriment to NGET's undertaking. A fundamental concern for NGET is the omission of safeguarding provisions in respect of NGET's future projects to extend and upgrade Bodelwyddan substation and the associated overhead lines to enable the connection of multiple projects at this location (including, indeed, the Promoter's own project). The omission of such safeguarding provisions will be to the serious detriment of not just NGET but multiple connectee projects reliant on those future upgrades.

The first time that NGET had sight of the Promoter's Response and suggested protective provisions was after the same had been uploaded to the PINS website after Deadline 5. Up until that point, NGET had understood the Promoter's position to be as set out in NGET's written representation of 7 August 2024, i.e. that the Promoter was essentially reserving its position on the draft protective provisions that NGET first provided to the Promoter in June, pending ongoing discussions between the parties. Given those ongoing discussions and the fact that the protective provisions that NGET was seeking had recent precedent in the Awel Y Mor DCO (another connectee project at this same location), NGET had no reason to believe that these

protective provisions would become contentious.

NGET was therefore caught by surprise by the Promoter's Response and the accompanying set of protective provisions, whereby the Promoter is clearly no longer reserving its position on the protective provisions for the benefit of NGET. It is this late change of position by the Promoter to NGET's detriment that has prompted NGET to approach the Examination about possible further hearing dates.

Whilst we take on board your comments below about timings and reasonable notice of further hearings, this request is the result of the Promoter's actions and, whilst the protective provisions are likely to be of little interest to third parties/the public, there is a fairness point that arises here in respect to NGET as a statutory undertaker who will be directly affected by the DCO project. There is also a month until the Examination closes. Notwithstanding the Christmas break, it surely would be possible to provisionally accommodate a hearing during either of the weeks commencing 6 or 13 January 2025 before the Examination closes?

We would be grateful if you could liaise with the ExA accordingly and, if it would assist, we can provide some suggested dates during this period when the NGET team would be available to appear at the Examination.

We look forward to hearing from you.

kind regards

[REDACTED]

Legal Director

[Addleshaw Goddard LLP](#)

[REDACTED]

[REDACTED]

---

**From:** Mona Offshore Wind Project <[MonaOffshoreWindProject@planninginspectorate.gov.uk](mailto:MonaOffshoreWindProject@planninginspectorate.gov.uk)>

**Sent:** Tuesday, December 17, 2024 11:35 AM

**To:** [REDACTED] <[\[REDACTED\]@addleshawgoddard.com](mailto:[REDACTED]@addleshawgoddard.com)>

**Cc:** [REDACTED] <[\[REDACTED\]@addleshawgoddard.com](mailto:[REDACTED]@addleshawgoddard.com)>; Mona Offshore Wind Project <[MonaOffshoreWindProject@planninginspectorate.gov.uk](mailto:MonaOffshoreWindProject@planninginspectorate.gov.uk)>

**Subject:** RE: Enquiry in relation to Examination Timetable [ADDGDD-LIVE.FID4589617]

Dear Charlotte,

Thank you for your email.

Given the time remaining within the Examination, the Examining Authority (ExA) are of the opinion that reasonable notice cannot be given to ensure that all parties would have a fair chance of being able to attend/ participate in any other hearings. Please note that National Grid Electricity Transmission PLC (NGET) were invited to hearings held throughout the Examination.

The ExA also issued [ExQ2](#) on 19 November 2024, which contained written questions aimed at Statutory Undertakers (including NGET) at [Q2.6.5](#) and [Q2.6.10](#).

Finally, it may be worth looking at Action 28 from the [ISH6 Action Points](#). This was placed on the Applicant, but NGET are also welcomed to respond.

Please note Deadline 6 closes 23:59 on Friday 20 December 2024.

Kind regards,

Jake



**Jake Stephens | Rheolwr Achos / Case Manager**  
**Seilwaith Cenedlaethol (Ynni) /**  
**National Infrastructure (Energy)**

Yr Arolygiaeth Gynllunio / The Planning Inspectorate

**Llinell Uniongyrchol / Direct Line: 0303 444 5678**

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**From:** [Redacted] [@addleshawgoddard.com](mailto:[Redacted]@addleshawgoddard.com)>

**Sent:** Friday, December 13, 2024 3:41 PM

**To:** Mona Offshore Wind Project <[MonaOffshoreWindProject@planninginspectorate.gov.uk](mailto:MonaOffshoreWindProject@planninginspectorate.gov.uk)>

**Cc:** [Redacted] [@addleshawgoddard.com](mailto:[Redacted]@addleshawgoddard.com)>

**Subject:** Enquiry in relation to Examination Timetable [ADDGDD-LIVE.FID4589617]

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Good afternoon

We act for National Grid Electricity Transmission PLC in relation to the Mona Offshore Wind Farm DCO.

We note that the Examination timetable does not make provision for any further hearings prior to the close of Examination on 16 January. However, we would like to enquire whether further hearings can be called and on what basis? If further hearings can be called, when could the timetable accommodate it?

Kind regards

Charlotte

[REDACTED]

Associate

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**Dated 20 DECEMBER 2024**

**APPLICATION BY MONA OFFSHORE WIND LIMITED FOR AN ORDER GRANTING  
DEVELOPMENT CONSENT FOR THE MONA OFFSHORE WIND FARM SCHEME**

**PLANNING INSPECTORATE REFERENCE NUMBER: EN010137**

**REGISTRATION IDENTIFICATION NUMBER: 20048454**

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**WRITTEN REPRESENTATION**  
**submitted on behalf of**  
**National Grid Electricity Transmission plc at Deadline 6**  
**in response to the Applicant's Response to Examining**  
**Authority's Written Question 2.6.9 regarding Statutory**  
**Undertakers (ExQ2) at Deadline 5 and Action 28 in the List**  
**of Hearing Action Points from ISH6**

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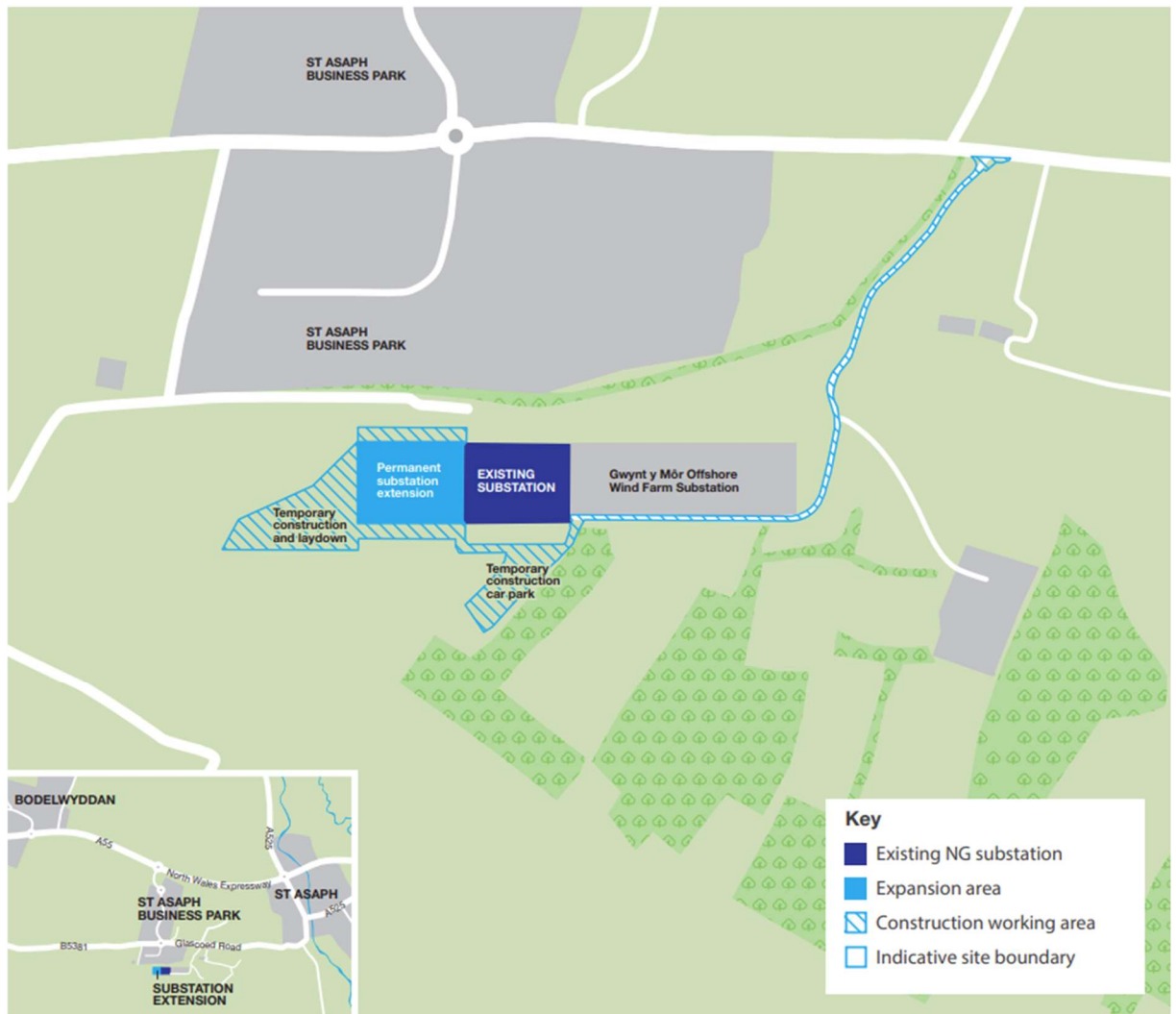
## 1 Introduction

- 1.1 This written representation is submitted on behalf of National Grid Electricity Transmission plc (**NGET**) in connection with the application by Mona Offshore Wind Limited (**Promoter**) for a development consent order (**DCO**) for the Mona Offshore Wind Farm (**Proposed Development**).
- 1.2 As well as supplementing NGET's previous representations dated 3 July 2024 [**AS-020**] and 7 August 2024 [**REP1-055**], this written representation is NGET's response to the Promoter's Response to the Examining Authority's Written Question 2.6.9 regarding Statutory Undertakers (ExQ2) dated 3 December 2024 (**the Promoter's Response**) and the accompanying draft set of Protective Provisions (**the Promoter's Amended PPs**). It also provides NGET's response in relation to action 28 in the List of Hearing Action Points arising from ISH6 held on 10 and 11 December 2024 and follows on from our e-mails to the Examination dated 13 and 17 December 2024 enquiring about a possible hearing date for NGET to appear at the Examination before its close. In response PINS have confirmed by e-mail dated 20 December 2024 that there will be no further hearings and that NGET should state its position clearly at Deadline 6. This submission therefore constitutes NGET's written statement of its position in lieu of any further opportunity to appear at the Examination.
- 1.3 As a general comment NGET has a number of concerns about the Promoter's account of the position with NGET set out in section 1.5 of the Promoter's Response - in particular, its summary of NGET's position, negotiations to date, the outstanding issues and the adequacy of the Promoter's Amended PPs.
- 1.4 We set out NGET's response to each of these matters below. However, for the avoidance of doubt, NGET does not accept the Promoter's assertion that the Promoter's Amended PPs would avoid serious detriment to NGET's undertaking.
- 1.5 In particular, the Promoter's Amended PPs omit safeguarding provisions relating to NGET's projects to extend and upgrade the existing Bodelwyddan substation and associated overhead lines to facilitate multiple connections at this location. Without these safeguarding provisions (which have precedent in recent DCOs, including another connectee project at Bodelwyddan substation as set out below), it would be likely that the Proposed Development will prejudice these upgrades to the serious detriment of not just NGET but multiple third party connectee projects, where NGET is under a legal obligation to connect new sources of energy generation to its transmission network. This is not the typical situation of two 'rival' projects potentially wishing to utilise the same land at some point in the future.
- 1.6 There are also a number of other issues of concern with the Promoter's Amended PPs as set out further below.

## 2 Summary of NGET's position

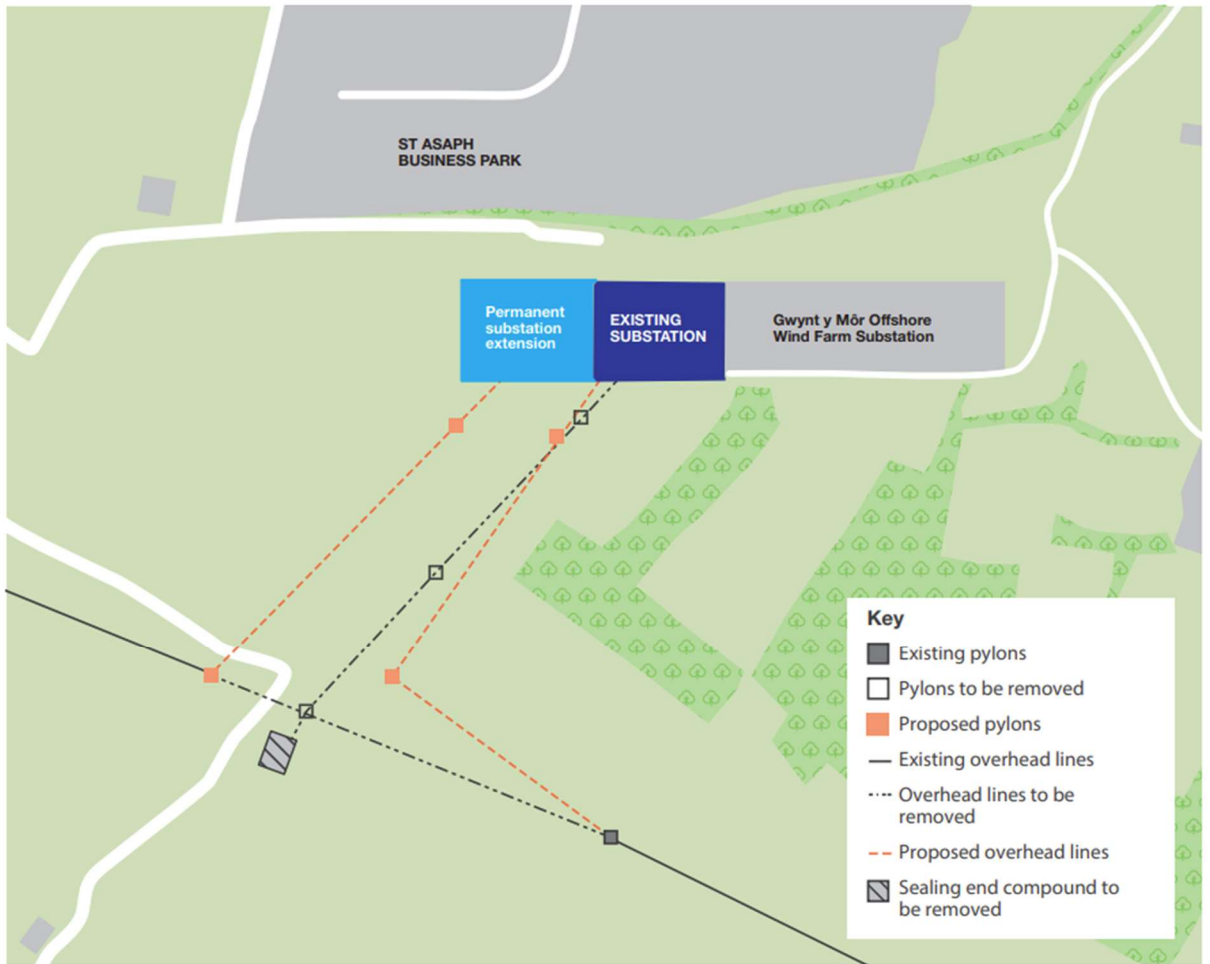
- 2.1 NGET notes the Promoter's summary of NGET's position in paragraph 1.5.1.2 of the Promoter's Response. This states that NGET "*have requested allowance is factored in for the proposed upgrade of the existing Bodelwyddan National Grid Substation and associated works, plus their proposed re-conductoring works to the overhead line to the south of the existing substation to Connahs Quay*" and that "*Depending on timings, there are issues of overlap between the parties' proposals and coordination of interactions is required between the parties*".
- 2.2 As set out in NGET's Previous Representations, NGET has a number of assets that form an essential part of the electricity transmission network in England and Wales either within, or in close proximity to, the Proposed Development, including the existing Bodelwyddan substation

and associated overhead lines. As the Promoter correctly notes, NGET is bringing forward a project to upgrade the existing Bodelwyddan substation (including a physical extension to the substation) and associated overhead lines in the near future (the **Bodelwyddan Upgrade**). The substation extension is shown in **Figure 1** below.



**Figure 1: Substation Extension forming part of the Bodelwyddan Upgrade**

2.3 The associated overhead line works to the south of the substation forming part of the Bodelwyddan Upgrade are shown in **Figure 2** below.



**Figure 2: Overhead line works forming part of the Bodelwyddan Upgrade**

2.4 NGET will also be undertaking a separate scheme of reconductoring works to the overhead line to the south of the existing substation as part of larger North Wales reinforcement works (**the**

Connah's Quay Reconductoring Works). The geographical scale of these works is shown in Figure 3 below.



Figure 3: Connah's Quay Reconductoring Works

2.5 Both of these NGET schemes involve land within the Order Limits for the Proposed Development, including non-operational land in third party ownership. What the Promoter fails to acknowledge in the Promoter's Response, however, is:

- (a) the full extent of the potential overlaps/interactions between the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works and the Proposed Development;
- (b) the fact that the Bodelwyddan Upgrade is necessary permanent infrastructure for the Proposed Development; and
- (c) the fact that both the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works are necessary infrastructure for a number of other proposed connectee projects at this location.

2.6 With regard to (a), there are multiple Works Areas within the Order Limits for the Proposed Development which overlap with land required for the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works – specifically Works No. 22, 22a, 23, 24, 25, 26, 27, 29, 30, 35 and 38. Save for the works associated with the gas pipeline diversion required to facilitate the substation extension, the full extent of this physical overlap is shown in the illustrative drawing at **Appendix 1**, with the grey shaded area representing the areas required for the Bodelwyddan

Upgrade and the Connah's Quay Reconductoring Works. There are a number of issues of concern that arise from this from NGET's perspective, as detailed in section 4 below.

- 2.7 Turning to (b), the Bodelwyddan Upgrade is necessary for the Proposed Development to be able to connect to the National Grid. This is not the typical satiation of two 'rival' projects potentially wishing to utilise the same land at some point in the future; rather NGET is providing infrastructure on which the Proposed Development will be reliant and so which must come forward before the Proposed Development is operational. In this regard, a connection agreement is in place between NGET and the Promoter.
- 2.8 Finally (c): The Bodelwyddan Upgrade is not just necessary infrastructure for the Proposed Development either – there are a number of other proposed connectee projects at this location for which the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works are also required. As a business regulated by the energy regulator Ofgem, NGET has a legal obligation to connect new sources of energy generation to its transmission network when requested. As well as the Promoter, NGET has entered into connection agreements with each of the relevant customers obligating NGET to provide a connection for each of their individual projects at Bodelwyddan substation. One such project is the Awel y Môr Offshore Wind Farm, which was consented by the Awel y Môr Offshore Wind Farm Development Consent Order 2023 (**the AYM DCO**, a copy of which was appended to NGET's Written Representation dated 7 August 2024 and is referred to further below).
- 2.9 Accordingly, neither the operation of the existing Bodelwyddan substation and associated overhead lines nor the construction and operation of the future substation extension and overhead line upgrades the subject of the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works should be put in a position where they could be compromised or prejudiced by an individual connectee project, such as the Proposed Development. It is for this reason that NGET is seeking the set of protective provisions enclosed at **Appendix 2 (NGET's PPs)**, which include specific safeguarding provisions for the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works based on the protective provisions for NGET's benefit in Part 3 of Schedule 9 of the AYM DCO.
- 2.10 NGET requires protective provisions to be included within the DCO to ensure that its existing and future assets and interests are adequately protected, as well as to ensure compliance with relevant safety standards. It is important from NGET's perspective that the protective provisions adopted in each DCO are consistent in this regard in order to avoid unnecessary complications going forward. This will ultimately be to the benefit of all of the connectee projects at Bodelwyddan substation, including the Proposed Development, because it will ensure that no single project can prejudice NGET's ability to bring forward the critical infrastructure that all of these projects are reliant on at this location.
- 2.11 The Promoter has not reflected this position in either the Promoter's Response or the Promoter's Amended PPs. In particular, without any explanation and to NGET's great surprise, the Promoter has omitted the safeguarding provisions concerning the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works that NGET is seeking consistent with the AYM DCO. Without these provisions, in view of the extent and complexity of the physical overlap of the projects, it is likely that the Proposed Development will prejudice the Bodelwyddan Upgrade and/or the Connah's Quay Reconductoring Works to the serious detriment of NGET and, in turn, multiple connectee projects in this location.

### 3 Negotiations to date

- 3.1 NGET notes the Promoter's account of its negotiations with NGET to date in paragraphs 1.5.1.3-1.5.1.7.
- 3.2 NGET is surprised and disappointed that this account focusses on disclosing details of confidential discussions between the parties. NGET does not intend to comment on the details set out by the Promoter, save to make clear that:
- (a) These confidential discussions were, from NGET's perspective, predicated on the Promoter ultimately agreeing NGET's PPs; and
  - (b) if the Promoter maintains its current stance on the protective provisions for the benefit of NGET these discussions will **not** result in an agreed position as the Promoter seems to be suggesting is possible.
- 3.3 In terms of the protective provisions themselves, NGET first provided a set of draft protective provisions to the Promoter on 5 June 2024, i.e. over 6 months ago. During that time the Promoter has provided very limited comments to NGET (primarily focussing on the insurance and security provisions and minor process/drafting points). Until the Promoter's Response, NGET's understanding was that the Promoter's overall position remained as set out in NGET's written representation of 7 August 2024, i.e. the Promoter was essentially reserving its position on the principle of adopting the protective provisions from the AYM DCO pending the outcome of the aforementioned confidential discussions. Given these ongoing discussions and the fact that the protective provisions that NGET was seeking had recent precedent in the AYM DCO, NGET had no reason to believe that these protective provisions would become contentious.
- 3.4 The first time that NGET had sight of the Promoter's Response and suggested protective provisions was after the same had been uploaded to the PINS website after Deadline 5. It is clear from the Promoter's Response and the Promoter's Amended PPs that the Promoter is no longer reserving its position on the draft protective provisions provided by NGET and, in particular, has rejected the safeguarding provisions concerning the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works.
- 3.5 NGET was therefore caught by surprise by the Promoter's Response and the accompanying set of protective provisions submitted at Deadline 5 and it is this late change of position by the Promoter to NGET's detriment that prompted NGET to approach the Examination about possible further hearing dates before the close of the Examination.

### 4 The outstanding issues and the adequacy of the Promoter's Amended PPs

- 4.1 NGET notes that the Promoter sets out in paragraph 1.5.1.7 of the Promoter's Response a list of what it considers to be the outstanding issues between the parties. Notwithstanding this, in paragraph 1.5.1.8 the Promoter asserts that the Promoter's Amended PPs "*are reasonable and proportionate and would offer suitable protection to NGET PLC*".
- 4.2 If the Promoter's position is that the Promoter's Amended PPs are sufficient, the Promoter has completely misunderstood NGET's position and the difference between the parties is much more fundamental than the list of outstanding issues in the Promoter's Response.
- 4.3 The full extent of the current difference between the parties is illustrated by the enclosed compare at **Appendix 3** of the Promoter's Amended PPs with NGET's PPs at **Appendix 2**. As can be seen by the tracked changes, there are substantial differences in the Promoter's Amended PPs as compared to NGET's PPs.

- 4.4 As a general comment, NGET requires the protective provisions in the DCO for its benefit to be consistent with those already incorporated into the AYM DCO (and endorsed by the Secretary of State) relating to another connectee project at this location. This will avoid unnecessary complications going forward given that there are a number of projects that are due to connect to the extended Bodelwyddan substation and, if the terms of the protective provisions adopted in each DCO are consistent, it will ultimately benefit all of the connectee projects, including the Proposed Development (should it be consented).
- 4.5 However, here the Promoter's Amended PPs omit key provisions from NGET's perspective, including the following:
- (a) The safeguarding provisions in respect to the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works at paragraphs 4 to 7 of NGET's PPs; and
  - (b) Standard insurance and security provisions at paragraph 16 of NGET's PPs.
- 4.6 Additionally, the Promoter's Amended PPs amend a number of other standard protective provisions in a way that dilutes the protection that they would afford NGET should the Proposed Development be consented.
- 4.7 The Promoter has provided no explanation for these omissions and amendments, which we comment on further below.

#### **Omission of safeguarding provisions for the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works**

- 4.8 As noted above there are multiple Works Areas within the Order Limits for the Proposed Development which overlap with land required for the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works. Save for the gas pipeline diversion works comprised within the Bodelwyddan Upgrade, the full extent of the physical overlap is shown in the illustrative drawing at **Appendix 1** and the issues which arise from this are summarised below.
- 4.9 In summary, it is the extent of the spatial and temporal overlap of the Proposed Development with the Bodelwyddan Upgrade which is NGET's principal concern. It is currently expected that the Connah's Quay Reconductoring Works should be completed before the Proposed Development begins. However, NGET has included the Connah's Quay Reconductoring Works in the safeguarding provisions on a precautionary basis in case these works do not proceed as currently timetabled given that this is necessary infrastructure for various other connectee projects at Bodelwyddan substation. As set out in section 2, the Bodelwyddan Upgrade is necessary infrastructure for the Proposed Development itself (as well as various other connectee projects) and so will need to have been completed before the Proposed Development is operational. This means that there will be temporal overlap as well as physical overlap between the Bodelwyddan Upgrade and the Proposed Development.
- 4.10 As shown in Figures 1 and 2 above, the Bodelwyddan Upgrade works comprise the physical extension of the Bodelwyddan substation and associated works and infrastructure, including new overhead line gantries. They also include the decommissioning of an existing 400kV cable connecting Bodelwyddan substation and diversion of an existing gas pipeline to facilitate the substation extension.
- 4.11 Planning permission is required for the substation element of the Bodelwyddan Upgrade shown in Figure 1. The planning application for the substation extension is programmed to be submitted during Q1 2025 following statutory Pre-Application Consultation. The relevant local planning authority, Denbighshire Council, has a target determination period of eight weeks from



validation meaning that the planning permission is anticipated during Q2 2025. Accordingly, NGET expects to have planning permission for these works before the DCO decision is made.

- 4.12 The area required for the gas pipeline diversion and the physical extension of the substation is an area of land within the Order Limits for the Proposed Development situated immediately west and to the south-west of the current substation – specifically Works No's 25 and 26. Subject to planning permission, the proposals are to extend the substation to the west by approximately 8,800 square metres in a similar layout and at the same height as the current substation. Within the substation there will be a new building that will house equipment, with a footprint of approximately 1,263 square metres and in a similar layout and at the same height as the current substation.
- 4.13 In addition to the permanent works a temporary construction/laydown area is also required in the immediate vicinity of the works, i.e. in Works No 25. This will need to be in place for the duration of all of the works associated with the Bodelwyddan Upgrade, not just the works relating to the construction of the substation extension.
- 4.14 The Proposed Development is reliant on the Bodelwyddan Upgrade to be able to connect to the National Grid and so it is plainly necessary for the substation extension to have been constructed to an appropriate stage before this can happen. This also requires the gas pipeline diversion works to have been fully completed (the existing gas pipeline running through the area required for the substation extension, meaning that the diversion works are enabling works for the construction of the substation extension). The gas pipeline diversion works and associated laydown/works areas are not shown in the illustrative overlay plan at **Appendix 1** but will be taking place in Works No's 25 and 26 and will extend further into Works No 25 than the area shown in the overlay plan.
- 4.15 However, as the illustrative drawing at **Appendix 1** shows, the interactions between the Proposed Development and the Bodelwyddan Upgrade are more extensive than Works No's 25 and 26.
- 4.16 As well as extending the substation, the Bodelwyddan Upgrade includes changes to how the existing overhead line that currently runs between Pentir in Gwynedd and Connah's Quay in Flintshire enters and leaves the expanded substation from its south. These works are illustrated in Figure 2 above. The overhead line turn-ins require consents under section 37 of The Electricity Act 1989 from the Secretary of State for the Department of Energy Security and Net Zero. Denbighshire Council's comments on the proposed applications are required before the applications can be submitted. The requisite s37 consents are anticipated to be granted during Q3 2025.
- 4.17 In addition to changes to the overhead lines, an existing 400kV underground cable running south from the existing substation must be decommissioned. Since the customer substation forming part of the Proposed Development is to be located in Work No's 22 and 22a to the south of the existing overhead lines, this means that the Promoter's proposed connection into Bodelwyddan substation will run through the areas in which NGET will be undertaking these works, as well as the works to the existing overhead line associated with both the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works. The exact interactions in the Work No's lying between Bodelwyddan substation and the Promoter's substation within the Proposed Development will ultimately depend upon the cable route option that is taken forward by the Promoter and the relative timings of the different projects, including in relation to other projects connecting into substation.

- 4.18 Further overlaps/interactions between the Proposed Development, the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works include the following:
- (a) The Promoter's laydown area: The Promoter's laydown area straddling Work No's 23 and 24 is adjacent to the existing overhead line and will obstruct NGET's access to the overhead line for works associated with both the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works.
  - (b) Attenuation basin: The Proposed Development includes an attenuation basin in Work No 23 underneath the existing overhead line, which is close to one of NGET's identified work areas and the overhead line construction area for both the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works.
  - (c) Access to the Promoter's substation: The Promoter proposed access road to its substation in Work No 29 cuts under the existing overhead line and through NGET's identified work area for both the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works.
- 4.19 With regard to access from the public highway more generally, NGET will be using the existing access road to Bodelwyddan substation for both construction of the Bodelwyddan Upgrade and Connah's Quay Reconductoring Works and for the continued operation of the existing substation. It is anticipated that no alterations will be required to this road. However, as part of the Proposed Development, the Promoter is intending to use both this access road (Works No 30) and build its own temporary adjacent access road which will result in a new bell mouth onto the public highway immediately adjacent to the existing one used by NGET (Works No 27). All of this has the potential to adversely affect NGET's access.
- 4.20 Given that both the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works will involve works on - and will introduce new NGET apparatus onto - non-operational third party land (including, for example, the whole of the substation extension), it is necessary to include specific safeguarding provisions as per paragraphs 4 to 7 of NGET's PPs, along with associated amendments to other standard protective provisions to ensure that they apply to the future NGET works/apparatus/land (e.g. the protective provisions concerning the acquisition of NGET's land by the Promoter in paragraph 11 of NGET's PPs – without appropriate amendments, these protective provisions would not apply to third party land required for the Bodelwyddan Upgrade, such as the land required for the substation extension). These provisions already have precedent in the AYM DCO relating to another connectee project at Bodelwyddan substation, as well as more generally (e.g. The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022).
- 4.21 It should be noted that the extent of the physical overlap of the Proposed Development with NGET's proposed schemes is more extensive than the development authorised by the AYM DCO, which is why the safeguarding provisions in the AYM DCO do not reference the Connah's Quay Reconductoring Works.<sup>1</sup> The potential interactions outlined above are also more complex than those for the AYM DCO project, so there is greater scope for the Proposed Development to compromise or prejudice the construction and operation of the future substation extension and overhead line upgrades the subject of the Bodelwyddan Upgrade than the project authorised by the AYM DCO. In addition, there is greater uncertainty associated with the Proposed Development as compared to the AYM DCO due to Promoter reserving two broad corridor options for cable routes within the DCO, meaning that the level of interaction is unclear

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<sup>1</sup> Unlike the Proposed Development, the AYM DCO project does not interact with the overhead lines to the south of the existing substation.

at this stage. In other words, there is an even greater necessity for the inclusion of safeguarding provisions of this nature in the DCO than there was even for the AYM DCO.

- 4.22 In light of this, NGET is both surprised and concerned that the Promoter has omitted such provisions from the Promoter's Amended PPs. Without specific safeguarding provisions for NGET's future upgrade projects, the Promoter's Amended PPs only relate to existing NGET apparatus and land and so there is nothing to prevent the Proposed Development from adversely affecting the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works as set out above to the serious detriment of NGET's undertaking and multiple connectee projects at this location.

#### **Other omissions/amendments to standard protective provisions of concern**

- 4.23 As noted above, there are a number of omissions and/or amendments to standard protective provisions in the Promoter's Amended PPs that are of concern to NGET, including:

- (a) *The omission of the standard insurance and security provisions at paragraph 16 of NGET's PPs:* This omission means that there are no requirements for the Promoter to provide any security and insurance for NGET's benefit prior to commencing the Proposed Development. The Promoter has provided no justification for this. Since it is standard practice for security and insurance to be put in place for statutory undertakers in these circumstances and these are standard protective provisions for which there are multiple precedents in existing DCOs, they should be included as per NGET's PPs.
- (b) *Amendment to standard acquisition of land provision at paragraph 6 of NGET's PPs:* The purpose of this protective provision is to limit the use of the Promoter's compulsory acquisition powers in relation to statutory undertakers. The amended version at paragraph 6 of the Promoter's Amended PPs dilutes the protection afforded by this provision, e.g. by omitting the references to temporary possession and land required for the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works. Accordingly the Promoter's Amended PPs would not prevent the Promoter from using its DCO powers to compulsorily acquire third party land that NGET requires for its future upgrade projects, such as for the substation extension.
- (c) *Addition of deemed approval provisions at paragraph 9(11) of Promoter's Amended PPs:* The addition provides that if after expiry of 28 days from date on which a plan was submitted to NGET for approval, if NGET has not communicated approval or disapproval, the plans will be deemed to be approved. This is unreasonable and represents a significant dilution of a standard safeguard in protective provisions of this nature, i.e. the ability for a statutory undertaker to consider and sign off on works affecting its apparatus.

- 4.24 The net effect of all of the above is that the Promoter's Amended PPs are inadequate to avoid serious detriment to NGET's undertaking.

## **5 Conclusion**

- 5.1 In light of the above, NGET objects to the Proposed Development on the basis of the Promoter's Response and the Promoter's Amended PPs.

- 5.2 As the Examination will be aware, since the Promoter's Response was published on the PINS website at Deadline 5, NGET has requested the opportunity to appear at a hearing before the close of the Examination in order to expand on the content of this written submission. Whilst NGET understand from PINS e-mail of 20 December 2024 that there will be no further hearings,

should that position change, NGET would like the opportunity to appear at the hearing for all such time that the Promoter maintains the position set out in the Promoter's Response and the Promoter's Amended PPs.

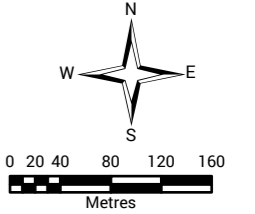
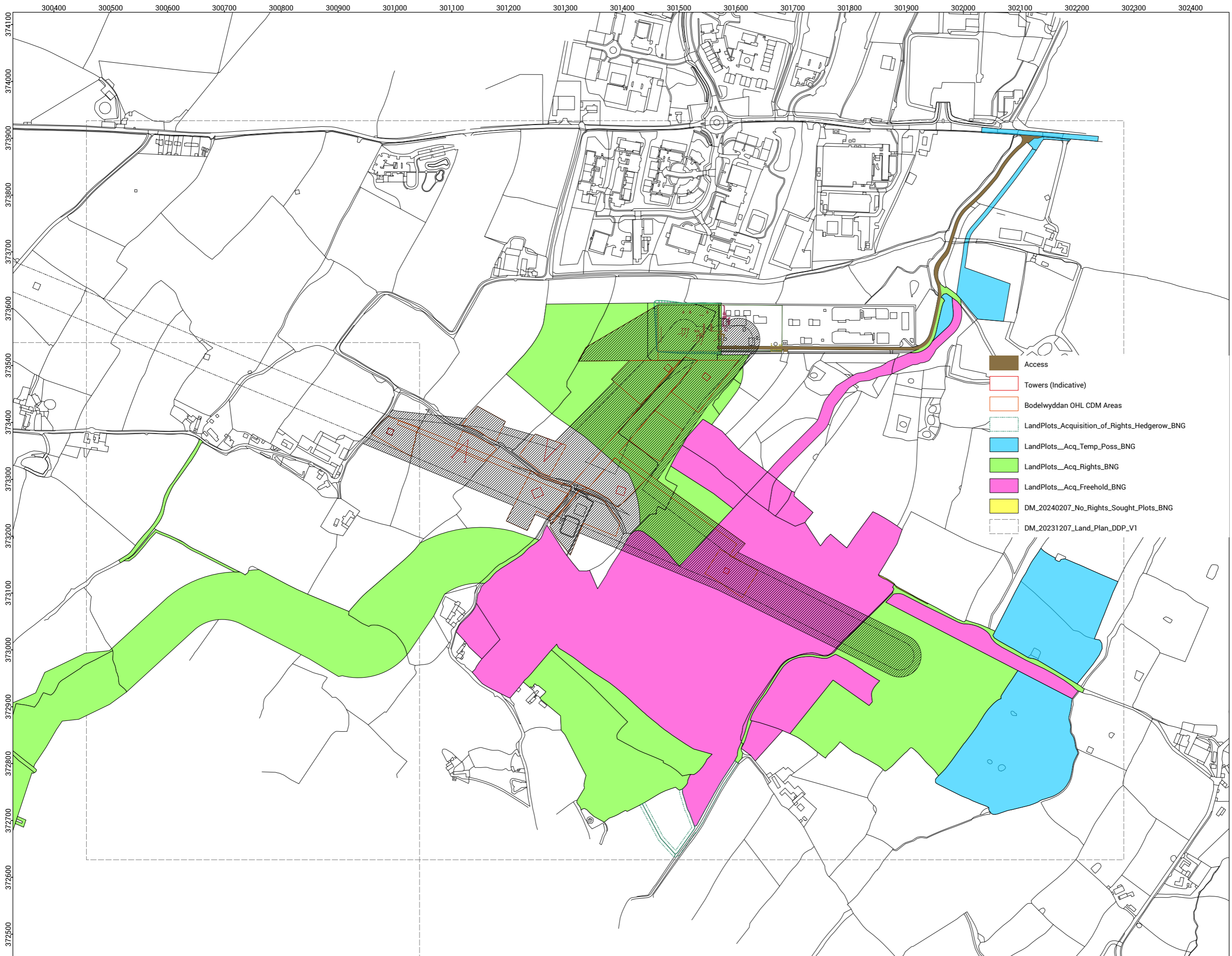
- 5.3 In the event that the Secretary of State is minded to grant the DCO, NGET requests that NGET's PPs should be included in the DCO in place of the Promoter's Amended PPs.
- 5.4 In particular, safeguarding provisions concerning the Bodelwyddan Upgrade and the Connah's Quay Reconductoring Works should be included consistent with the AYM DCO, which provides a clear recent precedent for connectee projects at this location. Without such safeguarding provisions, for the reasons set out above, it is likely that the Proposed Development will prejudice NGET's future upgrades to the serious detriment of NGET and, in turn, multiple third party connectee projects, including the Proposed Development itself.










**Addleshaw Goddard LLP on behalf of NGET**

**20 December 2024**

## APPENDICES

## APPENDIX 1: ILLUSTRATIVE OVERLAY PLAN



-  Access
-  Towers (Indicative)
-  Bodelwyddan OHL CDM Areas
-  LandPlots\_Acquisition\_of\_Rights\_Hedgerow\_BNG
-  LandPlots\_Acq\_Temp\_Poss\_BNG
-  LandPlots\_Acq\_Rights\_BNG
-  LandPlots\_Acq\_Freehold\_BNG
-  DM\_20240207\_No\_Rights\_Sought\_Plots\_BNG
-  DM\_20231207\_Land\_Plan\_DDP\_V1

REVISION: I  
 CLIENT: **nationalgrid**

SCHEME:  
 Bodelwyddan Substation

TITLE:  
 Overview Plan

FP: 105089-161  
 SCALE: 1:6,000 @ A3  
 DATE: 19/12/2024

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DRAWING REF:  
 NGET-2023-01-RW-OP-Bodelwyddan  
 Substation\_

## **APPENDIX 2: NGET'S PROTECTIVE PROVISIONS**



# NATIONAL GRID ELECTRICITY TRANSMISSION PLC

## SCHEDULE 1

### PROTECTIVE PROVISIONS

#### PART 1

#### FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER

##### **Application**

1. (1) For the protection of National Grid Electricity Transmission Plc as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc.

2. (2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, where the benefit of this Order is transferred or granted to another person under article [ ] (*consent to transfer benefit of Order*) –

3. (a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between National Grid Electricity Transmission Plc and the transferee or grantee (as the case may be); and

4. (b) written notice of the transfer or grant must be given to National Grid Electricity Transmission Plc on or before the date of that transfer or grant.

5. (3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid Electricity Transmission Plc (but without prejudice to 11(3)b).

##### **Interpretation**

2.— In this Part of this Schedule —

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

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: (i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation):

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid Electricity Transmission Plc

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either:

(a) a parent company guarantee from a parent company in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid Electricity Transmission Plc and where required by National Grid Electricity Transmission Plc, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid Electricity Transmission Plc);

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

"apparatus" means:

(a) any electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid Electricity Transmission Plc together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid Electricity Transmission Plc 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;

(b) any electrical lines or electrical plant as defined in the 1989 Act, any mains, pipes, plant or other apparatus belonging to, operated or maintained by National Grid for the purposes of the construction, operation and maintenance of the Bodelwyddan Project, whether temporary or permanent, and includes, where the context so requires, apparatus constructed as part of the authorised development and intended for the beneficial use by National Grid ("Bodelwyddan apparatus"); and

(c) any electrical lines or electrical plant as defined in the 1989 Act, any mains, pipes, plant or other apparatus belonging to, operated or maintained by National Grid for the purposes of the construction, operation and maintenance of the Connah's Quay Project, whether temporary or permanent, and includes, where the context so requires, apparatus constructed as part of the authorised development and intended for the beneficial use by National Grid ("Connah's Quay apparatus");

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 (interpretation) 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 and construction of any works authorised by this Schedule;

"Bodelwyddan Project" means the proposed extension of the Bodelwyddan substation, diversion of gas pipeline and overhead electricity line upgrade to be undertaken by National Grid and any temporary construction compound and laydown area for such works;

"Bodelwyddan Site" includes –

(a) land on which any Bodelwyddan apparatus is situated; and

(b) land on which Bodelwyddan apparatus is anticipated to be situated which is necessary for the construction, use or maintenance of the Bodelwyddan Project (in so far as the same has been notified by National Grid in writing to the undertaker);

"Connah's Quay Project" means the proposed reconductoring works to three existing ended circuits (Bodelwyddan, Connah's Quay and Pentir 1 & 2) from towers 4ZB167 to 4ZB255 to be undertaken by National Grid, including any temporary construction compound, access and laydown area for such works;

"Connah's Quay Site" includes –

(a) land on which any Connah's Quay apparatus is situated; and

(b) land on which Connah's Quay apparatus is anticipated to be situated which is necessary for the construction, use or maintenance of the Connah's Quay Project (in so far as the same has been notified by National Grid in writing to the undertaker);

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“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 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 National Grid Electricity Transmission Plc (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 undertaker to submit for National Grid Electricity Transmission Plc'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;

“Incentive Deduction” means any incentive deduction National Grid Electricity Transmission Plc Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid Electricity Transmission Plc: construct, use, repair, alter, inspect, renew or remove the apparatus;

“Mona project works” means any part of Work Nos. 22, 22a, 23, 24, 25, 26, 27, 29, 30, 35 or 38 as described in Schedule 1 of this Order (authorised development);

“National Grid Electricity Transmission Plc” means National Grid Electricity Transmission Plc (Company Number. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

“NGESO” means as defined in the STC;

“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 undertaker acceptable to and which shall have been approved by National Grid Electricity Transmission Plc acting reasonably;

“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 undertaker under paragraph 12(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 12(2) or otherwise; and/or

- (c) includes any of the activities that are referred to in "development near overhead lines" EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines"

"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGEESO as modified from time to time;

"STC Claims" means any claim made under the STC against National Grid Electricity Transmission Plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission Plc's transmission system which arises as a result of the authorised works;

"Transmission Owner" means as defined in the STC;

"undertaker" means the undertaker as defined in article 2(1) of this Order;

### **Interaction with the Bodelwyddan Project and the Connah's Quay Project**

3. Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the construction, maintenance and operation of the authorised development and the Bodelwyddan Project and the Connah's Quay Project. For the purposes of this paragraph, "reasonable endeavours" means –

- (a) undertaking consultation on the detailed design and programming of the Mona project works and all works associated with or ancillary to the Mona project works to ensure that the design and programme for the Mona project works does not unreasonably impede or interfere with the Bodelwyddan Project and/or the Connah's Quay Project;
- (b) having regard to the proposed programme of works for the Bodelwyddan Project and/or the Connah's Quay Project as may be made available to the undertaker by National Grid and facilitating a co-ordinated approach to the programme, land assembly, and the carrying out of the Mona project works and the Bodelwyddan Project and/or the Connah's Quay Project;
- (c) providing a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised development; and
- (d) keeping National Grid informed on the programme of works for the authorised development.

### **Mona project works**

4. The undertaker must not except with the agreement of National Grid carry out the Mona project works, or any part of it.

5.—(1) Before beginning to construct any Mona project works, or any part of it, the undertaker must submit to National Grid plans of the relevant Mona project works (or part of it) and such further particulars available to it as National Grid may request within 21 days of receipt of the plans reasonably requested.

(2) Any Mona project works must not be constructed except in accordance with such plans as may be approved in writing by National Grid.

6.—(1) Any approval of National Grid required under this Schedule—

- (a) must not be unreasonably withheld or delayed;
- (b) in the case of a refusal must be accompanied by a statement of grounds or refusal; and
- (c) may be given subject to such reasonable requirements as National Grid may have in connection with the safe, economic and efficient construction, commissioning, operation, maintenance and future decommissioning of the Bodelwyddan Project and/or the Connah's Quay Project or otherwise for the protection of Bodelwyddan apparatus and/or the Connah's Quay apparatus,

provided always that in relation to a refusal under sub-paragraph (b) or any requirements requested pursuant to sub-paragraph (c) the undertaker shall be permitted to refer such matters to dispute resolution pursuant to paragraph 21.

(2) National Grid must employ reasonable endeavours to respond to the submission of any plans within a period of 56 days from the date of submission of the plans. If National Grid require further particulars, such particulars must be requested by National Grid no later than 21 days from the submission of plans and thereafter National Grid must employ reasonable endeavours to respond to the submission within 56 days from receipt of the further particulars.

7.—(1) The undertaker must give to National Grid not less than 14 days' notice in writing of its intention to commence construction of any Mona project works and notice in writing of its completion not later than 7 days after the date on which it is completed and National Grid will be entitled by its officer to watch and inspect the construction of such works.

(2) If any part of the Mona project works is constructed otherwise than in accordance with paragraph 6(2) above National Grid may by notice in writing identify the extent to which the Mona project works do not comply with the approved details and request the undertaker at the undertaker's own expense carry out remedial works so as to comply with the requirements of paragraph 6(2) of this Schedule or such alternative works as may be agreed with National Grid or as otherwise may be agreed between the parties.

(3) Subject to sub-paragraph (4), if within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (2) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, National Grid may execute the works specified in the notice and any reasonable expenditure incurred by National Grid in so doing will be recoverable from the undertaker.

(4) In the event of any dispute as to whether sub-paragraph (2) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, National Grid will not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 21.

### **On Street Apparatus**

8. Except for paragraphs 9 (apparatus *in stopped up streets*), 14 (retained apparatus: protection), 15 (expenses) and 16 (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 National Grid Electricity Transmission Plc, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid Electricity Transmission Plc are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of National Grid Electricity Transmission Plc in stopped up streets**

9.—(1) Where any street is stopped up under article 12 (*permanent stopping up, restriction of use and construction of streets, public rights of way and private means of access*), if National Grid Electricity Transmission Plc has any apparatus in the street or accessed via that street National Grid Electricity Transmission Plc has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid Electricity Transmission Plc, or procure the granting to National Grid Electricity Transmission Plc of, legal easements reasonably satisfactory to National Grid Electricity Transmission Plc in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or National Grid Electricity Transmission Plc 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) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 12 (*temporary stopping up and restriction of use of streets*), National Grid Electricity Transmission Plc is at liberty at all times to take all necessary access across any such stopped up highway and 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**

10. The undertaker, in the case of the powers conferred by article 18 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus, the Bodelwyddan Site and/or the Connah's Quay Site without the written consent of National Grid Electricity Transmission Plc which will not unreasonably be withheld.

## **Acquisition of land**

11.—(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 undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid Electricity Transmission Plc otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not unless otherwise agreed in writing with National Grid acquire any land forming part of the Bodelwyddan Site and/or the Connah's Quay Site (such agreement not to be unreasonably withheld or delayed).

(3) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid Electricity Transmission Plc and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid Electricity Transmission Plc or affect the provisions of any enactment or agreement regulating the relations between National Grid Electricity Transmission Plc and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid Electricity Transmission Plc reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid Electricity Transmission Plc and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid Electricity Transmission Plc, and it will be the responsibility of the undertaker 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.

(4) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker, the undertaker and National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc and/or other enactments relied upon by National Grid Electricity Transmission Plc as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(5) Any agreement or consent granted by National Grid Electricity Transmission Plc under paragraph 9 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

## **Removal of apparatus**

12.—(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, that apparatus must not be removed under this Part of this Schedule and any right of National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc in accordance with sub-paragraph (2) to (5)

(2) If, for the purpose of executing any works comprised in the authorised development in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the

removal of any apparatus placed in that land, it must give to National Grid Electricity Transmission Plc a minimum of 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 National Grid Electricity Transmission Plc reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid Electricity Transmission Plc 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 undertaker; 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 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, National Grid Electricity Transmission Plc 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 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 National Grid Electricity Transmission Plc 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 undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid Electricity Transmission Plc and the undertaker.

(5) National Grid Electricity Transmission Plc must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid Electricity Transmission Plc 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 undertaker to be removed under the provisions of this Part of this Schedule.

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

**13.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid Electricity Transmission Plc 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 undertaker and National Grid Electricity Transmission Plc and must be no less favourable on the whole to National Grid Electricity Transmission Plc than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid Electricity Transmission Plc.

(2) If the facilities and rights to be afforded by the undertaker and agreed with National Grid Electricity Transmission Plc under sub-paragraph (1) 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 National Grid Electricity Transmission Plc 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 matter may be referred to arbitration in accordance with paragraph 15 (*Arbitration*) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid Electricity Transmission Plc as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph, article 46 (arbitration) applies.

## **Retained apparatus: Protection of National Grid Electricity Transmission Plc as Electricity Undertaker**

14.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid Electricity Transmission Plc a plan of the works to be executed and seek from National Grid Electricity Transmission Plc details of the underground extent of their electricity assets.

(2) In relation to specified works the plan to be submitted to National Grid Electricity Transmission Plc 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;
- (g) an assessment of risks of rise of earth issues; and
- (h) a ground monitoring scheme, where required.

(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;
- (d) details of any 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 any cable route;
- (f) written details of the operations and maintenance regime for any cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid Electricity Transmission Plc's engineers; and
- (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid Electricity Transmission Plc has given written approval of the plan so submitted.

(5) Any approval of National Grid Electricity Transmission Plc required under sub-paragraphs (4) -

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and
- (b) may be given subject to such reasonable requirements as National Grid may have in connection with the safe and efficient construction, commissioning, operation and maintenance of the Bodelwyddan Project and/or the Connah's Quay Project; and
- (c) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid Electricity Transmission Plc 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, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.



(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid Electricity Transmission Plc and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6), or (8) by National Grid Electricity Transmission Plc for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid Electricity Transmission Plc will be entitled to watch and inspect the execution of those works.

(8) Where National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and National Grid Electricity Transmission Plc shall give 56 days' notice of its requirement for such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid Electricity Transmission Plc in accordance with sub-paragraphs (6) or (8) 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).

(10) Nothing in this paragraph precludes the 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 development, 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 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 National Grid Electricity Transmission Plc notice as soon as is reasonably practicable and a plan of those works and must—

comply with sub-paragraphs (6), (7) and (8) in so far as is reasonably practicable in the circumstances and

comply with sub-paragraph (12) at all times.

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

## Expenses

**15.**—(1) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid Electricity Transmission Plc within 30 days of receipt of an itemised invoice or claim from National Grid Electricity Transmission Plc all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid Electricity Transmission Plc 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 including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid Electricity Transmission Plc in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid Electricity Transmission Plc as a consequence of National Grid Electricity Transmission Plc:
  - (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 National Grid Electricity Transmission Plc.
- (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;
- (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 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 undertaker or, in default of agreement, is not determined by arbitration in accordance with article 46 (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 National Grid Electricity Transmission Plc by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that 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 undertaker.

(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) Any amount which apart from this sub-paragraph would be payable to National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc 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**

**16.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the 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 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 the authorised works) or property of National Grid Electricity Transmission Plc, or there is any interruption in any service provided, or in the supply of any goods, by National Grid Electricity Transmission Plc, or National

Grid Electricity Transmission Plc becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid Electricity Transmission Plc the cost reasonably and properly incurred by National Grid Electricity Transmission Plc in making good such damage or restoring the supply; and
- (b) indemnify National Grid Electricity Transmission Plc for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid Electricity Transmission Plc, by reason or in consequence of any such damage or interruption or National Grid Electricity Transmission Plc becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid Electricity Transmission Plc.

(2) The fact that any act or thing may have been done by National Grid Electricity Transmission Plc on behalf of the undertaker or in accordance with a plan approved by National Grid Electricity Transmission Plc or in accordance with any requirement of National Grid Electricity Transmission Plc or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid Electricity Transmission Plc 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 undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid Electricity Transmission Plc, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid Electricity Transmission Plc as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (benefit of the 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 subsection 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

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

(5) National Grid Electricity Transmission Plc, 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) National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc’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 National Grid Electricity Transmission Plc’s control and if reasonably requested to do so by the undertaker National Grid Electricity Transmission Plc must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid Electricity Transmission Plc or in respect of which National Grid Electricity Transmission Plc has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid Electricity Transmission Plc’s apparatus until the following conditions are satisfied:

- (a) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for

the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same to the undertaker in writing; and

- (b) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid Electricity Transmission Plc that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with 11(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid Electricity Transmission Plc from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

### **Enactments and agreements**

17. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid Electricity Transmission Plc and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid Electricity Transmission Plc in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

18.—(1) Where in consequence of the proposed construction of any part of the authorised works the undertaker or National Grid Electricity Transmission Plc requires the removal of apparatus under paragraph 7(2) or National Grid Electricity Transmission Plc makes requirements for the protection or alteration of apparatus under paragraph 9, the 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 works and taking into account the need to ensure the safe and efficient operation of National Grid Electricity Transmission Plc's undertaking and National Grid Electricity Transmission Plc shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid Electricity Transmission Plc'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.

### **Access**

19. 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 undertaker must provide such alternative means of access to such apparatus as will enable National Grid Electricity Transmission Plc to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

20. Save for differences or disputes arising under paragraphs 12(2), 12(4), 13(1) and 14 any difference or dispute arising between the undertaker and National Grid Electricity Transmission Plc under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, be determined by arbitration in accordance with article 46 (arbitration).

### **Notices**

21. Notwithstanding article [ ] (service of notices), any plans submitted to National Grid Electricity Transmission Plc by the undertaker pursuant to paragraph 9 must be submitted using the LSBUD

system (<https://lsbud.co.uk/>) or to such other address as National Grid Electricity Transmission Plc may from time to time appoint instead for that purpose and notify to the undertaker in writing.

**APPENDIX 3: COMPARE TO SHOW DIFFERENCES BETWEEN NGET'S PPS AND THE  
PROMOTER'S AMENDED PPS**

# NATIONAL GRID ELECTRICITY TRANSMISSION PLC

## SCHEDULE 1

### PROTECTIVE PROVISIONS

#### PART 71

~~For the protection of National Grid Electricity Transmission Plc~~

### FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER

#### **Application**

1. (1) For the protection of National Grid Electricity Transmission Plc as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc.

~~2.~~ (2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, where the benefit of this Order is transferred or granted to another person under article ~~7~~ [ ] (*consent to transfer benefit of Order*) –

~~3.~~ (a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between National Grid Electricity Transmission Plc and the transferee or grantee (as the case may be); and

~~4.~~ (b) written notice of the transfer or grant must be given to National Grid Electricity Transmission Plc on or before the date of that transfer or grant.

~~5.~~ (3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid Electricity Transmission Plc (but without prejudice to 11(3)b).

#### **Interpretation**

~~2.~~ (a) In this Part of this Schedule —

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

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than:  
(i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation):

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid Electricity Transmission Plc

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either:

(a) a parent company guarantee from a parent company in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid Electricity Transmission Plc and where required by National Grid Electricity Transmission Plc, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid Electricity Transmission Plc);

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

"apparatus" means:

“apparatus” means (a) any electric lines or electrical plant as defined in the 1989 Electricity Act 1989, belonging to or maintained by National Grid Electricity Transmission Plc together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of ~~the undertaker~~ National Grid Electricity Transmission Plc for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or ~~must~~will be lodged or which gives or will give access to apparatus;

(b) any electrical lines or electrical plant as defined in the 1989 Act, any mains, pipes, plant or other apparatus belonging to, operated or maintained by National Grid for the purposes of the construction, operation and maintenance of the Bodelwyddan Project, whether temporary or permanent, and includes, where the context so requires, apparatus constructed as part of the authorised development and intended for the beneficial use by National Grid ("Bodelwyddan apparatus"); and

(c) any electrical lines or electrical plant as defined in the 1989 Act, any mains, pipes, plant or other apparatus belonging to, operated or maintained by National Grid for the purposes of the construction, operation and maintenance of the Connah's Quay Project, whether temporary or permanent, and includes, where the context so requires, apparatus constructed as part of the authorised development and intended for the beneficial use by National Grid ("Connah's Quay apparatus");

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 (interpretation) 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 and works~~and construction of any works authorised by this Schedule;

"Bodelwyddan Project" means the proposed extension of the Bodelwyddan substation, diversion of gas pipeline and overhead electricity line upgrade to be undertaken by National Grid and any temporary construction compound and laydown area for such works;

"Bodelwyddan Site" includes –

(a) land on which any Bodelwyddan apparatus is situated; and

(b) land on which Bodelwyddan apparatus is anticipated to be situated which is necessary for the construction, use or maintenance of the Bodelwyddan Project (in so far as the same has been notified by National Grid in writing to the undertaker);

"Connah's Quay Project" means the proposed reconductoring works to three existing ended circuits (Bodelwyddan, Connah's Quay and Pentir 1 & 2) from towers 4ZB167 to 4ZB255 to be undertaken by National Grid, including any temporary construction compound, access and laydown area for such works;

"Connah's Quay Site" includes –

(a) land on which any Connah's Quay apparatus is situated; and



(b) land on which Connah's Quay apparatus is anticipated to be situated which is necessary for the construction, use or maintenance of the Connah's Quay Project (in so far as the same has been notified by National Grid in writing to the undertaker);

"commence" and "commencement" in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

"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 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 National Grid Electricity Transmission Plc (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 undertaker to submit for National Grid Electricity Transmission ~~Plc's~~Plc'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;

"Incentive Deduction" means any incentive deduction National Grid Electricity Transmission Plc Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

"maintain" and "maintenance" shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid Electricity Transmission Plc: construct, use, repair, alter, inspect, renew or remove the apparatus;

"Mona project works" means any part of Work Nos. 22, 22a, 23, 24, 25, 26, 27, 29, 30, 35 or 38 as described in Schedule 1 of this Order (authorised development);

"National Grid Electricity Transmission Plc" means National Grid Electricity Transmission Plc (Company Number. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

"NGESO" means as defined in the STC;

"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 undertaker acceptable to and which shall have been approved by National Grid Electricity Transmission Plc acting reasonably;

"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 undertaker under paragraph 7(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in "development near overhead lines" EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines"

“STC” means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGESO as modified from time to time;

“STC Claims” means any claim made under the STC against National Grid Electricity Transmission Plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector’s equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission Plc’s transmission system which arises as a result of the authorised works;

“Transmission Owner” means as defined in the STC;

“undertaker” means the undertaker as defined in article 2(1) of this Order;

### **Interaction with the Bodelwyddan Project and the Connah's Quay Project**

**3.** Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the construction, maintenance and operation of the authorised development and the Bodelwyddan Project and the Connah's Quay Project. For the purposes of this paragraph, "reasonable endeavours" means –

- (a) undertaking consultation on the detailed design and programming of the Mona project works and all works associated with or ancillary to the Mona project works to ensure that the design and programme for the Mona project works does not unreasonably impede or interfere with the Bodelwyddan Project and/or the Connah's Quay Project;
- (b) having regard to the proposed programme of works for the Bodelwyddan Project and/or the Connah's Quay Project as may be made available to the undertaker by National Grid and facilitating a co-ordinated approach to the programme, land assembly, and the carrying out of the Mona project works and the Bodelwyddan Project and/or the Connah's Quay Project;
- (c) providing a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised development; and
- (d) keeping National Grid informed on the programme of works for the authorised development.

### **Mona project works**

**4.** The undertaker must not except with the agreement of National Grid carry out the Mona project works, or any part of it.

**5.—(1)** Before beginning to construct any Mona project works, or any part of it, the undertaker must submit to National Grid plans of the relevant Mona project works (or part of it) and such further particulars available to it as National Grid may request within 21 days of receipt of the plans reasonably requested.

**(2)** Any Mona project works must not be constructed except in accordance with such plans as may be approved in writing by National Grid.

**6.—(1)** Any approval of National Grid required under this Schedule—

- (a) must not be unreasonably withheld or delayed;
- (b) in the case of a refusal must be accompanied by a statement of grounds or refusal; and
- (c) may be given subject to such reasonable requirements as National Grid may have in connection with the safe, economic and efficient construction, commissioning, operation, maintenance and future decommissioning of the Bodelwyddan Project and/or the Connah's Quay Project or otherwise for the protection of Bodelwyddan apparatus and/or the Connah's Quay apparatus,  
provided always that in relation to a refusal under sub-paragraph (b) or any requirements requested pursuant to sub-paragraph (c) the undertaker shall be permitted to refer such matters to dispute resolution pursuant to paragraph 21.

**(2)** National Grid must employ reasonable endeavours to respond to the submission of any plans within a period of 56 days from the date of submission of the plans. If National Grid require further particulars, such particulars must be requested by National Grid no later than 21 days from the submission of plans and thereafter National Grid must employ reasonable endeavours to respond to the submission within 56 days from receipt of the further particulars.

7.—(1) The undertaker must give to National Grid not less than 14 days' notice in writing of its intention to commence construction of any Mona project works and notice in writing of its completion not later than 7 days after the date on which it is completed and National Grid will be entitled by its officer to watch and inspect the construction of such works.

(2) If any part of the Mona project works is constructed otherwise than in accordance with paragraph 6(2) above National Grid may by notice in writing identify the extent to which the Mona project works do not comply with the approved details and request the undertaker at the undertaker's own expense carry out remedial works so as to comply with the requirements of paragraph 6(2) of this Schedule or such alternative works as may be agreed with National Grid or as otherwise may be agreed between the parties.

(3) Subject to sub-paragraph (4), if within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (2) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, National Grid may execute the works specified in the notice and any reasonable expenditure incurred by National Grid in so doing will be recoverable from the undertaker.

(4) In the event of any dispute as to whether sub-paragraph (2) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, National Grid will not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 21.

### **On Street Apparatus**

8.3- Except for paragraphs 49 (apparatus in stopped up streets), 914 (retained apparatus: protection), 1015 (expenses) and 1116 (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 National Grid Electricity Transmission Plc, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid Electricity Transmission Plc are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of National Grid Electricity Transmission Plc in stopped up streets**

9.4.—(1)(1) Where any street is stopped up under article 12 (~~temporary~~permanent stopping up, restriction of use and construction of streets, public rights of way and private means of access), if National Grid Electricity Transmission Plc has any apparatus in the street or accessed via that street National Grid Electricity Transmission Plc has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid Electricity Transmission Plc, or procure the granting to National Grid Electricity Transmission Plc of, legal easements reasonably satisfactory to National Grid Electricity Transmission Plc in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or National Grid Electricity Transmission Plc 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) (2)- Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 12 (temporary stopping up and restriction of use of streets), National Grid Electricity Transmission Plc is at liberty at all times to take all necessary access across any such stopped up highway and 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**

10.5- The undertaker, in the case of the powers conferred by article 18 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus, the Bodelwyddan Site and/or the Connah's Quay Site without the written consent of National Grid Electricity Transmission Plc which will not unreasonably be withheld.

## Acquisition of land

~~11.6.~~ ~~(1)~~ (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 undertaker may not ~~(a)~~ appropriate or acquire or take temporary possession of any land or apparatus or ~~(b)~~ appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid Electricity Transmission Plc otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not unless otherwise agreed in writing with National Grid acquire any land forming part of the Bodelwyddan Site and/or the Connah's Quay Site (such agreement not to be unreasonably withheld or delayed).

(3) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid Electricity Transmission Plc and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid Electricity Transmission Plc or affect the provisions of any enactment or agreement regulating the relations between National Grid Electricity Transmission Plc and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid Electricity Transmission Plc reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid Electricity Transmission Plc and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid Electricity Transmission Plc, and it will be the responsibility of the undertaker 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.

~~(4)~~ ~~(2)~~ Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker, the undertaker and National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc and/or other enactments relied upon by National Grid Electricity Transmission Plc as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

~~(5)~~ ~~(3)~~ Any agreement or consent granted by National Grid Electricity Transmission Plc under paragraph 9 or any other paragraph of this Part of this Schedule ~~must, shall~~ not be taken to constitute agreement under sub-paragraph (1).

## Removal of apparatus

~~12.7.~~ ~~(1)~~ (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, that apparatus must not be removed under this Part of this Schedule and any right of National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc in accordance with ~~sub-paragraphs~~ sub-paragraph (2) to (5):

~~(2)~~ ~~(2)~~ If, for the purpose of executing any works comprised in the authorised ~~works~~ development in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid Electricity Transmission Plc a minimum of 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 National Grid Electricity Transmission Plc reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid Electricity Transmission Plc 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 undertaker; and
- (b) subsequently for the maintenance of that apparatus.

~~(3)~~ ~~(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 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, National Grid Electricity Transmission Plc 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 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 National Grid Electricity Transmission Plc to use its compulsory purchase powers to this end unless it elects to so do.

~~(4)~~ ~~(4)~~ Any alternative apparatus to be constructed in land of or land 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 National Grid Electricity Transmission Plc and the undertaker.

~~(5)~~ ~~(5)~~ National Grid Electricity Transmission Plc must, after the alternative apparatus to be provided or constructed has been agreed, and subject to [a written diversion agreement having been entered into between the parties and](#) the grant to National Grid Electricity Transmission Plc 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 undertaker to be removed under the provisions of this Part of this Schedule.

### Facilities and rights for alternative apparatus

~~13.8.~~ ~~(1)~~ ~~(1)~~ Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid Electricity Transmission Plc 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 undertaker and National Grid Electricity Transmission Plc and must be no less favourable on the whole to National Grid Electricity Transmission Plc than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid Electricity Transmission Plc.

~~(2)~~ ~~(2)~~ If the facilities and rights to be afforded by the undertaker and agreed with National Grid Electricity Transmission Plc under sub-paragraph (1) 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 National Grid Electricity Transmission Plc 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 matter may be referred to arbitration in accordance with paragraph 15 (~~arbitration~~ [Arbitration](#)) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid Electricity Transmission Plc as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph, article 46 (arbitration) applies.

### Retained apparatus: Protection of National Grid Electricity Transmission Plc as Electricity Undertaker

~~14.9.~~ ~~(1)~~ ~~(1)~~ Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid Electricity Transmission Plc a plan [of the works to be executed](#) and seek from National Grid Electricity Transmission Plc details of the underground extent of their electricity ~~tower foundations~~ [assets](#).

~~(2)~~ ~~(2)~~ In relation to specified works the plan to be submitted to National Grid Electricity Transmission Plc 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 ~~and~~, 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; [and](#)



(h) a ground monitoring scheme, where required.

~~(3)~~ (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;
- (d) details of any 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 any cable route;
- (f) written details of the operations and maintenance regime for any cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid Electricity Transmission ~~Plc's~~ Plc's engineers; and
- (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

~~(4)~~ (4) The undertaker must not commence any works to which ~~sub-paragraphs~~ sub-paragraphs (2) or (3) ~~applies~~ apply until National Grid Electricity Transmission Plc has given written approval of the plan so submitted.

~~(5)~~ (5) Any approval of National Grid Electricity Transmission Plc required under ~~sub-paragraph,~~ sub-paragraphs (2) ~~or (3)~~—;

- (a) may be given subject to reasonable conditions for any purpose mentioned in ~~sub-paragraph~~ sub-paragraphs (6) or (8); and
- (b) may be given subject to such reasonable requirements as National Grid may have in connection with the safe and efficient construction, commissioning, operation and maintenance of the Bodelwyddan Project and/or the Connah's Quay Project; and
- (c) ~~(b)~~ must not be unreasonably withheld ~~or delayed~~.

~~(6)~~ (6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid Electricity Transmission Plc 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, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

~~(7)~~ (7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid Electricity Transmission Plc and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6), or (8) by National Grid Electricity Transmission Plc for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid Electricity Transmission Plc will be entitled to watch and inspect the execution of those works.

~~(8)~~ (8) Where National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission ~~Plc's~~ Plc's satisfaction prior to the commencement of any authorised ~~works~~ development (or any relevant part thereof) for which protective works are required and National Grid Electricity Transmission Plc shall give 56 days' notice of its requirement for such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

~~(9)~~ (9) If National Grid Electricity Transmission Plc in accordance with sub-paragraphs (6) or (8) 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).

~~(10)~~ (10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days, ~~unless otherwise agreed in writing,~~ before commencing the execution of the authorised ~~works~~ development, 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)~~ If after the expiry of 28 days beginning with date on which a plan was submitted for approval under sub-paragraphs (1), (2) or (3) National Grid Electricity Transmission Plc has not communicated approval or disapproval, National Grid Electricity Transmission Plc is deemed to have approved the plans as supplied.

~~(11)~~ (12) The undertaker ~~is~~ 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 National Grid Electricity Transmission Plc notice as soon as is reasonably practicable and a plan of those works and must—

~~(a)~~ comply with sub-paragraphs (6), (7) and (8) in so far as is reasonably practicable in the circumstances; and

~~(b)~~ comply with sub-paragraph ~~(13)~~ (11) at all times.

~~(12)~~ (13) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid Electricity Transmission Plc's policies for development near overhead lines ~~EN4-8 and the Health and Safety Executive's EN43-8 and HSE's~~ guidance note 6 "~~Avoiding danger from overhead power lines~~ Avoidance of Danger from Overhead Lines".

## Expenses

~~15.10.~~ ~~b)~~ Subject ~~(1)~~ Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid Electricity Transmission Plc within 30 days of receipt of an itemised invoice or claim from National Grid Electricity Transmission Plc all charges, costs and expenses ~~agreed in advance with the undertaker~~ reasonably anticipated within the following three months or reasonably and properly incurred by National Grid Electricity Transmission Plc in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new ~~apparatus~~ or alternative apparatus which may be required in consequence of the execution of any ~~specified works as are referred to in this Part of this Schedule~~ authorised works including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by National Grid Electricity Transmission Plc in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid Electricity Transmission Plc as a consequence of National Grid Electricity Transmission Plc:

(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 National Grid Electricity Transmission Plc.

(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;

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

(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 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 undertaker or, in default of agreement ~~settled~~, is not determined by arbitration in accordance with article 46 (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 National Grid Electricity Transmission Plc by virtue of sub-paragraph (1) will be reduced by the amount of that excess save ~~where~~ to the extent that 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 undertaker.

(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) ~~Any~~ Any amount which apart from this sub-paragraph would be payable to National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc 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

~~16.11.—(1)~~ (1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the 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 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 the authorised works) or property of National Grid Electricity Transmission Plc, or there is any interruption in any service provided, or in the supply of any goods, by National Grid Electricity Transmission Plc, or National Grid Electricity Transmission Plc becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid Electricity Transmission Plc the cost reasonably and properly incurred by National Grid Electricity Transmission Plc in making good such damage or restoring the supply; and
- (b) indemnify National Grid Electricity Transmission Plc for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid Electricity Transmission Plc, by reason or in consequence of any such damage or interruption or National Grid Electricity Transmission Plc becoming liable to any third party and including ~~STC claims~~ Claims or an Incentive Deduction other than arising from any default ~~by~~ of National Grid Electricity Transmission Plc.

(2) The fact that any act or thing may have been done by National Grid Electricity Transmission Plc on behalf of the undertaker or in accordance with a plan approved by National Grid Electricity Transmission Plc or in accordance with any requirement of National Grid Electricity Transmission Plc or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid Electricity Transmission Plc 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) ~~will~~shall impose any liability on the undertaker in respect of—
- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid Electricity Transmission Plc, its officers, ~~employees~~servants, contractors or agents; ~~and~~
  - (b) any authorised works and/or any other works authorised by this Part of this ~~Schedule~~Schedule carried out by National Grid Electricity Transmission Plc as an assignee, transferee or lessee of the undertaker with the benefit of ~~this~~the Order pursuant to section 156 of the ~~2008~~Planning Act ~~2008~~ or article 7 (benefit of the 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-paragraph~~ sub-section 3(b) ~~are~~will be subject to the full terms of this Part of this Schedule including this paragraph ~~in respect of such new apparatus.11; and/or~~
  - (c) ~~Any~~any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable-;

(4) National Grid Electricity Transmission Plc must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise ~~or demand~~ must be made, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering ~~its~~their representations.

(5) National Grid must Electricity Transmission Plc ~~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) National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc’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 National Grid Electricity Transmission Plc’s control and if reasonably requested to do so by the undertaker National Grid Electricity Transmission Plc must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid Electricity Transmission Plc or in respect of which National Grid Electricity Transmission Plc has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid Electricity Transmission Plc’s apparatus until the following conditions are satisfied:

- (a) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same to the undertaker in writing; and
- (b) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid Electricity Transmission Plc that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with 11(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid Electricity Transmission Plc from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

## **Enactments and agreements**

~~17.12.-~~ Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid Electricity Transmission Plc and the undertaker, nothing in this

Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid Electricity Transmission Plc in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### Co-operation

~~18.13.~~ ~~(1)~~ (1) Where in consequence of the proposed construction of any part of the authorised works the undertaker or National Grid Electricity Transmission Plc requires the removal of apparatus under paragraph 7(2) or National Grid Electricity Transmission Plc makes requirements for the protection or alteration of apparatus under ~~paragraph 9~~ paragraph 9, the 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 works and taking into account the need to ensure the safe and efficient operation of National Grid Electricity Transmission ~~Plc's~~ Plc's undertaking and National Grid Electricity Transmission Plc shall use its best endeavours to co-operate with the undertaker for that purpose.

~~(2)~~ (2) For the avoidance of doubt whenever National Grid Electricity Transmission Plc'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.

### Access

~~19.14.~~ 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 undertaker must provide such alternative means of access to such apparatus as will enable National Grid Electricity Transmission Plc to maintain or use the apparatus no less effectively than was possible before such obstruction.

### Arbitration

~~20.15.~~ ~~Any~~ Save for differences or disputes arising under paragraphs 12(2), 12(4), 13(1) and 14 any difference or dispute arising between the undertaker and National Grid Electricity Transmission Plc under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, be determined by arbitration in accordance with article 46 (arbitration).

### Notices

~~21.16.~~ Notwithstanding article ~~43~~ 43 (service of notices), any plans submitted to National Grid Electricity Transmission Plc by the undertaker pursuant to paragraph 9 must be submitted using the LSBUD system (<https://lsbud.co.uk/>) or to such other address as National Grid Electricity Transmission Plc may from time to time appoint instead for that purpose and notify to the undertaker in writing.