



AQUIND Limited

AQUIND INTERCONNECTOR

Portsmouth City Council Development Consent Obligation

The Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010, Rule 8(c)

Document Ref: 7.5.27

PINS Ref.: EN020022

AQUIND Limited

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**Portsmouth City Council Development Consent
Obligation**

PINS REF.: EN020022

DOCUMENT: 7.5.27

DATE: 26 FEBRUARY 2021

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DATED _____ **2021**

(1) AQUIND LIMITED

To

(2) PORTSMOUTH CITY COUNCIL

**UNILATERAL UNDERTAKING IN RESPECT OF
DEVELOPMENT CONSENT OBLIGATIONS**

pursuant to section 106 of
the Town and Country Planning Act 1990
relating to the AQUIND Interconnector

Herbert Smith Freehills LLP

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THIS UNDERTAKING is given on

2021

BY:

- (1) **AQUIND LIMITED** (company registration number 06681477) whose registered office is at OGN House, Hadrian Way, Wallsend NE28 6HL (the "**Undertaker**")

TO:

- (2) **PORTSMOUTH CITY COUNCIL** of Civic Offices, Guildhall Walk, PO1 2AL (the "**Council**")

WHEREAS:

- (A) On [XXX] the Secretary of State for Business, Energy and Industrial Strategy made the Development Consent Order.
- (B) The terrestrial elements of the Project in the UK are to be located between Eastney, Portsmouth and the National Grid Substation at Lovedean, being part of the Project comprising a high voltage direct current electrical interconnector between France and the UK.
- (C) The Council is a local planning authority and local highway authority for the area within which the DCO Land is situated.
- (D) The Undertaker is the undertaker for the purposes of the Development Consent Order. The Undertaker intends to construct, operate and maintain the Development as authorised by the Development Consent Order and is deemed to be a person interested in the DCO Land for the purposes of section 106 of the 1990 Act in accordance with Article 8(4)(a) of the Development Consent Order.
- (E) The Undertaker has agreed to provide this Undertaking in order to secure the performance of the development consent obligations contained in it pursuant to the provisions of section 106 of the 1990 Act and all other enabling powers.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Undertaking (which includes the Recitals to it) the following words and expressions have the following meanings unless the context otherwise requires:

"1990 Act"	means the Town and Country Planning Act 1990;
"2008 Act"	means the Planning Act 2008;
"Access and Rights of Way Plans"	means the plans certified as the access and rights of way plans by the Secretary of State under article 43 (Certification of plans, etc.) and identified in Schedule 6 to the DCO;
"AIL Street Works"	means temporary works to streets and street furniture for which the Council is responsible to facilitate the movement of abnormal indivisible loads in connection with the construction of the Development;
"Application"	means the application for the DCO submitted to the Secretary of State for the Development and accepted by the

Planning Inspectorate on 12 December 2019 with reference EN020022;

“Arboriculture Method Statement”	means an arboriculture method statement produced and approved pursuant to requirement 15(3)(c)(iv) of the Development Consent Order;
“Car Park Plan”	means the plan located at Appendix 1 of this Undertaking;
“Car Park Resurfacing Outline Specification”	means the outline specification for the Car Park Resurfacing Works described and illustrated in the plans at Appendix 2;
“Car Park Resurfacing Specification”	means a detailed design specification for the Car Park Resurfacing Works in accordance with the Car Parking Resurfacing Outline Specification to be submitted to the Council for approval and which shall include: <ul style="list-style-type: none">a) relevant technical information and drawings, including a plan identifying the extent of the area to be resurfaced;b) details of drainage;c) details of materials to be used; andd) estimated programming and costs.
“Car Park Resurfacing Works”	means the works to resurface the area shown on the Car Park Plan to be carried out in accordance with the approved Car Park Resurfacing Specification;
“CAVAT Assessment”	means the assessment of the value of any Tree to be removed in connection with the construction of the Development on the DCO Land to be undertaken in accordance with the CAVAT Assessment Methodology and which shall calculate the CAVAT Compensation Amount for the tree to be removed;
“CAVAT Assessment Methodology”	means the Capital Asset Value of Amenity Trees methodology produced by the London Tree Officers Associated dated January 2020 or any replacement thereof;
“CAVAT Compensation Amount”	means the compensation to be paid to the Council in connection with the removal of any tree which is to be determined in accordance with the CAVAT Assessment and which is to be applied by the Council towards the provision of replacement trees;
“Commencement”	means the carrying out of a material operation as defined in section 155 of the 2008 Act comprised in the Development on the DCO Land other than operations consisting of Onshore Site Preparation Works and the terms "Commence" and "Commenced" and cognate expressions shall be construed accordingly;
“Commencement Date”	means the date of Commencement;
“Council”	means Portsmouth City Council;

“DCO Land”	means so much of the land within the Order limits as is within the administrative boundary of Portsmouth City Council as shown edged and shaded red on the DCO Land Plan
“DCO Land Plan”	means the plan located at Appendix 3 of this Undertaking;
“Development”	means those elements of the Project located onshore in the UK which the DCO is granted;
“Development Consent Order”	means the AQUIND Interconnector Order 202[X] made by the Secretary of State for Business, Energy and Industrial Strategy on [XXX] and references to “DCO” shall be construed accordingly;
“Dispute”	means any dispute, issue, difference or claim as between the Council and the Undertaker in respect of any matter contained in or arising from or relating to this Undertaking or the parties' obligations and rights pursuant to it (other than in respect of any matter of law);
“Expert”	means an independent fit person holding qualifications appropriate in light of the subject matter of the dispute appointed in accordance with the provisions of clause 8 to determine a Dispute between the Council and the Undertaker;
“Index”	means the Consumer Price Index published by the Office for National Statistics or any successor or amending body;
“Index Linked”	means increased (if applicable) in accordance with Clause 13;
“Onshore Cable Route”	means any part of Work No.4;
“Onshore Site Preparation Works”	means operations consisting of: <ul style="list-style-type: none"> a) pre-construction archaeological investigations; b) environmental surveys and monitoring; c) site clearance; d) removal of hedgerows, trees and shrubs (excluding any Tree); e) investigations for the purpose of assessing ground conditions; f) remedial work in respect of any contamination or adverse ground conditions; g) receipt and erection of construction plant and equipment; h) the temporary display of site notices and advertisements; i) erection of temporary buildings, structures or enclosures; and j) Work No.2 (bb) (access junction and associated gated highway link);

“Operation”	means the operation of the Development for the purpose for which it is designed after construction and commissioning is complete and the term “Operational” and cognate expressions shall be construed accordingly;
“Project”	means AQUIND Interconnector a new 2,000 MW subsea and underground High Voltage Direct Current (‘HVDC’) bi-directional electric power transmission link between the South Coast of England and Normandy in France;
“Qualifying Interest”	means such interest in the land sufficient to meet the requirements of Section 106(1) of the 1990 Act which shall include the Undertaker’s status as undertaker for the purposes of the DCO in accordance with the provisions of article 8(4)(a) of the DCO whereby the undertaker is deemed to be a person interested in the DCO Land for the purposes of Section 106(1) of the 1990 Act;
“Successor”	means any person deriving title from the Undertaker in respect of its Qualifying Interest and for the purposes of Section 106(3)(b) of the 1990 Act shall include any person to whom powers are transferred further to Article 7 of the DCO;
“Sports and Recreation Contribution”	means the sum of £100,000 (one hundred thousand pounds) (Index Linked) to be paid to the Council for distribution to sports clubs within the Council’s administrative area who will be directly affected by the Development as a result of the temporary loss of available sports pitches;
“Temporary Construction Access”	means such new temporary means of access or improved existing means of access within the DCO Land (including in the locations identified on the Access and Rights of Way Plans) as the Undertaker reasonably requires for the purposes of the construction of the Development;
“Temporary Construction Access Completion Certificate”	means a certificate to be issued by the Council pursuant to a Temporary Construction Access Highways Agreement to denote the completion of a Temporary Construction Access to the satisfaction of the Council;
“Temporary Construction Access Highways Agreement”	means an agreement to be entered into between the Undertaker and the Council pursuant to section 278 of the Highways Act 1980 in relation to the delivery of any Temporary Construction Access substantially in form located at Appendix 4;
“Tree”	means a tree which is within the DCO Land and which is in the ownership of the Council;
“Working Day”	means any day apart from Saturday, Sunday and any statutory bank holiday on which clearing banks are open in England for the transaction of ordinary business;
“Undertaker”	means AQUIND Limited and any Successors.

- 1.2 In this Undertaking, unless stated otherwise:
- 1.2.1 reference to the masculine feminine and neuter genders shall include other genders;
 - 1.2.2 reference to the singular include the plural and vice versa unless the contrary intention is expressed;
 - 1.2.3 references to natural persons include firms, companies, corporations, and vice versa;
 - 1.2.4 references to the Council include any successors to the Council's statutory functions as the local planning authority local highway authority;
 - 1.2.5 references to the Undertaker shall include its Successors and its respective successors in respect of its Qualifying Interest (except where the contrary is expressly provided);
 - 1.2.6 references to "Work Nos." or to a "Work No." are references to the works forming part of the Development listed in Schedule 1 to the DCO;
 - 1.2.7 headings in this Undertaking are for reference purposes only and shall not be taken into account in its construction or interpretation;
 - 1.2.8 a reference to a clause, sub-clause, paragraph, sub-paragraph, Schedule, recital or appendix is (unless the context otherwise requires) a reference to the relevant clause, sub-clause, paragraph, sub-paragraph, Schedule, recital or appendix to this Undertaking;
 - 1.2.9 words denoting an obligation to do any act, matter or thing include an obligation to procure that it be done and words containing restriction include an obligation not to cause, permit or suffer any infringement of the restriction;
 - 1.2.10 references in this Undertaking to any statute or statutory provision include references to:
 - (A) all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Undertaking;
 - (B) any orders, regulations, instruments or other subordinate legislation made or issued under that statute or statutory provision; and
 - (C) in each case shall include any re-enactment thereof for the time being in force and any modifications or amendments thereof for the time being in force;
 - 1.2.11 where the Council is requested to give any approval, consent or agreement under this Undertaking then the Undertaker is entitled to request that any such approval, consent or agreement by the Council shall be given in writing;
 - 1.2.12 if any provision of this Undertaking shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Undertaking shall not in any way be deemed thereby to be affected, impaired or called into question;
 - 1.2.13 the recitals, table of contents and headings in this Undertaking are for convenience only and shall not affect its construction, interpretation or otherwise have any binding legal effect;
 - 1.2.14 in the event of any conflict between the terms, conditions and provisions of this Undertaking and of any document appended hereto or referred to herein, the terms, conditions and provisions of this Undertaking shall prevail;
 - 1.2.15 references to "notice" shall mean notice in writing;
 - 1.2.16 references to "including" shall mean "including without limitation or prejudice to the generality of any description, defining terms or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly;

- 1.2.17 the Interpretation Act 1978 shall apply to this Undertaking; and
- 1.2.18 where any payment in this Undertaking is expressed to be payable before an event or activity that event or activity shall not commence until the relevant payment has been made.

2. **LEGAL EFFECT**

- 2.1 This Undertaking entered into by deed contains planning obligations that are development consent obligations for the purposes of section 106 of the 1990 Act and is also entered into pursuant to section 1 of the Localism Act 2011, section 111 of the Local Government Act 1972 and all other powers so enabling.
- 2.2 The Undertaker acknowledges that the planning obligations contained within this Undertaking are enforceable by the Council as local planning authority in accordance with section 106(3) of the 1990 Act against:
 - 2.2.1 the Undertaker in respect of its Qualifying Interest in the DCO Land as bound under clause 3; and
 - 2.2.2 the Undertaker's Successors to its Qualifying Interest in the DCO Land as bound under clause 3.

3. **LAND BOUND**

- 3.1 Subject to clause 4 (Conditionality) and clause 6 (Release and Expiry) the planning obligations in this Undertaking bind the DCO Land.
- 3.2 The planning obligations contained in this Undertaking will not be enforceable against any other owner of any land interest in the DCO Land who is not a party to this Undertaking nor against any successors in title to or any person claiming through or under the other such owner's interest in the DCO Land (save for the Undertaker) unless that person itself undertakes any part of the Development.
- 3.3 The planning obligations contained in this Undertaking shall not be enforceable against any mortgagee or chargee of the whole or any part of the DCO Land from time to time or any person deriving title from such mortgagee or chargee unless and until any such party takes possession of the DCO Land (or any part thereof to which such obligation relates) in which case it will be bound by the obligations as a person deriving title from the Undertaker PROVIDED THAT neither any mortgagee or chargee or person deriving title through such mortgagee or chargee will be liable for any breach of the obligations contained in this Undertaking unless committed at a time when that person is in possession of the DCO Land (or any part thereof to which such obligation relates).

4. **CONDITIONALITY**

- 4.1 Subject to clauses 4.2 and 4.3, none of the terms, conditions or provisions of this Undertaking shall have operative effect unless and until the Development has been Commenced.
- 4.2 Where the Development Consent Order becomes the subject of any judicial review proceedings:
 - 4.2.1 until such time as such proceedings including any appeal have been finally determined, the terms and provisions of this Undertaking will remain without operative effect unless the Development has been Commenced;
 - 4.2.2 if following the final determination of such proceedings the Development Consent Order is quashed and, in the event that the court orders the Application to be remitted to the Secretary of State, the Application is subsequently refused, this Undertaking will cease to have any further effect; and
 - 4.2.3 if following the final determination of such proceedings the Development Consent Order is capable of being Commenced, then this Undertaking will take effect in accordance with its terms.

- 4.3 Wherever in this Undertaking reference is made to the final determination of judicial review proceedings (or cognate expressions are used), the following provisions will apply:
- 4.3.1 proceedings by way of judicial review are finally determined:
 - 4.3.2 when permission to bring a claim for judicial review has been refused and no further application to seek permission to bring such a claim may be made;
 - 4.3.3 when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
 - 4.3.4 when any appeal is finally determined and no further appeal may be made.

5. UNDERTAKER'S COVENANTS

- 5.1 The Undertaker covenants to observe and perform or cause to be observed and performed the obligations on the part of the Undertaker contained in Schedule 1 at the times and in the manner provided therein.
- 5.2 The Undertaker covenants to serve written notice to the Council at least twenty Working Days in advance of the proposed Commencement Date.
- 5.3 Where the proposed Commencement Date provided in clause 5.2 does not take place, the Undertaker covenants to provide written notice to the Council of the revised date as soon as is reasonably practicable and in any event at least 10 Working Days in advance of the revised date.

6. RELEASE AND EXPIRY

- 6.1 The Undertaker shall not be liable for a breach of any of its obligations under this Undertaking after it has parted with all of its interests in the DCO Land (including Qualifying Interests) or the part in respect of which the breach arises (as the case may be) save in either case for antecedent breaches.
- 6.2 If the Development Consent Order expires without having been Commenced or is revoked prior to the Commencement Date then this Undertaking shall forthwith determine and cease to have effect.
- 6.3 Nothing in this Undertaking shall prohibit or limit the right to develop any part of the DCO Land in accordance with a planning permission or development consent order or other statutory authority (other than the DCO) granted (whether or not on appeal) after the date of this Undertaking.
- 6.4 No Successor to the Undertaker shall be liable for any breach of any obligation which occurs in relation to any area of the DCO Land which that Successor does not own or control or which is carried out by any person other than that Successor.
- 6.5 Upon the performance discharge or other fulfilment of the covenants and obligations (or any of them) of the Undertaker or Successor under the terms of this Undertaking such covenant, obligation or obligations shall absolutely cease and determine save in respect of any antecedent breach.

7. LOCAL LAND CHARGES

- 7.1 This Undertaking is a local land charge and may be registered as such by the Council.

8. RESOLUTION OF DISPUTES

- 8.1 In the event of any Dispute between the Council and the Undertaker ("the Parties") arising out of this Undertaking such Dispute may by service of a notice on the other party (the "Notice") be referred to an Expert for determination.
- 8.2 The Notice must specify:
 - 8.2.1 the nature, basis and brief description of the Dispute;

- 8.2.2 the clause or paragraph of this Undertaking pursuant to which the Dispute has arisen; and
- 8.2.3 the proposed Expert.
- 8.3 In the event that the parties are unable to agree whom should be appointed as the Expert within 10 Working Days after the date of the Notice then either party may request the President of the Law Society to nominate the Expert at their joint expense, and the parties shall request that such nomination shall be made within 10 Working Days of the request, and any failure for such nomination to be made within 10 Working Days shall entitle any party to withdraw from the process of appointing an Expert and to refer the Dispute to the courts of England and Wales instead.
- 8.4 If the appointed Expert is or becomes unable or unwilling to act, any party may within 5 Working Days of the Expert being or becoming unable or unwilling to act, serve a notice on all the other parties proposing a replacement Expert and the parties will follow the process at Clause 8.3 to settle the appointment of the replacement Expert.
- 8.5 The Expert shall act as an expert and not as an arbitrator and his decision will (in the absence of manifest error) be final and binding on the parties and at whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the Dispute in equal shares.
- 8.6 The Expert is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision.
- 8.7 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 30 Working Days from the date of his appointment to act.
- 8.8 The Expert will be required to give notice to each of the said parties inviting each of them to submit to him within 10 Working Days written submissions and supporting material and will afford to each of the said parties an opportunity to make counter submissions within a further 10 Working Days in respect of any such submission and material.
- 8.9 Nothing in this Undertaking shall fetter any party's right to bring an action in Court.

9. NOTICES

- 9.1 Any notice, consent or approval or other communication required to be given under or in connection with this Undertaking must be in writing and shall be addressed as provided for in clause 9.3.
- 9.2 Any such notice must be delivered by hand (including by courier or process server) or by pre-paid recorded delivery post and shall conclusively be deemed to have been received:
- 9.2.1 if delivered by hand, upon delivery at the relevant address; and
- 9.2.2 if sent by first class post, at 9:00 a.m. on the second Working Day after the date of posting,

except that where any such notice or other communication is or would be deemed to be received after 5:30 p.m., such notice shall be deemed to be received at 9:00 a.m. on the next Working Day.

- 9.3 Subject to clause 9.4, the address, relevant addressee and reference for each party are:

- 9.3.1 in the case of the Council:

Address:	Portsmouth City Council, Regeneration Department, Civic Offices, Guildhall Walk, PO1 2AL with a copy also sent by e-mail to ian.maguire@portsmouthcc.gov.uk
Relevant addressee:	Assistant Director or Planning & Economic Growth
Reference:	AQUIND Interconnector S106

9.3.2 For the Undertaker:

Address: AQUIND Limited, 78 Pall Mall, London, SW1Y 5ES with a copy also sent by e-mail to kirill.glukhvoskoy@aquind.co.uk.

Relevant addressee: Kirill Glukhovskoy – Managing Director

Reference: AQUIND Interconnector S106

9.4 Any party may give notice of a change to its name, address, or relevant addressee for the purposes of this clause 9 provided that such notification shall only be effective on:

9.4.1 the date specified in the notification as the date on which the change is to take place; or

9.4.2 if no date is specified or the date specified is less than five clear Working Days after the date on which the notice is received or deemed to be received, the fifth Working Day after the notice of any such change is given.

10. **GOOD FAITH, GOOD PRACTICE AND REASONABLENESS**

10.1 The Undertaker agrees to act reasonably and in good faith in the fulfilment of their respective obligations in this Deed and the obligations given under this Undertaking are provided upon the condition that the Council acts in the same manner.

11. **COMMUNITY INFRASTRUCTURE LEVY**

11.1 The Undertaker acknowledges that the planning obligations contained in this Undertaking are necessary to make the Development acceptable in planning terms, are directly related to the Development and are fairly and reasonably related in scale and kind to the Development and thus satisfy the three tests set out in regulation 122(2)(a) – (c) of the Community Infrastructure Regulations 2010.

12. **APPROVALS**

12.1 The obligations given in this Undertaking are provided on the condition that:

12.1.1 where under this Undertaking any approval, agreement or other form of consent, waiver or endorsement is required from the Council it shall not be unreasonably withheld or delayed and if it is unreasonably withheld or delayed, it shall be deemed to have been given save where expressly stated otherwise in this Undertaking;

12.1.2 the Council uses reasonable endeavours to enter into any and all Temporary Construction Access Highways Agreements substantially in the form appended at Appendix 4 to this Undertaking and where the Council unreasonably withholds or delays the entering into of any Temporary Construction Access Highways Agreement the obligations in Schedule 1 in so far as they relate to that Temporary Construction Access shall no longer apply and for the avoidance of doubt where a Temporary Construction Access Highway Agreement has not been entered into by the Council within 20 Working Days of the approval or deemed approval of the written details in respect of the relevant Temporary Construction Access pursuant to requirement 10 of the DCO the Council will be deemed to have unreasonably withheld or delayed the entering into of the relevant Temporary Construction Access Highways Agreement;

12.1.3 the Council uses reasonable endeavours to enter into any minor works agreement pursuant to section 278 of the Highways Act 1980 in relation to the undertaking of AIL Street Works and where the Council unreasonably withholds or delays the entering into of any minor works agreement pursuant to section 278 of the Highways Act 1980 in relation to the undertaking of AIL Street Works the obligations in Schedule 1 in so far as they relate to the relevant AIL Street Works shall no longer apply and for the avoidance of doubt where a minor works

agreement pursuant to section 278 of the Highways Act 1980 in relation to the undertaking of AIL Street Works has not been entered into by the Council within 30 Working Days of a request from the Undertaker for the Council to do so the Council will be deemed to have unreasonably withheld or delayed the entering into of the relevant minor works agreement pursuant to section 278 of the Highways Act 1980.

13. **INDEXATION**

- 13.1 Any sum which is referred to in this Undertaking as Index Linked and required to be paid by the Undertaker to the Council shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable in accordance with the following formula:

$$A \times (B/C) = D$$

Where:

A is the amount of money to be paid pursuant to this Deed

B is the figure shown in the relevant index for the period immediately prior to the date on which the sum concerned is due to be paid in accordance with the provisions in this Deed;

C is the figure shown in the relevant index for the period immediately prior to the date the Development Consent Order is made unless expressly stated otherwise; and

D is the amount of money required to be paid

PROVIDED THAT if the relevant index is no longer maintained then the above formula will be applied mutatis mutandis (so far as it relates to periods after it ceases to be do maintained) by reference to such other publication or index as may be agreed from time to time between the Parties or determined by an Expert pursuant to Clause 8.

14. **VAT**

- 14.1 All consideration given in accordance with the terms of this Undertaking shall be exclusive of any VAT properly payable in respect thereof.
- 14.2 The Undertaker acknowledges and agrees that if at any time VAT is required to be paid in respect of any of the payments made under this Undertaking then to the extent that VAT had not been previously charged in respect of that payment the Council shall have the right to issue a VAT invoice to the Undertaker in respect of any vatatable supplies properly incurred under this Undertaking and the VAT shall be paid by the Undertaker accordingly following the receipt of a valid VAT invoice.

15. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

- 15.1 Without prejudice to clauses 1.2.4 and 1.2.5, a person who is not a party to this Undertaking does not have any right to enforce any term of this Undertaking under the Contract (Rights of Third Parties) Act 1999.

16. **JURISDICTION**

- 16.1 This Undertaking including its construction, validity, performance and enforcement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 16.2 This Undertaking is given on the basis that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Undertaking or its subject matter or formation (including non-contractual disputes or claims).

17. **DATE OF DELIVERY**

17.1 This Undertaking is delivered on the date of this Undertaking.

SCHEDULE 1 UNDERTAKER OBLIGATIONS

1. CAR PARK RESURFACING

- 1.1 The Undertaker shall submit the Car Park Resurfacing Specification to the Council for approval in advance of the Commencement of construction works in relation to Works No. 5.
- 1.2 The Undertaker shall carry out the Car Park Resurfacing Works in accordance with the Car Park Resurfacing Specification approved or deemed to be approved and shall use reasonable endeavours to carry out those works in accordance with the estimated programme set out in the approved Car Park Resurfacing Specification and in any event shall ensure that the Car Parking Resurfacing Works are carried out prior to the Operation of the Development.
- 1.3 For the avoidance of doubt, the full costs of the Car Park Resurfacing Works shall be borne by the Undertaker.

2. TREES

- 2.1 The Undertaker shall not remove any Tree in connection with the construction of the Development on the DCO Land unless the Undertaker has submitted to the Council a CAVAT Assessment for that Tree.
- 2.2 Where a CAVAT Assessment has been submitted to the Council pursuant to paragraph 2.1 of this Schedule, the Undertaker must within not more than 20 Working Days of the date of removal of any Tree pay to the Council the CAVAT Compensation Amount in accordance with the CAVAT Assessment for that Tree.

3. TEMPORARY CONSTRUCTION ACCESSES

- 3.1 The Undertaker covenants not to Commence the construction of any Temporary Construction Access unless and until it has entered into a Temporary Construction Access Highways Agreement with the Council in relation to that Temporary Construction Access.
- 3.2 The Undertaker shall not permit the use of any Temporary Construction Access for the purposes of constructing the Development unless and until that Temporary Construction Access has been completed and the Council has issued the Temporary Construction Access Completion Certificate in relation to it.

4. SPORTS AND RECREATION CONTRIBUTION

- 4.1 The Undertaker covenants not to Commence the construction of any part of the Onshore Cable Route on the DCO Land unless and until it has paid the Sports and Recreation Contribution to the Council.

5. AIL STREET WORKS

- 5.1 The Undertaker covenants with the County Council not to undertake any AIL Street Works unless and until a minor works agreement pursuant to section 278 of the Highways Act 1980 has been entered into with the Council in relation to those AIL Street Works.

IN WITNESS whereof this Undertaking has been duly executed by the Undertaker as a deed on the date which appears at the head of this Undertaking.

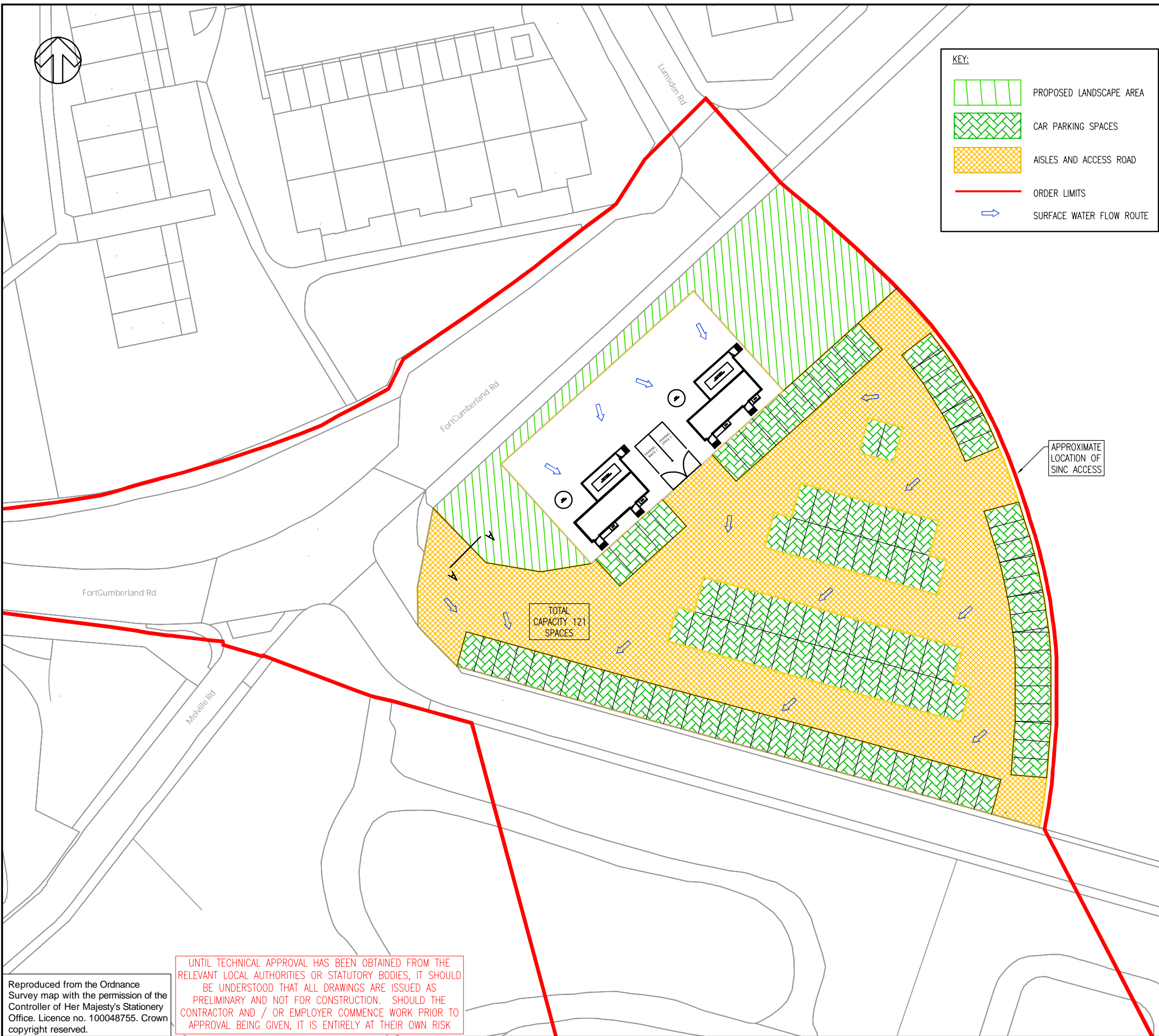
SIGNED as a DEED by)
AQUIND LIMITED)
acting by two directors or one director)
and the company secretary:)

Director

Director/Secretary

**APPENDIX 1
CAR PARK PLAN**

File name \\UK-WSPGROUP.COM\CENTRAL_DATA\PROJECTS\62100XXXX\62100616 - AQUIND VO NO.3\IE MODELS AND DRAWINGS\300 - SITE\320 - TASK 7 UK ROUTE\SKIDI DRAWINGS\AQ-UK-DCO-DI-LAY-001.DWG, printed on 12 February 2021 17:20:21, by Olfearu, George



KEY:

- PROPOSED LANDSCAPE AREA
- CAR PARKING SPACES
- AISLES AND ACCESS ROAD
- ORDER LIMITS
- SURFACE WATER FLOW ROUTE

- DO NOT SCALE**
- NOTES:**
- ALL FORMAL PARKING SPACES USE DIMENSIONS OF 2.4m by 4.8m.
 - CAR PARK AISLES AND ACCESS ROAD TO BE CONSTRUCTED USING ASPHALT AS SHOWN IN A TYPICAL STANDARD DETAIL IN DRAWING. AQ-UK-DCO-DI-SD-001. EXACT DETAILS OF SUB-BASE, BINDER COURSE AND BASE COURSE DEPTHS WILL BE CONFIRMED DURING DETAILED DESIGN.
 - CAR PARKING SPACES TO BE CONSTRUCTED FROM GRASSCRETE / GRASSBLOCK OR SIMILAR MODULAR, PRE-CAST CONCRETE SYSTEM. SEE DRAWING AQ-UK-DCO-DI-SD-002 FOR REFERENCE OF GRASSCRETE DETAIL. EXACT PRODUCT DETAILS TO BE CONFIRMED DURING DETAILED DESIGN.
 - FINISH LEVELS TO BE PROPOSED TO ALLOW SURFACE WATER TO RUN TO THE GRASSCRETE AREAS.
 - IT IS ASSUMED THAT PERMEABILITY OF THE SOIL UNDER THE CAR PARK IS ADEQUATE FOR USING SUDS DRAINAGE. FURTHER INVESTIGATION ABOUT SOIL CONDITION TO BE CONFIRMED DURING DETAILED DESIGN.

REV	DATE	BY	DESCRIPTION	CHK	APP
E	12/02/2021	HN	UPDATED AISLES AND ACCESS ROAD	CW	CW
A	02/12/2020	AVI	FIRST ISSUE	CW	CW

DRAWING STATUS: S2 - FOR INFORMATION

Grosvenor House, 2 Grosvenor Square, Southampton, SO15 2BE, UK
T+ 44 (0) 2380 101 700
wsp.com

CLIENT:

ARCHITECT: -

PROJECT: AQUIND

TITLE: FORT CUMBERLAND CAR PARK
PROPOSED CAR PARK GENERAL LAYOUT

SCALE @ A3: 1:500 **CHECKED:** AH **APPROVED:** AH

PROJECT No: 62100616 **DESIGNED:** HN **DRAWN:** HN **DATE:** February 21

DRAWING No: AQ-UK-DCO-TR-LAY-007 **REV:** E

UNTIL TECHNICAL APPROVAL HAS BEEN OBTAINED FROM THE RELEVANT LOCAL AUTHORITIES OR STATUTORY BODIES, IT SHOULD BE UNDERSTOOD THAT ALL DRAWINGS ARE ISSUED AS PRELIMINARY AND NOT FOR CONSTRUCTION. SHOULD THE CONTRACTOR AND / OR EMPLOYER COMMENCE WORK PRIOR TO APPROVAL BEING GIVEN, IT IS ENTIRELY AT THEIR OWN RISK

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APPENDIX 2
CAR PARK RESURFACING OUTLINE SPECIFICATION AND PLANS

The Car Park Resurfacing Specification shall include:

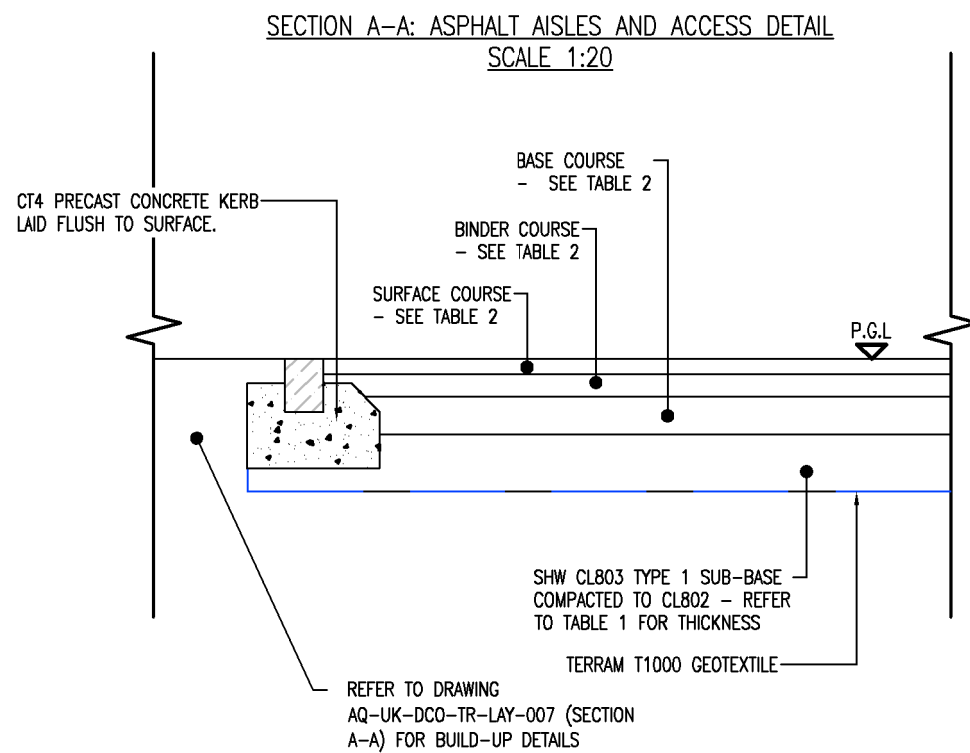
- Car park layout to provide a minimum of 121 spaces, using formal parking space dimensions of 2.4m by 4.8m.
- Car park aisles and access road to be constructed using Asphalt as shown on standard detail drawing AQ-UK-DCO-DI-SD-001. Exact details of sub-base, binder course and base course depths will need to be confirmed during detailed design.
- Car parking spaces to be constructed from Grasscrete / Grassblock or a similar modular pre-cast concrete system. See drawing AQ-UK-DCO-DI-SD-001 for typical Grasscrete construction. Exact details will need to be confirmed during detailed design.

File name \\UK-WSPGROUP.COM\CENTRAL_DATA\PROJECTS\62100XXX\62100616 - AQUIND VO NO.3\IE MODELS AND DRAWINGS\300 - SITE\320 - TASK 7 UK ROUTE\SKID1 DRAWINGS\AQ-UK-DCO-DI-SD-001.DWG, printed on 12 February 2021 17:45:41, by Olteanu, George

DO NOT SCALE

- NOTES:
1. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS OTHERWISE STATED.
 2. JOINTS TO BE FORMED IN ACCORDANCE WITH CL. 901.22.(iii).
 3. ALL CLAUSE NUMBERS REFER TO THE SPECIFICATION FOR HIGHWAY WORKS.
 4. CBR'S TO BE CONFIRMED BY IN-SITU TESTS.
 5. OVERLAPPING BETWEEN ROLLS OF GEOTEXTILE MUST BE A MINIMUM OF 500mm
 6. REFER TO DRAWING AQ-UK-DCO-DI-GA-001 FOR LOCATION OF THE SECTION.

UNTIL TECHNICAL APPROVAL HAS BEEN OBTAINED FROM THE RELEVANT LOCAL AUTHORITIES OR STATUTORY BODIES, IT SHOULD BE UNDERSTOOD THAT ALL DRAWINGS ARE ISSUED AS PRELIMINARY AND NOT FOR CONSTRUCTION. SHOULD THE CONTRACTOR AND / OR EMPLOYER COMMENCE WORK PRIOR TO APPROVAL BEING GIVEN, IT IS ENTIRELY AT THEIR OWN RISK



REV	DATE	BY	DESCRIPTION	CHK	APP
B	12/02/2021	GO	UPDATED NOTES	N	N
A	12/02/2021	HN	FIRST ISSUE	N	N

DRAWING STATUS: S2 - FOR INFORMATION

Grosvenor House, 2 Grosvenor Square, Southampton, SO15 2BE, UK
T+ 44 (0) 2380 101 700
wsp.com

CLIENT:

ARCHITECT: -

PROJECT: AQUIND

TITLE: FORT CUMBERLAND CAR PARK ASPHALT LOOP CONSTRUCTION DETAIL

SCALE @ A3: 1:500	CHECKED: AH	APPROVED: AH
PROJECT No: 62100616	DESIGNED: HN	DRAWN: HN DATE: February 21

DRAWING No: AQ-UK-DCO-DI-SD-001	REV: B
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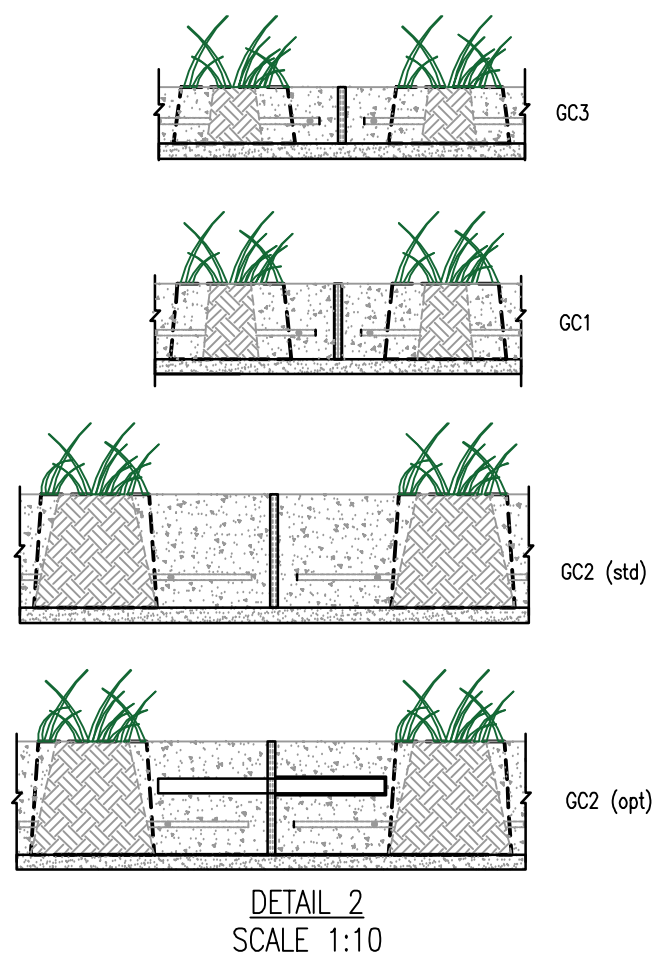
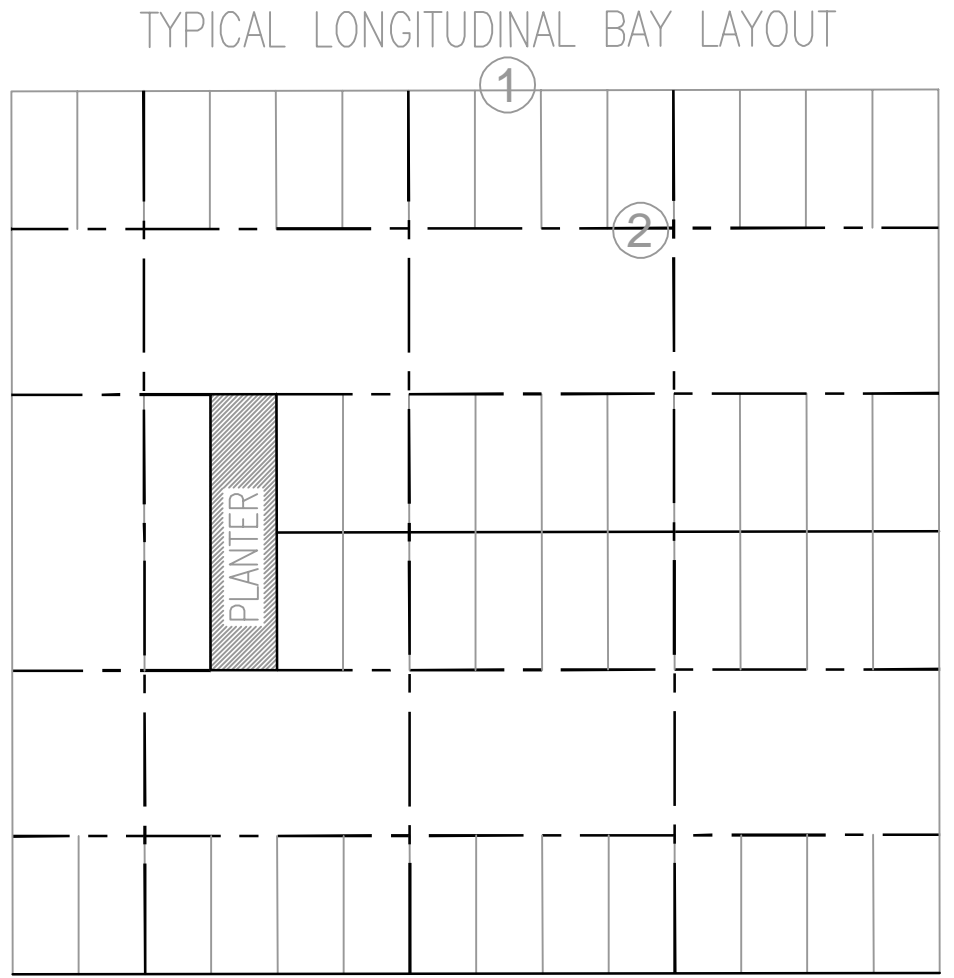
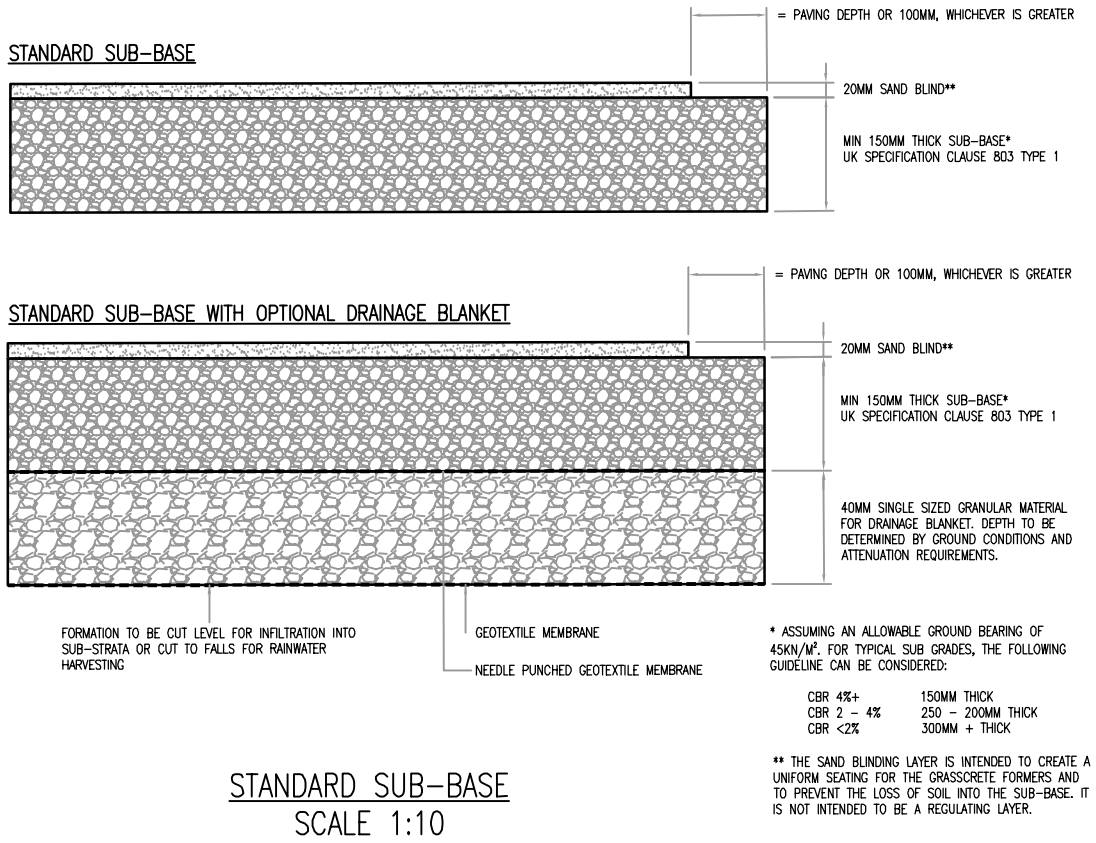
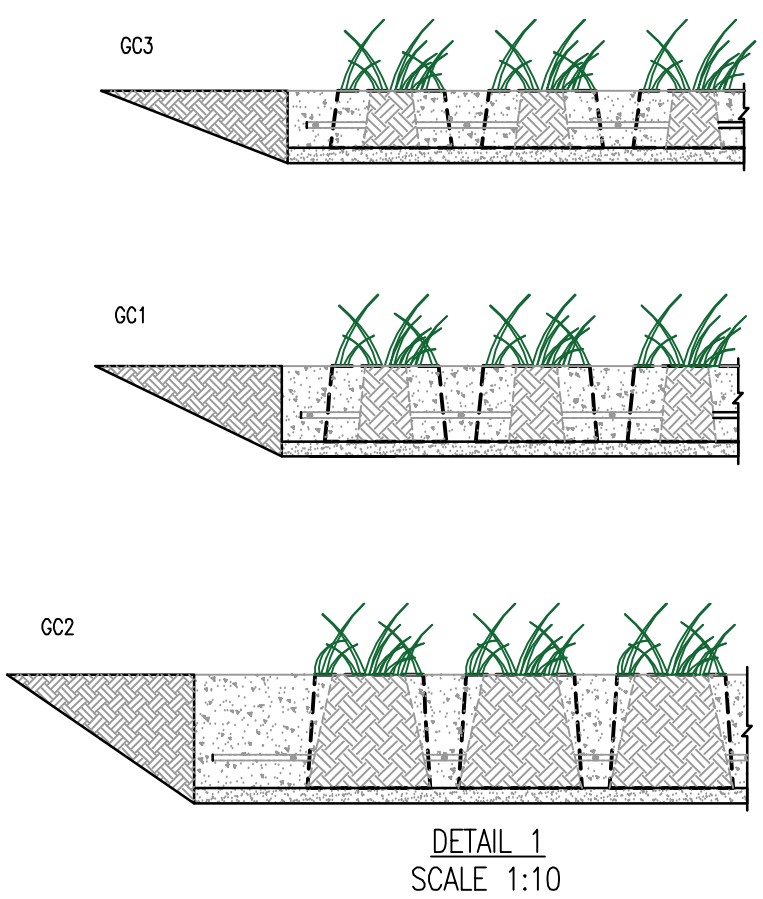
TABLE 1

CBR	SUB-BASE DEPTH (mm)
2.5-3.0%	450
3.1-4.0%	420
4.1-5.0%	370
5.1-6.0%	320
6.1-7.0%	310
7.1-8.0%	290
8.1-10%	270
10.1-12.0%	250
12.1-15%	230
>15%	200

TABLE 2

LAYER	CLAUSE	MATERIAL	BINDER	THICKNESS (mm)
SURFACE COURSE	912	AC10 CLOSE SURF	100/150 PEN	40
BINDER COURSE	929	AC 20 DENSE BIN	40/60 PEN	60
BASE COURSE	929	AC 32 DENSE BASE	40/60 PEN	100

File name \\UK-WSPGROUP.COM\CENTRAL_DATA\PROJECTS\62100XXXX\62100616 - AQUIND VO NO.3\IE MODELS AND DRAWINGS\300 - SITE\320 - TASK 7 UK ROUTE\SKID\DRAWINGS\AQ-UK-DCO-DI-SD-002.DWG, printed on 12 February 2021 17:41:25, by Olteanu, George



DO NOT SCALE

- NOTES:
1. ALL FORMAL PARKING SPACES USE DIMENSIONS OF 2.4m by 4.8m.
 2. THIS TYPICAL LAYOUT ARRANGEMENT AND GRASSCRETE DETAIL AS SHOWN IN THIS DRAWING OBTAINED FROM GRASS CONCRETE LTD. FOR REFERENCE ONLY. EXACT PRODUCT DETAILS TO BE CONFIRMED DURING DETAILED DESIGN.

UNTIL TECHNICAL APPROVAL HAS BEEN OBTAINED FROM THE RELEVANT LOCAL AUTHORITIES OR STATUTORY BODIES, IT SHOULD BE UNDERSTOOD THAT ALL DRAWINGS ARE ISSUED AS PRELIMINARY AND NOT FOR CONSTRUCTION. SHOULD THE CONTRACTOR AND / OR EMPLOYER COMMENCE WORK PRIOR TO APPROVAL BEING GIVEN, IT IS ENTIRELY AT THEIR OWN RISK

REV	DATE	BY	DESCRIPTION	CHK	APP
B	12/01/2021	GO	UPDATED NOTES	AH	AH
A	12/02/2021	HN	FIRST ISSUE	AH	AH

DRAWING STATUS: S2 - FOR INFORMATION



Grosvenor House, 2 Grosvenor Square, Southampton, SO15 2BE, UK
T+ 44 (0) 2380 101 700
wsp.com

CLIENT:

ARCHITECT: -

PROJECT: AQUIND

TITLE: FORT CUMBERLAND CAR PARK
TYPICAL GRASSCRETE PAVING DETAIL

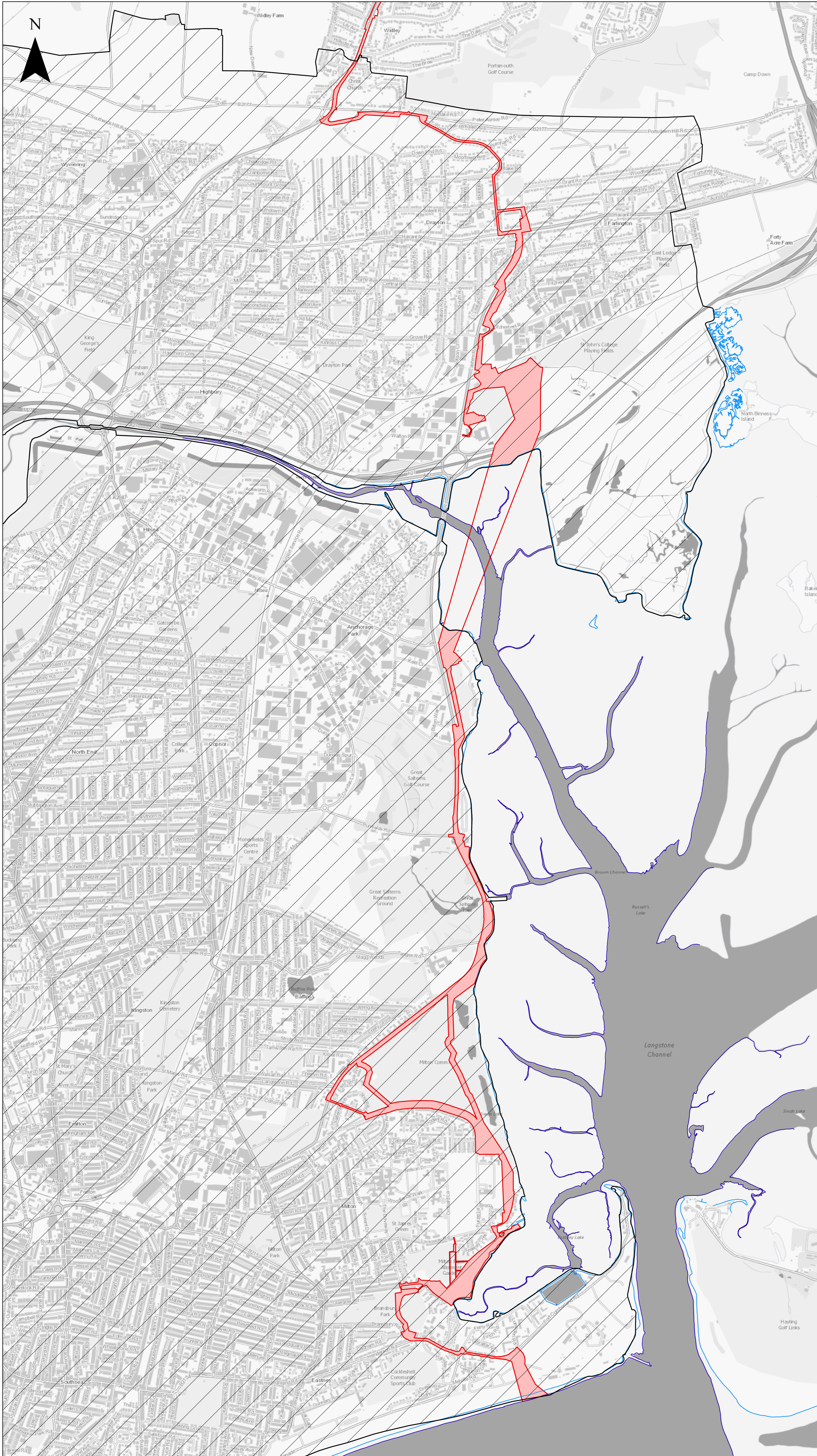
SCALE @ A3: 1:500	CHECKED: AH	APPROVED: AH
PROJECT No: 62100616	DESIGNED: HN	DRAWN: HN
		DATE: February 21

DRAWING No: AQ-UK-DCO-DI-SD-002

REV: B

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**APPENDIX 3
DCO LAND PLAN**

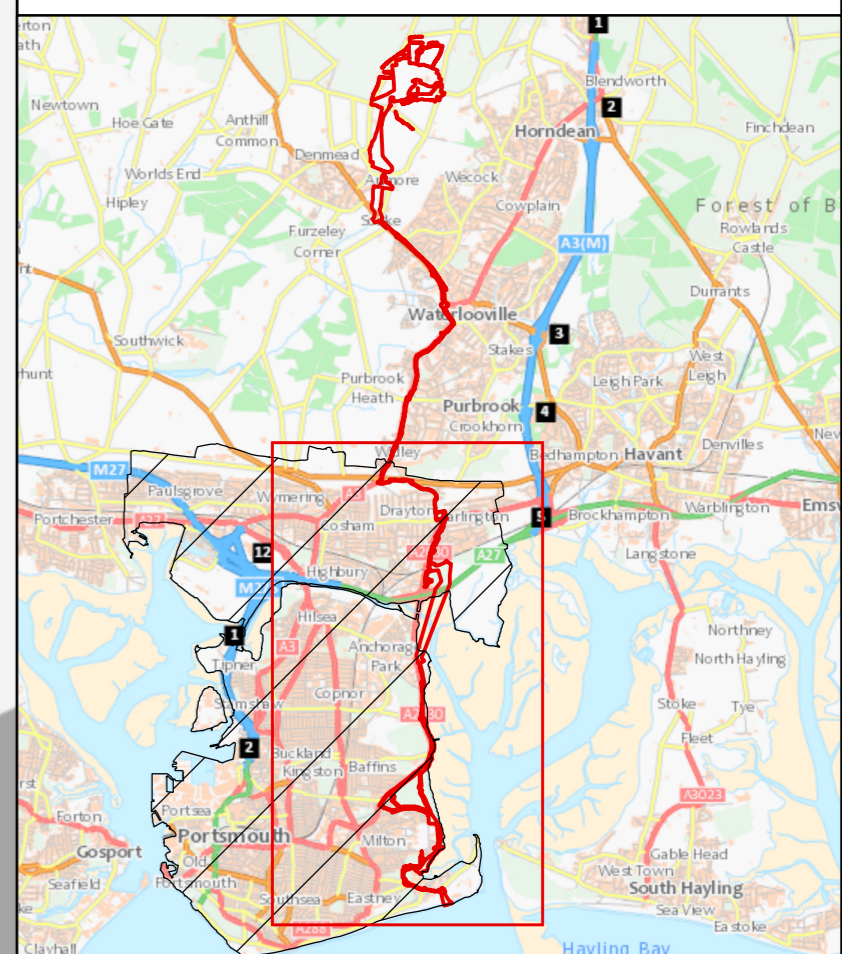


**AQUIND Interconnector
Order Land within Portsmouth City Council
Administrative Area**

- Portsmouth City Council Administrative Area
- Order Limits
- Order Land within Portsmouth City Council Administrative Area
- Mean High Water
- Mean Low Water



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Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 - Regulation 5(2)(i)

REV	DATE	BY	DESCRIPTION	CHK	APP
01	25/02/2021	AH	First Issue	DL	VB

DRAWING STATUS: FOR APPROVAL

WSP House, 70 Chancery Lane, London, WC2A 1AF, UK.
T+ 44 (0) 20 7314 5000
wsp.com

CLIENT:

PROJECT:
AQUIND Interconnector

TITLE:
Order Land within Portsmouth City Council Administrative Area
Sheet 1 of 1

SCALE AT A1 1:10,500	CHECKED: DL	APPROVED: VB
PROJECT NO: EN020022	DESIGNED: AH	DATE: 25/02/2021
DRAWING NO: EN020022-EM-7.5.24.3-Sheet1	DRAWN: AH	REVISED: 01

APPENDIX 4

TEMPORARY CONSTRUCTION ACCESS HIGHWAYS AGREEMENT

DATED

202[X]

PORTSMOUTH CITY COUNCIL

and

AQUIND LIMITED

Minor Works Agreement for Highway Works at
[]
pursuant to (inter alia) S.278 Highways Act 1980

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PORTSMOUTH CITY COUNCIL
SECTION 278 MINOR WORK AGREEMENT

Date: 202[]

PARTIES:

1. **Portsmouth City Council** of Civic Offices, Guildhall Walk, PO1 2AL (the “**Council**”)
2. **AQUIND Limited** of OGN House, Hadrian Way, Wallsend NE28 6HL (the “**Developer**”)

WHEREAS

- A. On [xxx] 202[x] the Secretary of State granted the AQUIND Interconnector Order 202[x] (the “**Order**”) which granted development consent for the elements of AQUIND Interconnector which are located in the UK and the UK Marine Area (the “**Development**”). The Developer is the undertaker for the purposes of the AQUIND Interconnector Order 202[x] and is undertaking the construction of the Development.
- B. It is necessary in connection with the construction of the Development within the administrative area for which the Council is the highway authority for temporary construction accesses to be installed and following the completion of the construction of the relevant elements of the Development for those temporary construction accesses to be reinstated.
- C. **THE PARTIES HAVE AGREED** that highway works comprising the provision of [a temporary access junction in connection with the construction of the Development] (the “**Temporary Works**”) together with the subsequent removal of the Temporary Works upon the completion of the Development (the “**Reinstatement Works**”) as identified on approved drawing number[s] [general arrangement] (the “**Drawing/s**” – all attached hereto) (the Temporary Works and Reinstatement Works being collectively referred to as the “**Works**”) may be carried out by the Developer subject to the terms and conditions set out beneath which constitutes an agreement between the Council and the Developer pursuant to Section 278 of the Highways Act 1980.

D. The Council is satisfied pursuant to Section 278 of the Highways Act 1980 that it will be of benefit to the public for the Council to enter into this Agreement for the execution of the Works by and at the expense of the Developer which Works are the subject of the development consent granted by the AQUIND Interconnector Order 202[x].

NOW THIS DEED OF AGREEMENT WITNESSETH as follows:

1. This Agreement is made pursuant to Section 278 of the Highways Act 1980 Section 111 of the Local Government Act 1972 and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and all other enabling powers including the Localism Act 2011.

Prior to construction of the Works

2. Unless otherwise agreed in writing the Developer shall give the Council not less than 1 months written notice of its intention to commence the Temporary Works and the Reinstatement Works (respectively).

3. Before the Commencement of the construction of the Works the Developer shall obtain such consents, licences or permissions as may be required for the carrying out of the Works and shall comply with these WHICH FOR THE AVOIDANCE OF DOUBT includes the consents and permissions provided for within the Order and shall pay an inspection fee deposit (being equivalent to 9.5% of the tender price for the Works (as confirmed by the Developer and as approved by the Council)) (the “**Inspection Fee**”) subject to a minimum of £6,000 for the use by the Council in connection with the inspection of the Works only.

4. The Developer shall not carry out the Works except in accordance with the Drawing/s.

5. The Developer shall prior to commencing construction of the Temporary Works pay all current outstanding costs incurred by the Council in relation to design

checks, and legal fees for the purpose of negotiating and completion this Agreement.

6. The Cash Deposit ("**Cash Deposit**") in the sum of [IN FIGURES] (£[]) being equivalent to 110% of the estimated cost of the Works on the public highway shall be paid by the Developer to the Council on the date hereof and returned to the Developer in three phases with 25% being returned on the issue of the Certificate of Completion of the Temporary Works ("**First Certificate of Completion**"), a further 25% being returned on the issue of the Certificate of Completion of the Reinstatement Works ("**Second Certificate of Completion**") with a minimum of FIVE THOUSAND POUNDS (£5,000) retained and the remaining balance being returned on the issue of the Certificate of Maintenance ("**Certificate of Maintenance**") together with any interest accrued on the Cash Deposit. If the Developer fails at any time to carry out or observe any of the terms of this Agreement or becomes bankrupt or goes into liquidation or enters liquidation the Council shall use the Cash Deposit to fully reimburse the Council in respect of any fees costs and expenses it has incurred FURTHERMORE any fees costs and expenses incurred over and above the Cash Deposit limit shall be recoverable from the Developer and any costs monies fees due to the Council shall be paid by the Developer within 21 days of written demand.

7. The Developer shall indemnify the Council in respect of any third party actions claims fees charges expenses proceedings or demands which may arise out of or in connection with or incidental to the carrying out of the Works and until the Council resumes responsibility for the highway on which the Works are located following the Certificate of Maintenance. The Developer shall also indemnify the Council in respect of all costs associated with its responsibilities and all claims under the Land Compensation Act 1973 and regulations made thereunder (including claims the Council determine should be met under the Noise Insulation Regulations 1975) arising out of the use of the Works from the date of the commencement of the Temporary Works until the date of issue of the Certificate of Maintenance.

8. The Developer shall be insured against public liability risks for a sum of at least £10,000,000 in respect of any one claim and shall ensure that any person or persons carrying out the Works on its behalf is similarly insured against public liability risks until the issue of the Certificate of Maintenance and a copy of the insurance policy must be provided by the Developer to the Council prior to the commencement of the Temporary Works.

Construction of the Works

9. The Developer shall minimise obstruction to vehicle and pedestrian traffic and sign and guard the Works as necessary in accordance with chapter 8 (Parts 1 and 2) of the Traffic Signs Manual 2009 and chapter 8 (Part 3) of the Traffic Signs Manual 2016 as modified extended amended supplemented or revised including any replacement thereof.
10. The Developer shall provide a traffic management plan in relation to the construction of both the Temporary Works and thereafter the Reinstatement Works if required by the Council.
11. The Developer shall not interfere with any drain, culvert, gully, bridge, wall or other highway structure without the consent of the Council and shall not close any part of the highway in connection with the construction of the Works unless the Council has agreed previously.
12. The Developer shall carry out the Works as contractor for the Council in a good and workman like manner and in accordance with the Drawings within the period specified and to the satisfaction of the Council. The Developer shall comply with all relevant legislation.
13. The Developer shall, during the carrying out of the Works, give access at any time to the Council and any authorised officer for the purposes of inspections.

Duration and Completion of the Temporary Works

14. The Developer shall complete the construction of the Temporary Works within period of [X] weeks, using a contractor the Council (acting reasonably) deems to be appropriately qualified.
15. The Developer shall notify the Council of completion of the construction of the Temporary Works and if these have been completed to the Council's reasonable satisfaction, the First Certificate of Completion shall be issued (the issue of which by the Council shall not be unreasonably withheld or delayed) and from that date the Developer shall be responsible for the correction of any defects and maintaining the Temporary Works until such time as it commences the Reinstatement Works.
16. Prior to the issue of the First Certificate of Completion the Developer shall ensure all outstanding fees have been paid including any design check fees and inspection fees in respect of the Temporary Works and FURTHER provide to the Council all necessary drawings, health and safety certificates, site road safety audits and any other documentation the Council reasonably requires.

Duration and Completion of Reinstatement Works

17. The Developer shall undertake the Reinstatement Works within a period of [x] weeks using a contractor the Council (acting reasonably) deems to be appropriately qualified SUBJECT TO the provisions of Clauses 3 and 4 following completion of the construction phase of the Development requiring use of the Temporary Access and FURTHER the Developer shall give notice to the Council of completion of the construction of the phase of the Development which the Works were required in connection with within 5 working days of the same occurring.
18. The Developer shall notify the Council of completion of the Reinstatement Works and if these have been completed to the Council's satisfaction, the Second Certificate of Completion shall be issued (the issue of which by the Council shall not be unreasonably withheld or delayed) and from that date for a period of 12 calendar months (the "**Maintenance Period**") the Developer shall

be responsible for the correction of any defects and maintaining the Reinstatement Works until such time as the Council issues the Certificate of Maintenance.

19. Prior to the issue of the Second Certificate of Completion the Developer shall ensure all outstanding fees have been paid including any design check fees and inspection fees in respect of the Reinstatement Works and FURTHER provide to the Council all necessary drawings, health and safety certificates, site road safety audits and any other documentation the Council reasonably requires.
20. On completion of the Maintenance Period, the Developer shall notify the Council who shall inspect and notify the Developer of any required remedial works in respect of the Reinstatement Works. Once these have been carried out to the Council's reasonable satisfaction and all outstanding fees have been paid including any design check fees and inspection fees the Council shall issue the Certificate of Maintenance (the issue of which by the Council shall not be unreasonably withheld or delayed) and from that time the Council shall resume responsibility for the maintenance of the highway in the location where the Works were located and shall repay any amount of the Inspection Fee Deposit not expended in inspecting the Works.
21. Where any payment due to the Council under this Agreement is outstanding the Developer covenants with the Council that the Developer shall pay all outstanding payments to the Council within ten working days of the Council's written demand (the "**Demand**") as well as the interest at a rate of 4% per annum above the base lending rate of the HSBC [or other preferred bank] at the date of the demand on any sum outstanding from the due date under this Agreement until the actual date of payment to the Council.
22. In no event shall any delay, neglect or forbearance on the part of the Council in enforcing (in whole or in part) any provision of this Agreement be or be deemed to be a waiver of that provision or any other provision or shall in any way prejudice the right of that party under this Agreement.

IN WITNESS whereof the parties hereto have executed this Agreement as a Deed delivered the day and year first before written

EXECUTED as a **DEED** by affixing the)
COMMON SEAL of **PORTSMOUTH**)
CITY COUNCIL in the presence of:-)

Authorised Signatory

Name of Signatory

EXECUTED as a **DEED** by)
AQUIND LIMITED)
acting by two directors or one)
director and the company secretary)

Director

Director/Secretary

