



AQUIND Limited

AQUIND INTERCONNECTOR

Applicant's Post Hearing Notes - Appendix 2 -
Section 135 Consent from the Ministry of Defence
for AQUIND Interconnector

The Planning Act 2008

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

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PINS Ref.: EN020022

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23 February 2021

Your Ref: AQUIND Interconnector s.135 Consent
Our Ref: D/LA/PROP/15-116/SR

Dear Mr. Glukhovskoy,

AQUIND Interconnector
Application for a Development Consent Order (“DCO”)
Planning Inspectorate Reference: EN020022
Request for Consent to Include Crown Land in the DCO

We are the in-house legal team representing the Secretary of State for Defence in relation to property related legal matters.

As discussed in correspondence with Alan O’Sullivan of Avison Young, we are aware that Aquind Ltd has applied for a **DCO** under the Planning Act 2008 (“**the Act**”) for the AQUIND Interconnector (“**the Scheme**”).

Consent under s135(1)

Section 135(1) of the Act requires that, where an undertaker wishes to include a provision in a DCO which authorises the compulsory acquisition of non-Crown interests in ‘Crown land’ (being defined in s227 of the Act as any land in which the Crown holds any interest), consent must be given by the appropriate Crown authority.

The draft DCO seeks powers of compulsory acquisition over non-Crown interests in land which is owned, or in which rights are held for the benefit of, the Secretary of State for Defence (“Ministry of Defence”), comprising Plots 6-08, 6-09, 6-13, 6-14, 6-16, 6-17, 7-11, 10-25, 10-26, 10-28, 10-31, 10-33, 10-34, 10-35 and 10-36.

The Crown Land Plans and the Book of Reference, which form part of the DCO application documentation, identify the areas in question. For the avoidance of doubt, the relevant extracts from the Crown Land Plans are appended to this letter at **Appendix 1**. An extract of information presented in the Book of Reference, along with comments provided by Avison Young are appended to this letter at **Appendix 2**.

The inclusion of these plots within the Order limits of the DCO will enable Aquind Ltd to compulsorily acquire the New Connection Works Rights (i.e. rights to enable the installation,

operation and maintenance of the undertaker's infrastructure) over the relevant land. New Connection Works Rights are described in Appendix A of the Statement of Reasons, which also forms part of the DCO application documentation, and is appended to this letter at **Appendix 3**.

The appropriate Crown authority to give Crown land consent under s135(1) in relation to the Scheme is the Ministry of Defence, and I confirm that such consent is given by this letter.

Consent under s135(2)

Section 135(2) of the Act requires the consent of the appropriate Crown authority to the inclusion in a DCO of 'any other provision' applying to 'Crown land'. This would comprise all other powers set out in the draft DCO which affect the Crown land identified above, including the rights to temporarily possess and use the relevant land to carry out the works authorised by the DCO.

The appropriate Crown authority to give Crown land consent under s135(2) in relation to the Scheme is the Ministry of Defence, and I confirm that such consent is given by this letter.

The Ministry of Defence welcomes the engagement on behalf of Aquind Ltd to date and expects to be kept informed of Aquind Ltd's progress with the Scheme, both in relation to the application for the DCO and the implementation of that consent, should it be granted by the Secretary of State for Business, Energy and Industrial Strategy in due course.

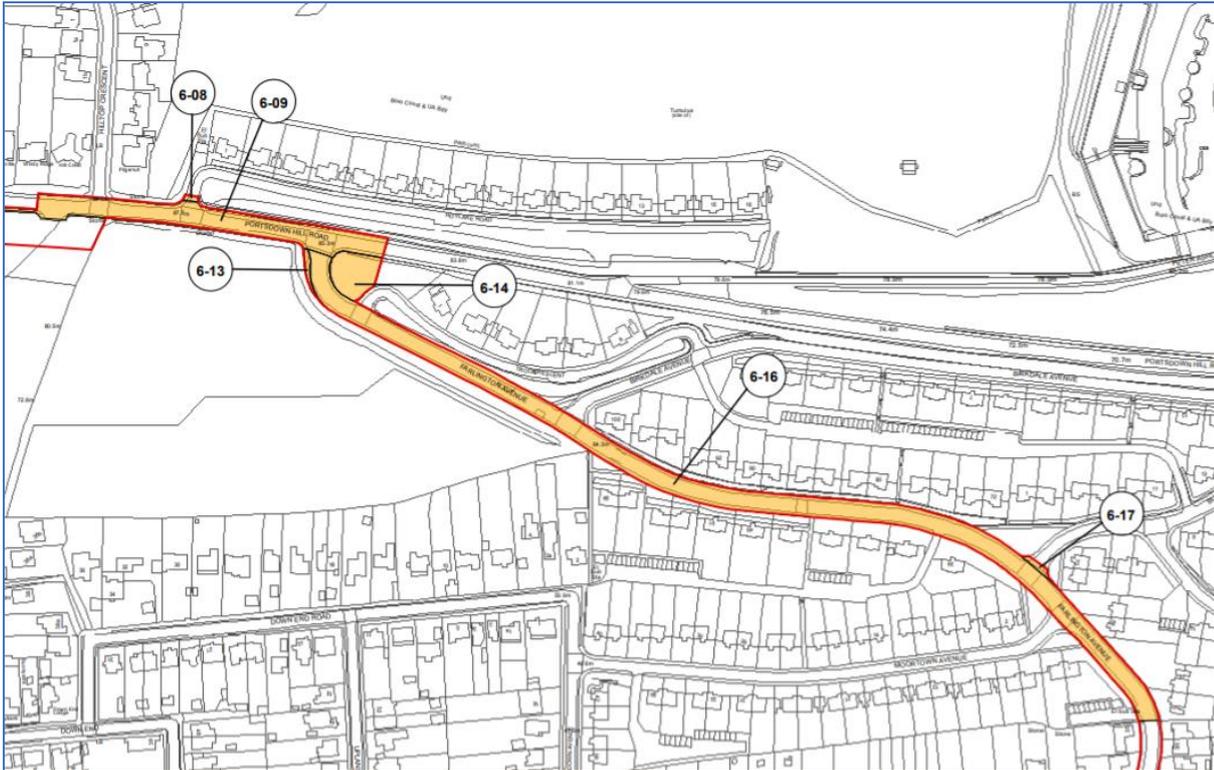
Yours sincerely



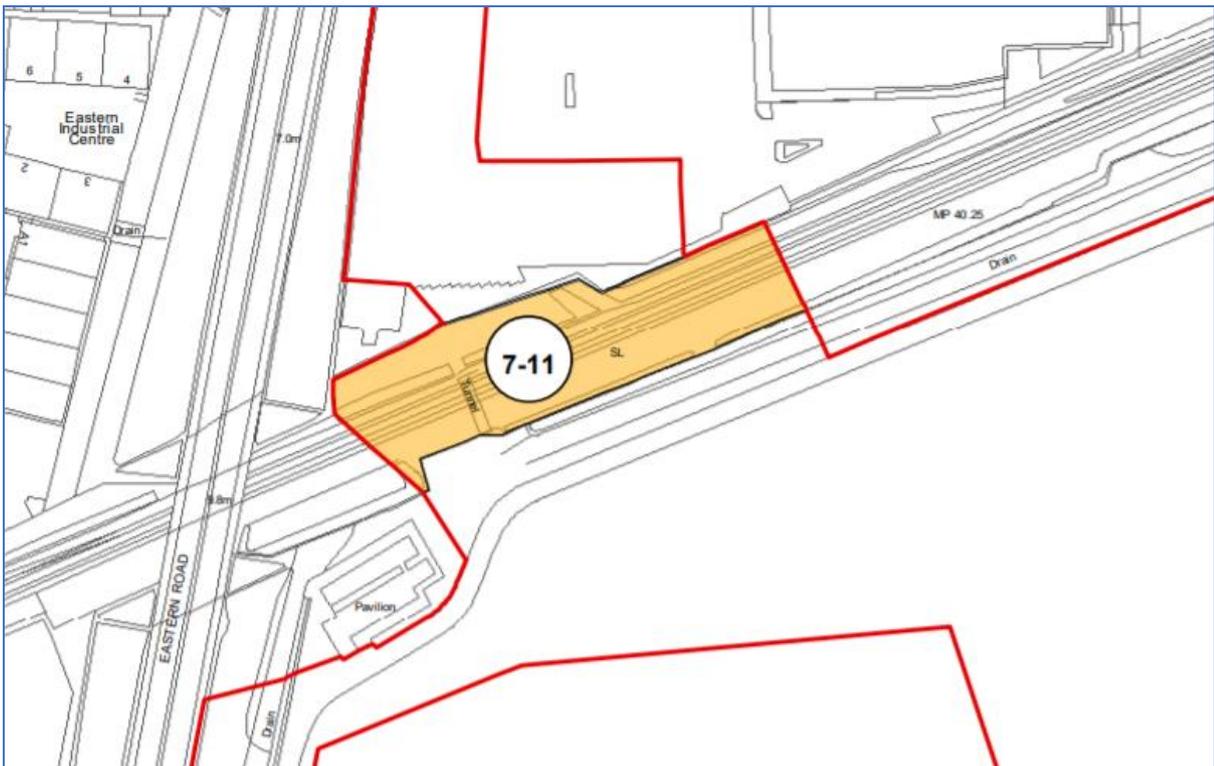
Sarah Richardson
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Appendix 1 – Extract from the Crown Land Plans

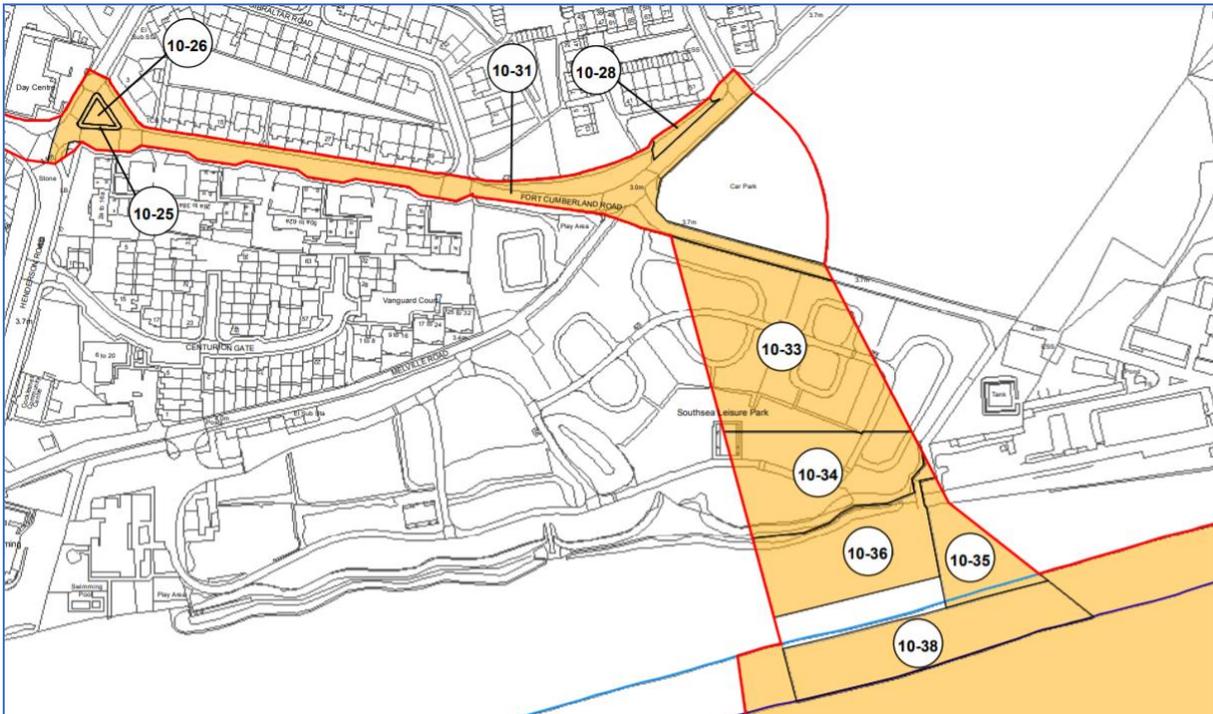
Plan 1 – Portsdown Hill and Farlington Avenue (Plots 6-08, 6-09, 6-13, 6-14, 6-16 and 6-17).



Plan 2- Brighton to Southampton railway between Sainsburys and Farlington Playing Fields (Plot 7-11).



Plan 3 – Junction of Ferry Road and Fort Cumberland Road, Fort Cumberland Road and land west of Fraser Range in Eastney (Plots 10-25, 10-26, 10-28, 10-31, 10-33, 10-34, 10-35 and 10-36).



Note: For the avoidance of doubt, the interest in Plot 10-38 is in favour of the Crown Estate rather than the Ministry of Defence.

Appendix 2 – Extract from the Book of Reference and comments from Avison Young

Plot	New Connection Works Rights sought	Area (m ²)	Ministry of Defence ('MoD') Interest	Avison Young Comments
6-08	(a), (b), (c), (d), (e), (f), (g) and (h)	27	(in respect of subsoil up to half width of highway)	The MoD is the owner of the subsoil of this plot (under the highway). The freehold of the plot is registered under Her Majesty's Land Registry ('HMLR') title ref. PM16874. It is subject to the agreement with Annington Property Limited ('the Annington Agreement').
6-09	(a), (b), (c), (d), (e), (f), (g) and (h)	2544	(in respect of subsoil up to half width of highway)	The MoD is the owner of the subsoil of this plot (under the highway). The plot is not registered with HMLR. It is not subject to the Annington Agreement.
6-13	(a), (b), (c), (d), (e), (f), (g) and (h)	67	(in respect of subsoil up to half width of highway)	The MoD is the owner of the subsoil of this plot (under the highway). The plot is not registered with HMLR. It is not subject to the Annington Agreement.
6-14	(a), (b), (c), (d), (e), (f), (g) and (h)	592	(in respect of subsoil)	The MoD is the owner of this plot (it sits adjacent to the adopted highway but is not adopted highway). The freehold of the plot is registered under HMLR title ref. PM16874. It is subject to the Annington Agreement.
6-16	(a), (b), (c), (d), (e), (f), (g) and (h)	6213	(in respect of subsoil)	The MoD is the owner of the subsoil of this plot (under the highway). The freehold of the plot is registered under HMLR title ref. PM16874. It is not subject to the agreement with Annington Property Limited ('the Annington Agreement').
6-17	(a), (b), (c), (d), (e), (f), (g) and (h)	63	(in respect of subsoil)	The MoD is the owner of the subsoil of this plot (under the highway). The freehold of the plot is registered under HMLR title ref. PM16874. It is subject to the Annington Agreement.
7-11	(a), (b), (d), (e) and (h)	4018	(in respect of possible rights granted by an Agreement dated 10 June 1926)	The Book of Reference listed an interesting in respect of possible rights granted by an Agreement dated 10 June 1926 in favour of the Ministry of Defence. This was removed from the Book of Reference (Rev 002) following confirmation from the Ministry of

				<p>Defence's representative that the Ministry of Defence has no knowledge or evidence of any rights subsisting in this plot.</p> <p>For the avoidance of doubt, this plot has been included in this Appendix to ensure there are no impediments to the delivery of the Scheme if any new information becomes available (i.e. such as if rights subsisting in favour of the Ministry of Defence are identified) at a later stage and the potential interest will be referenced in the updated Book of Reference at Deadline 8.</p> <p>The plot is not registered with HMLR and is owned by Network Rail Infrastructure Ltd.</p>
10-25	(a), (b), (c), (d), (e), (f), (g) and (h)	122	(in respect of subsoil up to half width of highway)	<p>The MoD is the owner of the subsoil of this plot (under the highway).</p> <p>The freehold of the plot is registered under HMLR title ref. PM16963.</p>
10-26	(a), (b), (c), (d), (e), (f), (g) and (h)	111	(in respect of subsoil)	<p>The MoD is the assumed owner of the subsoil of the subsoil of this plot (under the highway).</p> <p>The plot is not registered with HMLR.</p>
10-28	(a), (b), (c), (d), (e), (f), (g) and (h)	232	(in respect of possible rights reserved by a Conveyance dated 23 February 1979)	<p>The MoD is listed as the beneficiary of rights over this plot.</p> <p>HMLR title ref. HP149821 refers to the conveyance and makes reference to a reservation of rights to air and light.</p> <p>HMLR title ref. PM4934 (i.e. the Fraser Range site) also makes reference to the conveyance and sets out two broad reservations, one for service media and the second for access rights.</p>
10-31	(a), (b), (c), (d), (e), (f), (g) and (h)	5867	(in respect of possible rights reserved by a Conveyance dated 23 February 1979)	<p>Please refer to the comments provided in relation to Plot 10-28.</p>
10-33	(a), (b), (d), (e) and (h)	7254	(in respect of possible rights reserved by a Conveyance dated 23 February 1979)	<p>Please refer to the comments provided in relation to Plot 10-28.</p>
10-	(a), (b), (d),	3991	(in respect of	<p>Please refer to the comments provided</p>

34	(e) and (h)		possible rights reserved by a Conveyance dated 23 February 1979)	in relation to Plot 10-28.
10-35	(a), (b), (d), (e) and (h)	1773	(in respect of a Deed dated 21 January 1994)	The MoD is listed as the beneficiary of rights over this plot. The rights were reserved in relation to the land registered under HMLR title ref. PM4934 (i.e. the Fraser Range site). Avison Young is aware the Ministry of Defence has disposed of its interest in the land registered under HMLR title ref. PM4934.
10-36	(a), (b), (d), (e) and (h)	3689	(in respect of possible rights reserved by a Conveyance dated 23 February 1979)	Please refer to the comments provided in relation to Plot 10-28.

Appendix 3 – New Connection Works Rights.

New Connection Works Rights (land coloured blue on the land plans):

Means all rights and restrictions necessary for the undertaker and / or those authorised by the undertaker:

(a) to install, construct, operate, test, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, renew, upgrade, protect and improve the underground electricity cables, jointing bays, ducting, telecommunications apparatus (including but not limited to fibre optic cables) and other ancillary apparatus (including but not limited to access chambers, manholes and link pillar boxes) and any other works as necessary together with the right to fell, cut, trim or lop trees, bushes and roots which may obstruct or interfere with the underground electricity cables, telecommunications apparatus and other ancillary apparatus;

(b) to remove any structures, buildings, material deposits, items or hazards on the land;

(c) to pass and repass on foot, with or without vehicles, equipment, plant and machinery (including any temporary surface) at all times and for all purposes in connection with the construction, use, maintenance, testing, upgrading, replacing and decommissioning of the Proposed Development;

(d) continuous vertical and lateral support for the Proposed Development;

(e) to install, construct, operate, test, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, renew, upgrade, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues, fibre optic cables and other conducting media whatsoever and to drain into and manage water flows in any drains, watercourses and culverts;

(f) to install, construct, operate, test execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping and the right to pass and repass on foot, with or without vehicles, equipment, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works;

(g) to temporarily place and use on the land on or under which the underground electricity cables, jointing bays, ducting, telecommunications apparatus (including but not limited to fibre optic cables) and other ancillary apparatus is situated (including but not limited to access chambers, manholes and link pillar boxes) or land on which any part of it is situated, materials, equipment, plant or apparatus required in connection with the underground electricity cables, telecommunications apparatus and other ancillary apparatus or any part of it; and

(h) restrictions on constructing and erecting buildings, works or structures, excavation, altering ground cover or soil levels, planting or growing trees or shrubs or carrying out operations or actions which may obstruct, interrupt, or interfere with the exercise of the rights or damage the Proposed Development.

