



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

AQUIND INTERCONNECTOR

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Business, Energy and Industrial Strategy

Examining Authority

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8 June 2021

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OVERVIEW

File Ref: EN020022

The application, dated 14 November 2019, was made under section 37 of the Planning Act 2008, and was received in full by The Planning Inspectorate on 14 November 2019.

The applicant is AQUIND Limited.

The application was accepted for examination on 12 December 2019.

The examination of the application began on 8 September 2020 and was completed on 8 March 2021.

The AQUIND Interconnector project proposes the construction, operation, maintenance and decommissioning of a 2,000MW bi-directional electrical power transmission link (an interconnector) between Normandy in France and Lovedean in Hampshire.

In the UK, the Proposed Development comprises the following elements:

- high voltage direct current (HVDC) marine cables from the boundary of the UK Exclusive Economic Zone to a landfall in the UK at Eastney in Portsmouth;
- jointing of the HVDC marine cables and HVDC onshore cables at the landfall;
- HVDC onshore cables from the landfall to Lovedean;
- a converter station at Lovedean, with a new access road of up to 1.2km in length;
- an extension to the existing substation at Lovedean;
- high voltage alternating current (HVAC) onshore cables and associated infrastructure connecting the Converter Station to the UK grid at the Lovedean Substation;
- fibre-optic cables installed with the HVDC and HVAC cables;
- two optical regeneration stations for signal amplification at the landfall and two telecommunications buildings at the proposed converter station site;
- various landscape and temporary construction and access works.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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ERRATA SHEET – AQUIND INTERCONNECTOR - Ref. EN020022

Examining Authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Business, Energy and Industrial Strategy, dated 8 June 2021

Corrections agreed by the Examining Authority prior to a decision being made

Page No.	Paragraph	Error	Correction
140	7.4.27	Hyphen required between words "short" and "term"	Add hyphen so reads "'coupled with the short-term nature of the effects"
161	7.5.28	Word missing in first line "if the scope of works set out paragraph 6.6"	Insert "in" so reads "if the scope of works set out in paragraph 6.6"
161	7.5.29	"The" missing at beginning of the first line ahead of "MMO's"	Insert "The" so reads "The MMO's Relevant Representation"
161	7.5.30	"the" missing in first line ahead of the word "MMO"	Insert "the" so reads "was questioned by the MMO"
162	7.5.36	"the" missing in fourth line ahead of the word "MMO"	Insert "the" so reads "as significant, the MMO requested that"
163	7.5.41	"the" missing in second line ahead of the word "MMO"	Insert "the" so reads "and implementation. The MMO noted"
163	7.5.44	"the" missing in second line ahead of the word "MMO"	Insert "the" so reads "The Applicant also believed the MMO's reference"
168	7.6.9	Hyphens missing between the words "vessel to vessel"	Hyphenate to read "vessel-to-vessel"
170	7.6.19	Final bullet point missing the word "taken"	Insert "taken" between "were" and "into" so reads "and unexploded ordnance (UXO) were taken into account"
181	7.8.5	Refers to "National Policy Planning"	This should read "National Planning Policy Framework"

Page No.	Paragraph	Error	Correction
		Framework"	
7.11.37	218	Lower case letters used for "marine archaeology outline WSI"	Capitalise so reads "Marine Archaeology Outline WSI"
7.11.38	218	Lower case letters used for "marine archaeological WSI"	Capitalise so reads "Marine Archaeological WSI"
7.12.9	225	Typo on second bullet point "the infrastructure is the public interest"	Insert "in" between "is" and "the" so reads "the infrastructure is in the public interest"
7.12.20	227	Typo "no greater effects that the construction phase"	Change "that" to "than" so reads "no greater effects than the construction phase"
7.14.7	242	Typo in first line "considered the potential environment impact"	Change "environment" to "environmental" so reads "considered the potential environmental impact"

1. INTRODUCTION

1.1. INTRODUCTION TO THE EXAMINATION

- 1.1.1. The application for the AQUIND Interconnector (the Proposed Development) was submitted by AQUIND Limited (the Applicant) to the Planning Inspectorate on 14 November 2019 under section 37 of the Planning Act 2008, as amended (the PA2008).
- 1.1.2. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State for Business, Energy and Industrial Strategy. By letter received on 19 June 2018 [AS-036]¹, the Applicant had formally requested the Secretary of State to direct that the proposed UK elements of the AQUIND Interconnector be treated as development for which development consent under the PA2008 is required.
- 1.1.3. In a Direction dated 30 July 2018 [APP-111], the Secretary of State confirmed that the Proposed Development by itself is nationally significant and directed that it, together with any development associated with it, should be treated as development for which development consent is required.
- 1.1.4. The Secretary of State further directed in accordance with sections 35ZA(3)(b) and (5) of the PA2008 that:
- An application for a consent or authorisation mentioned in section 33(1) or (2) of the Act for development identified in, or similar to that described in, the Request to the Secretary of State for Business, Energy and Industrial Strategy for a Direction under Section 35 of the PA2008 made by AQUIND Limited on 19 June 2018 is to be treated as a proposed application for which development consent is required.
 - The Overarching National Policy Statement for Energy (NPS EN-1) has effect in relation to an application for development consent under this Direction in a manner equivalent to its application to development consent for the construction and extension of a generating station within section 14(a) of the Act of a similar capacity as the proposed project so far as the impacts described in NPS EN-1 are relevant to the Proposed Development.
- 1.1.5. On this basis, the Planning Inspectorate agreed with the Applicant's view stated in the application form [APP-004] that the Proposed Development meets the definition of a Nationally Significant Infrastructure Project within the meaning of the PA2008. It was accepted for Examination under section 55 of the PA2008 on 12 December 2019 [PD-001] with the reference EN020022.
- 1.1.6. The AQUIND Interconnector project proposes the construction, operation, maintenance and decommissioning of a 2,000 megawatt (MW) bi-

¹ References to documents in the Examination Library (Appendix A) are enclosed in square brackets, '[]'.

directional electrical power transmission link (an interconnector) between Normandy in France and Lovedean in Hampshire.

1.1.7. In the UK, the Proposed Development comprises:

- high voltage direct current (HVDC) marine cables from the boundary of the UK Exclusive Economic Zone (EEZ) to a landfall in the UK at Eastney in Portsmouth;
- jointing of the HVDC marine cables and HVDC onshore cables at the landfall;
- HVDC onshore cables from the landfall to Lovedean;
- a converter station at Lovedean, with a new access road of up to 1.2km in length;
- an extension to the existing substation at Lovedean;
- high voltage alternating current (HVAC) onshore cables and associated infrastructure connecting the Converter Station to the UK grid at the Lovedean Substation;
- fibre-optic cables installed with the HVDC and HVAC cables;
- two optical regeneration stations for signal amplification at the landfall and two telecommunications buildings at the proposed converter station site;
- various landscape and temporary construction and access works.

1.1.8. The location of the Proposed Development is shown on the Site Location Plan [APP-007]. The linear route runs from the boundary of the UK EEZ in the English Channel to Lovedean in Hampshire, via a landfall at Eastney on Portsea Island. Onshore, the route passes through the administrative areas of Portsmouth City Council, Havant Borough Council, East Hampshire District Council and Winchester City Council. The northern end of the route and the proposed converter station are adjacent to, but outside, the southern administrative boundary of the South Downs National Park Authority.

1.1.9. The Proposed Development for which development consent is sought lies wholly within England, waters adjacent to England out to the seaward limits of the territorial sea, and the EEZ.

1.1.10. Since the project is intended to connect the UK to France via the National Energy Transmission Systems, at acceptance this was a 'project of common interest' under the TEN-E Regulation and amendment (1391/2013) (guidelines for trans-European energy infrastructure).

1.1.11. The UK exited the European Union during the Examination, and this situation changed as a consequence. At the second Compulsory Acquisition Hearing ([EV-058] to [EV-065]) and in its subsequent written submission at Deadline 6 [REP6-062], the Applicant confirmed that the AQUIND Interconnector had lost its project of common interest status and would no longer need to be assessed against the TEN-E Regulation.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

1.2.1. On 12 February 2020, Andrew Mahon, Stephen Roscoe and David Wallis were appointed as the ExA for the application under s61 and s65 of the PA2008 [PD-004].

1.3. THE PERSONS INVOLVED IN THE EXAMINATION

1.3.1. The persons involved in the Examination were:

- persons who were entitled to be Interested Parties (IPs) because they had made a Relevant Representation (RR), were a statutory party who requested to become an IP or were accepted into the Examination as a result of the PA2008 s102 process;
- Affected Persons (APs) who were affected by a Compulsory Acquisition (CA) or Temporary Possession (TP) proposal made as part of the application and who objected to it at any stage in the Examination;
- Other Persons, who were invited to participate in the Examination by the ExA because they were either affected by it in some other relevant way or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

1.4.1. The Examination began on 8 September 2020 and concluded on 8 March 2021.

1.4.2. The principal components of, and events around the Examination are summarised below. A full timetable can be found in the ExA's Rule 8 and Rule 8(3) letters ([PD-012] and [PD-023]).

The Preliminary Meeting

1.4.3. On 5 March 2020, the ExA wrote to all IPs, Statutory Parties and Other Persons under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (the Rule 6 letter [PD-005]) inviting them to the Preliminary Meeting and outlining:

- the arrangements and agenda for the Preliminary Meeting on 22 April 2020;
- an Initial Assessment of the Principal Issues;
- the draft Examination Timetable;
- availability of RRs and application documents;
- the ExA's Procedural Decisions.

1.4.4. COVID-19 infections began to rise sharply in the UK shortly after the publication of this Rule 6 letter, and the Government introduced strict public health measures, including a ban on large public meetings and a direction for people to stay at home as much as possible. Consequently,

in a letter dated 26 March 2020 [PD-006], the ExA notified all parties of the postponement of the Preliminary Meeting.

- 1.4.5. As it became clear that the public health restrictions associated with the pandemic seemed likely to persist for some time, the Planning Inspectorate and the ExA investigated ways in which the Preliminary Meeting and Examination could progress without the need for face-to-face meetings in public places.
- 1.4.6. On 11 May 2020, the ExA issued a progress letter and Rule 17 request [PD-008] with a questionnaire [PD-009] seeking views from IPs about holding the Preliminary Meeting and subsequent events in the Examination virtually, on-line.
- 1.4.7. Fifty-four responses were received, representing approximately a quarter of the total number that had submitted Relevant Representations. Most respondents said that they were generally confident about being able to use a computer, tablet or smart phone to participate in the Examination, though several noted that some additional information and training would be welcome. Only three respondents expressed significant concern.
- 1.4.8. Based on these responses and ongoing research into possible software and procedures, the ExA decided that the Preliminary Meeting could, in principle, be held through videoconferencing and teleconferencing. The ExA considered that, with appropriate support for participants, events conducted in this way would be manageable, useful, fair and inclusive. The support made available included pre-meeting interactive familiarisation sessions run by the case team.
- 1.4.9. Whilst considering a format and procedure for the virtual Preliminary Meeting, it became clear that the traditional meeting that was opened and closed on the same day might not facilitate full inclusivity. There are technical limits to the number of people who can attend a virtual event with the ability to speak and be spoken to in real time. However, there is no limit to the number of people who can observe live using online streaming, or retrospectively through a digital recording.
- 1.4.10. For these reasons, the ExA decided to provide a three-week adjournment, allowing anyone who wished to make a representation, but who had not been able to speak during the initial part of the Preliminary Meeting, to make a written submission before the resumption.
- 1.4.11. On 3 July 2020, the ExA issued a replacement Rule 6 letter [PD-010] to all IPs, Statutory Parties and Other Persons, inviting them to the Preliminary Meeting and outlining:
 - the arrangements and agenda for the Preliminary Meeting to be held virtually on 18 August 2020 and 8 September 2020;
 - an Initial Assessment of the Principal Issues;
 - the revised draft Examination Timetable;

- the ExA's Procedural Decisions since the postponement of the Preliminary Meeting;
 - a guide to frequently asked questions about virtual events;
 - an introduction to the Preliminary Meeting;
 - a summary of responses to the Rule 17 request questionnaire;
 - the availability of RRs and application documents.
- 1.4.12. The replacement Rule 6 letter also introduced a 'Procedural Deadline A' for the attention of the Applicant, all IPs and APs, inviting written submissions on any changes considered necessary to the draft Examination Timetable and notifications of a wish to speak at the Preliminary Meeting.
- 1.4.13. The deadline for submissions was 28 July 2020. Seven responses were received ([PDA-001] to [PDA-007]) and the ExA sent invitations to each of the respondents to enable them to participate 'live' in the Preliminary Meeting.
- 1.4.14. While the online meeting using the Microsoft Teams platform was to be recorded and published on the project page of the Planning Inspectorate's National Infrastructure website as the official record of the meeting, the ExA considered that there would be significant benefits in terms of fairness and inclusivity if the event could be livestreamed to a wider audience. The Planning Inspectorate discussed this with the Applicant, and the Applicant agreed to commission the event agency Production 78 to broadcast and capture the livestream.
- 1.4.15. The virtual Preliminary Meeting was opened on 18 August 2020 at 10.00am and was adjourned at 11.26am. A digital recording [EV1-008] of the event was published on the project page of the Planning Inspectorate's National Infrastructure website soon afterwards.
- 1.4.16. The ExA also introduced Procedural Deadline B (1 September 2020) through the replacement Rule 6 letter. This allowed two weeks for any party, including those who had watched the livestream or digital recording, to make written submissions to the ExA on matters raised during the first part of the Preliminary Meeting. All written submissions made by Procedural Deadline B were considered by the ExA and given equivalent weight to the oral submissions made at the Preliminary Meeting.
- 1.4.17. Six responses were received at Procedural Deadline B ([PDB-001] to [PDB-006]) and respondents who requested to speak at the resumption of the Preliminary Meeting were invited to attend. The Preliminary Meeting was resumed at 10.00am on 8 September 2020, closed at 10.21am, and was similarly recorded and livestreamed. During the resumed Preliminary Meeting, the ExA summarised the responses received at Procedural Deadline B and invited those in attendance to make comments if they wished. The digital recording was published soon after the meeting closed [EV1-009].

- 1.4.18. A note of the Preliminary Meeting was also published [EV1-010].
- 1.4.19. The ExA is satisfied that everybody who wished to make a submission about any matter pertinent to the Preliminary Meeting was given sufficient opportunity to do so.
- 1.4.20. The ExA's subsequent Procedural Decisions and the Examination Timetable took full account of matters raised at the Preliminary Meeting, as evidenced in the ExA's Rule 8 letter dated 15 September 2020 [PD-012].

Key Procedural Decisions

- 1.4.21. Most of the Procedural Decisions set out in the Rule 8 letters ([PD-012], [PD-023] and [PD-032]) related to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 letters. Only the principal ones are summarised here.
- 1.4.22. The Applicant submitted documents that appeared to be a change request at Deadline 3 [REP3-016]. The ExA requested further information [PD-013] and the Applicant confirmed a formal change request was being sought. This included requests for additional land within the Order limits and further CA matters. The ExA accepted this as a material change request on 11 November 2020 [PD-019] and amended the timetable to invite IPs to submit RRs by Deadline 6a, 24 December 2020 [PD-023], having regard to the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations).
- 1.4.23. Late on Friday 11 December 2020, the Applicant submitted a further request to change the Order limits to include an additional 2.5 hectares of land, along with associated requests for CA powers [AS-052]. The letter was accepted by the Planning Inspectorate on 14 December 2020 and the ExA accepted it as a material change on 18 December 2020 [PD-026]. Deadlines 7a, 7b and 7c were inserted into the Examination Timetable (28 January 2021, 1 February 2021 and 15 February 2021) for receipt of RRs, requests to attend a related Open Floor Hearing and Compulsory Acquisition Hearing, and to respond in writing to the RRs respectively, again with regard to the CA Regulations.
- 1.4.24. A third change request was made by the Applicant on 25 January 2021 [REP7-078]. The ExA accepted this as a non-material change on 3 February 2021 [PD-033].
- 1.4.25. All of the changes accepted into the Examination by the ExA were subject to the submission of evidence and reflected in the draft DCO. Following each change request, the Examination proceeded based on the application as revised.
- 1.4.26. The ExA held Open Floor Hearing 3 and Compulsory Acquisition Hearing 3 to provide APs added to the Book of Reference since the earlier Compulsory Acquisition Hearings and the additional IPs affected by the

material change requests with the opportunity make oral submissions. These were notified in the Rule 8(3) letter [PD-032] and are discussed later in this Chapter.

- 1.4.27. On 3 December 2020, Portsmouth City Council wrote to the ExA requesting a variation to the Examination Timetable [AS-049]. While recognising the difficult circumstances around the COVID-19 public health restrictions, the ExA was unable to accommodate the request without compromising the statutory limit on the Examination period [PD-025].
- 1.4.28. On 19 February 2021, the Applicant wrote to the ExA requesting a variation to the Examination Timetable to ensure that the Applicant's opportunity to comment on the final positions of other parties was not prejudiced [AS-064]. The ExA declined that request but instead issued a Rule 17 request [PD-036] for further information from the Applicant at Deadline 9 that had similar effect.

Site inspections

- 1.4.29. The ExA undertook site inspections to ensure an adequate understanding of the Proposed Development within its site and surroundings and to help visualise its physical and spatial effects.
- 1.4.30. Due to the Government's public health restrictions around the COVID-19 pandemic, it was not possible to hold an accompanied site inspection. This was discussed with the parties to the Examination at several Hearings and, given the circumstances, no major concerns were raised, though Winchester City Council recommended that the ExA should undertake an Unaccompanied Site Inspection (USI) to the converter station area instead.
- 1.4.31. Where the matters for inspection could be viewed from the public domain and there were no other considerations such as personal safety or the need for assistance with the identification of relevant features or processes, a USI was held. One USI to private land was undertaken with the consent of the landowners (USI9). The USIs undertaken during periods of public health restrictions associated with the COVID-19 pandemic were undertaken within Government guidelines at the time and were subject to a prior risk assessment.
- 1.4.32. The ExA held the following USIs:
- USI1, 25 February 2020. To observe: the full length of the proposed route of the onshore cable corridor; the general locality of the existing Lovedean Substation; the proposed site for the converter station and associated infrastructure and landscape planting, along with local roads, properties and settlements; the car park off Fort Cumberland Road in Eastney; roads and general traffic conditions along the cable installation route in highways [EV-001].
 - USI2, 26 February 2020. To observe: Fort Cumberland, Fraser Range, Eastney beach and the surrounding area; parts of the foreshore of

Langstone Harbour; the cable route options around Eastney, Milton Locks and Milton Common; Catherington village; Old Mill Lane/ Edney Lane [EV-002].

- USI3, 24 June 2020. To observe longer-distance views towards the proposed site for the converter station from Windmill Hill [EV-003].
- USI4, 24 June 2020. To observe longer-distance views towards the proposed site for the converter station from Butser Hill [EV-004].
- USI5, 24 June 2020. To observe longer-distance views towards the proposed site for the converter station from Old Winchester Hill [EV-005].
- USI6, 22 July 2020. To observe longer-distance views towards the proposed site for the converter station from Portsdown Hill [EV-006].
- USI7, 22 July 2020. To observe views towards the proposed site for the converter station from a public right of way running east from Newlands Lane at Cutler's Farm towards Waterlooville [EV-007].
- USI8, 4 November 2020. To observe road and traffic conditions on various highways in Portsmouth [EV-013].
- USI9, 1 March 2021. To observe the proposed site for the converter station and its access road. Permission for unaccompanied access to private land (Little Denmead Farm) was sought and granted by the landowners [EV1-018].

1.4.33. A note providing a procedural record of each of the USIs can be found in the Examination Library under the references given.

1.4.34. The ExA is content that its USIs provided sufficient information and insight to provide a full understanding of the Proposed Development Site and its context without the need for an accompanied site inspection.

1.4.35. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

Hearing processes

1.4.36. Hearings were held in relation to two main circumstances:

- To respond to specific requests from persons with a right to be heard - in summary terms:
 - where persons affected by CA or TP proposals (APs) objected and requested to be heard at a Compulsory Acquisition Hearing;
 - where IPs requested to be heard at an Open Floor Hearing.
- To address matters where the ExA considered that a Hearing was necessary to inquire orally into matters under examination because they were complex, there was contention or disagreement, or the application of relevant law or policy was not definitive.

- 1.4.37. The ExA held a number of Hearings to ensure a thorough examination of the issues raised by the application.
- 1.4.38. Due to Government public health restrictions associated with the COVID-19 pandemic, each Hearing was held virtually on-line, using the Microsoft Teams platform. As with traditional, face-to-face Hearings, IPs were invited to attend and make oral representations, but in this case via a computer, tablet, smart phone or landline telephone. Those who registered in accordance with the procedure were added to the list of meeting attendees and sent joining instructions. Prior familiarisation sessions on how to use the platform were offered by the case team.
- 1.4.39. The Applicant arranged for each of the Hearings to be livestreamed, and a link to this was provided in advance on the project webpage of the Planning Inspectorate's National Infrastructure website, allowing any party with an interest to view the Hearing live.
- 1.4.40. A full recording of each livestream and an unedited transcript of the associated live subtitling made by artificial intelligence software were published to the project web page for others to view afterwards. The recording is the official record of the Hearing.
- 1.4.41. Issue Specific Hearings under s91 of the PA2008 were held on the subject matter of the draft Development Consent Order (DCO):
- Issue Specific Hearing 1, 9 December 2020 ([EV-020] to [EV-031]);
 - Issue Specific Hearing 4, 17 February 2021 ([EV-066] to [EV-079]).
- 1.4.42. Further Issue Specific Hearings were held on the following subject matters:
- Issue Specific Hearing 2 on Traffic, Highways and Air Quality, 14 December 2020 ([EV-032] to [EV-039]);
 - Issue Specific Hearing 3 on Environmental Matters, 15 December 2020 ([EV-040] to [EV-047]);
 - Issue Specific Hearing 5 on Environmental Matters and Highways, 18 February 2021 ([EV-080] to [EV-089]).
- 1.4.43. Issue Specific Hearing 3 addressed some of the Examination matters arising in relation to the following topics:
- HRA;
 - landscape, visual impacts and tranquillity;
 - marine matters;
 - noise;
 - the socio-economic assessment.
- 1.4.44. Issue Specific Hearing 5 addressed the following topics:
- the Environmental Statement;

- onshore ecology;
 - landscape and visual effects;
 - highways, traffic and transport;
 - the socio-economic assessment.
- 1.4.45. Compulsory Acquisition Hearings were held under s92 of the PA2008:
- Compulsory Acquisition Hearing 1, 10 December 2020 ([EV-048] to [EV-057]);
 - Compulsory Acquisition Hearing 2, 11 December 2020 ([EV-058] to [EV-065]);
 - Compulsory Acquisition Hearing 3, 19 February 2021 ([EV-092] to [EV-097]).
- 1.4.46. All persons affected by CA and TP proposals (APs) were provided with an opportunity to be heard. The ExA also used these Hearings to examine the Applicant's case for CA and TP in the round.
- 1.4.47. Open Floor Hearings were held under s93 of the PA2008:
- Open Floor Hearing 1, the morning of 7 December 2020 ([EV-014] to [EV-017]);
 - Open Floor Hearing 2, the evening of 7 December 2020 ([EV-018] to [EV-019]);
 - Open Floor Hearing 3, 19 February 2021, in respect of the two accepted material change requests ([EV-090] to [EV-091]).
- 1.4.48. The Open Floor Hearings provided all IPs with an opportunity to be heard on any important and relevant subject matter that they wished to raise.
- 1.4.49. The ExA invited and heard from the following non-registered parties at Hearings:
- Mr T Stark, Chairman of the Eastney and Milton Piece Allotments Association, Open Floor Hearing 2;
 - Mrs P Mordaunt MP, Open Floor Hearing 2;
 - Cllr S Wemyss, Open Floor Hearing 2;
 - Ms C Willcox, local resident, Open Floor Hearing 2;
 - Ms P A Savage, local resident, Open Floor Hearing 2;
 - 'Keep Milton Green' action group, represented by Ms K Barrett, Open Floor Hearing 2;
 - 'Let's Stop Aquind' action group, represented by Mrs V Langley, Open Floor Hearing 2;
 - Mr S Morgan MP, Issue Specific Hearing 3;

- Mr E Hodgson, Managing Director, Stagecoach South, Issue Specific Hearing 5.

Written processes

- 1.4.50. Examination under the PA2008 is primarily a written process in which the ExA has regard to written material forming the application and arising from the Examination. All such material is recorded in the Examination Library (Appendix A). In this Report, references to documents in the Examination Library are enclosed in square brackets, '[]'.
- 1.4.51. All documents have been published on the project page of the Planning Inspectorate's National Infrastructure website, so this Report does not contain extensive summaries of all documents and representations, although the ExA has paid them full regard, and considered all important and relevant matters arising from them.
- 1.4.52. Key written sources are set out further below.

Relevant Representations

- 1.4.53. At the start of the Examination, 199 RRs were received by the Planning Inspectorate ([RR-001] to [RR-199]). All parties that submitted RRs received the Rule 6 letters and were provided with an opportunity to become involved in the Examination as IPs.
- 1.4.54. Further RRs were received in respect of the two material change requests from the Applicant that were accepted into the Examination. Two valid RRs were received for change request 1 ([REP6a-001] and [REP6a-002]), and ten for change request 2 ([REP7a-001] to [REP7a-010]). For change request 1, both parties that made an RR were already APs included in the Book of Reference. For change request 2, four of the RRs came from parties that had not previously submitted a RR, but no additional parties needed to be added to the Book of Reference.
- 1.4.55. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapters 4 to 12 of this Report.

Written Representations and other Examination documents

- 1.4.56. The Applicant, IPs and Other Persons had opportunities to:
- make Written Representations (Deadlines 1 and 7c);
 - comment on Written Representations and subsequent responses made by the Applicant and IPs (Deadlines 2, 3, 4, 6, 7 and 8);
 - summarise oral submissions at Hearings in writing (Deadlines 6 and 8);
 - make other written submissions requested or accepted by the ExA;
 - comment on documents issued for consultation by the ExA including:

- A Report on Implications for European Sites (RIES) [PD-035] (published on 3 February 2021) by Deadline 8;
- The ExA's proposed schedule of changes to the draft DCO [PD-034] (published on 3 February 2021) by Deadline 8.

- 1.4.57. The ExA used its discretion to accept a late Written Representation from the South Downs National Park Authority after Deadline 1, and nearly 800 submissions at or shortly after Deadline 1 (up to and including 12 October 2020) from parties that were not registered as IPs (collated into [REP1-321] to [REP1-325]). Amongst these were letters from the offices of Stephen Morgan MP, Penny Mordaunt MP and Flick Drummond MP, and 14 from Councillors representing host or neighbouring authorities. On 15 October 2020, the ExA issued a Rule 17 request to the Applicant to respond to the relevant issues raised in these submissions. The Applicant provided a response at Deadline 2 [REP2-014].
- 1.4.58. In addition, the ExA accepted draft oral submissions in advance of Hearings from non-registered parties that had been invited to make representations, and written summaries of the matters that their submissions covered at the deadline following their appearance.
- 1.4.59. Over the course of the Examination, the ExA used its discretion to accept further Additional Submissions into the Examination between deadlines. These are listed in the fifth section of the Examination Library, with the prefix [AS-].
- 1.4.60. All representations and other Examination documents have been considered by the ExA. The issues that they raise are considered in Chapters 4 to 12 of this Report.

Local Impact Reports

- 1.4.61. Local Impact Reports (LIRs) were received from local authorities under s60 of the PA2008 to provide details of the likely impact of the Proposed Development on the authority's area (or any part of that area):
- East Hampshire District Council [REP1-161];
 - Hampshire County Council [REP1-167];
 - Havant Borough Council [REP1-169];
 - Portsmouth City Council [REP1-173];
 - South Downs National Park Authority [REP1-178];
 - Winchester City Council [REP1-183].
- 1.4.62. Eastleigh Borough Council declined the opportunity to produce a LIR, informing the ExA that its issues with the Proposed Development had been resolved through a Statement of Common Ground [REP1-123]. In all cases, the submitted LIRs have been taken fully into account by the ExA in all relevant Chapters of this Report.

Statements of Common Ground

1.4.63. By the end of the Examination, the following bodies had concluded and signed a Statement of Common Ground² with the Applicant:

- East Hampshire District Council [REP8-047];
- Eastleigh Borough Council [REP1-123];
- Hampshire County Council [REP8-046];
- Havant Borough Council [REP8-049];
- Portsmouth City Council and East Coast Solent Partnership [REP8-044];
- South Downs National Park Authority [REP8-048];
- Winchester City Council [REP8-045];
- Environment Agency (in respect of onshore matters) [REP7-055];
- Environment Agency (in respect of offshore matters) [REP1-109]³;
- Highways England [REP8-030];
- Natural England (in respect of onshore matters) [REP8-031];
- Natural England and the Joint Nature Conservation Committee (in respect of offshore matters) [REP8-032];
- Historic England [REP8-033];
- Marine Management Organisation [REP8-034];
- Maritime and Coastguard Agency [REP8-035];
- Sport England [REP8-036];
- National Grid Electricity Transmission Plc [REP8-037];
- Portsmouth Water [REP8-039];
- Southern Gas Networks Plc [REP7c-007].

1.4.64. A Statement of Common Ground between the Applicant and the following was submitted as an incomplete and unsigned submission:

- West Waterlooville Developments/ Grainger Plc [REP8-038].

1.4.65. The signed and completed Statements of Common Ground were taken fully into account by the ExA in all relevant Chapters of this Report. The

² A statement agreed between the Applicant and one or more IPs, recording matters that are agreed between them, and matters that are not agreed between them.

³ The reference to [REP7-055] in the Applicant's final Document Tracker at Deadline 9 [REP9-002] is incorrect.

incomplete and unsigned Statement of Common Ground was considered and taken into account as appropriate.

Written questions

- 1.4.66. The ExA asked two rounds of written questions.
- first written questions (ExQ1) [PD-011] and the accompanying Procedural Decisions were published alongside the replacement Rule 6 letter on 3 July 2020;
 - further written questions (ExQ2) [PD-031] were issued on 7 January 2021.
- 1.4.67. In addition to the Rule 17 requests referred to above - for information around holding a virtual Preliminary Meeting (paragraph 1.4.6) and the request to the Applicant to respond to the relevant issues raised in the Deadline 1 submissions from non-registered parties (paragraph 1.4.57) - the following requests for further information and comments under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 were issued on:
- 15 October 2020 [PD-013], seeking clarity on an apparent change request by the Applicant and whether the process that had been undertaken was consistent with the relevant Regulations and guidance;
 - 27 October 2020 [PD-014] to the Applicant and Portsmouth City Council, seeking clarity on the landlord and tenancy arrangements at the Eastney and Milton Piece Allotments to determine if allotment holders were eligible to participate in the Examination under s102 of the PA2008;
 - 27 October 2020 [PD-015] to the Applicant and National Grid Electricity System Operator, in relation to optioneering feasibility information and regard to the statutory purposes of the South Downs National Park designation;
 - 3 February 2021 [PD-033] to Winchester City Council, to explore a request for a further site inspection;
 - 24 February 2021 [PD-036] to the Applicant, to provide a final draft DCO, a schedule of changes to the draft DCO suggested by the ExA and other parties, and a final position on parties' Deadline 8 submissions at Deadline 9;
 - 3 March 2021 [PD-037] to the Applicant, to provide a response to a suggestion in the Deadline 8 representation submitted on behalf of Mr Geoffrey and Mr Peter Carpenter that AQUIND Limited is insolvent.
- 1.4.68. All responses to the ExA's written questions have been fully considered and taken into account in all relevant Chapters of this Report.

Requests to join and leave the Examination

1.4.69.

The following persons who were not already IPs requested that the ExA should enable them to join the Examination at or after the Preliminary Meeting:

- On 20 November 2020, some of the allotment holders at the Eastney and Milton Piece Allotments were accepted into the Examination as IPs at their requests, as tenants of allotments wholly or partially within land plots listed in the Book of Reference. These were Mr Julian Lloyd, Ms Rebecca Winstanley, Mr Bernard George, Mr Andrew Leonard, Mr Brian Simmons, Ms Philippa Pettitt, Mr Derek McCullough, Mr Malcolm Williams, Mr Mark Lemon, Ms Catherine Reddy and Ms Kirsten McFarlane.
- Mr Robert Simpson provided evidence of residence in a property listed in the Book of Reference and was accepted on 3 December 2020 as an Interested Party [PD-024].
- Mr Ian Bolton sent an email intended for the Applicant to the ExA on 29 November 2020. It requested that his *'letter... is officially entered into the "book of reference"'*. The Planning Inspectorate provided contact details to Mr Bolton for the Applicant so that his situation could be explored, but the ExA notes that he had not been added to the Book of Reference before the close of the Examination.
- Mr James Bunbury moved into a property listed in the Book of Reference during the Examination and was accepted on 22 December 2020 as an Interested Party [PD-029].
- The Applicant's Books of Reference submitted at Deadline 6 [REP6-022] (22 December 2020) and Deadline 7 [REP7-019] (25 January 2021) had been amended to include additional allotment holders at the Eastney and Milton Piece Allotments following further diligent inquiry by the Applicant, assisted by the landowner, Portsmouth City Council. As such, these parties became IPs. The tracked versions of the Deadline 6 Book of Reference [REP6-023] and the Deadline 7 Book of Reference [REP7-020] highlight these Additional Persons in the entries for plots 10-12, 10-13 and 10-14.
- Mr David Hancock of the Rocking Horse Nursery notified the ExA that he had taken on the lease of a property listed in the Book of Reference and was accepted on 6 January 2021 as an Interested Party, replacing the previous tenant [PD-030].
- Following the publication of the Applicant's change request 1, no Additional Persons were identified or came forward. All those affected by the proposed change were already included in the Book of Reference.
- Following the publication of the Applicant's change request 2, no Additional Parties were identified or came forward. All those affected by the proposed change were already included in the Book of Reference.

- Change request 3 from the Applicant involved removal of land from the Order limits only, affecting only existing APs.
- At Deadline 7a, three unregistered parties submitted RRs in relation to change request 2 but did not provide any evidence of interest in the affected land. These were Mr C Westcott, Mr G Lowe and Ms T Jones, who became additional IPs.

1.4.70. During the Examination, as a consequence of discussion at Hearings and discussions between relevant IPs, APs, Other Persons and the Applicant, the following wrote to the ExA to advise that their issues were settled, or their representations were withdrawn:

- On 6 October 2020, National Grid Gas advised [REP1-213] that it was withdrawing its RR following further consultation with the Applicant.
- Aggregate Industries UK Limited wrote on 3 December 2020 [AS-048] to request withdrawal from the Compulsory Acquisition Hearing, following continued discussions with the Applicant being '*satisfied that an agreement can be completed without the need of a CAH*'.
- Southern Gas Network Plc wrote on 13 January 2021 to advise that, following discussions with the Applicant, it was withdrawing its objection to the Proposed Development [REP7-113]. It remained an IP.
- The agents for National Grid Electricity Transmission Plc wrote on 1 March 2021 [REP8-110] to withdraw its objection [RR-030], having agreed Protective Provisions for the protection of National Grid's apparatus with the Applicant.
- The agents for Network Rail Infrastructure Limited wrote on 2 March 2021 [AS-078] to confirm agreement with the updated Protective Provision for its benefit in the Deadline 8 version of the draft DCO and to withdraw its objection [RR-182].
- A Highways England letter dated 1 March 2021 [AS-079] and received by the Planning Inspectorate on 3 March 2021 reported that its earlier objection [RR-096] was being withdrawn.

1.5. ENVIRONMENTAL IMPACT ASSESSMENT

1.5.1. While not a type of development for which an Environmental Impact Assessment (EIA) is required (an EIA development), the Applicant provided an Environmental Statement (ES) with the application, and thus it has been dealt with as an EIA development.

1.5.2. On 29 October 2018, the Planning Inspectorate received a scoping request on behalf of the Secretary of State from the Applicant [APP-365], under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, as amended (the EIA Regulations). This requested an opinion about the scope of an ES that was to be prepared (a Scoping Opinion). It followed that the Applicant was deemed to have notified the Secretary of State under Regulation

6(2)(a) of the EIA Regulations that it proposed to provide an ES, and that the Proposed Development was therefore EIA development.

1.5.3. The Planning Inspectorate provided a Scoping Opinion [APP-366] on 7 December 2018.

1.5.4. On 2 January 2020 the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of the PA2008 and Regulation 16 of the EIA Regulations had been complied with [OD-006].

1.5.5. Consideration is given to the adequacy of the ES and matters arising from it in Chapter 4 of this Report.

1.6. HABITATS REGULATIONS ASSESSMENT

1.6.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report has been provided (final version, [REP8-020], with appendices as listed in the Application Document Tracker [REP9-002]).

1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapters 4 and 8 of this Report.

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.7.1. By the end of the Examination, the following had entered into formal Development Consent Obligations with the Applicant. These are considered important and relevant considerations for the Secretary of State:

- Hampshire County Council [REP9-010];
- South Downs National Park Authority [REP9-011].

1.7.2. A third Development Consent Obligation with Portsmouth City Council was submitted by the Applicant in unilateral form [REP8-042] following disagreement between the parties on its terms.

1.7.3. These obligations have been taken into account by the ExA in all relevant Chapters of this Report.

1.7.4. The Applicant offered to enter into Planning Performance Agreements with the various local authorities to cover the cost of administrative burdens on the respective Councils. The Applicant notes that these are voluntary and are not to be secured in the DCO, and none were presented in the Examination. In these circumstances, the ExA has not placed any weight on the possibility of such agreements being signed in the future.

1.8. OTHER CONSENTS AND LICENCES

1.8.1. The application documentation and discussions during this Examination have identified the following consents that have, or must be obtained for the Proposed Development, in addition to development consent under the PA2008. The latest position is recorded in the Applicant's Other Consents and Licences [REP6-024] and summarised below:

- Licences to affect badgers (Section 10 of the Protection of Badgers Act 1992) – Letter of No Impediment issued by Natural England on 14 November 2019 [APP-490];
- Consents to work in Sites of Special Scientific Interest (Regulation 28E of the Wildlife and Countryside Act 1981);
- Environmental Permits for flood risk activities, dewatering, discharges to surface water and groundwater (Environmental Permitting (England and Wales) Regulations 2016), as amended;
- Licence to abstract water (Section 24 of the Water Resources Act 1991);
- Consent to discharge treated water to a watercourse (Section 166 of the Water Industry Act 1991);
- Consents in relation to ordinary watercourses (Section 23 of the Land Drainage Act 1991);
- Consent to discharge surface or foul water to a sewer (Section 118 of the Water Industry Act 1991);
- Consent(s) pursuant to Section 61 of the Control of Pollution Act 1974;
- Vehicle Special Order(s) for any Abnormal Indivisible Loads (Section 44 of the Road Traffic Act 1988);
- Building Regulations Approval (Building Regulations 2010 as amended);
- Connection and Use of System Code Accession Agreement, Bilateral Connection Agreement and Construction Agreement (contractual framework to use National Electricity Transmission System);
- Fire Notice (Regularity Reform (Fire Safety) Order 2005);
- Notification to Health and Safety Executive (Construction Design and Management Regulations 2015);
- Hazardous Substances Consent (Planning (Hazardous Substances) Act 1990);
- Marine Licences (Marine and Coastal Access Act 2009) required for UXOs and decommissioning of the Marine Cable at the end of the life of Proposed Development;
- European Protected Species (EPS) Licence (Conservation of Offshore Marine Habitats and Species Regulations 2017);

- Voluntary notification to Marine Management Organisation prior to geophysical surveys;
- Build Over Agreement or similar (Sections 159 to 171 of the Water Industry Act 1991);
- Electricity Interconnector Licence (to operate the Interconnector);
- Crown Estate Licence to lay, maintain and operate cables on the seabed;
- HE CD622 Statement of Intent to Highways England.

1.8.2. The Proposed Development extends into the jurisdiction of the French authorities, and, whilst not the direct subject of this Examination, the Applicant has provided information on the principal licences and consents that are or may be required in France and French Waters. These are set out in the Applicant's Other Consents and Licences document [REP6-024] and described further in section 4 of the Applicant's Post-Hearing Note in Respect of the non-UK Planning Consents and Approvals Required in Connection with AQUIND Interconnector [AS-069]. In summary, they are said to be:

- Convention d'utilisation du domaine public maritime (Articles L 2124-1 and R 2124-1 of the French general code on public property);
- Autorisation environnementale (Environment Permit under Article L 181-1 of the Environmental Code);
- Declaration d'utilite publique (Article L 323-3 of the Energy Code);
- Permis de Construire (Building permit for the converter station);
- Autorisation d'occupation temporaire;
- Convention d'occupation et de servitude;
- Convention d'occupation temporaire.

1.8.3. The outstanding additional consents in the UK and France potentially present an impediment to the Proposed Development in relation to CA guidance. The implications are analysed in Chapter 10 of this Report.

1.8.4. Otherwise, in relation to the consents listed above, the ExA has considered the available information bearing on the UK consents and licences that are outstanding and, without prejudice to the exercise of discretion by future decision-makers, has concluded that these present no apparent impediment to the implementation of the Proposed Development, should the Secretary of State grant the application. The implications of the outstanding French consents are addressed in Chapter 10.

1.9. STRUCTURE OF THIS REPORT

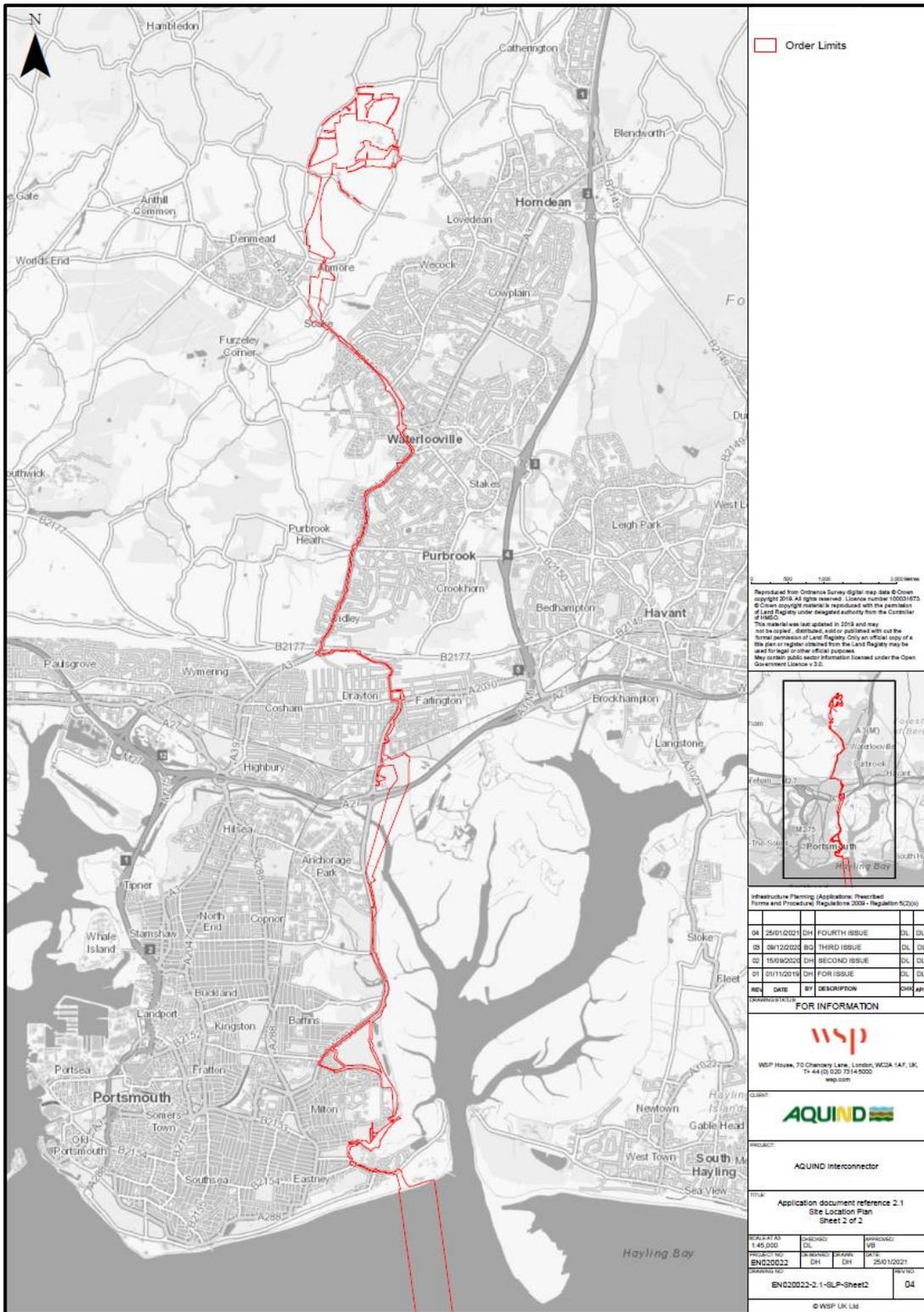
1.9.1. The structure of this Report is as follows:

- **Chapter 1** introduces the reader to the application, the processes used to carry out the Examination and the structure of this Report.
- **Chapter 2** describes the Proposed Development Site and its surrounds, the Proposed Development, its planning history and those of related projects.
- **Chapter 3** records the legal and policy context for the Secretary of State's decision.
- **Chapter 4** introduces the planning issues that arose from the application and during the Examination.
- **Chapter 5** sets out the ExA's findings on the need for the Proposed Development and alternatives that were considered.
- **Chapter 6** details the ExA's findings in relation to traffic, highways and onshore transport matters.
- **Chapter 7** provides a detailed analysis of the ExA's findings in respect of the remaining planning issues.
- **Chapter 8** is the findings in relation to Habitats Regulations Assessment.
- **Chapter 9** sets out the balance of planning considerations arising from Chapters 4 to 8, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 10** sets out the ExA's examination of CA and TP proposals.
- **Chapter 11** considers the implications of the matters arising from the preceding Chapters for the Development Consent Order (DCO).
- **Chapter 12** summarises all relevant considerations and sets out the ExA's recommendation to the Secretary of State.

1.9.2. This Report is supported by the following Appendices:

- **Appendix A** – The Examination Library.
- **Appendix B** – List of Abbreviations.
- **Appendix C** – The Recommended DCO.

The Proposed Development Site (from Applicant's Site Location Plan [REP7-002])



2.1.3. Rural, largely single-lane roads form a boundary to the substation and the wider block of farmland that includes the proposed site for the converter station. There are a few scattered residential dwellings along these roads, with the nearest being approximately 250m from the site.

- 2.1.4. From here, the proposed route for the interconnector cables runs southwards to Eastney on Portsea Island. It crosses farmland for the first part of the route (approximately 2.5km) and then it largely follows the highway network and some open spaces from west of Waterlooville to Eastney. The route continues from the shoreline across the English Channel south-eastwards to the edge of the UK EEZ, the limit of jurisdiction for any Development Consent Order (DCO) Deemed Marine Licence (DML). Beyond this, the proposed interconnector route continues to Le Havre in France and into the Normandy countryside.
- 2.1.5. The Proposed Development Site can be regarded as the following principal parts, correlating to the areas where Works 1 to 12 would be undertaken (as shown on the final Works Plans [REP7-005]):
- fields west of Lovedean Substation (Works 1, 2 and 3);
 - onshore cable laying from Lovedean, through Denmead, Anmore, Waterlooville, Drayton, Farlington, and via the east coast of Portsea Island to Eastney (Work 4);
 - landfall at Eastney (Work 5);
 - the beach and foreshore at Eastney (Work 6);
 - marine cable laying beneath the English Channel (Work 7).
- 2.1.6. The Proposed Development Site affects the administrative areas of several local planning authorities. The main built development at Lovedean falls within Winchester City Council's jurisdiction, along with most of the cable route through open fields. A small part of the cable route and some of the access and temporary construction works lie within East Hampshire District Council. The landfall and its associated optical regeneration station sit within Portsmouth City Council's administrative area, along with more than half of the route of the road-buried cable. The remaining part of the road-buried cable route lies within the Havant Borough Council area.
- 2.1.7. Portsmouth City Council is the highway authority for its area. The highway authority for the remaining part of the cable route is Hampshire County Council.
- 2.1.8. A more detailed description of the Proposed Development and the Proposed Development Site, including the proposed onshore and marine cable route, is provided in Chapter 3 of the ES [APP-118].

The surroundings

- 2.1.9. The proposed Order limits encompass a range of land use types. Lengths of horizontal directional drilling (HDD) would pass under some key constraints. Between Lovedean and Waterlooville, the proposed cable route crosses a predominantly rural area consisting of agricultural land and villages. Ponds, copses of trees, hedgerows and areas of ancient woodland form a wider landscape setting, with the southern slopes of the South Downs often forming the skyline to the north.

- 2.1.10. From Waterlooville to Portsdown, the route passes through a largely urban environment of residential and commercial land uses that fringe the western edges of Waterlooville and Purbrook, with more open agricultural land occasionally evident to the west. At Portsdown, the route crosses the ridge via a roadside car parking area then resumes its southerly course through largely residential areas to Farlington. Here, commercial areas and playing fields are utilised to drill sections under the mainline railway, the A27 trunk road, Farlington Marshes and Langstone Harbour, to emerge near the north-eastern corner of Portsea Island.
- 2.1.11. Portsea Island is a densely urban area, with residential, commercial and industrial development. The route uses roads, recreational spaces, common land, allotments and a University of Portsmouth campus to reach Eastney. An informal car park near to Fort Cumberland in Eastney, provides the proposed landfall location and site for the optical regeneration station buildings. A holiday park is situated immediately to the south, beyond which is Eastney beach. The scheduled monument of Fort Cumberland, with its four listed buildings and associated open space, lies to the east.
- 2.1.12. In the marine environment, the proposed cable route heads from Eastney beach south-eastwards across the English Channel to the outer limit of the UK EEZ, crossing the eastern Solent, with the Nab Channel to the west.
- 2.1.13. The South Downs National Park lies immediately to the north of the proposed converter station area, and its boundaries wrap closely around it to the west and east [APP-238]. In terms of nature conservation designations, the cable route passes under the Chichester and Langstone Harbours Special Protection Area (SPA) (and Site of Special Scientific Interest, SSSI) [APP-177], and parts of the route through Portsea Island affect areas of functionally-linked grassland (mainly recreational areas and sports pitches) used by birds from the SPA flock at high tide. Offshore, the cable route passes through the Solent and Dorset Coast SPA.

Main features of the Proposed Development

- 2.1.14. In total, the interconnector cable route would be approximately 238km in length in France and the UK. Chapter 3 of the ES [APP-118] provides a detailed description of the Proposed Development, noting that it would comprise the following marine and onshore components in the UK:
- the marine interconnector cable consisting of two HVDC circuits from the boundary of the UK EEZ to mean high water springs at high tide (MHWS) at Eastney beach;
 - jointing of the HVDC marine cables and HVDC onshore cables at the landfall;
 - two optical regeneration station buildings (for fibre-optic cable signal amplification) and their compounds at the landfall, with associated landscape planting;

- the onshore interconnector cable consisting of two HVDC circuits from mean low water (MLWS) at Eastney beach to the converter station at Lovedean, including joint bays and link boxes or link pillars;
- the converter station area at Lovedean, including the converter station and associated equipment, two telecommunications buildings and their compounds, construction works compounds and laydown areas, a new 1.2km access road, surface water attenuation ponds, new landscape planting and other associated infrastructure;
- an extension to the existing Lovedean Substation, HVAC cables and associated infrastructure connecting the converter station to the National Electricity Transmission System at Lovedean Substation;
- fibre-optic cables installed together with each of the HVDC and HVAC circuits and associated infrastructure;
- various temporary construction and access works.

Scope of development

- 2.1.15. The development for which development consent is sought is set out in detail in Schedule 1 of the Applicant's draft DCO [REP9-003]. This schedule lists proposed Works 1 to 7 and Associated Development.
- 2.1.16. The draft DCO contains two options for the micro-siting of the Converter Station at Lovedean. Option B(ii) sits west of and directly adjacent to the existing substation, while Option B(i) is in a slightly more westerly position. The Applicant was still pursuing an option agreement with National Grid Electricity Transmissions (NGET) to facilitate the implementation of option B(ii) at the close of the Examination.
- 2.1.17. As detailed in Schedule 1 of the draft DCO, the Applicant seeks consent for a range of Associated Developments. Annexes A and B to the DCLG Guidance, *Planning Act 2008: associated development applications for major infrastructure projects* (April 2013), include substations and improvements to vehicular accesses as examples of Associated Development. The guidance does, however, note that the development listed in the Annexes should not be treated as Associated Development as a matter of course. Whether a specific element of a proposal is Associated Development for the purposes of s115 of the PA2008 is a matter of fact and degree, and this was thoroughly tested during the Examination, as reported in Chapter 5 of this Report.
- 2.1.18. Fibre-optic cables bundled into the interconnector would be used to monitor the condition of the main cables, but the Applicant also seeks consent for the use of some surplus fibre-optic cable capacity for commercial telecommunication purposes. This aspect of the powers sought was thoroughly tested throughout the Examination and it is reported in detail in section 5.3 of this Report.

2.2. THE APPLICATION AS EXAMINED AND AT THE CLOSE OF EXAMINATION

- 2.2.1. Changes to the draft DCO and other key application documents were submitted during the course of the Examination. Many of the changes and updates sought to address points and questions raised by the Examining Authority (ExA), Interested Parties (IPs) and Affected Persons (APs), and to reflect the evolution of detail and clarity. Updates to the documents were recorded in the Applicant's Application Document Tracker [REP9-002]. This was a 'live' document that was updated at each Deadline when new or revised documents were submitted into the Examination.
- 2.2.2. The Applicant amended the draft DCO at Deadline 6 [REP6-015] to clarify that the development for which development consent is sought had always included an extension to the existing Lovedean Substation. Following discussions at Issue Specific Hearing 4 ([EV-066] to [EV-072]), the Applicant produced confirmation that the likely significant effects of these works had been included in the Environmental Impact Assessment (for example, its Deadline 8 post-Hearing Notes, [REP8-057]).
- 2.2.3. At Deadline 1, the Applicant notified the ExA ([REP1-003] and [REP1-133]) that revisions to the Order limits had taken place, reducing the Order limits in some places and changing the extent of powers sought over certain plots. It also included the addition of a plot (plot 8-03a) to the Order limits. The Applicant had undertaken consultation with the relevant APs to notify them of the change.
- 2.2.4. The ExA, through use of a Rule 17 letter on 15 October 2020 [PD-013], sought to clarify whether the information submitted at Deadline 1 was intended to be a formal change request and, if so, whether the appropriate procedures and guidance had been followed. The Applicant responded to confirm that a change request was indeed sought. The Applicant considered that the change was non-material ([REP3-016] and [REP3-019]) and provided a rationale for this opinion.
- 2.2.5. On 11 November 2020, the ExA issued a letter under Rule 9 [PD-019] accepting the change request into the Examination and confirming the decision that the request amounted to a material change to the scheme. The ExA reached that view having regard to the fact that, even though no significant new proposals arose from the revised documents and the application remained fundamentally the same in principle, additional land had been added to the Order limits. The Applicant carried out the necessary notification and consultation procedures (having regard to the relevant Compulsory Acquisition Regulations).
- 2.2.6. On 11 December 2020, the Applicant notified the ExA of a second change request, relating to 2.4 hectares of woodland in two blocks ([AS-051] to [AS-055]). On 18 December 2020, the ExA issued a letter [PD-026] to accept the change request, setting out that the new additional land constituted a material change to the application. The change request was accepted into the Examination on condition that the necessary

notification and consultation procedures (having regard to the relevant Compulsory Acquisition Regulations) could be completed prior to the close of the Examination. Again, the Applicant carried out the necessary notification and consultation procedures.

- 2.2.7. At Deadline 7, 25 January 2021, the Applicant submitted a third change request [REP7-078]. This removed some plots from the Order limits, reduced others and changed the class of rights sought over the remainder of a reduced plot. The ExA did not consider the proposed change to be material, and it was accepted for examination alongside the submitted application as amended by the two earlier changes [PD-033].
- 2.2.8. Until Deadline 7, the Applicant had presented a location to the north of Hambledon Road for the launch compound for horizontal directional drilling (HDD) 5 under an area of priority habitat known as Denmead Meadows (incorporating the Kings Pond Meadow and Soake Farm Sites of Importance for Nature Conservation, SINCs) but had indicated that an alternative was available within the proposed Order limits to the south of Hambledon Road [REP1-132]. The EIA had assessed both options.
- 2.2.9. At Deadline 7, the Applicant committed to the option south of Hambledon Road and submitted amended documentation as necessary to secure this (for example, the Onshore Outline Construction Environmental Management Plan [REP7-032]). This is considered in more detail in section 7.7 of this Report.
- 2.2.10. The ExA was aware of the need to consider whether proposed changes to the application documents meant that the application had changed to the point where it was materially different to that which was originally submitted. Having considered the provisions of the PA2008 and relevant guidance⁴, the ExA was satisfied that these proposed changes to the application would not alter the basic Proposed Development that was applied for, and that adequate time and opportunity had been afforded for the necessary advertising, consultation and responses from IPs and APs. The nature of the proposed changes and the ExA's reasoning for accepting them for Examination are set out in full in the cited Procedural Decisions.
- 2.2.11. The ExA was also content that the changes would have no material difference to the outcome of the EIA and HRA.
- 2.2.12. As such, the ExA is of the view that the application remains materially the same project following the changes, and that the Secretary of State would have the power under s114 of the PA2008 to make the Recommended DCO incorporating the changes proposed during the Examination, if minded to do so, having regard to the development consent applied for.

⁴ Including *Planning Act 2008: Guidance of Changes to Development Consent Orders*, DCLG, 2015, and *Advice Note 16, How to request a change which may be material*, Planning Inspectorate, 2018.

- 2.2.13. The documents that comprise the application at the close of the Examination are listed in the Applicant's Application Document Tracker dated 5 March 2021 as submitted at Deadline 9 [REP9-002]⁵ and the Applicant's final Updated Application Guide [REP8-002]. The final list of documents that comprise the Environmental Statement is set out in the Applicant's Schedule of Documents Forming the Environmental Statement [REP9-012].

2.3. RELEVANT PLANNING HISTORY

- 2.3.1. The Applicant submitted a summary of planning applications and permissions in each of the respective local authority areas. A full list is presented in Appendix 2 to the Applicant's Planning Statement [APP-110]. All of the local authorities were content that the planning history in their respective administrative areas was adequately reflected.
- 2.3.2. The following is a summary of key permissions that are considered important and relevant to the Examination.

Winchester City Council

- 2.3.3. In 2013, permission was granted for an extension to the substation including a shunt reactor, static var compensator and a super grid transformer. It is reported in Appendix 2 to the Applicant's Planning Statement [APP-110] that the permission was implemented but the Examination heard evidence from an Affected Person [REP8-102] that the permission had lapsed.
- 2.3.4. In tandem with Havant Borough Council, permission had been granted for a strategic development including 3,000 dwellings, retail and community uses, employment land, education and health facilities and other infrastructure on land west of Waterlooville. This was approved in outline form, then a full application for phase 1 comprising 194 dwellings was approved, and the dwellings are said to be under construction.

East Hampshire District Council

- 2.3.5. Developments to improve and augment the Lovedean Substation including lattice towers and telecommunications apparatus were recorded as approved but not implemented. The original substation was granted under PRD2325/3.

Havant Borough Council

- 2.3.6. There is no relevant planning history other than that reported in paragraph 2.3.3.

⁵ Incorrectly titled as being submitted at Deadline 8.

Portsmouth City Council

- 2.3.7. A programme for the construction of new coastal defences including revetments, bunds and embankments together with footpath and landscaping works has been approved at Milton Common (15/01769/FUL) and Kendall's Wharf (14/01387/FUL). Construction works for these permissions could coincide with construction works for the Proposed Development.
- 2.3.8. The partial demolition and conversion of the former Fraser Range at Eastney to create a total of 134 dwellings together with new flood defences and access was submitted under reference 19/00420/FUL. It was reported as awaiting determination and no updates were provided during the Examination to confirm any progress. The Applicant included this development in its assessment of cumulative effects [APP-144].

South Downs National Park Authority

- 2.3.9. There is no relevant planning history for this authority in the vicinity of the Proposed Development.

Minerals and waste

- 2.3.10. There are no relevant minerals and waste developments or allocations that are considered important and relevant.

3. LEGAL AND POLICY CONTEXT

3.1. INTRODUCTION

- 3.1.1. This Chapter sets out the relevant legal and policy context for the application that was considered and applied by the Examining Authority (ExA) in carrying out its Examination and making its findings and recommendations to the Secretary of State.
- 3.1.2. Findings, reasoning and conclusions are set out on the relevance of different elements of the policy framework and include the identification of important and relevant matters in accordance with the Planning Act 2008, as amended (the PA2008).
- 3.1.3. The Applicant set out the policies that it considers relevant in the Planning Statement [APP-108] and in responses to the Local Impact Reports (LIRs) and the ExA's first and further written questions (ExQ1 and ExQ2) ([REP1-091] and [REP7-038]).
- 3.1.4. In their LIRs, the relevant planning authorities described the documents that comprise the respective development plans for those authorities and the policies that they believed to be relevant to local impacts: these comprise East Hampshire District Council [REP1-161], Hampshire County Council [REP1-167], Havant Borough Council [REP1-169], Portsmouth City Council [REP1-173], South Downs National Park Authority [REP1-178] and Winchester City Council ([REP1-182] to [REP1-183] plus appendices). Further relevant submissions were made by East Hampshire District Council [REP1-162], Hampshire County Council ([REP1-166] and [REP7-084]), Portsmouth City Council ([REP1-172] and [REP7-088]), the South Downs National Park Authority [REP1-179], and Winchester City Council ([REP1-184] and [REP7-094]).

3.2. THE PLANNING ACT 2008

- 3.2.1. The PA2008 is the principal legislation governing the Examination of an application for a Nationally Significant Infrastructure Project (NSIP) and the decision whether to grant development consent. The Secretary of State exercised the discretion available under section (s) 35ZA(5) of the PA2008 to direct that the Overarching National Policy Statement for Energy (NPS EN-1) should apply to the Proposed Development as it would to a generating station of a similar generating capacity [AS-039]. The Secretary of State considered this would assist in ensuring that the application is treated in a manner consistent with other applications for nationally significant energy projects considered under the PA2008. The application therefore falls for consideration under s104 of the PA2008.
- 3.2.2. S104 of the PA2008 applies:
- '(...) in relation to an application for an order granting development consent if a national policy statement has effect in relation to development of the description to which the application relates.'*

- 3.2.3. S104(3) requires the Secretary of State to decide the application in accordance with any relevant National Policy Statement (NPS) that has effect in relation to this application, subject to the exceptions in subsections 104(4) to (8), as follows:
- deciding the application in accordance with any relevant NPS would lead to the UK being in breach of any of its international obligations;
 - deciding the application in accordance with any relevant NPS would lead to the Secretary of State being in breach of any duty imposed on her or him by or under any enactment;
 - deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment;
 - the adverse impact of the Proposed Development would outweigh its benefits;
 - any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.
- 3.2.4. S104(2) of the PA2008 sets out the matters to which the Secretary of State must have regard in deciding an application submitted in accordance with the PA2008. In summary, the matters set out in s104(2) include any relevant NPSs, marine policy documents determined in accordance with s59 of the Marine and Coastal Access Act 2009, any LIR, any matters prescribed in relation to the development, and any other matters the Secretary of State thinks are both important and relevant to the decision.
- 3.2.5. S10 of the PA2008 places a statutory sustainable development duty on the Secretary of State. The duty makes specific reference to having regard to the desirability of:
- mitigating and adapting to climate change;
 - achieving good design.
- 3.2.6. This Report sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying the approach set out in s104 of the PA2008.

3.3. NATIONAL POLICY STATEMENTS

Background

- 3.3.1. NPS EN-1, published in July 2011, sets out national policy for energy infrastructure. It notes that, in conjunction with the relevant technology specific NPS, it will be the primary basis for decision-making for onshore generating stations generating more than 50 megawatts (MW). This includes fossil fuel, wind, biomass, waste and nuclear electricity generating stations. It makes reference to the situation with electricity interconnectors (at the time of its publication) and future potential in section 3.3 and to the need for reinforcement of electricity transmission and distribution infrastructure in general in section 3.7.

- 3.3.2. The ExA has applied the tests set out in NPS EN-1 as the primary basis for its examination of the application.
- 3.3.3. Part 4 of NPS EN-1 makes clear that the assessment of applications for energy NSIPs, *'...should start with a presumption in favour of granting consent...'* and sets out the assessment principles to be applied.
- 3.3.4. Paragraph 3.3.12 states that, *'there are a number of other technologies which can be used to compensate for the intermittency of renewable generation'* and that, *'these technologies will play important roles in a low carbon electricity system'*.
- 3.3.5. NPS EN-1 is part of a suite of energy NPSs that set out the Government's policy for the delivery of major energy infrastructure. There are a further five technology-specific NPSs that should be read in conjunction with NPS EN-1 where they are relevant. The ExA drew on the technology specific NPSs where these were found to be important and relevant.
- 3.3.6. NPS EN-5, Electricity Networks Infrastructure, sets out policy relevant to electricity transmission (275 kilovolt (kV) and 400kV) and distribution systems from transmission systems to the end user (130kV to 230kV). Whilst principally focusing on long distance transmission and distribution systems, it also covers substations and converter stations, and Paragraph 1.8.2 notes that it can cover development that, *'constitutes associated development for which consent is sought along with an NSIP such as a generating station or relevant overhead line'*. NPS EN-5 also provides a simplified route map for dealing with electric and electromagnetic fields (EMF), identifying that evidence should be provided that a transmission line complies with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) limits at the nearest residential property.
- 3.3.7. Whilst the ExA considered the applicability of the technology specific NPSs to the examination of the application, it was noted that the Secretary of State's s35 Direction referred only to NPS EN-1

Matters raised in the application and during the Examination

- 3.3.8. The Applicant assessed the Proposed Development against the NPSs in its Planning Statement [APP-108]. The Applicant's assessment in relation to NPS EN-1 concludes that the project would benefit the UK in respect of the 'energy trilemma' and would contribute to a reduction in carbon emissions from energy sources in the UK. The Applicant contends that the Proposed Development is fully compliant with NPS EN-1.
- 3.3.9. The Planning Statement goes on to suggest that NPS EN-5 is not applicable or relevant because, if it was, the Secretary of State would have declared it so in making the Direction under s35 of the PA2008. It also contends that NPS EN-5 is not relevant because it does not relate to underground electricity cables.

- 3.3.10. In its Initial Assessment of Principal Issues (IAPI) set out in the replacement Rule 6 letter [PD-010], the ExA included:
- Whether the Proposed Development complies with National Policy Statement EN-1, Overarching National Policy for Energy; and National Policy Statement EN-5, Electricity Networks Infrastructure.*
- 3.3.11. The Applicant asked for clarification of this in its submission at Procedural Deadline A [PDA-001], suggesting that NPS EN-5 was not a relevant national policy statement to the application for the purposes of s104 of the PA2008, whilst acknowledging that policies in NPS EN-5 may be considered by the Secretary of State to be both important and relevant.
- 3.3.12. During the Preliminary Meeting [EV1-008], the ExA confirmed that no decision had been made with regards to the relevance of NPS EN-5, and, for clarity, reported that the IAPI would be amended to read:
- 'Whether the Proposed Development complies with National Policy Statement EN-1, Overarching National Policy for Energy; and the extent to which the following are important and relevant: National Policy Statement EN-5, Electricity Networks Infrastructure...'*
- 3.3.13. The ExA included two relevant questions in ExQ1 [PD-011], asking the Applicant to comment on the relevance of NPS EN-5 and how the Proposed Development performed if assessed against it.
- 3.3.14. The Applicant produced a position statement in response [REP1-130]. This concludes that, as the Proposed Development in neither a generating station or overhead electricity line, nor is it Associated Development to one of those, NPS EN-5 is not a relevant National Policy Statement in relation to the Proposed Development.
- 3.3.15. It acknowledges, however, that where an NPS is not a 'relevant national policy statement' in relation to an application, it may still be a matter which the Secretary of State thinks is both important and relevant to the decision and to which they must have regard.
- 3.3.16. There were no substantive submissions made by any Interested Party (IP) with regards to the applicability or application of NPS EN-5 or any other technology specific energy NPS, or the position statement provided by the Applicant.
- 3.3.17. At Deadline 7, Portsmouth City Council [REP7-088] provided extracts from the National Networks National Policy Statement and suggested that parts were relevant to the examination of the application. These related to biodiversity mitigation and enhancement, concluding that the envisaged loss of biodiversity is not acceptable. In response [REP7c-012], the Applicant suggested that National Networks National Policy Statement was not relevant for this application and that the quoted text does not provide an appropriate test for this Examination or decision.

Conclusion on NPSs

- 3.3.18. Having considered the above, the ExA came to the view that NPS EN-1 was the relevant NPS for the purposes of s104(2)(a) of the PA2008.
- 3.3.19. The technology specific energy NPSs are not relevant national policy statements, though parts could be important and relevant to the decision, especially in relation to their commentaries on matters such as marine cabling and the assessment of electromagnetic fields, as outlined in NPS EN-5.
- 3.3.20. Under s104(2)(d), the ExA has had regard to the suite of supporting technology specific NPSs as appropriate in the examination of this application.

3.4. MARINE AND COASTAL ACCESS ACT 2009

- 3.4.1. Since a large part of the proposed interconnector cable would be installed between Mean High Water Spring tides (MHWS) at Eastney beach and the UK-France European Economic Zone (EEZ) boundary mid-Channel, it is subject to the Marine and Coastal Access Act 2009 (the 2009 Act). This introduced the marine planning system, Marine Conservation Zones (MCZs), the Marine and Management Organisation (MMO) and the need to obtain licences for specified marine activities. It also sets out the framework for the creation of Marine Policy Statements to regulate the objectives and priorities for a UK marine planning system.
- 3.4.2. The UK Marine Policy Statement (MPS) was published on 18 March 2011 for the purposes of section 44 of the 2009 Act. It contributes to the achievement of sustainable development in the UK marine area, which includes any area submerged by seawater at MHWS, such as territorial seas, offshore areas adjacent to the UK, and the tidal extent (at MHWS) of rivers, estuaries and creeks.
- 3.4.3. The MPS reflects the NPSs in balancing the national, regional and more local need for a proposal against its expected adverse impacts, alone and cumulatively. It notes that a secure, sustainable and affordable supply of energy is of central importance to the economic and social well-being of the UK. It goes on to acknowledge that the marine environment will make an increasingly major contribution to the provision of the UK's energy supply and distribution.
- 3.4.4. The MPS cross-refers to NPS EN-1, noting that decision makers should take account of the national need for the energy infrastructure it describes.
- 3.4.5. The MPS provides a framework for preparing marine plans that determine how the MPS should be implemented in specific areas, and how decisions that affect the marine environment should be taken. It sets out detailed considerations for individual marine plans, including marine ecology and biodiversity, air quality, noise, ecological and chemical water quality and resources, seascape, historic environment, climate change adaptation and mitigation and coastal change and flooding.

- 3.4.6. The South Marine Plan, adopted in July 2018, covers the marine elements of the Proposed Development. The South Inshore and South Offshore Marine Plans cover the waters between Folkestone in Kent and the River Dart in Devon. The Inshore Marine Plan applies to the offshore cables from MHWS to 12 nautical miles, while the Offshore Marine Plan applies to the remainder of the cable route to the boundary of the UK EEZ.
- 3.4.7. Under s104(2) of the PA 2008, the Secretary of State must have regard to '*... the appropriate marine policy documents...*' when determining an application for development consent. The MPS and the South Marine Plan constitute the appropriate marine policy documents for the purposes of determining this application.
- 3.4.8. Therefore, the overarching policy context for the ExA's consideration of the application for offshore works and for the Deemed Marine Licence (DML) that forms part of the draft Development Consent Order (DCO) has been provided by this framework.

3.5. UK REGULATIONS

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

- 3.5.1. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, as amended by the Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020 and the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018 (the EIA Regulations), provide the legislative framework for the environmental impact assessment (EIA) of the Proposed Development and its examination.
- 3.5.2. The Proposed Development does not fall into any of the categories of development set out in the EIA Regulations. Nevertheless, the applicant recognised that the location, scale and nature of the Proposed Development gave rise to potentially significant effects on the environment and therefore a full EIA was undertaken and an Environmental Statement was provided with the application [APP-116] to [APP-487]. As such, the application was accepted and examined as an EIA development.

The Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017

- 3.5.3. The Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations), the Conservation of Offshore Marine Habitats and Species Regulations 2017 as amended (the Offshore Marine Regulations), and the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 govern the assessment processes that must be undertaken in relation to European sites and

Ramsar sites and the Proposed Development, referred to as the Habitats Regulations Assessment (HRA). The Secretary of State as the decision maker is the competent authority for the HRA.

- 3.5.4. On 1 January 2021, during the Examination, the Department for Environment, Food and Rural Affairs (Defra) published the policy paper, *Changes to the Habitats Regulations 2017*. It outlines the arrangements for the transfer of responsibility for the protection of UK sites previously designated under the European Birds and Habitats Directives from the EU to the UK Government following the UK's departure from the EU. Views were sought from IPs and the Applicant, and this was discussed during the Examination and taken into account by the ExA. On 24 February 2021, Defra published the guidance, *Habitats regulations assessments: protecting a European site* to assist competent authorities, and the ExA has had regard to this in preparing this Report for the Secretary of State.
- 3.5.5. The protected sites relevant to this process are those protected by the Habitats Regulations (Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Sites of Community Importance (SCIs) and candidate Special Areas of Conservation (cSACs)) and those given equivalent status by national planning policy (possible SACs (pSACs), potential SPAs (pSPAs), listed Ramsar sites and proposed Ramsar sites for which the UK is responsible). Areas secured as sites compensating for damage to a European site also require a HRA under Government policy
- 3.5.6. Chapter 8 sets out full details of the HRA that would be required for the Proposed Development.

The Offshore Marine Conservation Regulations

- 3.5.7. The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (as amended) and The Offshore Marine Conservation (Natural Habitats &c.) (Amendment) Regulations 2012 relate to protected sites in the UK's offshore marine area, which covers waters beyond 12nm, within British fishery limits and the seabed within the UK Continental Shelf Designated Area.

The Air Quality Standards Regulations 2010

- 3.5.8. The Air Quality Standards Regulations 2010 require the Secretary of State to assess ambient air quality for the presence of sulphur dioxide (SO₂), nitrogen dioxide (NO₂), nitrous oxides (NO_x), particulate matter (PM₁₀ and PM_{2.5}), lead, benzene and carbon monoxide. They set limit values for compliance and establish control actions where the limit values are exceeded.

The Infrastructure Planning (Decisions) Regulations 2010

- 3.5.9. The 'Decisions Regulations' contain provisions in respect of the treatment of listed buildings, conservation areas, scheduled monuments and of biodiversity.

3.5.10. Regulation 3 of the Decisions Regulations provides that:

'(1) When deciding an application which affects a listed building or its setting, the decision-maker must have regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest that it possesses.

(2) When deciding an application relating to a conservation area, the decision-maker must have regard to the desirability of preserving or enhancing the character or appearance of that area.

(3) when deciding an application for development consent which affects or is likely to affect a scheduled monument or its setting, the decision-maker must have regard to the desirability of preserving the scheduled monument or its setting.'

3.5.11. In respect of biological diversity, Regulation 7 requires regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992.

3.6. OTHER UK LEGISLATION AND POLICY

The Town and Country Planning Act 1990 (as amended)

3.6.1. The Town and Country Planning Act 1990 (as amended) (TCPA 1990) regularises the development of land in England and Wales and includes an expansive code of planning regulations, detailing procedures for seeking planning permission and for securing planning obligations.

The Highways Act 1980

3.6.2. The Highways Act 1980 deals specifically with the management and operation of the road network in England and Wales.

Control of Pollution Act 1974

3.6.3. The Control of Pollution Act 1974 provides the main legislation regarding demolition and construction site noise and vibration. If noise complaints are received, a s60 notice may be issued by the local authority with instructions to cease work until specific conditions to reduce noise have been adopted. S61 provides a means for applying for prior consent to carry out noise-generating activities during construction. Once prior consent has been agreed under s61, a s60 notice cannot be served provided the agreed conditions are maintained on site. The legislation requires 'Best Practicable Means' be adopted for construction noise on any given site.

Noise Policy Statement for England

3.6.4. The Noise Policy Statement for England 2010 (NPSE) seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. The NPSE applies to all forms of noise,

including environmental noise, neighbour noise and neighbourhood noise. The Statement sets out the long-term vision of the Government's noise policy, which is to *'promote good health and a good quality of life through the effective management of noise within the context of policy on sustainable development'*.

3.6.5. The Explanatory Note in the NPSE provides further guidance on defining 'significant adverse effects' and 'adverse effects.' One such concept identifies the Lowest Observable Adverse Effect Level (LOAEL), which is defined as the level above which adverse effects on health and quality of life can be detected. Other concepts identified are:

- Significant Observed Adverse Effect Level (SOAEL), which is the level above which significant adverse effects on health and quality of life occur;
- No Observed Effect Level (NOEL), which is the level below which no effect can be detected - below this level no detectable effect on health and quality of life due to noise can be established.

3.6.6. When assessing the effects of a proposed development on the noise environment, the aim should be to avoid noise levels above the SOAEL, and to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between LOAEL and SOAEL.

Planning Practice Guidance – Noise 2019

3.6.7. This guidance provides advice on how planning can manage potential noise effects in a new development. In terms of how to recognise when noise could be a concern, the guidance provides a table outlining perception, outcomes, effect level and action required.

The Environment Act 1995

3.6.8. The Environment Act 1995 is a wide-ranging piece of legislation that sets standards for environmental management.

Environmental Protection Act 1990

3.6.9. S79(1) of the Environmental Protection Act 1990 identifies several matters which are considered to be statutory nuisance.

The Air Quality Strategy for England

3.6.10. The Environment Act 1995 requires the UK Government and devolved administrations to produce a national Air Quality Strategies for England, Scotland, Wales and Northern Ireland (Defra, 2007) containing standards, objectives and measures for improving ambient (outdoor) air quality, and to keep these policies under review. The Proposed Development has the potential to affect air quality through generation of emissions from construction and transport sources.

Environmental permitting and related policy

- 3.6.11. Development proposals that could pollute air, water or land, increase flood risk, or adversely affect land drainage may need an Environmental Permit from the Environment Agency under the Environmental Permitting (England and Wales) Regulations 2016.

Water Resources Act 1991, Flood and Water Management Act 2010, Water Act 2003 and 2014, Land Drainage Act 1991

- 3.6.12. These Acts set out the relevant regulatory controls that provide protection to waterbodies and water resources from abstraction pressures, discharge and pollution, and for drainage management related to non-main rivers. The application is considered against such matters in Chapter 7 of this Report.

The Climate Change Act 2008 (as amended)

- 3.6.13. The Climate Change Act 2008 (as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019) established the world's first long-term, legally binding framework to tackle the dangers of climate change. It sets statutory climate change projections and carbon budgets. A key provision is the setting of legally binding targets for greenhouse gas emission reductions in the UK of at least 100% by 2050 ('Net Zero', increased from 80% by the June 2019 amendment order) and at least 26% by 2020, against a 1990 baseline⁶.
- 3.6.14. The Act also created the Committee on Climate Change, which has responsibility for setting five-year carbon budgets covering successive periods of emissions reduction to 2050, advising and scrutinising the UK Government's associated climate change adaptation programmes and producing a National Adaptation Plan for the UK Government to implement. The Committee published its report on the sixth carbon budget in December 2020. The Government's response to this had not been published by the close of the Examination.
- 3.6.15. The PA2008 s10(3)(a) requires the Secretary of State to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS. Similar objectives are set out for decision takers in NPS EN-1, notably in section 2.2, the road to 2050. The ExA had regard to these goals, the pursuit of net zero, and broader sustainability objectives throughout its deliberations and when writing this Report.

The UK Biodiversity Action Plan

- 3.6.16. Priority habitats and species are listed in the UK Biodiversity Action Plan. The ExA took this into account in the Examination, with biodiversity and

⁶ On 20 April 2021, the UK Government announced an intention to pass into law an updated climate change target to reduce emissions by 78% by 2035, compared to 1990 levels.

nature conservation considerations discussed in Chapters 7 and 8 of this Report.

The Wildlife and Countryside Act 1981

- 3.6.17. The Wildlife and Countryside Act 1981, as amended, is the primary legislation that protects certain habitats and species in the UK. It protects wildlife, nature conservation, the wider countryside, National Parks, and public rights of way and provides for the notification, confirmation, protection and management of Sites of Special Scientific Interest (SSSIs). These sites are identified for their flora, fauna, geological or physiographical features by the statutory nature conservation bodies in the UK. The statutory nature conservation body for England is Natural England.
- 3.6.18. The Act contains provisions relevant to Ramsar sites, National Nature Reserves and Marine Nature Reserves. If a species protected under the Act is likely to be affected by a development, a protected species licence would be required from Natural England. Sites protected under the Act (including SSSIs) that are affected by a proposed development must also be considered. The effects of development on the public right of way network are also relevant.

Natural Environment and Rural Communities Act 2006

- 3.6.19. The Natural Environment and Rural Communities Act 2006 (as amended) (the NERC Act) makes provision for bodies concerned with the natural environment and rural communities, including in connection with wildlife sites and SSSIs. It includes a duty that every public body must, in exercising its functions, have regard, so far as is consistent with the proper exercising of those functions, to the purpose of biodiversity. In complying with the biodiversity duty, regard must be had to the United Nations Environment Programme Convention on Biological Diversity.
- 3.6.20. The ExA had regard to the NERC Act and the biodiversity duty in all relevant sections of this Report.

National Parks and Access to the Countryside Act 1949

- 3.6.21. The National Parks and Access to the Countryside Act 1949 provides the framework for the establishment of National Parks and Areas of Outstanding Natural Beauty (AONBs). It also establishes powers to declare National Nature Reserves and for local authorities to establish Local Nature Reserves.
- 3.6.22. National Parks and AONBs have statutory protection to conserve and enhance the natural beauty of their landscape, including landform, geology, plants, animals, landscape features and the historical pattern of human settlement.

- 3.6.23. National Park Authorities are charged with the conservation and enhancement of natural beauty, wildlife and cultural heritage and the promotion of opportunities for the understanding and enjoyment of the special qualities of National Parks.

The Countryside and Rights of Way Act 2000

- 3.6.24. The Countryside and Rights of Way Act 2000 (as amended) includes provisions in respect of public rights of way and access to land. The Act brought in improved provisions for the protection and management of SSSIs and other designations under the Wildlife and Countryside Act 1981.

The Planning (Listed Buildings and Conservation Areas) Act 1990

- 3.6.25. The Planning (Listed Buildings and Conservation Areas) Act 1990 empowers the Secretary of State to maintain a list of built structures of historic or architectural importance and sets out the principal statutory provisions that must be considered in the determination of any application affecting listed buildings and conservation areas.
- 3.6.26. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to the desirability of preserving listed buildings, their settings and features of special architectural or historic interest which they possess (see section 7.11 of this Report). Similarly, the ExA has also had regard to the desirability of preserving or enhancing the character or appearance of conservation areas.

Ancient Monuments and Archaeological Areas Act 1979

- 3.6.27. The Ancient Monuments and Archaeological Areas Act provides for scheduled monuments to be protected and for the maintenance of a list of scheduled monuments. It also imposes a requirement to obtain scheduled monument consent for any works of demolition, repair, and alteration that might affect a designated scheduled monument. For non-designated archaeological assets, protection is afforded through the development management process as established by the TCPA 1990 and the National Planning Policy Framework (NPPF).

Electricity Act 1989

- 3.6.28. Under the Electricity Act 1989, the Applicant would have a duty to develop and maintain an efficient, co-ordinated and economical system of electrical transmission. It would also confer a duty on the Applicant to ensure that it has regard to amenity when carrying out its undertaking.

The Human Rights Act 1998

- 3.6.29. In the UK, the European Convention on Human Rights is incorporated into domestic law by the Human Rights Act 1998. The ExA has taken this into account as part of the examination of this application, as discussed in Chapters 10 and 12.

The Public Sector Equality Duty

- 3.6.30. The Equalities Act 2010 established a duty (the Public Sector Equality Duty) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The duty is applicable to the conduct of this Examination, its reporting, and to the Secretary of State in decision-making.

3.7. OTHER LEGAL AND POLICY PROVISIONS

The Paris Agreement

- 3.7.1. In December 2015, the Paris Agreement was concluded under the United Nations Framework Convention on Climate Change and adopted by consensus on 12 December 2015 by all 195 participating states and the European Union, bringing about a strong international commitment to mitigating climate change. In particular, Article 2 establishes not only a firm commitment to restrict the increase in the global average temperature to, *'well below 2 degrees Celsius above pre-industrial levels'*, but also to, *'pursue efforts to limit the temperature increase to 1.5 degrees Celsius above pre-industrial levels'*, and an aspiration to achieve net zero greenhouse gas emissions during the second half of the 21st century.
- 3.7.2. The UK Government signed the Paris Agreement on 22 April 2016 and ratified it on 18 November 2016.

United Nations Environment Programme Convention on Biological Diversity 1992

- 3.7.3. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to this Convention in its consideration of the likely impacts of the Proposed Development and appropriate objectives and mechanisms for mitigation and compensation. In particular, the ExA finds that compliance with the UK provisions on EIA and transboundary matters, referred to below, satisfies the requirements of Article 14 with regard to impacts on biodiversity.
- 3.7.4. The UK Government ratified the Convention in June 1994. Responsibility for the UK contribution to the Convention lies with Defra, which promotes the integration of biodiversity into policies, projects and programmes within Government and beyond.
- 3.7.5. This is of relevance to biodiversity, nature conservation, ecology and HRA matters, which are considered in Chapters 7 and 8 of this Report.

The Ramsar Convention on Wetlands of International Importance 1971

- 3.7.6. The Ramsar Convention is an international treaty that provides a framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. The Convention applies a broad definition of wetlands, which includes lakes, rivers, aquifers, marshes, wet grasslands and estuaries.
- 3.7.7. Participating nations are expected to designate relevant sites, known as 'Ramsar sites' to be included on the Ramsar List of Wetlands of International Importance, and the UK Government has designated a number of such sites. The Government has chosen to apply, as a matter of policy, the provisions that apply to the consideration of SACs and SPAs to Ramsar sites.

3.8. MADE DEVELOPMENT CONSENT ORDERS

- 3.8.1. The ExA has had regard to several made Orders where relevant. In addition, in its Explanatory Memorandum [APP-020], response to ExQ1 [REP1-091], the transcript of oral submissions for Issue Specific Hearing 1 on the DCO [REP5-058], response to ExQ2 [REP7-038] and post-Hearing notes [REP8-057], the Applicant also made reference to some made Orders to support its position. Those referred to are:
- The Hinkley Point C (Nuclear Generating Station) Order 2013;
 - The Hornsea Project One Offshore Wind Farm Order 2014;
 - The Walney Extension Offshore Wind Farm Order 2014;
 - The Thames Tideway Tunnel Limited (Thames Tideway Tunnel) Order 2014;
 - The National Grid (Hinckley Point C Connection Project) Order 2016;
 - The River Humber Pipeline Replacement Order 2016;
 - The Hornsea Two Offshore Wind Farm Order 2016;
 - The York Potash Harbour Facilities Order 2016;
 - The Richborough Connection Project Order 2017;
 - The East Anglia Three Offshore Wind Farm Order 2017;
 - The Silvertown Tunnel Order 2018;
 - The Port of Tilbury (Expansion) Order 2019;
 - The Southampton to London Pipeline Order 2020;
 - The Cleve Hill Solar Park Order 2020;
 - The Norfolk Vanguard Offshore Wind Farm Order 2020;
 - The Riverside Energy Park Order 2020.

3.9. OTHER RELEVANT POLICY AND PLANS

3.9.1. Other relevant Government and associated policy has been taken into account by the ExA, including:

- *Energy white paper: Powering our Net Zero Future* (Secretary of State for Business Energy and Industrial Strategy, 2020);
 - Clean electricity will become the predominant form of energy, entailing a potential doubling of electricity demand and consequently a fourfold increase in low-carbon electricity generation. We must secure this transition while retaining the essential reliability, resilience and affordability of our energy.
 - Given the pivotal role of electricity in delivering net zero emissions, we must aim for a fully decarbonised, reliable and low-cost power system by 2050.
 - The electricity market should determine the best solutions for very low emissions and reliable supply, at a low cost to consumers.
 - A review will seek the appropriate balance between environmental, social and economic costs. It will also consider the potential of hybrid, multi-purpose interconnectors.
 - Interconnection increases the ability of the GB electricity market to trade with other markets, enhances the flexibility of our energy system and has been shown to have clear benefits for decarbonisation.
 - The Government will work with Ofgem, developers and European partners to realise at least 18GW of interconnector capacity by 2030. This represents a three-fold increase.
- The White Paper refers to a report prepared by Aurora Energy Research for the Secretary of State for Business, Energy and Industrial Strategy in October 2020, *The impact of interconnectors on decarbonisation*, which explores the impact of interconnectors on carbon emissions at the GB and EU level.
- The National Infrastructure Strategy (November 2020) sets out a foundation for future priorities and investments to radicalise the delivery of effective infrastructure in pursuance of the net zero emissions target by 2050. It accompanied the Prime Minister's 10-point plan to decarbonise the economy across all sectors including energy, transport and industry. It considers:
 - Increasing reliance on renewable and low carbon energy projects and technologies.
 - Enhancing the digital network by expanding the gigabit-capable broadband programme to enable full-fibre connectivity across 85% of the UK by 2030.
 - Embedding good design in all infrastructure projects.

- Improving public transport to tackle congestion and air pollution arising from traffic.
- Working within Government departments to review National Policy Statements.
- UK Low Carbon Transition Plan (2009).
- National Strategy for Climate and Energy (July 2009).
- UK Renewable Energy Strategy (July 2009).
- National Grid Electricity System Operator’s Network Options Assessment (NOA) report, (January 2021).

3.10. THE NATIONAL PLANNING POLICY FRAMEWORK

- 3.10.1. The revised NPPF published in February 2019 and its accompanying Planning Practice Guidance (the Guidance) set out the Government’s planning policies for England and how these are expected to be applied. This is for the purpose of making development plans and deciding applications for planning permission and related determinations under the TCPA 1990.
- 3.10.2. Chapter 2, paragraphs 7 and 8, note the Government's approach to achieving sustainable development through the planning system and the three, overarching economic, social and environmental objectives, which are interdependent and need to be pursued in mutually supportive ways.
- 3.10.3. The NPPF and the Guidance are likely to be important and relevant considerations in decisions on NSIPs, but only to the extent relevant to that project. Paragraph 5 of the NPPF makes it clear that the document does not contain specific policies for NSIPs, where particular considerations can apply. However, it does note that the NPPF and its policies may be matters considered to be both important and relevant to NSIPs.

3.11. LOCAL IMPACT REPORTS

- 3.11.1. Sections 104 of the PA2008 notes that in deciding an application, the Secretary of State must have regard to any LIR within the meaning of s60(3) of the PA2008. A LIR is submitted to the ExA under s60 of the PA2008 by a relevant local authority, and it provides details of the likely impact of a proposed development on the authority’s area (or any part of that area).
- 3.11.2. The ExA’s replacement Rule 6 letter [PD-010] included a formal request under s60(2) of the PA2008 to eligible local authorities to submit LIRs by Deadline 1. LIRs were submitted by East Hampshire District Council [REP1-161], Hampshire County Council [REP1-167], Havant Borough Council [REP1-169], Portsmouth City Council [REP1-173], the South Downs National Park Authority [REP1-178] and Winchester City Council [REP1-183].

- 3.11.3. The LIRs set out the principal local planning policies and other policies relevant to the Proposed Development and provided commentary on the consideration of local impacts. Matters raised in the LIRs have been fully considered by the ExA and are discussed as necessary in this Report.

3.12. THE DEVELOPMENT PLAN

- 3.12.1. The legal requirement under s38(6) of the Planning and Compulsory Purchase Act 2004 to determine applications for planning permission in accordance with development plan documents does not apply to applications under the PA2008.
- 3.12.2. However, NPS EN-1 confirms that policies in development plans and other Local Development Framework documents may be considered important and relevant in decision making.
- 3.12.3. In the case of this application, the ExA considers parts of the development plan to be important and relevant and these have accordingly been considered as part of the policy context for the Proposed Development. In the event of a conflict, the NPSs prevail for the purpose of decision making by the Secretary of State.
- 3.12.4. ExQ1 [PD-011] asked the local planning authorities if they were content with the summary of local planning policies set out in the Planning Statement [APP-112]. In response, none of the local authorities raised issue with the summary of relevant policies made by the Applicant.
- 3.12.5. The relevant development plan and policies comprise the following.
- 3.12.6. East Hampshire District Council:
- The Local Plan Part 1: EHDC and South Downs National Park Authority Joint Core Strategy adopted June 2014;
 - CP1 Presumption in favour of sustainable development
 - CP2 Spatial strategy
 - CP5 Employment and Workforce Skills
 - CP19 Development in the countryside
 - CP20 Landscape
 - CP21 Biodiversity
 - CP25 Flood risk
 - CP26 Water resources / water quality
 - CP27 Pollution
 - CP28 Green infrastructure
 - CP29 Design
 - CP30 Historic Environment

- CP31 Transport
- CP32 Infrastructure
- The Local Plan Part 2: Housing and Employment Allocations adopted April 2016;
 - The Proposed Development is not located within or immediately adjacent to any sites allocated in this part of the Local Plan
- Saved policies from The Local Plan Second Review 2006 adopted March 2006;
 - C6 Tree preservation
 - HE8 Development affecting the setting of a conservation area
 - HE12 Development affecting the setting of listed buildings
 - HE17 Archaeology and ancient monuments
 - HE19 Ancient tracks and lanes
 - T4 Pedestrians and cyclists, cycling, walking / horse-riding
 - E2 Renewable energy
 - P7 Contaminated land
 - UI1 New Utility Infrastructure in the Countryside
- Draft Emerging Local Plan 2017-2036;
 - S4 Health and wellbeing
 - DM5 Amenity
 - S13 Planning for economic development
 - S15 Rural economy
 - S17 Development in the countryside
 - S18 Landscape
 - S19 Biodiversity, geodiversity and nature conservation
 - DM25 The local ecological network
 - DM26 Trees, hedgerows and woodland
 - S24 Planning for climate change
 - DM27 Renewable and low carbon energy
 - DM28 Resource efficient design
 - S25 Managing flood risk
 - S26 Protection of natural resources
 - DM29 Water quality and water supply
 - S28 Heritage assets and the historic environment

- DM35 Listed buildings
- DM28 Archaeology and ancient monuments
- DM40 Historic landscapes, parks and gardens
- DM42 Short term power generation and storage
- S30 Transport
- Emerging Future Allocations;
 - SA34 land to rear of 191-211 Lovedean Lane
 - SA36 land at Cottage Farm, James Copse Close
 - SA37 Land north of Woodcroft Farm.

3.12.7. Winchester City Council:

- Local Plan Part 1: WCC and SDNPA Joint Core Strategy adopted March 2013;
 - DS1 Development strategy and principles
 - SH1 Development strategy for South Hampshire urban areas
 - SH2 Strategic housing allocation
 - MTRA1 Development strategy market towns and rural areas
 - MTRA2 Market towns and larger villages
 - MTRA3 Other settlements in the market towns and rural area
 - MTRA4 Development in the countryside
 - CP5 Sites for Gypsies, Travellers and Travelling Showpeople
 - CP6 Local services and facilities
 - CP7 Open space, sport and recreation
 - CP10 Transport
 - CP12 Renewable and decentralised energy
 - CP13 High quality design
 - CP15 Green infrastructure
 - CP17 Flooding, flood risk and the water environment
 - CP18 Settlement gaps (Denmead and Waterlooville)
 - CP19 South Downs National Park
 - CP20 Heritage and Landscape Character
 - CP21 Infrastructure and community benefit
- Local Plan Part 2: Development Management and Allocations adopted April 2017;

- DM1 Location of new development
- DM10 Essential facilities and services in the countryside
- DM15 Local distinctiveness
- DM16 Site design criteria
- DM18 Access and parking
- DM19 Development and pollution
- DM20 Development and noise
- DM21 Contaminated land
- DM22 Telecommunications, services and utilities
- DM23 Rural character
- DM24 Special trees, important hedgerows and ancient woodland
- DM26 Archaeology
- DM29 Heritage assets
- Denmead Neighbourhood Plan 2011-2031 adopted April 2015;
 - Policy 1: A Spatial Plan for the Parish
 - Policy 2: Housing Allocations
- Denmead Village Design Statement Supplementary Planning Document adopted February 2016;
- Draft Traveller Development Plan Document, pre-submission version published January 2018.

3.12.8. Havant Borough Council:

- Local Plan (Core Strategy) adopted March 2011;
 - CS3 Skills and Employment
 - CS6 Regeneration of the Borough
 - CS11 Protecting and enhancing the special environment and heritage of Havant Borough
 - CS13 Green Infrastructure
 - CS15 Flood and erosion
 - CS16 High Quality Design
 - CS18 Strategic site delivery
 - CS19 Effective provision of infrastructure
 - CS20 Transport and access strategy
 - DM1 Recreation and Open Space

- DM6 Coordination of development
- DM8 Conservation, protection and enhancement of existing natural features
- DM10 Pollution
- DM12 Mitigating the impacts of travel
- DM15 Safeguarding transport infrastructure
- Local Plan (Allocations) adopted July 2016;
 - AL1 Presumption in Favour of Sustainable Development
 - AL2 Urban Area Boundaries and Undeveloped Gaps between Settlements
 - AL5 Cross-Borough Bus Rapid Transport Route
 - AL8 Local Green Space
 - DM17 Contaminated Land
 - DM20 Historic Assets
- Allocated Sites;
 - WA1 Waterlooville Housing Allocations.
 - W58 Forest End Garages.
 - W63 Goodwillies Timber Yard.
 - WA2 Waterlooville Mixed Use Allocations.
 - W109 Asda / Clock Tower.
 - W110 Wellington Way.
 - W135 West of Asda / Blue Star Site.
 - BD54 Land at BAE Systems Technology Park
- Draft Emerging Local Plan 2020;
 - DR1 Delivery of Sustainable
 - DR2 Regeneration
 - KP2 Waterlooville Town Centre
 - IN1 Effective provision of infrastructure
 - IN3 Transport and parking in new development
 - E1 High Quality Design
 - E2 Health and wellbeing
 - E3 Landscape and settlement boundaries
 - E4 Development on the coast

- E8 Protection of existing open space
- E13 Historic environment and heritage assets
- E14 The Local Ecological Network
- E15 Protected species
- E18 Trees, hedgerows and woodland
- E19 Managing flood risk in new development
- E20 Drainage infrastructure in new development
- E21 Aquifer Source Protection Zones ('SPZ')
- E22 Amenity and Pollution
- E23 Air Quality
- E24 Contamination
- Draft Allocations;
 - H41 Woodcroft Farm
 - H42 Blue Star
 - H43 Goodwillies Timber Yard
 - H47 Land north of Highbank Avenue
 - C12 Former BAE Systems Park.

3.12.9. Portsmouth City Council:

- Portsmouth Plan (Portsmouth Core Strategy) adopted January 2012;
 - PCS9 The Seafront
 - PCS11 Employment Land
 - PCS12 Flood Risk
 - PCS13 A Greener Portsmouth
 - PCS17 Transport
 - PCS23 Design and Conservation
- Saved policies of the Portsmouth City Local Plan adopted July 2006;
 - DC21 Contaminated Land
 - CM8 Portsdown Hill
 - MT2 Land south of St James' Hospital
 - MT3 Land at St James' Hospital
 - LH1 Langstone Harbour Open Coastal Area
 - LH2 Langstone Harbour Coastal Zone

- Seafront Masterplan Supplementary Planning Document (SPD) adopted April 2013;
- Eastney Beach Habitat Restoration and Management Plan SPD adopted December 2014;
- Parking Standards and Transport Assessments SPD adopted July 2014;
- Air Quality and Pollution SPD adopted March 2006;
- Developing Contaminated Land Supplementary Planning Guidance ('SPG') adopted February 2004.

3.12.10. South Downs National Park Authority:

- South Downs Local Plan 2019;
 - SD4 Landscape Character
 - SD5 Design
 - SD6 Safeguarding Views
 - SD7 Relative Tranquillity
 - SD8 Dark Night Skies
 - SD9 Biodiversity and Geodiversity
 - SD42: Infrastructure
 - SD44 Telecommunications and Utilities Infrastructure.

3.12.11. Hampshire County Council:

- Minerals and Waste Plan 2013;
 - Policy 15 Safeguarding mineral resources
 - Policy 16 Safeguarding mineral infrastructure
 - Policy 26 Safeguarding waste infrastructure.

3.13. TRANSBOUNDARY EFFECTS

3.13.1. In April 2019, during the pre-application stage, the Planning Inspectorate undertook transboundary screening of the Proposed Development on behalf of the Secretary of State [OD-001] to satisfy processes under EIA Regulation 32 and the United Nations Environment Programme Convention on Biological Diversity 1992.

3.13.2. Transboundary issues notification under Regulation 24 of the EIA Regulations was considered necessary for the EEA States of Belgium, Denmark, France, Spain and the Netherlands. All were notified in April 2019, and a notice was placed in the London Gazette on 15 April 2019.

3.13.3. Of the countries notified, only Spain registered as an IP to the Examination. No further correspondence was received in relation to transboundary issues.

4. THE PLANNING ISSUES

4.1. MAIN ISSUES IN THE EXAMINATION

4.1.1. This Chapter introduces the main issues that were raised during the Examination.

4.1.2. As required by section (s)88 of the Planning Act 2008 (the PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010, the Examining Authority (ExA) made an Initial Assessment of Principal Issues (IAPI) arising from the application within 21 days of the day following receipt of the s58 Certificate of Compliance [OD-002] (s56 notice) from the Applicant. The issues identified in that Initial Assessment were as follows.

4.1.3. Air Quality;

- The extent to which the construction of the Proposed Development and the associated changes to traffic movements would affect air quality along the construction route and possible alternative driving routes along the A3 and A2047, and the consequent impacts on local residents and air quality improvement strategies.

4.1.4. Compulsory Acquisition;

- Whether the Compulsory Acquisition of the land and rights sought under the draft Development Consent Order (DCO) satisfies the conditions set out in the PA2008.
- Whether the Temporary Possession powers sought are justified and proportionate.
- Whether alternatives, in relation to individual plots and the route for the Proposed Development and especially the extent of Compulsory Acquisition and Temporary Possession, have been sufficiently taken into account.
- The effect of the Proposed Development on the assets and activities of Statutory Undertakers, including Protective Provisions in the draft DCO and the tests in the PA2008.
- The need for the consent of the appropriate Crown Authority for the interests sought in Crown land.
- The effect of the Proposed Development on special category land in terms of the PA2008.
- The likely availability of funds to implement the Proposed Development.

4.1.5. Cultural Heritage;

- The effects of the Proposed Development on heritage assets and their visual and functional settings, and on buried and marine archaeology.

- 4.1.6. Draft Development Consent Order (draft DCO);
- The appropriateness of the Applicant's draft DCO including its scope, provisions, Requirements, Protective Provisions and the Deemed Marine Licence (DML).
- 4.1.7. Environment Impact Assessment (EIA) and Environmental Statement (ES);
- Adequacy of assessment of environmental effects of the alternatives that were considered in the Environmental Statement.
 - Justification for assumptions made in relation to siting of buildings, cable routing and installation, and in undertaking and reporting the EIA. How assumptions used in the EIA could be secured through any DCO.
 - Approach to EIA, including the use of the 'Rochdale Envelope' and the 'design principles', whether worst-case parameters have been used throughout the EIA, and whether all necessary parameters and mitigation measures are captured in the draft DCO.
 - The approach to, and scope of, cumulative and in-combination assessments in the EIA and HRA.
 - Consideration of indirect effects on the qualifying features of European sites, including any displacement of recreational activities from construction areas to more sensitive land.
- 4.1.8. Flood Risk;
- Consideration of the accuracy of the presented Flood Risk Assessments, including whether there would be any increase in the risk of flooding (including offsite flooding) as a result of the Proposed Development.
- 4.1.9. Habitats and Ecology (onshore);
- Temporary and permanent effects on species and habitats, including noise, visual and other disturbance, with particular reference to European and other protected sites and species.
 - Consideration of any necessary mitigation, monitoring, management and compensatory measures and their effectiveness.
 - The nature conservation effects associated with the loss of trees and hedgerows.
- 4.1.10. Landscape and Visual Amenity;
- The effect of the Proposed Development on landscape and visual amenity, including the settings of protected landscapes.
 - The effects of temporary and permanent lighting on the landscape and visual amenity.
 - The extent to which the design of permanent structures should be controlled and secured through any DCO.

- 4.1.11. Marine Environment;
- Adequacy of submitted information in relation to dredging and disposal of sediment, and the potential need for the designation of a new disposal site.
 - Accuracy of sediment contaminant data set out in the Environmental Statement.
 - Risk to herring spawning and the potential need for mitigation measures to be secured through the DML.
- 4.1.12. Noise;
- Effects of construction noise on sensitive receptors along the cable installation route and at construction sites, including residents and community receptors, and wildlife communities.
 - Effects of operational noise at the converter station.
 - Adequacy of the underwater noise assessment.
- 4.1.13. Onshore Water Environment;
- Modelling of contamination risks during construction, and whether there is sufficient information presented to ensure that the risk to the water environment as a result of the Proposed Development is effectively mitigated.
- 4.1.14. Planning Policy;
- Whether the Proposed Development complies with:
 - National Policy Statement EN-1, Overarching National Policy for Energy, and National Policy Statement EN-5, Electricity Networks Infrastructure;
 - The Marine Policy Statement September 2011;
 - Policies of Local Development Plans and the extent to which they are relevant and important.
- 4.1.15. Shipping and Navigation;
- The extent to which the Proposed Development would impact on navigation, shipping, fisheries, trade, recreational boating and other offshore operations and activities.
- 4.1.16. Socio-Economic Effects;
- The extent to which the Proposed Development would result in any socio-economic benefits in terms of the national, regional or local economy.
 - The extent to which the Proposed Development would result in any adverse socio-economic effects on the national or local economy, including disruption of businesses, tourism and events, local maritime and port activities, fisheries and other enterprises.

- The effects of the Proposed Development on human health, including consideration of EMF, contamination, air quality, noise and vibration.
- The extent to which the Proposed Development would affect the availability and usability of public rights of way, allotments, sports fields and other open spaces.
- The temporary effect of construction activities on access to community facilities and residential properties.

4.1.17. Traffic and Transport;

- The effect of the Proposed Development on traffic flows, delays, volumes and circulation in both the local and wider context.
- The effect of the Proposed Development on public transport.
- The effect of the Proposed Development on road safety, cyclists and pedestrian amenity.

4.1.18. Trees;

- The impact of the Proposed Development on protected and other important trees, and the implications of Portsmouth City Council's policy not to subject trees within its guardianship to Tree Preservation Orders (TPOs).

4.1.19. The topic of 'applicable law and policy' was not included in the IAPI, as it must be considered by the ExA at all times. It provided the framework within which the entire Examination was conducted.

4.1.20. Interested Parties' (IPs) views on the most appropriate policy framework within which to conduct the Examination and on which to reach a recommendation and decision were tested in section 13 of the ExA's first written questions (ExQ1) [PD-011] and section 13 of the further written questions (ExQ2) [PD-031]. The answers to those questions and subsequent responses from the Applicant and the local authorities in particular settled the parties' positions. A summary is provided in Chapter 3 of this Report.

4.1.21. In addition, whilst the effects of the proposal in relation to human rights and equalities duties and on the achievement of sustainable development including the mitigation of, and adaption to, climate change, were not listed as specific Principal Issues, the ExA conducted all aspects of the Examination with these objectives in mind.

4.1.22. The IAPI was provided as Annex B to the ExA's replacement Rule 6 letter [PD-010] and was discussed at the Preliminary Meeting ([EV1-008] to [EV1-010]).

4.1.23. There were discussions at the Preliminary Meeting about other possible Principal Issues and sub-issues. For example, Hampshire County Council, Winchester City Council and Portsmouth City Council suggested that the topic of alternative routes for the interconnector cables should be made a Principal Issue. The ExA is content that most suggestions were already

covered by topics included within the IAPI or were lesser issues that did not require an amendment of the list of IAPI.

- 4.1.24. However, it became apparent through oral and written submissions that there was a significant level of uncertainty and concern amongst IPs in relation to:
- alternative connection points to the National Electricity Transmission System, interconnector cable routes and landfall points;
 - the inclusion of powers to use the surplus capacity in the bundled fibre-optic cables for commercial telecommunication purposes;
 - tranquillity;
 - in addition to the general matter of usability of allotments (included in the IAPI), wider concerns about loss of facilities and contamination of soil at the Eastney and Milton Piece Allotments.
- 4.1.25. These additional matters were therefore introduced as further Examination issues. They were thoroughly examined in written questions, responses, representations, and during several of the Hearings.
- 4.1.26. In accordance with Regulation 11 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010, the ExA made an initial determination of issues following the Applicant's two material change requests made during the Examination under those Regulations to introduce new plots of land into the Order limits and Book of Reference.
- 4.1.27. These were set out at Annex C to the ExA letter of 11 January 2021 [PD-032], which amended the Examination Timetable.
- 4.1.28. For change request 1 ([REP3-016] and [REP3-019]), the issues were:
- trees and landscape;
 - the use, condition and accessibility of sports pitches and associated facilities at Baffins;
 - existing land and rights.
- 4.1.29. For change request 2 ([AS-052] and [AS055]), they were:
- ash die-back disease and its effect on a future landscape and visual baseline around the area of the proposed converter station;
 - effect of the proposed works in relation to the proposed additional plots on;
 - silvicultural practice and ancient woodland habitats;
 - visual screening of the proposed converter station;
 - existing land and rights.
- 4.1.30. These additional matters were introduced or expanded as relevant as further Examination issues. They were thoroughly examined in Relevant

Representations (RRs), written responses and during a second round of Hearings held in February 2021 following the submission of the change requests (particularly Open Floor Hearing 3 and Compulsory Acquisition Hearing 3).

4.1.31. The remainder of this Chapter summarises the evolution of the planning issues from the IAPI. The issues have been re-ordered from the alphabetic order in which they are traditionally set down in an IAPI, driven by interplay between:

- their importance to the ExA's recommendation;
- their temporal or contingency relationships with other topics.

4.1.32. Thus, the planning issues are dealt with in the following order in this Report:

- The principle of and need for the development (including the fibre-optic cables);
- Consideration of alternatives;
- Traffic, highways and onshore transport;
- Air quality;
- Noise, vibration and electromagnetic fields (EMF);
- The local community and socio-economic matters;
- The marine environment;
- Shipping and navigation;
- Onshore biodiversity and nature conservation;
- Design;
- Landscape and views (including tranquillity);
- Trees;
- Cultural heritage and the historic environment;
- The onshore water environment;
- Soils and land use;
- Ground conditions and contamination.

4.1.33. Compulsory Acquisition (CA) and other land or rights considerations are set out in Chapter 10. Specific topic matters that relate to the draft DCO are reported in subsequent Chapters within the framework of the individual planning issues in relation to which they arise. The DCO itself is the subject of Chapter 11 of this Report.

4.1.34. In addition to introducing the planning issues, this Chapter also addresses the following topics arising from the conduct of the Examination as follows:

- issues arising in written and oral submissions;
- issues arising from the Local Impact Reports (LIRs);
- conformity with National Policy Statements (NPSs);
- conformity with development plans;
- the application and consideration of other legislation and policies;
- consideration of previously made DCOs;
- Environmental Impact Assessment (EIA);
- Habitats Regulations Assessment (HRA).

4.2. ISSUES ARISING IN LOCAL IMPACT REPORTS

4.2.1. LIRs were received from East Hampshire District Council [REP1-161], Hampshire County Council [REP1-167], Havant Borough Council [REP1-169], Portsmouth City Council [REP1-173], the South Downs National Park Authority [REP1-178] and Winchester City Council [REP1-183]. These set out the Councils' views of the likely impacts of the Proposed Development.

4.2.2. Councils other than Portsmouth City Council generally deferred to Hampshire County Council on hydrology, flood risk and highway matters.

East Hampshire District Council

4.2.3. East Hampshire District Council did not support the Proposed Development. It had concerns about harm to the rural landscape and visual amenity, and the lack of economic or social benefit to the local population. The LIR raised issues on:

- lack of consideration for South Downs National Park in the site selection phase;
- visual effects on the local and wider landscape;
- effects on ecological receptors;
- impacts of construction traffic on the character and nature of the area;
- noise effects.

Hampshire County Council

4.2.4. The County Council, acting in its role as the highway authority and Lead Local Flood Authority, did not express support or otherwise for the Proposed Development, but raised concerns over highway management and surface water, and the lack of a commitment to local benefits and obligations. The LIR also raised concerns about:

- effects on ecology and trees;
- the selection of the site and the onshore cable route.

- 4.2.5. Hampshire County Council noted the potential benefits of the Proposed Development, including improved resilience of energy supply for the United Kingdom and France, increased competition in energy markets and the opportunity to reduce reliance on non-renewable and carbon-intensive sources.

Havant Borough Council

- 4.2.6. Havant Borough Council noted the potential benefits of improving the resilience of the energy supply and the scope to reduce reliance on carbon-intensive sources. The matters in the LIR can be summarised as:

- effects on the highway network;
- whether alternatives to laying the onshore cable in the highway had been adequately considered;
- concerns regarding the socio-economic effects on residents and businesses during the construction period.

Portsmouth City Council

- 4.2.7. Portsmouth City Council considered that the Proposed Development would have a wide range of highly detrimental impacts in the City during construction and operation. The City Council did not support the principle of the development. The LIR addressed a range of matters:

- effects on air quality, including areas covered by Ministerial Directives;
- impacts on the efficient running of the local and strategic road network;
- loss of open space, recreational land, sports facilities and common land;
- effects on tourist facilities and events;
- effects on trees and ecology;
- lack of consideration of alternative routes that avoided Portsmouth.

The South Downs National Park Authority

- 4.2.8. The South Downs National Park Authority noted that the Proposed Development was adjacent to the National Park rather than within it but did not support the scheme in principle. The matters raised in its LIR cover:

- lack of consideration of the National Park (and its statutory purposes) in the site selection phase;
- effects on the landscape and setting of the National Park, amounting to conflict with its purposes;
- effects on tranquillity and enjoyment of the National Park, including from public rights of way;

- conflict with national policy.

4.2.9. The National Park Authority objected on the basis of the site selection criteria and the scale of the Proposed Development, noting inadequate measures to mitigate landscape effects on the National Park and a lack of public benefits.

Winchester City Council

4.2.10. Winchester City Council did not explicitly object in principle to the Proposed Development, but the matters in its LIR can be summarised as:

- effects on the landscape, including design and scale;
- effects on the highway network;
- effects on biodiversity including trees and hedgerows;
- concern over the use of the Rochdale Envelope principles;
- concern over the scope of Associated Development;
- concern over alternatives;
- lack of public, social or economic benefits.

4.3. ISSUES ARISING IN OTHER SUBMISSIONS

4.3.1. In total, 199 RRs were submitted. The matters raised by IPs in the subsequent Written Representations for Deadline 1 largely developed the themes referred to in the RRs. Following Deadline 1, a further 779 letters from non-registered parties were exceptionally accepted into the Examination at the ExA's discretion, following a campaign on local and social media by informal opposition groups. The main concerns commonly raised in this correspondence can be characterised as:

- lack of consultation;
- need and scale;
- alternatives to going through Portsmouth;
- road safety, traffic congestion, disruption and pollution;
- impact on health and quality of life;
- landscape and visual impacts;
- air, noise, water and light pollution;
- lack of local benefits;
- loss of countryside, wildlife habitat and ecology;
- loss of allotments, open space, recreational land and community land;
- loss of agricultural land and livelihoods;
- impact on heritage assets.

- 4.3.2. The ExA was satisfied that these were covered in the scope of the Principal Issues noted above.
- 4.3.3. Many of the submissions criticised the level of pre-application engagement and consultation from the Applicant, including methods of communication and availability of information. Whilst taking note, the ExA provided a reminder in Annex D to its replacement Rule 6 letter of 3 July 2020 [PD-010] that the AQUIND Interconnector application had been formally accepted by the Planning Inspectorate on 14 December 2019 and therefore matters of pre-application consultation were not directly a matter for the Examination.
- 4.3.4. The Examination processes and events are recorded in Chapter 1 of this Report, and the Principal Issues were explored in more detail in the written questions and in the Hearings, where IPs were given the opportunity to raise any other matters. Some issues, such as landscape, air quality, traffic generation and impacts on allotments and recreational land came to the fore as the Examination progressed.
- 4.3.5. Three Open Floor Hearings held during the Examination ([EV-008], [EV-009] and [EV014]) provided the opportunity for IPs to make oral submissions. There were ten speakers at the first Open Floor Hearing, seven at the second and two at the third, with some individuals making contributions on more than one occasion. All of these opposed the Proposed Development, and the points raised largely reflected the issues outlined above. These matters are addressed in relation to relevant planning issues in the Chapters that follow.

Conclusions on issues arising from submissions

- 4.3.6. The ExA considered all issues arising from written and oral submissions. Important and relevant matters are addressed in subsequent Chapters of this Report.

4.4. CONFORMITY WITH NATIONAL POLICY STATEMENTS

- 4.4.1. This section considers whether the Proposed Development conforms with the relevant NPS identified in Chapter 3.
- 4.4.2. Section 104(4) requires the Secretary of State to determine the application in accordance with any relevant NPS except to the extent that one or more of subsections (4) to (8) applies. This necessitates consideration of the Proposed Development against relevant policy in the NPS.
- 4.4.3. Given the Secretary of State's Direction that NPS EN-1 should apply to this application as it would to a generating station of a similar capacity [AS-039], the ExA applied the NPS EN-1 tests as the primary basis for its Examination of the application.
- 4.4.4. The ExA considers supporting technology specific NPSs to be important and relevant in relation to some limited and specific topics, as discussed in section 3.3 of this Report.

4.4.5. The energy NPSs were designated on 19 July 2011. During the Examination, the Government announced an intention to review NPS EN-1 to NPS EN-5 under s6 of the PA2008, and that their suspension pending the review under s11 was unnecessary. The review had not been completed by the close of the Examination and given the Government's confirmation that the current NPSs would not be suspended, the 2011 NPSs continued to provide the primary policy context for the Examination and the ExA's findings, conclusions and recommendations. Topic-specific consideration of policy arising from them is provided where necessary later in this Report.

NPS EN-1 Overarching National Policy Statement for Energy

4.4.6. NPS EN-1 (July 2011) sets out general principles and generic impacts to be considered in applications for energy NSIPs. It provides the primary basis for determining if development consent should be granted. The other energy NPSs are used in conjunction with this overarching NPS. The policy objectives that underpin NPS EN-1 include meeting the demand for energy generation in the UK.

4.4.7. Section 2 sets out the direction of travel for meeting Government objectives for carbon emission reductions, energy security and affordability. Paragraph 2.2.20 recognises a continuing demand for electricity in the UK:

'It is critical that the UK continues to have secure and reliable supplies of electricity as we make the transition to a low carbon economy'.

4.4.8. Sections 3.1 and 3.2 set out a presumption in favour of granting consent for energy NSIPs, and require the weight attributed to consideration of need to be proportionate to the project's actual contributions. Paragraphs of particular note are:

- paragraph 3.1.1 states that, *'the UK needs all the types of energy infrastructure covered by the NPSs in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions'*;
- paragraph 3.1.4 states that, *'the SoS should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under the PA2008'*;
- paragraph 3.2.3 says, *'the weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure'*.

4.4.9. Section 3.3 highlights the urgency for new electricity generation capacity and for new energy NSIPs to be brought forward as soon as possible. Paragraph 3.3.16 also notes that, since NSIPs take a long time to move from design concept to operation, the Government has considered a planning horizon of 2025 for the energy NPSs in general.

4.4.10. Paragraph 3.3.12 observes the need for the installation of supporting technologies, but highlights that there will be a requirement for greater generating capacity to act as backup to the existing renewable technologies:

'There are a number of other technologies which can be used to compensate for the intermittency of renewable generation, such as electricity storage, interconnection and demand-side response, without building additional generation capacity. Although Government believes these technologies will play important roles in a low carbon electricity system, the development and deployment of these technologies at the necessary scale has yet to be achieved.'

4.4.11. Paragraph 4.1.2 of NPS EN-1 says that the Secretary of State should start with a presumption in favour of granting consent for applications for energy NSIPs, and that the presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused.

4.4.12. Additionally, paragraph 4.1.3 requires the Secretary of State to consider environmental, social and economic benefits and adverse impacts at national, regional and local levels. These considerations should include potential benefits in meeting the need for energy infrastructure, job creation and any long-term or wider benefits and any potential adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.

4.4.13. Overall, in terms of Government policy relating to meeting the demand for electricity in the UK and facilitating a move to low carbon sources in order to address climate change, the ExA considers that the Proposed Development would broadly accord with the thrust and intent of NPS EN-1 and, to the extent that they are important and relevant, the supporting technology specific energy NPSs.

4.4.14. The ExA is content that the Applicant's approach and its Examination have been conducted in accordance with the relevant NPS. The ExA's conclusions about the performance of the Proposed Development in relation to the relevant policy in the energy NPSs generally is discussed in Chapter 9 of this Report.

4.5. CONFORMITY WITH THE MARINE POLICY STATEMENT AND MARINE PLANS

4.5.1. The Marine Policy Statement (MPS) and the South Inshore and South Offshore Marine Plans (the South Marine Plan) constitute the appropriate marine policy documents for the purposes of determining this application.

4.5.2. Section 6 of the Applicant's Planning Statement [APP-108] summarises the background and the Applicant's assessment of the Proposed Development against the relevant parts of NPS EN-1, the MPS, and the South Marine Plan.

- 4.5.3. Appendix 5 to the Applicant's Planning Statement, The Assessment of the South Marine Plan [APP-113], sets out the objectives and policies of the relevant marine plan and provides the Applicant's assessment of the Proposed Development against these in more detail.
- 4.5.4. With the exceptions noted below, no IPs raised concerns about general conformity with the MPS and South Marine Plan. The ExA is content that all the relevant topics are addressed and appropriately referenced in the application documentation and concludes that the Proposed Development is generally in accordance with the MPS and South Marine Plan.
- 4.5.5. Schedule 15 of the draft DCO [REP9-003] submitted as part of the application is a DML (part 4 of the Marine and Coastal Access Act 2009). The MPS and South Marine Plan provided the overarching policy context for the ExA's consideration of the DML.
- 4.5.6. The exceptions referred to above relate to detailed matters raised through the findings of the Applicant's EIA in relation to the marine environment, and to matters raised by the Marine Management Organisation in relation to the Applicant's draft DCO during the Examination. These are addressed in sections 7.5 and 7.6 of this Report.

4.6. CONFORMITY WITH DEVELOPMENT PLANS

- 4.6.1. The relevant development plan policies identified by the Applicant are set out at section 3.12 above. There were no IPs submissions that substantively questioned the accuracy of this assessment. The ExA concurs with the description of the relevant development plan and considers it to be important and relevant to its consideration of the Proposed Development under s104(2)(d) of the PA2008.
- 4.6.2. The final Statements of Common Ground between the Applicant and the local planning authorities submitted at Deadline 8 ([REP8-044] to [REP8-049]) identified some areas where agreement had not been reached and where conflict with development plan policy could be inferred.
- 4.6.3. Policy other than that arising from NPSs is capable of being important and relevant. The compliance or otherwise of the Proposed Development with the relevant development plan policies is identified and analysed further in relation to the individual topics in the following Chapters. Weight has been given to development plan policies in accordance with the stage reached in the plan-making process as indicated in paragraph 5.10.73 of NPS EN-1.

4.7. APPLICATION OF OTHER POLICIES

- 4.7.1. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It is a material consideration for local planning authorities when making planning decisions for development under the Town and Country Planning Act 1990.

- 4.7.2. The NPPF and the National Planning Practice Guidance can be important and relevant considerations in decisions on NSIPs, but only to the extent relevant to that project.
- 4.7.3. The ExA considered some parts of the NPPF to be important and relevant to this application and considered appropriate matters in the Examination, as highlighted in the topic sections of this Report that follow.

4.8. ENVIRONMENTAL IMPACT ASSESSMENT

Introduction

- 4.8.1. For reasons set out at section 1.5 of this Report, the application is for EIA development in terms of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations). This section records:
- the documents that comprise the Environmental Statement (ES) and the changes made to those documents during the Examination;
 - the environmental management documents proposed by the Applicant to work in tandem with DCO provisions to secure the construction and operation of the Proposed Development within the parameters assessed in the ES, and the application of mitigation measures that were relied on when undertaking the EIA.
- 4.8.2. It concludes on the question of whether the EIA process and the submitted ES provide an adequate basis for decision making by the Secretary of State.

The submitted and final Environmental Statement

- 4.8.3. An ES ([APP-116] to [APP-486]) and a non-technical summary [APP-487] (the 2019 ES) were provided with the application.
- 4.8.4. Some clarifications and amendments were made to the 2019 ES during the course of the Examination in response to the changes to the Proposed Development discussed in Chapter 2, and in response to requests and questions from the ExA and submissions from IPs. The detail and reasoning for such amendments were recorded at each deadline in the Applicant's Schedule of Changes (for example [REP1-089]).
- 4.8.5. The Applicant submitted an ES Addendum at Deadline 1 ([REP1-139] to [REP1-158]) to update the 2019 ES in response to RRs, to provide updates where further information or data had become available, in light of further assessment carried out, and as a result of ongoing consultation. On 15 October 2020, the ExA issued a Rule 17 request [PD-013] for further information on whether the Applicant believed that the submission of the Addendum and the resulting changes introduced a need for any additional notification or consultation under the EIA Regulations.
- 4.8.6. In response [REP3-018], the Applicant noted there were a limited number of circumstances of changed or new conclusions, and, in the main, the ES Addendum did not identify new or different likely significant environmental

effects: where new or different likely significant environmental effects were identified, there was no significant variance from those previously reported.

- 4.8.7. The Applicant highlighted that there is no specific procedure in the EIA Regulations relating to the submission of updated environmental information during the course of an Examination, except where the ExA has expressly asked for it. The Applicant contended that ongoing consultation with Statutory Consultees and IPs, together with the Examination processes (including publication on the project web page of the Planning Inspectorate's National Infrastructure website), ensured procedural fairness and adequate time for all parties to read and respond to the ES Addendum. The ExA had no concerns in this regard.
- 4.8.8. At Deadline 3, the Applicant submitted a request for changes to the Order limits, including one plot of additional land (change request 1). The information provided [REP3-016] included a section on the impact of the changes on the ES. The Applicant concluded that the proposed changes would not generate new or different likely significant environmental effects, but that they would avoid some effects previously identified.
- 4.8.9. The documentation submitted with change request 2 also included environmental information [AS-055] and a section on the impacts of the changes on the ES. Change request 2 included the addition of two copses to the Order limits to facilitate additional mitigation management for a faster than expected rate of progression of ash die-back disease around the proposed converter station site.
- 4.8.10. The Applicant submitted a second ES Addendum at Deadline 7 ([REP7-067] to [REP7-072]) for similar purposes to the first, including the addition of information and assessment relating to a new marine cable crossing and further information on the implications of ash die-back disease and a consequential evolution of the landscape and visual future baseline, assessment and mitigation proposals.
- 4.8.11. Given the complexity of ES documents in the application, and the number and diversity of related additional documents submitted during the course of the Examination, the ExA sought clarity over the list of documents that comprised the ES, and how these were to be secured through the DCO. Through a Rule 17 letter [PD-013], the ExA requested the Applicant to submit a schedule of documents that formed the ES at Deadline 3. This was provided [REP3-017], followed by updates at Deadlines 5, 6, 7, 8 and 9. The documents that comprise the final ES at the close of Examination are listed in the Deadline 9 version of the Applicant's Schedule of Documents Forming the Environmental Statement [REP9-012].
- 4.8.12. Rather than listing each of the many documents that comprise the ES in Schedule 14 of the Recommended DCO (the documents and plans for certification (Article 43)), the ExA agreed with the Applicant that the final Schedule of Documents Forming the Environmental Statement [REP9-012] should be included in Schedule 14, thus indirectly securing the full list of ES documents for certification.

- 4.8.13. The ExA is satisfied that the ES Addenda submitted with the two material change requests did not result in materially different outcomes in terms of significance of effects, and that their publication on the project page of the Planning Inspectorate's National Infrastructure website and other Examination procedures provided all parties with sufficient opportunity to read and comment on them. The ExA is content that the list set out in the Deadline 9 version of the Schedule of Documents Forming the Environmental Statement is correct and that it accurately encompasses the documents that comprise the ES.

The outline management plans

Mitigation route mapping

- 4.8.14. The ES relies on mitigation measures to ensure that the effects of the Proposed Development are restricted to those described in the ES. Those measures that are not inherent in the design of the Proposed Development are transferred into a series of outline management plans and strategies that would be detailed and finalised post-consent, to be secured through the discharge of various Requirements. The final versions of each plan would need to accord with the corresponding outline plans. The approval of the detailed plans post-consent would largely determine the detail of the mitigation measures to be implemented, in accordance with the framework set out in the outline plans.
- 4.8.15. The ES provided with the application was supported by the following outline management plans:
- Surface Water Drainage and Aquifer Contamination Mitigation Strategy (Appendix 3.6 of the ES) [APP-360];
 - Marine Archaeology Outline Written Scheme of Investigation (Appendix 14.3 of the ES) [APP-397];
 - Framework Traffic Management Strategy (Appendix 22.1A of the ES) [APP-449];
 - Framework Construction Traffic Management Plan (Appendix 22.2 of the ES) [APP-450];
 - Marine Outline Construction Environment Management Plan [APP-488];
 - Onshore Outline Construction Environment Management Plan [APP-505];
 - Outline Landscape and Biodiversity Strategy [APP-506].
- 4.8.16. The ExA was unclear in some cases how the various outline plans and strategies included or mentioned in the application documents worked together to ensure that all necessary mitigation would be carried through to a final set of approved documents. Some were appended to the Outline Onshore and Marine Outline Construction Environment Management Plans (CEMPs), but others were not, and did not appear to be secured through the draft DCO. There were also numerous inconsistencies and typographical errors. In addition, it was not clear that some measures

described as 'embedded' were actually secured through the basic design of the Proposed Development without additional consideration and action.

- 4.8.17. A Mitigation Schedule [APP-489] had been provided, but the ExA found it difficult to understand how the plans and strategies integrated with it, and it lacked the clarity of a full mitigation route map.
- 4.8.18. The ExA therefore included questions in ExQ1 [PD-011] about the Mitigation Schedule and the outline plans and strategies, and how they worked together to achieve the stated purpose. The Applicant was asked to review the proposals for the outline plans and frameworks, the draft DCO, and corresponding detailed management plans to provide a clearer audit trail and to demonstrate that the ExA and Secretary of State could be confident that all necessary mitigation measures relied on in the EIA and HRA could be properly secured through this mechanism.
- 4.8.19. In response, the Applicant informed the ExA that a review of all mitigation measures required for the Proposed Development as outlined in the ES and HRA had been completed. Updated versions of the Mitigation Schedule, Onshore Outline CEMP and Outline Landscape and Biodiversity Strategy were submitted at Deadline 2, demonstrating how the necessary mitigation measures could be secured through the plans and the draft DCO Requirements.
- 4.8.20. Incremental improvements continued to be made during the course of the Examination. The final version of the Mitigation Schedule submitted at Deadline 8 [REP8-019] included further refinements, taking account of both sets of written questions from the ExA. It also reflected the ES Addendums and the updates to the various outline plans and strategies submitted after Deadline 2. The Mitigation and Control Chart at Appendix 1 set out the process in detail.
- 4.8.21. The ExA undertook several reviews of mitigation measures and by the close of the Examination was satisfied that there was a suitable audit trail between the ES, the Requirements and the relevant control documents.
- 4.8.22. As explained in section 7.4.45 of this Report, an Employment and Skills Strategy was also submitted by the Applicant at Deadline 7.

Monitoring

- 4.8.23. The ExA also had concerns about a lack of information relating to the proposed triggers and remedial measures should monitoring demonstrate that certain mitigation measures were found to fall short of predicted effectiveness. A question to the Applicant on this matter was included in ExQ1 [PD-011].
- 4.8.24. In response, the Applicant undertook a review of the various types of monitoring to be secured through the Onshore Outline CEMP [APP-505] and draft DCO [APP-019]. This identified all instances where non-compliance might occur, and where ongoing monitoring and remedial measures may need to be taken. These, plus the triggers for such

measures were set out in Table 7.1 of the Onshore Outline CEMP [REP9-005]. The ExA considered the matter appropriately addressed.

Mitigation mapping and management plans and strategies at the close of the Examination

- 4.8.25. The final versions of the outline management plans, strategies and similar control documents are listed in Schedule 14 of the Applicant's Deadline 9 draft DCO [REP9-003]:
- Onshore Outline Construction Environment Management Plan [REP9-005];
 - Outline Marine Construction Environment Management Plan [APP-488];
 - Outline Landscape and Biodiversity Strategy [REP8-015];
 - Marine Archaeology Outline Written Scheme of Investigation (Appendix 14.3 of the ES) [APP-397];
 - Framework Traffic Management Strategy [AS-072];
 - Framework Construction Traffic Management Plan [AS-074];
 - Employment and Skills Strategy [REP7-077].
- 4.8.26. The following documents are included as appendices to the ES, and are also listed in the draft DCO Schedule 14 [REP9-003]:
- Surface Water Drainage and Aquifer Contamination Mitigation Strategy (Appendix 3.6) [APP-360];
 - Marine Archaeology Outline Written Scheme of Investigation (Appendix 14.3 of the ES) [APP-397].
- 4.8.27. The ExA is satisfied that the mitigation route mapping is now comprehensive, such that the Secretary of State can rely on it in reaching a decision, and that there is sufficient clarity for the authorities that would ultimately be responsible for discharge of Requirements and DML conditions to understand the scope and necessary detail that would be needed in the detailed management plans submitted to them for that purpose.

Adequacy of the EIA process and ES

- 4.8.28. The EIA Regulations require the identification of likely significant effects. The Applicant adopted a dual approach to determining significance in the ES. A matrix of magnitude of change against value (or sensitivity) of receptor was used for most topics to generate a descriptor of significance of effect [APP-119], the range being 'major', 'moderate', 'minor', or 'negligible'. This is common and accepted practice in EIA. However, for some topics the ES went on to explain that only effects of moderate, moderate/ major and major significance were deemed significant for the purposes of the assessment. In some case, effects of minor significance and some of moderate significance were concluded not to be significant 'in terms of the EIA Regulations'. The ExA was unclear as to the status of the

'not significant, significant effects', whether all likely significant effects had been properly identified, and the threshold at which mitigation was considered to be required.

- 4.8.29. At ExQ1 [PD-011] the Applicant was asked to explain further the approach to the determination of significance of effects, and to demonstrate that mitigation had been considered and applied consistently across all EIA topics and all likely significant effects, even those identified as being 'slight'. In the question, the ExA noted that the EIA Regulations require '*a description of the likely significant effects of the proposed development on the environment*', that they do not define 'significant', and that effects of minor and moderate significance are inherently significant.
- 4.8.30. The ExA was not content with the response received to ExQ1 [REP1-091] on this matter and pursued it further at ExQ2 [PD-031], requesting evidenced assurance that significance and the need to apply mitigation was applied consistently across all EIA topics, even to those likely effects identified as being 'slight' or considered 'not significant in EIA terms'.
- 4.8.31. The Applicant explained further [REP7-038] that the determination of likely significant effects and the need for mitigation was applied consistently across all EIA topics. Wherever possible, mitigation had been applied, including, where appropriate, to potential adverse effects that were deemed not to be significant.
- 4.8.32. There were few substantive submissions from IPs during the Examination in relation to the EIA process or the format of the ES, though there were numerous disagreements regarding the detailed assessment findings. These are considered in the relevant sections of later Chapters of this Report.

Conclusions on the EIA process and the ES

- 4.8.33. In reaching the overall conclusions and recommendation set out in this Report, the ExA has considered all documentation relevant to the EIA in the context of the requirements of the EIA Regulations.
- 4.8.34. The ExA is satisfied that, with the incremental improvements made and additional safeguards provided during the course of the Examination, the final documentation represents a compliant ES that enables the Secretary of State to take a decision in conformance with the EIA Regulations.

4.9. HABITATS REGULATIONS ASSESSMENT

- 4.9.1. The Conservation of Habitats and Species Regulations 2017 as amended, the Conservation of Offshore Marine Habitats and Species Regulations 2017 as amended, and the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (the Habitats Regulations) are relevant to this application as the marine cabling element of the Proposed Development crosses one SAC, two SPAs and one Ramsar site. Other nearby National Network and Ramsar sites were also identified by the Applicant as potentially being affected.

- 4.9.2. Thus, the Proposed Development has been identified as giving rise to likely significant effects on European sites so will require an appropriate assessment by the Secretary of State. The Applicant provided a Habitats Regulations Assessment Report with the application ([APP-491] to [APP-504]), and this was updated over the course of the Examination. The final version was submitted at Deadline 8 [REP8-020]. Some figures and appendices were also updated during the Examination and the final versions of each are listed in the Applicant's Application Document Tracker [REP9-002].
- 4.9.3. The ExA has considered all matters and documentation relevant to the HRA as required by Section 4.3 of NPS EN-1 and taken it into account in the conclusions reached later in this Report. Chapter 8 sets out full details and the ExA's considerations and recommendations in relation to it.
- 4.9.4. The ExA is satisfied that the HRA evidence submitted with the application and over the course of the Examination provides an adequate basis on which the Secretary of State can fulfil the duties of the competent authority.

5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PRINCIPLE OF, AND NEED FOR THE PROPOSED DEVELOPMENT, AND CONSIDERATION OF ALTERNATIVES

5.1. INTRODUCTION

5.1.1. This Chapter looks at the principle of, and the need for the Proposed Development, and goes on to examine the Applicant's consideration of alternatives.

5.1.2. The Proposed Development consists of the AQUIND Interconnector, a project in the field of energy, though not of a type that falls into the section (s)14 categories of the Planning Act 2008 (the PA2008). It also includes elements that relate to commercial telecommunications. The Proposed Development was dealt with as an NSIP by virtue of a s35 Direction by the Secretary of State [APP-111] that responded to a request for such a Direction from the Applicant [AS-036].

5.1.3. This Chapter is in three parts:

- the need for the electricity interconnector;
- the need for the commercial use of the fibre-optic cables;
- alternatives to the Proposed Development.

5.2. THE PRINCIPLE OF, AND NEED FOR THE ELECTRICITY INTERCONNECTOR

Introduction

5.2.1. This section focuses on the need for the electricity interconnector. It considers the general policy position of the UK Government in relation to energy, and policy matters relating to interconnection between the UK and other countries and electricity markets.

Policy considerations

5.2.2. The s35 Direction [APP-111] directs that the Overarching National Policy Statement for Energy (NPS EN-1) has effect for the Proposed Development.

5.2.3. The need for new energy Nationally Significant Infrastructure Projects is set out in Part 3 of NPS EN-1. This confirms that the Secretary of State must assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that there is a demonstrated need for them. The Government's wider objectives for energy infrastructure include contributing to sustainable development, to address climate change, and to ensure the well-being of society and the

economy. By way of example, it is recognised that the availability of appropriate infrastructure supports the efficient working of the market, ensuring competitive prices for consumers.

- 5.2.4. Paragraph 3.3.1 notes that electricity meets a significant proportion of the UK's energy needs and that reliance on it is likely to increase. It is critical that the UK continues to have reliable supplies of electricity through the transition to a low carbon economy. There is a need to meet demand from a mix of technologies, including a greater proportion of low carbon generation, to reduce reliance on one type of technology or fuel.
- 5.2.5. Part 4 sets out assessment principles. Given the urgent need for infrastructure of the types covered by the energy NPSs, consideration of applications for development consent should start with a presumption in favour of granting consent unless more specific and relevant policies in the NPSs indicate that consent should be refused.
- 5.2.6. The Energy White Paper, *Powering our Net Zero Future* (Secretary of State for Business Energy and Industrial Strategy, 2020) (the Energy White Paper) published during the Examination alongside the report *Impact of Interconnectors on Decarbonisation*, confirms the Government's commitment to greater interconnection with the European energy market and to increase the supply of electricity via this method of transfer. These documents indicate that the withdrawal of the UK from the European Union (EU) is not a barrier to the pursuit of interconnection projects.

The Applicant's case

- 5.2.7. The Applicant's principal submissions are set out in:
- Needs and Benefits Report [APP-115];
 - Environmental Statement (ES) Chapter 2 Consideration of alternatives [APP-117];
 - ES Chapter 3 Description of the Proposed Development [APP-118];
 - ES Chapter 28 Carbon and climate change [APP-143].
- 5.2.8. Documents relating to need subsequently submitted into the Examination by the Applicant include:
- Addendums to the Needs and Benefits Report ([REP1-136] and [REP7-064]);
 - Applicant's written summaries of oral submissions at Issue Specific Hearings 1, 2 and 3, and Compulsory Acquisition Hearings 1 and 2 [REP6-062];
 - Applicant's responses to Examining Authority's (ExA) further written questions [REP7-038];
 - Applicant's Written Summary of the Oral Case at Open Floor Hearing 3 and Compulsory Acquisition Hearing 3 [REP8-056];

- Applicant's Post-Hearing Notes [REP8-057];
- Applicant's Post-Hearing Notes Appendix 6 Technical Note – Consideration of Alternatives [REP8-063];
- Applicants response to Deadline 7c submissions [REP8-064].

5.2.9. The Applicant explains that the current interconnector capacity between the UK and neighbouring European nations is approximately 4 Gigawatts (GW). The National Grid and the Office of Gas and Electricity Markets (Ofgem) report that greater levels of interconnection would be socially beneficial. There is a residual gap to meeting the EU-wide targets that could be bridged by the AQUIND Interconnector [APP-115].

5.2.10. The Applicant submits that electricity interconnectors contribute to the security and flexibility of the electricity system, enabling cheaper sources of generation to be utilised and shared across borders, thus reducing the costs of meeting electricity demand. The AQUIND interconnector could provide an additional 2,000 Megawatts (MW) of interconnection between France and Great Britain, transmitting up to 16,000,000 Megawatt hours (MWhrs) of electricity per year, which equates to approximately 5% of the UK's current annual electricity consumption.

5.2.11. The Applicant suggests that electricity interconnectors, and the AQUIND Interconnector specifically, are essential to achieving the three frequently conflicting goals of energy policy, by reducing the total cost of generation, by helping renewables integration and by improving the security of energy supply. The Applicant therefore contends that the Proposed Development is needed to meet the requirement for at least 113GW of electricity generating capacity by 2025⁷ and to increase competition in the UK energy market, making energy more affordable. The Applicant asserts that the interconnector would help integrate renewable energy sources into the domestic markets of the UK and France [APP-115].

5.2.12. Finally, the Applicant draws on NPS EN-1, the *Clean Growth Strategy* (published in 2017 by the Department of Business, Energy and Industrial Strategy), the *National Infrastructure Assessment* (published in 2018 by the National Infrastructure Commission), and the *National Energy and Climate Plan* (published in 2019 by the Department of Business, Energy and Industrial Strategy) to recognise that interconnection is likely to become increasingly important and to offer a range of benefits.

5.2.13. The Applicant's response [REP7-038] to the ExA's further written questions (ExQ2) included direct reference to the Energy White Paper and *Impact of Interconnectors on Decarbonisation* (December 2020). It quoted from the Energy White Paper:

'...Government will work with Ofgem, developers and European partners to realise at least 18GW of interconnector capacity by 2030 (from the current capacity of 5GW).'

⁷ Paragraph 3.3.2, NPS EN-1

- 5.2.14. The Needs and Benefits Report Addendum [REP7-064] goes into further detail on the role of interconnectors, with the Executive Summary pointing to the importance of interconnectors for the energy mix post-Brexit.

UK energy markets – grid connection and decentralisation

- 5.2.15. The Needs and Benefits Statement Addendum [REP7-064] confirmed that significant progress has been made in recent years in the UK in reducing carbon emissions from power generation. Renewable generation has expanded, and fossil fuel generation has contracted. NPS EN-1 predicts increasing demand for electricity as significant sectors of industry, housing and transport move towards electrification. To ensure security of supply, sufficient electricity generating capacity needs to be available to meet maximum peak demand with spare capacity to accommodate unexpectedly high demand or plant failures. Power demand and supply also needs to be balanced to maintain voltage levels and system frequency.
- 5.2.16. At paragraph 3.3.29, NPS EN-1 explains that the Government does not believe that decentralised and community energy systems are likely to lead to significant replacement of larger-scale infrastructure. Interconnection of large-scale, centralised electricity generating facilities through a high voltage transmission system enables the pooling of both generation and demand, which in turn offers economic and other benefits. This includes more efficient bulk transfer of power that enables surplus generation capacity in one area to be used to cover shortfalls elsewhere.
- 5.2.17. NPS EN-1 paragraph 4.9.1 notes that grid connection is an important factor in an energy project, and the availability of efficient grid connections allows projects to come forward at lower costs to consumers. The Applicant submits that the location of the Proposed Development has the strong advantage of a secured, adjacent grid connection facility.

Planning issues

Relevant Representations

- 5.2.18. The need for the Proposed Development was questioned by Interested Parties (IPs) through Relevant Representations (RRs), which raised, *inter alia*, the following issues:
- the need to rely on Europe for energy after Brexit [RR-046];
 - whether the source of imported energy could be verified as being green or renewable [RR-010];
 - no benefits to the local community [RR-043].
- 5.2.19. The Applicant's response was to affirm that the national need for interconnectors is not diminished in any way by the UK's departure from the European Union [REP1-160]. The Applicant later confirmed that the Trade and Cooperation Agreement (TCA) between the United Kingdom

and the EU commits both parties to facilitating the timely development and interoperability of energy infrastructure connecting their respective territories (i.e. interconnectors) [AS-069].

- 5.2.20. In respect of benefits to the community, the Applicant considered that a compensation or community-based fund was not required to mitigate the effects of the Proposed Development, and that the Needs and Benefits Report [APP-115] and its Addendums made clear how the public would benefit from electricity interconnection [REP1-160]. Development Consent Obligations submitted by the Applicant at Deadline 8 are discussed in the relevant Chapters later in this Report.

Local Impact Reports

- 5.2.21. In their Local Impact Reports (LIRs), East Hampshire District Council, Portsmouth City Council and the South Downs National Park Authority, whilst not supporting the application, did not directly challenge or question the need for the Proposed Development or the relevant provisions of NPS EN-1.
- 5.2.22. Havant Borough Council [REP1-169] and Hampshire County Council [REP1-167] noted the benefits that could arise from the Proposed Development, including the potential for improved resilience of energy supply for the United Kingdom and France, increased competition in the energy market and the scope to continue to reduce the reliance on non-renewable, carbon-intensive sources of energy supply.
- 5.2.23. Winchester City Council [REP1-183] questioned whether the net carbon benefit figure was reliable, as it appeared to assume continued nuclear generation in France and ongoing displacement of fossil fuel generation in the UK. It noted that the balancing exercise regarding the national need rests with the Secretary of State.

Other representations to the Examination

- 5.2.24. Susan Caffrey, an IP, highlighted a speech by the Prime Minister that committed to future energy production by wind farms [REP5-148]. The Applicant noted in response that support for more electricity interconnector projects was set out in Government statements, as summarised in the Needs and Benefits Report Addendum [REP7-064].
- 5.2.25. Viola Langley, an IP and on behalf of the 'Let's Stop Aquind Group', queried some of the Applicant's assertions, including whether the target of net zero by 2050 increases electricity demand and what regulatory powers would be employed to ensure costs to consumers are lower [REP7-126]. The Applicant's response was that the first point represented a view in the Energy White Paper, and that Ofgem has the remit of protecting UK consumers and delivering a net zero economy at lowest costs to consumers [REP7c-012].
- 5.2.26. Some IPs raised issues about need and the principle of development at Open Floor Hearings 1 and 2 ([EV-014] to [EV-019]).

- 5.2.27. The ExA posed written questions to the Applicant and local authorities seeking information about the applicability of key Government policy and guidance [PD-031]. There were mixed views from IPs as to the weight to be given to each document, though the content in itself was not raised as an issue (for example, Hampshire County Council [REP7-084]).

ExA response

- 5.2.28. Part 3 of NPS EN-1 notes that the UK needs all types of energy infrastructure in order to achieve energy security and directs the ExA to assess an energy application on the basis that the Government has demonstrated a need for those types of infrastructure. Substantial weight should be given to the contribution that projects make towards meeting that need.
- 5.2.29. The Applicant has set out a compelling case for the Proposed Development in the public interest in its Needs and Benefits Report [APP-115] and its Addenda [REP1-136] and [REP7-064]. The 2GW capacity of the AQUIND Interconnector would contribute towards the desired increase in interconnection capacity expressed by the Government in the Energy White Paper and by Ofgem [APP-115].
- 5.2.30. Although a number of representations (for example, [REP7-126]) suggest that the Proposed Development is not needed, it is the ExA's view, taking the totality of Government policy and guidance, that there remains a strong need for a mix of energy projects and that mix should include a greater capacity for interconnection, as confirmed as being in the region of 18GW in the Energy White Paper.

Conclusions on the electricity interconnector

- 5.2.31. There is no substantive evidence from any IPs that undermines the credibility of the Applicant's case nor that disproves the need for the Proposed Development. There are no matters that the ExA has found to be important or relevant to indicate against the applicability of the need case or the contribution the Proposed Development would make towards meeting that need.
- 5.2.32. In relation to electricity interconnection aspects, the ExA is satisfied that there is a demonstrated need for the Proposed Development in accordance with NPS EN-1.

5.3. THE PRINCIPLE OF, AND NEED FOR THE PROPOSED COMMERCIAL TELECOMMUNICATIONS DEVELOPMENT

Introduction

- 5.3.1. Fibre-optic cable would be laid in conjunction with the High Voltage Direct Current cables along the entire onshore and offshore route. The fibre-optic cable is an integral part of the operation of the Proposed Development as it provides the ability to monitor the electricity cables for

temperature and vibration, two indicators of a fault. The fibre-optic cable also permits direct telecommunications contact between the converter stations in the UK and France. In Chapter 3 of the ES [APP-118], the Applicant describes:

'the FOC will monitor the operational performance of the Marine Cables. Temperature and vibration monitoring will be undertaken to monitor the performance of the cable...'

- 5.3.2. An optical regeneration station is proposed to amplify and enhance the signals across the English Channel. This would be built where the cables make landfall on Portsea Island, and would comprise two buildings, each with a footprint of some 40m².
- 5.3.3. The Applicant noted that the industry standard fibre-optic cable bundle that would be used comprises 192 fibres, of which only 20% would be required to support the interconnector monitoring function, providing spare fibres as a contingency should a proportion fail during installation. Therefore, a surplus of 80% of fibres is said to be inherent in the design.
- 5.3.4. The Applicant proposes to utilise the surplus fibres for commercial telecommunications. To facilitate this, a separate compound is proposed near to, but outside, the security fence of the proposed converter station at Lovedean with two telecommunications buildings, each with a footprint of approximately 32m². In the absence of the commercial telecommunication proposal, the necessary equipment could be housed in the main control building at the converter station and this separate facility would not be required.
- 5.3.5. The Applicant estimated that two thirds of the footprint of the optical regeneration station at the landfall would be dedicated to commercial telecommunications.
- 5.3.6. The draft Development Consent Order (DCO) therefore seeks approval for the inclusion of the telecommunications buildings, the commercial use of the surplus capacity in the fibre-optic cable and part of the optical regeneration station for commercial telecommunications. During the Examination, it was confirmed that AQUIND Limited had applied for and obtained the status of a Code Operator under the Communications Act 2003.

Policy considerations

- 5.3.7. The Applicant specifically included the commercial use of the surplus fibre-optic cables in the description of the Proposed Development in its request for a s35 Direction [AS-036]. The s35 Direction from the Secretary of State for Business, Energy and Industrial Strategy [APP-111] directs that the Proposed Development and any development associated with it be treated as development for which development consent is required, and that NPS EN-1 should apply.
- 5.3.8. Therefore, while there are no provisions in National Policy Statements that apply to commercial telecommunications directly, NPS EN-1 applies

to the whole of the Proposed Development in this case by virtue of the Direction.

The Applicant's case

5.3.9. The principal relevant documents submitted by the Applicant are:

- ES Chapter 3 Description of Development [APP-118];
- Planning Statement [APP-108];
- Needs and Benefits Report [APP-115];
- Correspondence regarding the Secretary of State's s35 Direction ([AS-036] to [AS-042]).

5.3.10. During the Examination, the Applicant supplemented its case with (*inter alia*):

- Statement in Relation to Fibre-optic Cable [REP1-127];
- Oral Transcripts for Issue Specific Hearing 1 on the draft Development Consent Order [REP5-058];
- Applicants Responses to Deadline 5 Submissions [REP6-069];
- Applicant's Response to Further Written Questions [REP7-038];
- Applicants Responses to Deadline 6 Submissions – Hearings [REP7-074].

5.3.11. The Applicant's position is set out in [REP1-127] and relates principally to the s35 Direction issued by the Secretary of State for Business, Energy and Industrial Strategy ([AS-039] and [AS-041]). In summary, that position can be summarised as follows.

5.3.12. The request for a s35 Direction made by the Applicant included a description of development comprising:

'two pairs of underground high voltage direct current (DC) cables together with smaller diameter fibre optic cables for data transmission from the proposed landfall site in Eastney (near Portsmouth) to the converter station at Lovedean, approximately 20km in length. The intention is to locate the cables within existing highway or road verges where practicable. Signal enhancing and management equipment may also be required along the land cable route in connection with the fibre optic cables.'

5.3.13. The request also includes the following in paragraph 3.12:

'It is also the intention of AQUIND when seeking development consent for AQUIND Interconnector to seek development consent to use the spare fibre optic cable capacity for the provision of commercial telecommunications services. Development consent for this commercial telecommunications use would be sought on the basis that it is associated development in accordance with Section 115 of the Act.'

5.3.14. The Applicant relies on the wording of the s35 Direction:

'THE SECRETARY OF STATE DIRECTS that the proposed Development, together with any development associated with it, is to be treated as development for which development consent is required...'

5.3.15. Therefore, the Applicant contends that irrespective of whether the commercial use of the fibre-optic cable constitutes 'Associated Development', as defined in Section 115 of the PA2008, it has already been confirmed that such development is to be treated as development for which development consent is required.

5.3.16. In response to the ExA's first written questions (ExQ1) [PD-011], the Applicant confirmed the following key points:

- whilst it would be possible to install a cable with fewer fibres, this would not reduce the impacts to any degree and would not realise the full benefits of the design capacity of the Proposed Development;
- the Needs and Benefits Report Addendum [REP1-136] notes that additional fibre-optic cable capacity will almost certainly be required between France and the UK over the next decade and beyond, as a result of improvements in telecommunications infrastructure and increasing reliance on data-intensive technologies and services;
- the delivery of AQUIND Interconnector is not reliant on the revenue from the commercial use of the fibre-optic cable;
- whether the use of the fibre-optic cable for commercial telecommunications purposes is development for which development consent is required or Associated Development, there is no legal impediment to this being included in the Deemed Marine Licence (DML) included in the Order;
- the optical regeneration station is critical to the operation of the interconnector, required to amplify the signal of the fibre-optic cable which is required for cable control, protection and monitoring purposes.

5.3.17. The Examining Authority (ExA) posed a further question to the Applicant in ExQ2 regarding a possible interpretation of the s35 Direction from the Secretary of State (question DCO2.5.1, [PD-031]). The Applicant's response [REP7-038] was precautionary insofar as:

'the Applicant submits that those buildings which are required solely in connection with the commercial use of the fibre optic cables (the Telecommunications Buildings) and those parts of others which are associated with the commercial use only (so the parts of the optical regeneration stations not provided solely in connection with the operation of the interconnector) are associated development.'

Planning issues

Relevant Representations

- 5.3.18. The main opposition to the use of the surplus fibre-optic cable and the related infrastructure for commercial telecommunications came from Portsmouth City Council [RR-185], Winchester City Council [RR-198], the Parish Council of Denmead [RR-052] and Mr Peter and Mr Geoffrey Carpenter [RR-055] (the Carpenters). The main issues raised were:
- the facilitation of a commercial data cable under Electricity Act 1989 powers is incompatible with that legislation;
 - it is not a necessary part of this project if it is to be treated as a Nationally Significant Infrastructure Project and finds no support in NPS EN-1;
 - the inclusion of data cable is quite clearly commercially motivated and is not 'Associated Development' within the meaning of the PA2008;
 - minimal fibre-optic cables are required for monitoring this interconnector scheme;
 - no other interconnector schemes have an optical regeneration station and there is no justification for it;
 - the Compulsory Acquisition of the land for works associated with the commercial use of the surplus fibre-optic cable capacity is not reasonably necessary for the purpose of the interconnector development and is not proportionate.
- 5.3.19. In response to the RR's, the Applicant restated its case, principally referring back to the Statement in Relation to Fibre-optic Cable [REP1-127]. Matters regarding Compulsory Acquisition of land are dealt with in Chapter 10 of this Report.

Local Impact Reports

- 5.3.20. Portsmouth City Council [REP1-173] raised concern that the car park at Fort Cumberland would be heavily impacted as the proposed location for the landfall and optical regeneration station.
- 5.3.21. Winchester City Council [REP1-183] noted its earlier understanding that the fibre-optic cable and the telecommunication building were needed to communicate between the two converter stations and to monitor the performance of the cable, and that it had only become aware of the commercial element more recently. Winchester City Council sought clarification on Associated Development and how the termination of the commercial element of the fibre-optic cable at Lovedean would be connected to the wider UK telecommunications system.

Other representations to the Examination

- 5.3.22. Several parties sustained their objections to the commercial use of the fibre-optic cable for telecommunications purposes throughout the

Examination and sought removal of the commercial elements from the draft DCO. The Applicant's case was unaltered at the close of the Examination. The final positions for the principal parties in these discussions can be summarised as follows.

- 5.3.23. Key documents submitted by Portsmouth City Council included (*inter alia*):
- Comments on the draft DCO ahead of Issue Specific Hearing 4 [AS-061];
 - Written Representation [REP1-174];
 - Comments on responses at Deadline 2 and the draft DCO [REP3-025];
 - Letter regarding fibre-optic cable and development and Project of Common Interest [REP5-084];
 - Responses to ExQ2 and comments on documents at Deadline 6 [REP7-088];
 - Deadline 8 Submission [REP8-075].
- 5.3.24. The thrust of the Council's argument relates to:
- the commercial use of the spare fibre-optic cable capacity is neither part of the principal development, nor Associated Development;
 - the Council considers as unlawful propositions, the commercial use as part of the electricity cable project, Associated Development to the electricity cable project or a legitimately separate project;
 - the Council objects to the inclusion of the optical regeneration station because the Applicant has not demonstrated why one is necessary at all, and has further conceded that the great majority of the floor space (around two thirds) is required solely for the commercial telecommunications related application of the fibre-optic cable and is not required in respect of the role monitoring and protecting of the electricity cables;
 - other interconnectors of equal or greater length do not have or need an optical regeneration station.
- 5.3.25. Portsmouth City Council queried what the consequences would be if the ExA or the Secretary of State was to conclude that the fibre-optic cable and associated infrastructure was not a legitimate part of the Proposed Development [REP5-084]. At Issue Specific Hearing 1 ([EV-020] to [EV-025]), the Applicant responded to say it would be a simple case of striking out the relevant definitions or parts of the draft DCO relating to the use of the surplus fibre-optic cable capacity for telecommunications purposes and its related infrastructure. The only exception would be the optical regeneration station, as approximately one third of it would still be required to enhance the fibre-optic cable signal between the converter stations in the UK and France.

5.3.26. In response to ExQ2 [PD-031], Portsmouth City Council considered that separate commercial use of the spare capacity in the fibre-optic did not and could not form part of the principal development. In addition, the use and development required to enable that commercial fibre-optic cable use could not be treated as Associated Development within the meaning of the PA2008. The Council believed that the Secretary of State has no power to grant a DCO that includes that separate development and any powers included to acquire land required the telecommunications and the optical regeneration station buildings could be seen as unlawful [REP7-088].

5.3.27. Key documents submitted by Winchester City Council included (*inter alia*):

- Comments on Responses to Deadline 1 [REP2-021];
- Comments on Applicant's Response to Local Impact Reports [REP3-034];
- ExA Further Written Questions No. 2 [REP7-094].

5.3.28. The thrust of the Council's argument can be summarised as:

- the Council did not accept that any reference to Associated Development within the description provided by the Applicant, or in the s35 Direction had closed the need for closer examination of the fibre-optic cable;
- a smaller fibre-optic cable could be installed to provide the necessary communications for the interconnectors to operate;
- two thirds of the capacity of the optical regeneration stations at Eastney and the whole of the telecommunications buildings at Lovedean would be dedicated to the commercial use of the fibre-optic cable - the Council considered this to go beyond the threshold for Associated Development;
- the Applicant's admission that it had obtained the status of a Code Operator under the Communications Act 2003 raised the potential for a subsidiary branch network of telecommunication links and apparatus using the DCO powers;
- the ability to offer a commercial telecommunications facility to locations along the cable corridor had been a disproportionate force behind the choice of the road route for the cables;
- the fibre-optic cable should be stripped from the proposal and the fibre-optic cable elements restricted to ones serving the interconnector alone.

5.3.29. In response to ExQ2 [PD-031], Winchester City Council suggested that the ExA would be applying too liberal an interpretation of the legislation and the intentions of the Secretary of State if it considered the fibre-optic cable to be part of the principal development. The spare fibre-optic cable capacity for which commercial telecommunications are reliant would form

part of the Associated Development. The Council further suggested that, had the Secretary of State known about the 80:20 split in the use of the capacity, the Secretary of State would not have considered the fibre-optic cable to be part of the proposal in any form [REP7-094].

5.3.30. Blake Morgan LLP, on behalf of the Carpenters, submitted several documents to the Examination on this and related subjects. Part of the Carpenters' objection to the use of the surplus capacity of the fibre-optic cable for commercial telecommunications referred directly to the proposed Compulsory Acquisition of land for the telecommunications buildings and compound, and this is dealt with in Chapter 10 of this Report.

5.3.31. This Carpenter's key submissions include (*inter alia*):

- Cover email with Schedule 1 to 5 [REP4-047];
- Written submission in relation to Issue Specific Hearing 1 [REP5-107];
- Oral submission in relation to Compulsory Acquisition Hearing 2 [REP5-108];
- Post-Hearing Note on Scope of Proposed Authorised Development [REP6-135];
- Response by the Affected Party to ExA Further Written Question DCO2.5.1 [REP7-118];
- Scope of the PA2008 Statutory Purposes and the Compulsory Acquisition of AP Land [REP7c-029];
- Post-Hearing Note in Relation to Compulsory Acquisition Hearing 3 [REP8-105].

5.3.32. The party's principal points can be summarised as:

- the Applicant has no legal answer to the clear point that section 14(6) of the PA2008 does not specify 'commercial telecommunications' as one of the specified 'fields' that Parliament has circumscribed that Act as covering and has equally so limited the scope of section 35(2)(a)(i) discretion;
- the ordinary meaning of associated is, '*joined in companionship, function...concomitant; sharing in responsibility or function...but with a secondary or subordinate status*' - the fibre-optic material's future function would be wholly unrelated to the field of energy and would not relate to the function of monitoring of the electricity bearing cables, and as such it does not have a shared function;
- the fibre-optic material for commercial telecommunications cannot come within the legal scope of Associated Development for want of shared function with other fibre-optic cable that would have a function related to the project in the field of energy;
- the presence of fibre-optic material, confined to operational development and therefore devoid of function, could be laid as part of

the Proposed Development and in due course a party could apply for planning permission to change the use of that operational development from a non-use to a commercial telecommunications use.

- 5.3.33. In response to ExQ2 [PD-031], the Carpenters suggested that the ExA dealing with the Swansea Bay Tidal Lagoon DCO application faced similar practical and legal constraints in relation to the definition of Associated Development. It reiterated that there was no evidence that the surplus fibre-optic cable bundles had an essential function, nor that commercial telecommunication was an essential function of the project. It was said to follow that the 'spare capacity' cannot form part of the project in the field of energy and falls outside the scope of sections 31 and 35(2)(a)(i). It could not qualify within the scope of section 115(1) because commercial telecommunications are not related to the field of energy nor to the project.
- 5.3.34. The Carpenters' submissions concluded that the s35 Direction could not be rewritten after the event to encompass development not described by Applicant or the Secretary of State as forming part of the development: nor did it fall into the scope of s35 Direction itself and the application description. Section 35(2)(a) also confines the scope of what may be treated by the Secretary of State as 'development requiring development consent' by use of the phrase 'only if' in addition to the specified fields. Thus, whilst section 35(1) provides a discretion, the discretion is not unlimited and cannot include anything in any type of field that he may envisage regardless of the stated fields [REP7-118].

ExA response

- 5.3.35. The ExA has carefully considered all representations on this matter.

The presence of the fibre-optic cable

- 5.3.36. The laying of fibre-optic cable alongside the electricity cables for use in conjunction with performance monitoring of the electricity cables appears to be acceptable in principle to IPs including Portsmouth City Council [AS-061] and Winchester City Council [REP7-096]. Both seek amendments to the draft DCO to exclude the use of the surplus fibre-optic cable capacity for commercial telecommunications. The Carpenters [REP7-118] consider that the fibre-optic cable could be laid 'devoid of function' for a subsequent planning application to seek use of the fibre-optic cable for commercial telecommunications.
- 5.3.37. The ExA considers the provision and use of the fibre-optic cable for monitoring of the electricity cables to be a legitimate use and within the terms of s115 of the PA2008.

The s35 Direction

- 5.3.38. The ExA has given very careful consideration to the s35 Direction [AS-039] and the Direction request ([AS-036], [AS-038] and [AS-040]).

- 5.3.39. The overall project sits in the field of energy as set out in s35(2)(a)(i) of the PA2008. Once that applies, there are no further constraints on the nature of the development that can be proposed beyond those set out in the s35 Direction and s15 to s21 of the PA2008, or any requirement for every element of the project to be energy related.
- 5.3.40. By virtue of the s35 Direction [AS-036], the development for which development consent is required is that set out in the Direction request. It consists of the elements described in that document, including the offshore data cables (paragraph 3.5.2(A)), the onshore data cables (paragraph 3.5.1(D)) and the construction of a converter station comprising a mix of buildings and outdoor electrical equipment (paragraph 3.5.1(C)).
- 5.3.41. The project description on which the Direction relies states that signal enhancing and management equipment may also be required along the onshore cable route in connection with the fibre-optic cable. Section 3.12 of the Direction request confirms the Applicant's intention to seek development consent to use the spare fibre-optic cable capacity for commercial telecommunications.
- 5.3.42. The wording of the s35 Direction is:
'THE SECRETARY OF STATE DIRECTS that the proposed Development, together with any development associated with it, is to be treated as development for which development consent is required.
(ExA underlining emphasis.)
- 5.3.43. On the basis of the above, all elements of the Proposed Development described in the Direction request are part of the development for which development consent is required, including the commercial use of the surplus fibre-optic cable capacity.
- 5.3.44. The ExA notes the Applicant's expectation in its request for a s35 Direction that the use of the surplus capacity of the fibre-optic cable for commercial telecommunications will be treated as Associated Development. The ExA further notes that the Applicant maintained this position through the Examination.
- 5.3.45. However, the ExA considers that this expectation was overridden and superseded by the Secretary of State's s35 Direction, which makes the use of the surplus capacity of the fibre-optic cable for commercial telecommunications and the associated buildings part of the development for which development consent is required.
- 5.3.46. Notwithstanding the Applicant's position on Associated Development referred to in the previous paragraph, the ExA considers there to be a distinction between the development which is described in the s35 Direction request (which is development for which development consent is required, as the Direction causes it to fall within s115(1)(a) of the PA2008), and the Associated Development proposed as part of the application and set out in Schedule 1(2) of the Applicant's draft DCO,

which falls to be dealt with under s115(2) of the PA2008. As such, the latter has been considered by the ExA as Associated Development and all of the relevant tests have been applied.

- 5.3.47. By extension, given that the commercial use of the surplus fibre-optic cable capacity for commercial telecommunications and the associated buildings are not Associated Development within the meaning of s115(2) of the PA2008, the submissions by the various local authorities and other parties that they fail to meet the tests to be considered as Associated Development have not been considered as relevant by the ExA.
- 5.3.48. In practical terms, should the Secretary of State decide to grant development consent, all parts of the Proposed Development, whether considered development for which development consent is required or Associated Development, would be governed and constrained by the provisions of the made DCO including the Protective Provisions and Requirements, and seeking to make the distinction would therefore have no actual effect.

Conclusions on commercial telecommunications

- 5.3.49. Winchester City Council [REP2-021], Portsmouth City Council [REP1-174] and the Carpenters [REP7-118] submit that the commercial use of the surplus fibre-optic cable capacity for telecommunications purposes has physical and functional separation. The Carpenters emphasise that the Applicant ([EV-020] to [EV-025]) has confirmed that the use of the surplus fibre-optic cable capacity (and related infrastructure) for commercial telecommunications could be legally severed from the draft DCO without affecting the integrity of the Proposed Development.
- 5.3.50. The Applicant ([REP1-127] and [REP1-136]) submits that the relevant aspects can be consented as Associated Development by virtue of the s35 Direction, and there is a need for greater fibre-optic capacity to support a digital future, which the Proposed Development can provide, thereby operating effectively to its design capacity.
- 5.3.51. The ExA notes that the route, size and installation effects of the fibre-optic cable itself would be effectively the same with or without the commercial use of the surplus capacity.
- 5.3.52. The ExA considers that the use of the surplus fibre-optic cable capacity and the related infrastructure (the telecommunications compound at Lovedean and part of the optical regeneration station at Eastney) for commercial telecommunications falls within the description of development for which development consent is required as directed by the Secretary of State. Therefore, it can legitimately be sought, applied for and granted as part of the final DCO for the AQUIND Interconnector, and no consideration of whether it meets the definition of Associated Development is required.
- 5.3.53. Should the Secretary of State determine the ExA's approach to be incorrect, then the Secretary of State would need to decide whether the commercial use of the surplus fibre-optic cable and the associated

buildings qualify as Associated Development under s115 of the PA2008 and the relevant guidance including DCLG's *Guidance on Associated Development Applications for Major Infrastructure Projects* (April 2013).

Conclusions on need

- 5.3.54. The ExA is satisfied that the Applicant has set out a compelling case for the need for the Proposed Development. Given the level and urgency of the need for energy infrastructure, the ExA notes that consideration of applications for development consent should start with a presumption in favour of granting consent unless more specific and relevant policies in the related NPSs clearly indicate that consent should be refused. In light of NPS EN-1, the ExA considers that there is an urgent need for the Proposed Development, and that the need case has been clearly made.
- 5.3.55. The ExA considers the commercial telecommunications aspect of the Proposed Development to form part of the development for which development consent is required by virtue of the s35 Direction. As such, there is no requirement for it to meet the tests for Associated Development. The ExA agrees with the Applicant's contention that it would provide a national benefit and make good use of a surplus capacity of infrastructure that would largely be built as part of the Proposed Development in any case. In reaching this conclusion, the ExA has taken into account the need for the telecommunications buildings at Lovedean and the extended optical regeneration station at the Eastney landfall, the effects of which are considered later, in Chapters 6 and 7.

5.4. CONSIDERATION OF ALTERNATIVES

Introduction

- 5.4.1. Several matters arose during the Examination relating to pre-application alternatives for locating the converter station, the choice of landfall and the cable routing between these two points.
- 5.4.2. There also remained, at the close of the Examination, two alternatives for the micro-siting of the converter station.
- 5.4.3. This section considers these alternatives insofar as they are important and relevant to this application.

Policy considerations

- 5.4.4. The Overarching National Policy Statement for Energy (NPS EN-1) states that:

'From a policy perspective this NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option.'

- 5.4.5. In terms of alternatives, NPS EN-1 advises that their relevance is, in the first instance, a matter of law and that alternatives that are not among the main alternatives studied by the Applicant, as reflected in the ES,

should only be considered if they are believed to be important and relevant to the decision. If an application gives rise to adverse impacts, alternative options could be important and relevant considerations. Where there is a policy or legal requirement to consider alternatives, this should be done in a proportionate manner and in consideration of whether there is a realistic prospect of the alternative delivering the same infrastructure in the same timescale.

- 5.4.6. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations) require the ES to include a description of the reasonable alternatives studied by an applicant, which are relevant to the Proposed Development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment.

The Applicant's case

- 5.4.7. Chapter 2 of the ES [APP-117] detailed the Applicant's consideration of alternatives. Further documents relating at least in part to the matter included:
- ES Appendix 2.4 Summary of Onshore Cable Route Alternatives [APP-353];
 - ES Appendix 2.5 Assessment and Comparison of Environmental Impacts associated with Converter Station options [APP-354];
 - ES Addendum Supplementary Alternatives Chapter [REP1-152];
 - Applicant's Post-Hearing Notes Appendix 6 Consideration of Alternatives (Connections) [REP8-063].
- 5.4.8. The Applicant engaged with National Grid Electricity Transmission (NGET) to carry out feasibility studies to identify the available level of entry capacity to the Great Britain transmission network, required reinforcements and potential connection locations in the south of England within reasonable reach of the coast. Paragraph 2.4.22 of Chapter 2 of the ES [APP-117] set out the technical criteria underpinning the feasibility studies.
- 5.4.9. Ten substations on the 400kV transmission network were identified as potential connection points, but seven were discounted because of the limited thermal capacity of substations, the technical capability to extend them to provide the required thermal capacity, or difficulties with onshore and offshore cable routing. The three remaining substations, Lovedean, Chickerell and Bramley, were scoped for technical, geographical and environmental considerations, as summarised in Table 2.2 of Chapter 2 of the ES [APP-117]. The final choice for grid connection was Lovedean Substation as it was the most efficient, coordinated and economical.
- 5.4.10. A subsequent assessment determined that the converter station for the interconnector should be close to the Lovedean Substation. Two options

remained in the draft DCO for the converter station, referred to as option B(i) and option B(ii). The latter is geographically closer to Lovedean Substation, whilst B(i) is further west, though the options overlap to a significant extent. The final site selection is subject to an agreement with NGET over the land required for option B(ii), which the Applicant states to be its favoured option if agreement can be reached for the land.

- 5.4.11. The Applicant identified 29 potential landfall sites in a mapping exercise, then undertook a study to assess the engineering parameters for each. The landfall sites were ranked, and the results are shown in Table 2.3 of Chapter 2 of the ES [APP-117]. The six within 35km of the Lovedean Substation were considered in greater detail. Site visits determined that the beach at Eastney was the most appropriate location for a landfall, but East Wittering and Hayling Island remained feasible options at that stage.
- 5.4.12. The Applicant decided to underground the onshore cable at an early design stage. Paragraph 2.4.6.5 of the ES [APP-117] sets out the search parameters used for the routing study from the converter station to the landfall. Four cable routes were identified as potentially feasible, but those to East Wittering and Hayling Island were discounted due to technical difficulties and environmental effects. Of the routes to Eastney, following studies and feedback from Portsmouth City Council, route '3D', the shortest and most economical, was deemed feasible but potential environmental constraints required careful consideration. The Applicant determined that the other options were not feasible.
- 5.4.13. The Applicant submitted (section 2.7 of the ES [APP-117]) that the multi-disciplinary assessment and consideration of reasonable alternatives took into account the specific characteristics of the Proposed Development, and the main reasons for selecting the chosen options had been explained.
- 5.4.14. The Applicant considered that other 'countryside' route options proposed by Winchester City Council, Havant Borough Council and Hampshire County Council to avoid using the A3 highway corridor would not be feasible or practical, particularly as they could sterilise or prejudice the delivery of the West Waterlooville Major Development Area [REP3-014].

Planning issues

Relevant Representations

- 5.4.15. Several RRs from statutory consultees and members of the public raised the Applicant's assessment of alternatives. These included:
- whether the assessment of alternatives in the 2014 NGET feasibility study took account of the impact of the various options on the statutory purposes of the South Downs National Park [RR-049];
 - a cable route across the open countryside to the west of the A3 had not been properly assessed as an alternative to the road route [RR-198];

- Portsmouth is the most highly populated island city in Britain, and there are many less populated areas on the southern coast - these need to be looked at instead of Portsmouth [RR-085];
- the ES did not provide a robust justification for discounting options and locations [RR-185];
- Hayling Island is discounted for the same constraints that apply to the Proposed Development [RR-185].

5.4.16. In response, the Applicant provided a supplementary alternatives chapter [REP1-152] setting out further reasoning on the technical, physical and environmental constraints behind the selection of the grid connection point and the onshore cable corridor route, and the discounting of a Hayling Island option. The Applicant noted that the decisions taken regarding the reasonable alternatives studied in respect of the options for the Proposed Development could not be taken in isolation from one another and contended that the optioneering was robust.

Local Impact Reports

- 5.4.17. East Hampshire District Council [REP1-161] raised concern at an apparent lack of evidence regarding the consideration of the South Downs National Park in the selection of Lovedean as the location for the converter station.
- 5.4.18. The South Downs National Park Authority [REP1-178] submitted that, whilst the converter station would be outside but adjacent to the National Park, there was no clear evidence of how the Applicant had discharged its duty in respect of s62 of the Environment Act 1995 in considering the statutory purposes of the National Park.
- 5.4.19. Havant Borough Council [REP1-169] noted that whilst there was some consideration of an alternative, non-highway focussed route, it was yet to be convinced that the ES conclusions were fully justified. The Council accepted that utilising the public highway may be considered less complicated than negotiating with individual private landowners and would be better contained within the existing urban landscape. However, it believed that such a route would inevitably cause prolonged delays on key areas of the network.
- 5.4.20. Hampshire County Council [REP1-167] expressed similar concerns to Havant Borough Council, noting several important local features, developments and planned road improvement schemes that could be affected.
- 5.4.21. Winchester City Council [REP1-183], echoing Havant Borough Council in the availability of a countryside route, also raised alternatives for cable routes, works and access to works at Denmead Meadows and Anmore Road (Works Plans sheet 3 of 12 [APP-110]).
- 5.4.22. Portsmouth City Council [REP1-173] suggested alternative routes had been given inadequate consideration, with particular regard to the cable route affecting the A2030 (one of three major roads providing access to

Portsea Island). Concern was also raised about options retained in the Order limits (for example, three potential routes around or across Milton Common) that would be subject to contractor decision post-consent.

- 5.4.23. The Applicant referred to ES Chapter 2 [APP-117] as supplemented by the further information on alternatives. In the Supplementary Alternatives Chapter [REP1-152] the Applicant asserted that routing the electricity cables via the Hayling Island road bridge, the derelict remains of the former Hayling Island 'Billy' trainline or through horizontal directional drilling (HDD) underneath Langstone Harbour would lead to fundamental technical difficulties in an environmentally constrained area. The options for using Hayling Island were said not to be feasible from an engineering perspective and carried too high a level of risk. This position was not wholly embraced by all the IPs who maintained objections to the cable routing through Portsmouth (for example, [REP8-089]) but the matter was not pursued further by the host authorities.

Other representations to the Examination

- 5.4.24. National Grid Electricity System Operator (NGESO) [REP7-109], supported by the Applicant [REP8-063], confirmed the reasons behind discounting substations other than Lovedean. The Applicant provided reassurances at Issue Specific Hearing 4 ([EV-066] to [EV-072]) that the statutory purposes of the South Downs National Park had been taken into account. At the end of the Examination, South Downs National Park Authority accepted the Applicant's position [REP8-076].
- 5.4.25. Winchester City Council [REP8-077] suggested that the Applicant's strategic intention from August 2014, as outlined in the ES, was for the onshore cable route to be laid in the highway, without a proper comparison of the pros and cons of the road route against the cross-country route. At the close of Examination, the Council maintained that the merits of the cross-country route should have been evaluated and weighed against the road route prior to a choice being made. It suggested that the implications of not considering the cross-country route during the optioneering process included the Applicant failing the test of reasonableness referred to in the EIA Regulations and that the adequacy of the optioneering process had to be questioned.
- 5.4.26. The Applicant pointed to the ES Addendum Appendix 3 Supplementary Alternatives Chapter [REP1-152] and a chronology of events reported in the Applicant's Responses to Deadline 4 Submissions [REP6-067], maintaining its position that reasonable and logical conclusions had been made [REP9-014].
- 5.4.27. Winchester City Council [REP8-077] and the South Downs National Park Authority [REP8-076] confirmed that for the micro-siting of the converter station, option B(ii) remained the preferred option from a landscape and visual perspective. The Applicant reported at the end of Examination [REP9-014] that the option agreement with NGET had not been completed, and therefore, despite option B(ii) being its own preferred

option, the Applicant could not commit to option B(ii). Both options are thus provided for in the draft DCO.

ExA response

- 5.4.28. As further discussed in section 7.9 of this Report, the ExA is satisfied that some consideration was given to the statutory purposes of the National Park in the pre-application phase of this NSIP, which was part of a detailed process leading to an informed decision as to why the substation at Lovedean was chosen as the connection point and site for the converter station. The ExA is content that informed and robust choices were made in the selection process leading to Lovedean being shortlisted as the most suitable grid connection point.
- 5.4.29. In the context of the limited requirement for consideration of alternatives set out in NPS EN-1, the ExA is satisfied that the Applicant has demonstrated a considered approach to the location of the converter station, onshore cable corridor and landfall. ES Chapter 2 provides sufficient detail as to the routing options, and the supplementary alternative chapter provided clarification on areas where contention was raised by IPs.
- 5.4.30. The ExA accepts that a balance needed to be struck by the Applicant in respect of important and relevant factors influencing the routing choices made during the pre-application process and, whilst there would be residual temporary effects on the public highway (as reported in Chapter 6 of this Report), the ExA is nonetheless content that adequate consideration of cable corridor and route alternatives has been made.
- 5.4.31. The ExA is mindful of references to the consideration of alternatives in NPS EN-1 including, at paragraph 4.4.3 (bullet 8), that where third parties are proposing an alternative, it is for them to provide the evidence for its suitability. In such instances it is not necessarily expected that the Applicant would have assessed every alternative put forward by another party. In this case, the Applicant has detailed a considered approach and provided additional commentary [REP1-152] to explain its position. Whilst offering criticism of the Applicant's approach, no party has submitted substantive reasoned evidence to demonstrate that an alternative would be technically feasible or would lead to lesser environmental effects compared to the Proposed Development.
- 5.4.32. In relation to the EIA Regulations, the ExA notes a requirement for the Applicant to address the main alternatives that it considered in the ES, along with its reasoning and a description of the respective environmental effects that influenced its choice. The ExA is content that the ES (and supplementary submissions) adequately fulfil this requirement.

Conclusions on alternatives

- 5.4.33. The ExA is content that the Applicant has provided adequate information to describe and explain its assessment of alternatives in relation to the social and environmental effects, technical feasibility and costs. The ExA

is therefore content that the Applicant's consideration of alternatives is sound, that adequate information on a range of alternative routes and locations for the Proposed Development has been provided, and that the requirements of NPS EN-1 and the EIA Regulations have been met.

- 5.4.34. The ExA concludes that there are no policy or legal requirements that lead it to recommend that consent be refused for the proposed development in favour of another alternative.
- 5.4.35. The differing environmental effects of the two remaining siting options for the converter station are considered in Chapter 7 of this Report.

6. FINDINGS AND CONCLUSIONS IN RELATION TO TRAFFIC, HIGHWAYS AND ONSHORE TRANSPORT

6.1. INTRODUCTION

- 6.1.1. This Chapter reports on the effects of the Proposed Development on transport, highways and onshore transport, including public rights of way. It takes into consideration the tests set out in the Overarching National Policy Statement for Energy (NPS EN-1). Transport was identified as a Principal Issue in the Examining Authority's (ExA's) Initial Assessment [PD-010].
- 6.1.2. The noise, vibration and air quality effects of traffic movements on the living conditions and amenity of residents are addressed separately in Chapter 7 of this Report.
- 6.1.3. The issue of traffic, transport and the ability of the local and strategic road networks to cope with the traffic generated by the Proposed Development during the construction period was a major topic throughout the Examination. The ExA asked questions in its first and further written questions (ExQ1 and ExQ2) ([PD-011] and [PD-031]) and the topic was discussed in detail at Issue Specific Hearing 3 ([EV-032] to [EV-035]) and Issue Specific Hearing 5 ([EV-080] to [EV-084]). Relevant matters were also raised in Open Floor Hearings 1 and 2 ([EV-014] to [EV-019]) and Issue Specific Hearing 4 into the draft Development Consent Order (DCO) ([EV-066] to [EV-072]).
- 6.1.4. A substantial amount of work was undertaken on an ongoing basis throughout the Examination by the Applicant, Hampshire County Council (the highway authority for roads within the Order limits outside the city of Portsmouth) and Portsmouth City Council (the highway authority in its own administrative area), but a small number of matters remained unresolved at the close.

6.2. POLICY CONSIDERATIONS

- 6.2.1. NPS EN-1 recognises that the transport of materials, goods and personnel to and from a development can have a variety of impacts on the surrounding transport infrastructure (paragraph 5.13.1). The consideration and mitigation of transport effects is an essential part of Government's wider policy objectives for sustainable development as set out elsewhere in NPS EN-1 (paragraph 5.13.2).
- 6.2.2. NPS EN-1 goes on to say that the decision-maker should ensure that the Applicant has sought to mitigate these effects, including during the construction phase of the development. Where the proposed measures are insufficient to reduce the adverse effect on transport infrastructure to acceptable levels, Requirements should be considered to restrict them further (paragraph 5.13.6). NPS EN-1 advises that, provided the

Applicant is willing to enter into planning obligations or Requirements, then development consent should not be withheld, and appropriately limited weight should be applied to residual effects on the surrounding transport infrastructure (paragraph 5.13.7).

6.2.3. In addition, NPS EN-1 states:

'(I)f a project is likely to have significant transport implications, the applicant's ES should include a transport assessment using the NATA/ WebTag methodology stipulated in Department for Transport (DfT) guidance, or any successor to such methodology'.

6.2.4. NPS EN-1 advises that Requirements may be attached to a consent that is likely to generate substantial heavy goods vehicle (HGV) traffic to:

- control numbers of HGV movements to and from the site in a specified period during its construction and possibly on the routing of such movements;
- make sufficient provision for HGV parking, either on the site or at dedicated facilities elsewhere, to avoid overspill parking on public roads, prolonged queuing on approach roads and uncontrolled on-street HGV parking in normal operating conditions;
- ensure satisfactory arrangements for reasonably foreseeable abnormal disruption, in consultation with network providers and the responsible police force (paragraph 5.13.11).

6.2.5. The National Planning Policy Framework (NPPF) outlines the role played by transport policies in the provision of sustainable development. Paragraph 11 notes a presumption in favour of sustainable development, while paragraph 109 says that development should only be prevented on transport grounds where residual cumulative effects are severe. Paragraph 111 of the NPPF requires all developments that would generate significant amounts of movement to provide a travel plan.

6.2.6. Paragraph 98 of the NPPF advocates that planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.

6.3. THE APPLICANT'S CASE

6.3.1. Chapter 22 of the Environmental Statement (ES) [APP-137] presented the main information about onshore traffic and transport, supported by other documents including:

- Transport Assessment [APP-448];
- Framework Traffic Management Strategy [APP-449];
- Framework Construction Traffic Management Plan [APP-450];
- Traffic and Transport Cumulative Effects Assessment Matrix [AS-019].

6.3.2. During the course of the Examination, revisions were made to the documents and additional technical notes produced. Those specifically relating to matters of traffic and transport included (most recent versions):

- Framework Traffic Management Strategy (FTMS) [AS-072];
- Framework Construction Traffic Management Plan (FCTMP) [AS-074];
- Environmental Statement – Volume 2, Figure 22.7 Links taken forward for further assessment [REP1-045];
- Applicant’s response to written questions ExQ1 [REP1-091];
- Appendix 11 Supplementary Transport Assessment (STA) [REP1-142];
- Temporary Highway Alterations to Facilitate Abnormal Indivisible Loads (AILs) [REP6-074];
- Road Safety Technical Note [REP6-071];
- Technical Note providing a review of collision data at Strategic Road Network junctions [REP7-039];
- Applicant’s response to written questions ExQ2 [REP7-043];
- Supplementary Transport Assessment Addendum [REP7-065];
- Environment Statement Addendum 2 [REP7-067];
- Joint Bay Feasibility Study and Technical Note [REP7-073];
- Access and Rights of Way Plans [REP8-003];
- Design and Access Statement (DAS) [REP8-012];
- Note on public rights of way, Long Distance Walking Paths and Cycle Route Diversions [REP8-053];
- Day Lane Technical Note [REP8-054];
- Travel Demand Management Strategy [REP8-055];
- Onshore Outline Construction Environment Management Plan (Onshore Outline CEMP) [REP9-005].

Methodology

6.3.3. The Applicant explained in paragraph 2.2.1 of the Transport Assessment ([APP-448], ES Appendix 22.1), that Hampshire County Council’s Solent Sub-Regional Transport Model (SRTM) was used as the basis for the assessment, and that the model had been developed according to WebTAG recommendations and validated against the Department for Transport’s Design Manual for Roads and Bridges (2012). The SRTM is a multi-modal transport model covering highway and public transport, and it allows testing of impacts and benefits of land use and transport interventions. Under the SRTM outputs, 2,431 links were assessed in the

study area, which extended to 5km around the Order limits, as shown on ES Figure 22.1 [APP-316].

- 6.3.4. The assessment methodology followed the guidance of the Institute of Environmental Assessment (now IEMA) in its *Guidelines for Environmental Assessment of Road Traffic* (1993). In accordance with these Guidelines, the assessment considered delay, road safety, intimidation and fear, severance and pedestrian amenity. It examined the feasibility of modal options to move freight, existing highway infrastructure surrounding the site, and potential routing options. A review of personal accident data, local cycle and pedestrian routes and the identification of local, sensitive receptors was included.
- 6.3.5. A full summary of the footpaths that are affected by the Proposed Development was set out in section 22.5.2 of the ES [APP-137]. Diversions to alternative paths would be put in place and these are detailed in Table 22.10 of the ES [APP-137] and considered in depth in the ES Addendum Appendix 14, Note on Public Rights of Way, Long Distance Walking, and Paths and Cycle Route Diversions [REP1-145]. Effects on the visual amenity of footpath users are considered in Chapter 7 of this Report.

Baseline conditions

- 6.3.6. The ES set out a detailed description of the strategic and local road network in the context of the Proposed Development at section 22.1.2 [APP-137]. It further described traffic flows, level of agricultural traffic, pedestrian and cycle use, and public transport provision. It encompassed the areas around the converter station at Lovedean, the landfall at Eastney and the route of the onshore cable corridor. Personal injury accident data for the area around the Proposed Development Site were examined.
- 6.3.7. For public rights of way, the ES [APP-341] detailed the extent of all public footpaths and trails within 500m of the Proposed Development. The explanatory note [REP1-145] shows where, and for how long, diversions would be needed.

Potential effects during construction

- 6.3.8. Section 22.6 of the ES [APP-137] summarised the assessment of construction traffic effects on receptors, as tabulated in Table 22.10. Several potentially significant effects were predicted in the absence of additional mitigation. Following the production of a Supplementary Transport Assessment [REP1-142] during the Examination, new significant effects were found on existing and further-studied junctions as summarised in Table 15.4 of the ES Addendum [REP1-139].
- 6.3.9. The anticipated construction programme would allow for 100m sections to be completed in a week, although 12m a day (84m to be completed in a week) was considered the slowest likely progression in heavily service-laden streets. During such time, traffic management measures, including

temporary road or lane closures and parking restrictions, would be in effect.

- 6.3.10. Some public rights of way and urban footways would be temporarily affected by construction activities, though each would be limited to the duration of construction in that particular area. Footpaths 4, 13, 16, 24, 33 and 41 (as shown on the Access and Rights of Way Plans [REP8-003]) would require diversions, with footpath 4 at Broadway Farm close to the proposed converter station site access off Day Lane being longest affected by up to 18 months. Permissive paths across Milton Common would be temporarily diverted for short durations [REP1-145].
- 6.3.11. For urban paths and footways in built-up areas, pedestrian routes would be provided in the carriageway to allow persons to pass by construction works without diversions.

Potential effects during operation

- 6.3.12. Section 22.3.1 of the ES [APP-137] confirmed that operational traffic effects were scoped out of the ES due to the very low number of predicted vehicle movements. Table 22.1 [APP-137] reported that statutory consultees agreed that the operational stage of the Proposed Development was not likely to give rise to significant effects.

Potential effects during decommissioning

- 6.3.13. Decommissioning effects were predicted to be the same or to have a lesser significance than the construction effects.

Cumulative effects

- 6.3.14. The Stage 1 and 2 cumulative effects assessment was shown in Appendix 22.5 [APP-453]. The cumulative effects assessment did not identify any other developments for consideration in Stage 3 and 4 for the construction or operational stage.
- 6.3.15. The SRTM 2026 Do-Minimum and Do-Something scenarios included major committed developments and therefore the Applicant submits that transport-related assessments in the ES inherently included cumulative effects. A full list of the committed developments in the SRTM is included in the Cumulative Effect Assessment Matrix in Appendix 22.3 [APP-451]. No cumulative effects were envisaged during the operational stage.

Mitigation

- 6.3.16. The Applicant proposed mitigation measures in the FTMS [AS-072] and the FCTMP [AS-074], both of which could be secured through the draft DCO. For each 'phase' of the Proposed Development, a section-specific Construction Traffic Management Plan, prepared in accordance with the overarching FCTMP, would be submitted for discharge by the relevant planning authority in consultation with the relevant highway authority, as per Requirement 17 of the draft DCO [REP9-003].

- 6.3.17. Strategic scheduling would be undertaken in accordance with the FTMS programme to avoid a combination of works occurring together and to avoid certain events or periods.
- 6.3.18. A Construction Worker Travel Plan (Appendix 6 to the FCTMP [AS-072]) would be implemented, requiring construction workers to park in a purpose-built, temporary car park at the converter station site, before travelling in work vehicles to the relevant parts of the onshore cable corridor where they would be working.
- 6.3.19. Advanced signage warning of footpath diversions and alternative routes would be implemented in accordance with the framework signage strategy at Appendix 3 of the FTMS [AS-072]. Apart from footpath 4, the Applicant considered all diversions of rural footpaths to be temporary with no lasting effects on the routes.

Applicant's summary of predicted effects

- 6.3.20. The Applicant's summary of effects was set out in the revised Table 22.10 in ES Addendum 1 [REP1-139] and in Table 14.1 of ES Addendum 2 [REP7-067]. These showed that, with implementation of mitigation measures, during the 27 months of onshore cable installation a proportion of residual effects would still remain major to moderate, adverse and significant, including 'traffic delay' on most works sections. Taking into account the summary of mitigation measures in Table 14.1, the only aspect where there would not be any significant residual effects would be accidents and road safety. However, the Applicant notes that any effects would be short-term and temporary in any particular area of the road network, and that, overall, they would be limited to the construction phase.
- 6.3.21. The Applicant summarised that proposed diversions would not add substantial distance to the journey length on any of the public rights of way (medium sensitivity) and, with the exception of public right of way 4, would be temporary and for a short duration (not more than 1 to 2 weeks for each circuit at each location specified). As such, the magnitude of change in terms of severance was considered low, leading to a minor to moderate (not significant), adverse, short-term effect. The magnitude of change for public right of way 4 was considered medium, as it would be diverted for a longer period during the construction of the converter station area, resulting in a moderate adverse (significant) effect.

6.4. PLANNING ISSUES

Relevant Representations

- 6.4.1. Relevant Representations from IPs, principally local residents but also local organisations, raised disruption to traffic, congestion, parking and access to sustainable transport as issues. Common concerns included:
- loss of parking at Fort Cumberland [RR-014];

- disruption and congestion to Eastern Road A2030 [RR-040] and [RR-059];
- disruption to the A3 and the B2150 for significant length of time [RR-042];
- effect on road surfaces [RR-050];
- effects on Day Lane and Broadway Lane from HGVs [RR-029] and [RR-039];
- disruption to public transport services (buses) and access thereto [RR-062] and [RR-089];
- effects on the delivery of other development projects [RR-098] and [RR-141];
- severance of access to local businesses [RR-148].

Local Impact Reports

- 6.4.2. In its Local Impact Report (LIR) [REP1-167], Hampshire County Council noted that the A3, whilst no longer part of the strategic road network following the development of the A3(M), serves peak hour flows ranging from 1519 to 1611 vehicle per hour in the morning peak and 1285 to 1773 vehicles per hour in the afternoon peak. The stretch of the A3 within the Order limits also provides a key bus route from Waterlooville into Portsmouth, with bus priority measures (bus lanes) for a significant length.
- 6.4.3. Hampshire County Council sought assurances that the proposed cable route would not fetter future planned development in the highway network or other relevant activities, including:
- improvements at the Ladybridge Roundabout and the Stakes Road with Stakeshill Road junction, as included in the West Waterlooville Major Development Area planning permission (secured by s106 obligations);
 - improvements to Milton Road and Lovedean Lane junction, secured through a s106 agreement;
 - resurfacing works along the A3 corridor;
 - any future highway works that might be prejudiced if the cable burial depth and route in the highway was unknown;
 - proposals by Portsmouth Water and Southern Water to create a new reservoir at Havant Thicket, which would involve significant construction traffic movements on the A3.
- 6.4.4. Hampshire County Council raised concern regarding the unknown positions of joint bays, link boxes and link pillars, especially if such features were to encroach onto the public highway.
- 6.4.5. The County Council disagreed with the Applicant's proposal to disapply its traffic permit scheme, and at Deadline 5 the Applicant modified the draft

DCO [REP5-008] to apply it, subject to overarching accordence with its own FTMS.

- 6.4.6. In their respective LIRs, Havant Borough Council [REP1-169] and East Hampshire District Council [REP1-161] drew attention to the high volumes of traffic on the B2150, with between 874 and 1399 vehicles per hour in the morning peak and between 907 and 1474 vehicles per hour in the afternoon peak.
- 6.4.7. In its LIR, Portsmouth City Council [REP1-173] reported great concern that the final cable route and the locations and number of joint bays would not be decided at the Examination stage or by the Applicant but by contractors who have not yet been appointed.
- 6.4.8. Portsmouth City Council noted that the works associated with the Proposed Development would put further pressure on roads and junctions that are already subject to significant stress at peak times, resulting in further delays, pollution and longer rush-hour periods. The Council noted that the use of the SRTM does provide a reasonable indication about how and to where traffic might divert, but there would most likely be second and third level impacts beyond those shown by the modelling.
- 6.4.9. In commenting on the technical note produced by the Applicant in the Supplementary Transport Assessment [REP1-142] in relation to Tangier Road - Eastern Avenue link, Portsmouth City Council suggested the modelling was of limited use and the predictions regarding diversion routes and traffic redistribution patterns was unclear. The LIR also raised queries in relation to traffic data and predicted effects on A2030 Eastern Road, Tangier Road and Portsbridge Roundabout (amongst others).
- 6.4.10. Portsmouth City Council disagreed with the Applicant's proposal to disapply its traffic permit scheme. The situation changed at Deadline 5, when the Applicant modified the draft DCO [REP5-008] to apply Portsmouth City Council's traffic permit scheme, subject to overarching accordence with its own FTMS.
- 6.4.11. Winchester City Council's LIR [REP1-183] raised the need for greater clarity on the cable route at the Anmore Road crossing. Winchester City Council also noted that Hambledon Road is an important communication corridor for the communities of Denmead, Hambledon and those in the south Meon Valley and that it is the only practical route towards the A3 and M3 corridor. Local knowledge indicates that this road is used as part of a diversion route when problems occur on the M27 and A27. In the absence of any practical alternative, this would be a critical consideration as extended delays to the movement of traffic would have implications not just on residents but also on emergency vehicles.

Day Lane and Broadway Lane

- 6.4.12. The Applicant, in consultation with Hampshire County Council, prepared a management strategy to handle HGV movements on Day Lane. This culminated in the Day Lane Technical Note [REP8-054], which included provisions such as HGVs destined for the converter station site travelling in convoy after being temporarily held in the Hulbert Road lay-by on the A3(M). Passing bays would be provided on highway land on Day Lane to enable HGVs to pass any non-construction related traffic. Mitigation measures were written into the final FCTMP [AS-074] and draft DCO Article 30 to limit HGV movements to and from the converter station compound (using Day Lane for access) to no more than 71 two-way movements (142 in total) per day. Highways England was happy with the use of the Hulbert Road lay-by.
- 6.4.13. In the final Statement of Common Ground with Hampshire County Council [REP8-046], the Applicant confirmed that, following a Stage 1 Road Safety Audit, the Day Lane Technical Note was agreeable and would be subject to a s278 process where applicable. The Development Consent Obligation submitted to the examination [REP9-010] provided the mechanism to secure the s278 arrangements.
- 6.4.14. No other IPs raised concerns with the provisions from a highway perspective. However, South Downs National Park Authority expressed concern at Issue Specific Hearing 5 ([EV-080] to [EV-084]) about Hampshire County Council's proposal to retain the proposed passing bays in Day Lane on a permanent basis. An agreement was reached whereby the use of the passing bays would be monitored and, if necessary, removed post-construction if it caused inappropriate public parking and 'urbanisation' of the rural character of the area ([REP8-072], Appendix 4).

Broadway Farm access

- 6.4.15. In response to Deadline 6 submissions, the Applicant confirmed an intention to use the access into Broadway Farm on a temporary basis for HGVs and deliveries associated with the construction of the principal access into the converter station compound off Day Lane [REP7-074]. Hampshire County Council raised concerns [REP7c-019] because the access had not featured in ES Chapter 22 or the FCTMP and no details had been provided on its suitability. This was also raised at Issue Specific Hearing 5 ([EV-080] to [EV-084]).
- 6.4.16. The Applicant contended that the site access works were included and defined as 'pre-commencement works' in the draft DCO and s106 definitions ([REP9-003] and [REP9-010]), and confirmed that a detailed Construction Traffic Management Plan would be required to be submitted for the approval of the highway authority prior to the works commencing. Construction details had also been provided with the FCTMP [AS-074]. The Statement of Common Ground [REP8-046] between the Applicant and Hampshire County Council records that the proposed solution adequately manages the risks and effects.

Anmore Road via Mill Road

- 6.4.17. Onshore cable works were proposed to cross under Anmore Road in proximity to Denmead Meadows. HGVs associated with these works would follow the B2150, then Mill Road and onto Anmore Road. Based on the Applicant's assumptions, a maximum of eight additional HGV movements would be expected along Anmore Road and Mill Road per day in association with the Proposed Development. This maximum figure is not secured in the draft DCO but section 6.2.3 of the FCTMP [AS-074] included provisions for a vehicle management strategy for Anmore Road.
- 6.4.18. Whilst Hampshire County Council agreed that the management measures were acceptable and appropriate ([REP7c-019] and [REP8-046]), Winchester City Council maintained a preference for HGVs to use a temporary haul road route from the Lovedean works [REP8-077], avoiding the need for them to use the highway in this area. The Applicant confirmed [REP9-014] that there would not be sufficient width for such a haul road without the removal of the tree subject to a Tree Preservation Order (which Winchester City Council had previously sought the retention of) and that it would not be appropriate to place a haul road next to Hillcrest Children's Home.

The strategic road network (A3(M) and the A27, M27 and M275)

- 6.4.19. Highways England was concerned about access, over-sized deliveries and capacity impacts at Farlington, including management of traffic at the signal-controlled junction with Walton Road, which is close to the junction of the A27 with the A2030. In the final Statement of Common Ground [REP8-030], it was agreed that all construction traffic would arrive and depart from the south, as secured in the FCTMP [AS-074].
- 6.4.20. Highways England was content that, subject to easements being agreed, the horizontal directional drilling (HDD) crossing beneath the A27 could be carried out safely and without detriment to the integrity, stability or operation of the highway [REP8-030].
- 6.4.21. A series of technical notes to alleviate Highways England's concerns regarding the effect of the proposal on A3(M) Junctions 2 and 3 was appended to the Supplementary Transport Addendum [REP7-065]. The effects and means to address them were considered acceptable to Highways England by the end of the Examination [REP8-030].
- 6.4.22. Highways England was content that, subject to Protective Provisions and the proposed mitigation measures being secured in any DCO, the integrity of the strategic road network would not be affected by the Proposed Development, which could be carried out safely [REP8-030].
- 6.4.23. Portsmouth City Council [REP7c-020] was concerned about traffic diverting away from the A2030 and redistributing through the Portsbridge Roundabout, as opposed to using the M275 as the Applicant had predicted. The Applicant's Portsbridge Roundabout Technical Note

[REP6-076] had acknowledged a 'cluster of collisions' on the slip road, and the Council considered the risk to be far greater than negligible and recommended that the ExA did not accept the Applicant's assessment.

- 6.4.24. The Applicant responded that the modelled increase at the Portsbridge Roundabout as a result of cable installation amounted to one additional vehicle every two minutes, which would not lead to a material effect on existing accident trends at this junction [REP8-064]. This issue remained unresolved between the parties at the close of the examination.

The A3 corridor and the B2150

- 6.4.25. Hampshire County Council and Havant Borough Council considered that inadequate consideration had been given to a number of highway works already planned along the A3 corridor [REP1-167] and that the A3 is used as a diversion route when the A3(M) is closed or affected by incidents [REP1-169].
- 6.4.26. The Applicant responded that, with the adoption of the permit schemes and also the flexibility built into the FTMS to react to emergency situations, the availability of the A3 to act as a relief route when the A3(M) was compromised would not be affected and it would remain as a viable option [REP8-046].
- 6.4.27. Hampshire County Council [REP3-023] sought an indemnity to address a potential situation where a cable forming part of the Proposed Development laid either in the highway or in the subsoil below the highway needed to be redirected or relocated. Hampshire County Council did not believe that it should be liable for any relocation costs. This had particular relevance for the A3 and the B2150 in terms of planned improvements to those highways (including works at the Ladybridge Roundabout on the A3) to deliver highway actions arising out of the Transforming Cities Fund bid application.
- 6.4.28. The Applicant agreed to this provision at the close of the Examination [REP8-046] and clauses in the signed Development Consent Obligation [REP9-010] secured the mechanisms.

The A2030

- 6.4.29. Portsmouth City Council [REP2-018] was concerned that Portsmouth Football Club home matches at Fratton Park and special events, which can have significant effects on the road network, had not been considered. For such events, it recommended that the width of the construction area and associated traffic management be reduced to preserve two-lane operation rather than shuttle working.
- 6.4.30. The Applicant responded [REP3-014] that traffic conditions associated with football matches would be similar to weekday peak traffic conditions and would therefore be mitigated in the FTMS, which would restrict construction on the A2030 to school holidays, May half term, June, July and August. The Applicant agreed that it would be possible to incorporate Portsmouth City Council's suggestion in accordance with Protective

Provisions in the draft DCO [REP9-003], which Portsmouth City Council accepted ([EV-032] to [EV-035]).

Use of the SRTM

- 6.4.31. Portsmouth City Council [REP8-075] advised that the impact of diverted traffic on roads outside the SRTM had not been determined, nor specific interventions developed to mitigate the effects. Portsmouth City Council submitted that the ExA did not have sufficient information regarding the impact of the scheme nor mitigation required. In response, the Applicant [REP8-044] asserted that the SRTM modelling is representative of impacts that may occur on roads not included in the model and there is little benefit in undertaking further traffic modelling. The SRTM considered more than 200 roads and it was said that any impacts on roads beyond this could be managed through individual Traffic Management Strategies as required by the FTMS [AS-072].
- 6.4.32. The matter was unresolved at the close of the Examination.

The permit schemes

- 6.4.33. The permit schemes of Hampshire County Council and Portsmouth City Council would be applicable to the Proposed Development by virtue of Article 9A in the draft DCO, although their utilisation would be subject to the Applicant's own construction programme and FTMS priority.
- 6.4.34. In the final Statement of Common Ground [REP8-046], Hampshire County Council remained of the view that the Applicant should allow for permit schemes directions that certain works in traffic sensitive streets be undertaken 'out-of-hours' so as to allow a quicker restoration of normal highway operating conditions. This, Hampshire County Council maintained, may only be an extension of the working day for a construction gang for another couple of hours and thereby would not give rise any significant effects beyond those already predicted in the ES [REP8-072].
- 6.4.35. The Applicant amended the draft DCO at Deadline 8 [REP8-004] to enable such out of hours working to occur on traffic sensitive streets but only where it could be evidenced by the highway authority that the environmental effects on local sensitive receptors (such as residents) would be no more significant than those predicted in the ES. Hampshire County Council was opposed to this, given the limited number of occasions such working would take place and not wanting to limit the flexibility offered by its road permit scheme [REP8-046].
- 6.4.36. This matter remained in dispute at the close of the Examination.

Joint bays

- 6.4.37. The Applicant makes provision in the draft DCO for up to 26 joint bays, where sections of cable would be connected to each other, as shown in Illustrative Cable Route, HDD sites and Joint Bays for Noise and Vibration Assessment [APP-336]. Each joint bay would require an excavation and

permanent land take of 15m long by 3m wide. At each end of the excavation, a temporary area 12.5m long by 5m wide would be required for winch and cable drums. This is shown diagrammatically in plates 1-1 and 1-2 of the Joint Bay Feasibility Report [REP5-046]. A joint bay would be required every 600m to 2000m of the route, with the exact length to be determined by the contractor post-consent.

- 6.4.38. The Applicant originally suggested that joint bays would be constructed off-highway as a preference, to minimise effects [REP3-014]. However, the Applicant's updated Joint Bay Feasibility Report [REP7-073], whilst indicative, showed that some of the joint bays would not only be in the highway, but actually in the carriageway, requiring a lane closure for installation. The Applicant accepted that the traffic management measures proposed for the rest of the onshore cable corridor in the FTMS [AS-072] would also have to apply to the joint bays.
- 6.4.39. Portsmouth City Council commented at Deadline 8 [REP8-075] that neither the effects nor the mitigation measures associated with joint bay works within the carriageway had been properly assessed. It submitted that the works for each joint bay would occupy the carriageway for 20 days and consequently would have a proportionately greater effect than the trenching works (for instance in relation to access to properties), which would normally cause disruption for just one or two days.
- 6.4.40. The Applicant responded [REP9-014] that the Design and Access Statement (DAS) [REP8-013] included design principles for determining joint bay locations and the FTMS [AS-072] had appropriate traffic management parameters.
- 6.4.41. If repair and maintenance works were to be required during the operational period, the faulty cable would be pulled out from a joint bay and, if the bay was in the highway, that location would require traffic management measures equivalent in duration and scale to those needed for construction ([EV-080] to [EV-084]).
- 6.4.42. Hampshire County Council, in its Statement of Common Ground with the Applicant [REP8-046], was satisfied with the joint bay considerations, assessments and specifications following the relevant updates to the DAS [REP8-013], secured under Requirement 6 of the draft DCO. However, the issue remained in dispute with Portsmouth City Council [REP8-044] at the end of the Examination.

Public transport

- 6.4.43. The application contained proposals to route the cables along Furze Lane (which runs centrally through a University of Portsmouth campus). IPs [RR-047] raised concern as this provides a key public transport corridor not only for university students arriving by bus, but also some local bus services. At Deadline 1, the Applicant submitted refinements to the Order limits [REP1-133] that removed Furze Lane as a routing option. Consequently, bus services along it would be unaffected and there would be limited effect on public transport in this area.

- 6.4.44. First Hampshire Dorset and Berkshire (First Group) and Stagecoach Group raised concerns at Issue Specific Hearing 5 ([EV-080] to [EV-084]) about the effects of roadworks on bus services that use the A3 from Waterlooville into Portsmouth.
- 6.4.45. At Deadlines 8 and 9, the Applicant agreed to provide mitigation and compensation measures to ensure continuity and punctuality of the bus services in the form of a Development Consent Obligation [REP8-043] and amendments to the FTMS [AS-072]. These consisted of:
- bus priority signals to be stationed where traffic management measures were in place causing a single carriageway lane closure;
 - a bus mitigation delay fund to provide additional buses where delays could be demonstrated;
 - a patronage marketing contribution, which would be available after the completion of construction.
- 6.4.46. Stagecoach Group [REP8-117], First Group [AS-080] and Hampshire County Council ([REP8-072] and [REP8-073]) subsequently confirmed that the measures were acceptable.

Parking displacement

- 6.4.47. Portsmouth City Council [REP8-075] noted construction works and the movement of AILs would result in private vehicles being temporarily displaced from roadside parking. Whilst neither Portsmouth City Council nor Hampshire County Council retained concerns regarding the general management of AILs at the end of the Examination ([REP8-044] and [REP8-046]), Portsmouth City Council criticised the Applicant's approach to assessing the availability of alternative parking and access to affected properties, contending that a walking distance of 200m should have been used rather than 400m, following a methodology for on-street parking surveys developed by Lambeth Council⁸.
- 6.4.48. The Applicant maintained that its approach and sensitivity tests [REP9-017] were robust, as set out in Appendix 1 of the FTMS [AS-072]. The Applicant applied the 'Lambeth Methodology', which considered 400m to be a reasonable and applicable distance. The Applicant noted that Portsmouth City Council's Supplementary Planning Document advocated the Lambeth Methodology. Whilst the matter remained unresolved with Portsmouth City Council at the close of Examination [REP-044], Hampshire County Council and the Applicant were in agreement [REP8-046] that the strategy for dealing with displaced cars was acceptable and adequately secured in the FTMS [AS-072].

⁸ The Lambeth Council Parking Survey Guidance Note, Lambeth Council 2012

Public rights of way network (severance, diversion and temporary closure)

- 6.4.49. The final Statement of Common Ground between the Applicant and Hampshire County Council [REP8-046] confirms that discussions took place regarding the management and communication of diversions and closures, resulting in an amendment to Article 13 of the draft DCO. The Applicant expressed willingness to enter into a Planning Performance Agreement with Hampshire County Council post-consent to cover additional resource costs to Hampshire County Council in publicising and monitoring such activities on the public rights of way.
- 6.4.50. As shown in its Statement of Common Ground with the Applicant [REP8-044], Portsmouth City Council remained opposed on the basis that an absence of detail could result in temporary diversions that may not be accessible, inclusive for all pedestrians or subject to natural surveillance for safety. In response, the Applicant drew attention to the communication strategy and signage strategies in the FTMS [AS-072].
- 6.4.51. The Applicant's Statement of Common Ground with Winchester City Council [REP8-045] noted agreement that Hambledon Road would be kept open to allow the free flow of movement for pedestrians and cyclists.

6.5. ExA RESPONSE

Procedure and approach

- 6.5.1. The ExA has taken careful account of the views of the highway authorities, local authorities and IPs regarding the approach taken by the Applicant in relation to access and transport issues. The ExA is content that the Applicant adopted a standard approach with appropriate modelling tools that complied with relevant guidance.
- 6.5.2. The ExA notes that, despite differences in opinion about the results of traffic modelling and the limitations of the SRTM, Portsmouth City Council and Hampshire County Council endorsed the approach of the Applicant. The ExA considers that all roads with the potential to be significantly affected have been assessed in line with an appropriate methodology, and that seeking to extend the study area further would be unreasonable considering that the methodology was agreed.

Effects on the local highway network in rural areas

- 6.5.3. The ExA recognises the substantial increase in HGVs and other construction traffic (including AILs) that would use Anmore Road and Mill Road. There would also be a substantial increase along Day Lane and Lovedean Lane, the principal route to and from the main construction compound at the converter station. Whilst there would inevitably be some disruption and inconvenience for highway users, the ExA is satisfied that the Applicant's proposed highway intervention schemes and associated mitigation measures (secured in the FCTMP [AS-072] and

FTMS [AS-074]) would be sufficient to ensure no significant adverse traffic or highway effects.

- 6.5.4. The ExA is content that the function, role and integrity of the strategic road network would not be severely affected by vehicles connected with the Proposed Development. Subject to appropriate enforcement and monitoring, the use of the Hulbert Road lay-by as a holding area for HGVs as part of the Day Lane traffic management strategy would alleviate ExA concerns about the management of HGVs on the strategic and rural road network.
- 6.5.5. Where public rights of way are affected, the ExA is satisfied that the diversions and re-routing solutions proposed by the Applicant are no more onerous in length or journey time. Subject to satisfactory implementation of the signage strategy, the short-term effects on public rights of way during construction would be tolerable.

Effects on the local highway network in urban areas

- 6.5.6. The Proposed Development would necessitate the laying of cables in the public highway for much of its course from Hambledon Road (the B2150) near Anmore, south to the landfall at Eastney. This would include works in the carriageway of the A3, the B2150 at Portsdown Hill, the A2030 and onto Portsea Island through to the landfall at Eastney.
- 6.5.7. Cable installation would take place over a period of approximately 27 months across the length of the Proposed Development, but phasing would mean that its effect on the road network would be localised at any one point in time. The effects of laying the cables and creating jointing bays in the highway potentially include:
- increasing congestion during peak hours through traffic management measures (including temporary lights on single lane closures);
 - making junctions work at or over-capacity leading to an increase in delays and queue lengths;
 - disruption to private access and parking;
 - temporary diversion of public footpaths;
 - disruption to public transport services and routes.
- 6.5.8. The ExA recognises that the Applicant's choice to install cables in the highway would give rise to traffic delays, particularly where traffic control measures would need to be deployed on already busy routes. The ExA has noted the effects on journey times and queue lengths, and the positions of the parties in relation to the diversions that drivers may choose to take to avoid the roadworks. It has also taken note of the Applicant's proposals to provide mitigation, including the management of the works and traffic on the A2030 more effectively during an event or occasion, such as a football match at Fratton Park.

- 6.5.9. Overall, whilst the ExA accepts that the construction of the Proposed Development would most likely cause delay and congestion on the highway network in urban areas, the effects would be temporary and appropriately managed to the minimal level of disruption that could be achieved through the FTMS [AS-072] and FCTMP [AS-074].
- 6.5.10. In respect of existing junctions, the ExA has considered the baseline traffic flows and the predicted increases due to construction traffic. Having regard to the estimated levels of increase and the difficulties in predicting congestion peaks in Portsmouth, the ExA concludes that the Applicant's approach in relation to traffic sensitive junctions is sensible and proportionate. Subject to the mitigation measures, the construction traffic would not cause unacceptable delays to traffic flows or harm to highway safety.
- 6.5.11. Access to properties and cars would be disrupted, though the ExA considers the anticipated construction progress rates would limit the duration of the effects on any individual resident or business. Where disruption occurred, there would be adequate alternative parking within the appropriate radius of an address and, where the construction contractor is aware of vulnerable users, measures could be taken to ensure continuity of access. The ExA considers the approach of the Applicant robust, particularly as the strategy has been informed by local policies and supplementary planning documents.
- 6.5.12. The ExA recognises the concern about the location of joint bays, their duration of construction and associated traffic effects through prolonged traffic management on the public highway. The Applicant's inability to fix positions at this time has caused particular problems. Nonetheless, the Applicant has suggested likely locations and provided indicative diagrams to demonstrate how joint bay works would be facilitated, including where traffic management would take effect. There is enough information to inform the ExA that effects on the highway would be significant but could be managed, particularly in view of the Applicant's provisions to ensure bus services have priority.
- 6.5.13. During the operational phase, the use of the permit scheme to obtain consent for any works to a joint bay in the carriageway would mean that these would be no more obstructive than any other form of road work by a statutory undertaker.
- 6.5.14. Where urban footways and public rights of way within settlements are affected by the Proposed Development, the ExA is satisfied that only short distances would be affected at any one time, and that continuity would be provided through the FTMS measures and an associated signage strategy [AS-072]. Using a safely cordoned area in the carriageway adjacent to the relevant construction work is considered acceptable practice.
- 6.5.15. The ExA welcomes the agreement between Hampshire County Council and the Applicant with regards to bus mitigation and compensation measures [REP9-010]. The securing of these through the Development

Consent Obligation reassures the ExA that efforts would be made to reduce the effects of construction on the efficient working of sustainable public transport and that, post-development, measures would be available to encourage patronage of the buses if necessary.

6.6. CONCLUSIONS

- 6.6.1. The matter of transport, highways and onshore transport was an important consideration in the Examination, generating many representations and a lot of discussion, including associated topics such as parking and access. The ExA concludes that the Applicant has adopted a robust, consistent, reasonable and proportionate approach to the assessment, and that the baseline, methodology and assessments in the ES supplemented by information providing during the Examination, are generally sound.
- 6.6.2. The ExA is satisfied that the traffic and transport effects during operation would be negligible given the low traffic generation that would occur. The ExA also agrees with the Applicant that effects during decommissioning could be satisfactorily mitigated by an onshore decommissioning plan that would be approved through Requirement 24 of the draft DCO.
- 6.6.3. During the Examination, substantial progress was made on the development of construction traffic management and mitigation measures, which are included in the FCTMP and FTMS. Further development of these measures would take place in consultation with key organisations before the final phase-specific Construction Traffic Management Plans were submitted for approval prior to the commencement of the relevant construction phase.
- 6.6.4. Accordingly, taking all relevant submissions into account, and in the framework provided by NPS EN-1 and other relevant policy, the ExA concludes that:
- the methodology used in the transport assessment was acceptable;
 - the assessment of the effects on the road network from the construction, maintenance and decommissioning of the Proposed Development was appropriate;
 - the draft DCO and associated control documents would provide the highway authorities with sufficient information and influence to ensure that traffic is managed in an appropriate manner;
 - the proposed traffic management measures would appropriately mitigate and manage any adverse environmental effects during construction of the Proposed Development caused by traffic;
 - with the FCTMP and FTMS in place, the cumulative effects of traffic from the Proposed Development and other proposed developments would be acceptable;

- through implementation of the signage strategy, the temporary effects and diversions for public rights of way would be appropriately managed and tolerable;
- the anticipated effects from decommissioning would likely be of no greater significance than those from construction;
- whilst there would be an impact on the local highway network, particularly during the construction stage, such impacts would be acceptable and thus the Proposed Development accords with the provisions of NPS EN-1.

6.6.5. Overall, the ExA considers there would be some temporary significant adverse effects arising from the Proposed Development on highways and traffic flows during construction. However, through the application of mitigation measures in the FCTMP and FTMS (as secured through the Recommended DCO), these temporary effects would be reduced to acceptable levels.

6.6.6. The ExA concludes that assessment of traffic and transport impacts accords with NPS EN-1 and that transport and traffic matters alone do not indicate against the Order being made. Nevertheless, the minor effects fall to be weighed in the balance and this is addressed in Chapter 9.

7. FINDINGS AND CONCLUSIONS IN RELATION TO THE REMAINING PLANNING ISSUES

7.1. INTRODUCTION

7.1.1. The remaining planning issues are now addressed in turn.

7.2. AIR QUALITY

Introduction

7.2.1. This section addresses the effects of the Proposed Development on air quality and air pollution during the construction and operation of the converter station, the onshore cable and the landfall. Air quality was a Principal Issue in the Examining Authority's (ExA's) Initial Assessment [PD-010] and was highlighted as a high-profile concern for many Portsmouth residents.

Policy considerations

7.2.2. Sections 4.10 and 5.2 of the Overarching National Policy Statement for Energy (NPS EN-1) acknowledge that infrastructure development can have adverse effects on air quality. Paragraphs 4.10.2 and 4.10.3 advise that the planning and pollution control systems are separate but complementary and that the Examination should work on the assumption that the relevant pollution control regime would be properly applied and enforced by the relevant regulator. Paragraph 4.10.3 notes that the focus should be on whether the development is an acceptable use of the land and on the impacts of that use, rather than the control of processes, emissions or discharges.

7.2.3. Paragraph 5.2.9 of NPS EN-1 advises that the decision maker should give air quality considerations substantial weight where a project would lead to deterioration in air quality or lead to a new breach of any national air quality limits. Paragraph 5.2.10 notes that the Secretary of State must take account of any relevant statutory air quality limits. Where a project is likely to lead to a breach of such limits, the developers should work with the relevant authorities to secure appropriate mitigation measures to allow the proposal to proceed. Where a project would lead to non-compliance with a statutory limit, the consent should be refused.

7.2.4. Binding mandatory limits for a range of key traffic-related pollutants are included in the Air Quality Standards Regulations 2010 (as amended) (AQS Regulations). The AQS Regulations set out the requirements for exposure reduction of PM_{2.5} in the general population and the requirements for action to be taken when levels of air pollutants persistently exceed the limit values.

The Applicant's case

7.2.5. Air quality issues were addressed in Chapter 23 of the Environmental Statement (ES) [APP-138]. This was replaced during the Examination as a consequence of amendments, updates and the introduction of new information responding to Relevant Representations (RRs). The replacement Chapter 23 [REP1-033] assessed the potential air quality impacts of the construction and operation of the Proposed Development. The new information was summarised in the ES Addendum [REP1-139], including information about ecological receptors requested by the ExA in its first written questions (ExQ1) [PD-011].

7.2.6. The second ES Addendum [REP7-067] reflected on additional air quality assessment work and on the effects of a Clean Air Zone (CAZ). The Applicant maintained the position that:

'those areas of concern that are predicted to be non-compliant remain so with or without the Proposed Development, and those that are predicted to achieve compliance remain compliant with or without the Proposed Development.'

Methodology

7.2.7. The Applicant undertook a dust assessment in accordance with the Institute of Air Quality Management (IAQM) *Construction Dust Risk Assessment Guidance* (IAQM, 2016). The study area extended to 350m from the Order limits.

7.2.8. The Applicant's summary of the Proposed Development's performance against the AQS Regulations was set out in Table 23.2 of ES Chapter 23 [REP1-033], including the limits for nitrogen dioxide (NO₂), particulate matter (PM₁₀ and PM_{2.5}) and oxides of nitrogen (NO_x). In addition, critical loads for NO_x and acid deposition were determined. These represent the level of exposure below which there should be no significant harmful effects on sensitive elements of the ecosystem. The Applicant set out the relevant limits for carbon monoxide (CO) and benzene (C₆H₆) in Table 23.2.

7.2.9. The assessment also looked at effects on the Air Quality Management Areas (AQMA) in Portsmouth that correspond with the road network affected by the Proposed Development. These are AQMAs 6, 7, 9 and 11. The Applicant provided reasoning that AQMA 12 was beyond the affected road network and so was not assessed. The methodology also had regard to the Air Quality Ministerial Directives imposed on Portsmouth City Council, which, in summary, are:

- Ministerial Direction 1 (March 2018); required the Council to develop a Targeted Feasibility Study (TFS) by 31 July 2018 for two specified road links in the city, the A3 Mile End Road and A3 Alfred Road. These roads were selected as they were projected to have NO₂ exceedances in the Department for Environment, Food and Rural Affairs' (Defra's) National Pollution Climate Mapping model.

- Ministerial Direction 2 (October 2018); following the results of the TFS, a Direction was issued to undertake a bus retrofit programme. The Ministerial Direction stipulated that the programme should be undertaken as quickly as possible with the purpose of bringing forward compliance with legal levels of NO₂ on the A3 Mile End Road and A3 Alfred Road.
- Ministerial Direction 3 (October 2018); required Portsmouth City Council to produce an Air Quality Local Plan to set out the case for delivering compliance with legal limits for NO₂ in the shortest possible time.
- Ministerial Direction 4 (March 2020); required Portsmouth City Council to implement a Class B charging CAZ and supporting measures in Portsmouth as soon as possible and in time to bring forward compliance with legal limits for NO₂ to 2022.

7.2.10. The Applicant concluded that the Proposed Development is unlikely to inhibit compliance with the Ministerial Directions [REP7c-010].

Potential effects

7.2.11. Baseline air quality data and sensitive receptor information for the study were derived from a number of sources, including Local Air Quality Management Reports, local authority monitoring data, Defra's Pollution Climate Mapping model, Defra air pollution background concentration maps, Natural England's boundaries of relevant designated nature conservation sites, background nutrient deposition data from the Air Pollution Information System website and the Concentration Based Estimated Deposition model (Levy, *et al*, 2020) from the Centre for Ecology and Hydrology.

7.2.12. The baseline conditions for NO₂ and NO_x were summarised in Table 23.8 and plates 23.1 and 23.2 of the ES [REP1-033].

7.2.13. Predicted concentrations and changes in annual mean NO₂ and PM₁₀ along with the predicted number of days exceedance of the 24-hour PM₁₀ objective were presented in plates 23.3 and 23.4 of the ES [REP1-033] for all identified air quality receptors.

Construction

7.2.14. The main causes of effects arising from construction were the works, generation of construction traffic, traffic remaining on the roads affected by the Proposed Development and traffic diverted onto and around the surrounding wider road network in the study area. The ES included a construction phase dust assessment [APP-324] that identified all sensitive receptors within 200m of the scheme with potential to be affected, as set out in respect of each section of the Proposed Development ([REP1-033] tables 23.9 to 23.18). The cumulative number of receptors affected by construction traffic was shown in Table 23.35 [REP1-033]. The receptors were predominantly residential properties but also include schools, medical centres, care homes and nationally and internationally important ecosystems.

Operation

- 7.2.15. During operation, the backup generators at the converter station and the optical regeneration station were the only two potential sources of air quality effects identified by the Applicant in the replacement ES Chapter 23 [REP1-033]. Once operational, the onshore cable would be underground and would not affect air quality. Maintenance vehicles attending the converter station and its compound were considered by the Applicant to be minimal and not to have any effect on the baseline conditions.

Decommissioning

- 7.2.16. It is anticipated that decommissioning effects would be either less than, or equivalent to the construction effects. If ducts and cables were left *in situ*, the effects would be significantly less than those in the construction period.

Cumulative effects

- 7.2.17. Section 23.7 of the ES [REP1-033] established the cumulative effects from other planned projects that have the potential for construction emissions at the same time as the Proposed Development.
- 7.2.18. The Applicant noted at paragraph 23.7.2.3 that cumulative traffic effects during construction and operation were accounted for, though it is not possible to determine precisely when emissions would occur in each construction section. Therefore, any contribution to local cumulative emissions during construction cannot yet be detailed. However, embedded mitigation would ensure that emissions, dust and exhaust gases could be managed so as not to contribute significantly to cumulative effects under any programme scenario.
- 7.2.19. No significant cumulative effects were identified for the operational stage.

Mitigation

- 7.2.20. The Applicant suggested that mitigation for dust was embedded in the design of the Proposed Development. Mitigation measures were based on industry best practice and IAQM guidance on the assessment of dust from demolition and construction sites, as shown in Appendix 23.2 ([APP-455] and [REP1-074]).
- 7.2.21. Mitigation would be secured primarily through the preparation and implementation of a phase-specific Construction Environmental Management Plan (CEMP) by the construction contractor. This would need to incorporate measures set out in the Onshore Outline CEMP [REP9-005].
- 7.2.22. Further measures to mitigate the air quality effects of traffic delay, congestion and re-routing were set out in the Framework Traffic Management Strategy (FTMS) [AS-072]. These included measures to keep traffic flowing using manually controlled traffic signals, appropriate

diversion routes and seeking to avoid works at certain times or when specific events are held.

Applicant's summary of predicted effects

- 7.2.23. The Applicant's summary of residual effects was set out in Table 23.116 of the ES [REP1-033]. This concluded that, subject to the implementation of the embedded mitigation measures, all adverse effects would be reduced to a negligible level. The ES concluded that any effects on human health and ecological receptors would be temporary and would be minimised by the application of industry standard mitigation measures.
- 7.2.24. The national Air Quality Strategy objectives and standards applied in the assessment of the Proposed Development were shown in Table 23.2 of the ES [REP1-033].
- 7.2.25. The ES concluded that the predicted annual mean concentrations of NO₂, PM₁₀ and PM_{2.5} would be below the relevant AQS Regulations objective values at all modelled sensitive human receptors in the study area, with or without the Proposed Development. No exceedances of the hourly mean NO₂ objective were anticipated by the Applicant. In addition, no exceedances of the Air Quality Strategy objective for the number of days exceedance of the 24-hour PM₁₀ objective were predicted. The Proposed Development would be unlikely to inhibit compliance with the Ministerial Directions.
- 7.2.26. The ES anticipated no likely significant effects on biodiversity from the predicted changes in air quality, as demonstrated by the modelling of air quality effects at several designated sites.

Planning issues

Relevant Representations

- 7.2.27. A total of 42 RRs raised concerns about air quality, mostly focusing on emissions from traffic and traffic congestion on Portsea Island. Further issues raised under this topic included:
- air quality at green spaces and community spaces [RR-079];
 - creation of emissions contrary to the net zero initiatives [RR-062];
 - causing statutory obligations of Portsmouth City Council towards improving air quality to fail [RR-185].

Local Impact Reports

- 7.2.28. In its Local Impact Report (LIR) [REP1-161], East Hampshire District Council raised a concern over air pollution from the generated traffic reaching residential properties on Broadway Lane, Day Lane and Lovedean Lane.
- 7.2.29. Hampshire County Council [REP1-167] noted several highway works planned for the area, and the increasing importance at a national and

local level of improving the operation of the road network to reduce congestion, improve air quality, and support non-car based, sustainable modes of travel. Such matters were echoed in the LIR from Havant Borough Council [REP1-169].

- 7.2.30. The Portsmouth City Council LIR [REP1-173] raised Ministerial Directions on air quality as important and relevant matters under s104 of the PA2008. These Directions place a legally binding duty on the Council to take steps to improve air quality in the city, in particular to reduce air pollution concentrations across the city to legal limits in the shortest possible time.
- 7.2.31. The Council highlighted that some locations in Portsmouth were already in exceedance of the legal limit for annual average concentrations of NO₂, and further locations were considered to be 'near exceedance.' These were shown on the map provided with the LIR [REP1-176].
- 7.2.32. Concern was also raised that lane closures on Eastern Road could result in traffic rerouting via the M275 to travel into and out of the city, meaning that additional traffic would be travelling through the exceedance locations, which are sensitive to increases in traffic volumes and queuing.
- 7.2.33. Portsmouth City Council considered the mitigation measures included in the ES sufficient to reduce some of the air quality effects of the construction works in respect of the proposal. However, there was uncertainty in the modelling that did not give Portsmouth City Council confidence that an exceedance of the NO₂ annual mean objective would not occur because of diverted traffic. Unless suitable mitigation could be imposed, Portsmouth City Council warned that legal limits of concentrations of NO₂ may not met by the end of 2022, and a more stringent CAZ would have to be implemented.
- 7.2.34. In its LIR [REP1-178], the South Downs National Park Authority noted that there were no appreciable air quality implications of the proposal when in operation. During construction there may be impacts associated with plant and with the temporary construction compound but, as the effects would be temporary and insignificant, effects on air quality was not a matter of concern for the authority.
- 7.2.35. The only air quality point raised in Winchester City Council's LIR [REP1-183] was the absence of a dust assessment for the construction of the converter station. The Applicant clarified in its response to LIRs [REP2-013] that the dust assessment in Table 5.3 of [APP-138] included converter station construction activities under 'Cable Section 1.' The Applicant was satisfied the results were adequately represented.

Public health risks

- 7.2.36. Many Interested Party (IP) submissions mentioned existing levels of traffic congestion and delay contributing to air pollution and the associated public health risks. However, Public Health England [RR-065] was content with the modelling, assessments and mitigation, concluding

the Proposed Development was unlikely to present a significant risk to public health.

AQMA 9 and the near exceedance location

- 7.2.37. At Issue Specific Hearing 2 ([EV-032] to [EV-039]) the Applicant reported that NO₂ emissions were recorded as being 25.7µg/m³ whereas the modelled emissions, taking into account slower traffic moving under traffic management, would be 31.3µg/m³ and therefore well below any prospect of exceeding the target limit of 40µg/m³ in the AQMA area.
- 7.2.38. Portsmouth City Council disputed this with reference to its Annual Status Report, which describes exceedances of NO₂ in AQMA 9 [REP6-080]. The Applicant did not agree with Portsmouth City Council's statement that emissions from the Proposed Development would make exceedances of legal limits for NO_x or NO₂ worse across the Order limits or potentially delay compliance with legal limits set out in Ministerial Directives [REP7-074], stating the modelling results showed no new exceedances of the NO₂ objective or other limit values. This matter remained unresolved at the end of the Examination.

The Clean Air Zone

- 7.2.39. Portsmouth City Council [REP7-088] summarised that all locations identified in the city must show readings of NO₂ below 40.49µg/m³ by the end of 2022 [REP7-088] and the CAZ being established in the western part of the city was a key part of achieving this target. With the inclusion of the CAZ, all locations were predicted to meet the relevant thresholds (although one location was only just under at 40.2µg/m³), but that excluded any consideration of the Proposed Development.
- 7.2.40. The Applicant ([REP2-013] and [REP1-070]) confirmed that all requirements mandated in any CAZ that Portsmouth City Council may impose in seeking compliance with the AQS Regulations would be complied with. No new exceedances of the limit values set in the AQS Regulations would arise during construction or operation as a result of the Proposed Development, and the effects of construction would be temporary, transient and mitigated through the Framework Construction Traffic Management Plan (FCTMP) [REP1-070].
- 7.2.41. The Applicant's Addendum to the ES [REP7-067] included a CAZ sensitivity test and modelling, showing '*imperceptible and small changes in concentrations*' within the CAZ. Portsmouth City Council [REP7c-020] confirmed the methodology to inform the sensitivity testing was agreed and aligned to the Local Air Quality Plan, but concerns remained regarding NO₂ and prospective deteriorations of 0.5µg/m³ and 0.7µg/m³ being reported on conservatism in the model, showing a worsening of air quality at all sites with at least one (receptor 573) likely to lead to an exceedance of the limit value and thus the ability of Portsmouth City Council to meet the AQS Regulations.
- 7.2.42. The Applicant [REP8-064] concluded that no changes to the mitigation measures were required to address these increases and made no

changes to the residual effects reported in the ES [REP1-033], noting that any elevated pollution concentrations would be temporary and less than predicted. The Applicant therefore maintained its position that the Proposed Development would not inhibit compliance with the AQS Regulations.

- 7.2.43. In the final Statement of Common Ground with Portsmouth City Council [REP8-044] the matter was agreed with the Applicant, but the monitoring and mitigation measures in the Onshore Outline CEMP remained unresolved.

ExA response

Effects on ability to meet Ministerial Directives

- 7.2.44. Ministerial Direction 1 (March 2018): Alfred Road and Mile End Road are in the west of Portsea Island, close to the docks and ports on the approach to Portsmouth city centre. The ExA is content that the traffic management measures on the A2030 and the diversion routes that drivers may take to avoid the area would not significantly affect the operation of these parts of the A3. Apart from a theoretical indirect effect voiced by Portsmouth City Council at Issue Specific Hearing 2 ([EV-032] to [EV-039]), there was no substantive evidence before the Examination to demonstrate a worsening of air quality in this area as the CAZ is not in place. The ExA considers the ability of Portsmouth City Council to meet the requirements of the Direction would not be compromised by the Proposed Development.
- 7.2.45. Ministerial Direction 2 (October 2018): The ExA is satisfied that the retrofitting of buses could take place regardless of the Proposed Development. Given the consideration above in respect of Ministerial Direction 1, there is no evidence to suggest that the Air Quality Objectives at Mile End Road junction with Alfred Road could not be met.
- 7.2.46. Ministerial Direction 3 (October 2018): The plan is in place and the methodology of the Applicant, including the CAZ sensitivity testing, is said by Portsmouth City Council to be acceptable and agreed in light of this plan. The ExA does not consider that the production of the Local Air Quality Plan would be inhibited by the Proposed Development.
- 7.2.47. Ministerial Direction 4 (March 2020): Worsening of air quality would occur at a number of receptors, with receptor 573 subject to a potential likely exceedance. Given this is in an area where statutory requirements are in force, the ExA is mindful of NPS EN-1 paragraph 5.2.10, which states that if a project leads to non-compliance with a statutory limit then it should be refused.
- 7.2.48. The ExA notes the Applicant's position that the assessment in the ES is based on a robust, worst-case assessment in respect of NO₂ ([REP1-033], paragraphs 23.4.2.5 and 23.5.3.5). The Applicant's response [REP9-014] that a predicted increase of +0.2 µg/m³ at receptor 573 would be within the headroom of +0.3 µg/m³ reassures the ExA that the conservative predictions are still within tolerable limits. In addition, the

ability for periodic reviews of monitoring data and a list of appropriate actions to remedy any concerns in the Onshore Outline CEMP gives further reassurance that any effects could be appropriately addressed.

- 7.2.49. On this basis, the ExA considers that neither the CAZ nor its specific objectives would be compromised or adversely affected by the Proposed Development, and that there would not be any conflict with the Ministerial Directions.

Effects on public health

- 7.2.50. The ExA has given full consideration to the expressed concerns of many IPs about the effects of air pollution on human health and well-being. The ES concludes that annual mean concentrations of NO_x, PM₁₀ and PM_{2.5} are predicted to be below the relevant AQS Regulations objective values at all 104 modelled sensitive human receptors in the study area, with or without the scheme [APP-457]. Public Health England did not raise any concern or objection to the Proposed Development [RR-065].
- 7.2.51. The ExA is therefore satisfied that human health should not be adversely affected by the Proposed Development and that consideration of any increases in pollutants should be set against an overall trend of decrease through adoption of the various policies and plans of the Council.

Mitigation

- 7.2.52. The signed Statement of Common Ground between the Applicant and Portsmouth City Council [REP8-044] confirmed that most matters had been agreed in respect of air quality, including the methodology, predicted impacts and residual effects. The mitigation measures in section 7.1 of the Onshore Outline CEMP [REP9-005] remained as an unresolved matter, for which neither Portsmouth City Council nor Hampshire County Council had experience. Therefore, it was suggested that the ExA would need to determine the matter.
- 7.2.53. IAQM mitigation measures are set out in section 5.10 of the Onshore Outline CEMP, with a programme of environmental performance monitoring and review in section 7.1 and Table 7.1. The table lists further actions required in liaison with the local environmental health officers should there be a drop in air quality or other concerns regarding dust.
- 7.2.54. The ExA finds no particular concern with the Applicant's proposed methods of mitigation or with the subsequent review procedures to ensure compliance. The ExA agrees with the Applicant that the Onshore Outline CEMP is robust in its approach.

Conclusions

- 7.2.55. There would not be any significant air quality effects during the operation of the Proposed Development. Any occasional maintenance requiring traffic management measures would be no more significant in relation to air quality than any other authorised utility work within the highway.

- 7.2.56. In terms of the construction phase, the Onshore Outline CEMP includes a range of best practice dust mitigation measures for the Proposed Development for all works with potential for adverse effects on sensitive receptors such as homes, schools and designated wildlife sites. Mitigation would be secured through the preparation and implementation of a phase-specific CEMP by the construction contractor, approved by the local authority. Each CEMP would need to accord with the Onshore Outline CEMP. Sensitive receptors within 200m of works are at higher risk and further measures are proposed. Mitigation measures are based on industry best practice and IAQM guidance on the assessment of dust from demolition and construction sites.
- 7.2.57. The Applicant's assessment indicates that any increases in air pollution from vehicular traffic, resulting directly from traffic management measures or potential diversions around any construction works, would not present a significant risk of breaching the exposure limits set within the AQS Regulations. An appropriate monitoring strategy would be secured through the Onshore Outline CEMP to ensure compliance is maintained throughout the construction period.
- 7.2.58. Similarly, construction traffic would only be present for a short duration in any one area during cable installation and would not cause a significant deterioration in air quality. Taken together with general traffic movements, the Proposed Development would not affect the ability of the local authority to comply with relevant Ministerial Directions.
- 7.2.59. The ExA considers the approach and evidence to be robust, and concludes that effects on air quality during the construction and operation stages have been properly assessed and that all reasonable steps have been taken or would be taken to ensure that air quality limits are not breached, in compliance with the requirements of NPS EN-1. Matters of air quality do not therefore indicate against the Order being made.

7.3. NOISE, VIBRATION AND ELECTROMAGNETIC FIELDS

Introduction

- 7.3.1. This section reports on the effects of the Proposed Development on living conditions for local residents, including effects on human health, taking into consideration the tests set out in the Overarching National Policy Statement for Energy (NPS EN-1), and the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) in the following aspects:
- noise and vibration;
 - electromagnetic fields (EMF) (electromagnetic radiation exposure).
- 7.3.2. The effects of noise and vibration on important ecological receptors is dealt with in sections 7.5 and 7.7 of this Report, and at Chapter 8 in relation to the HRA.

7.3.3. Although the Examining Authority (ExA) identified noise in its Initial Assessment of Principal Issues [PD-010], it did not make specific reference to vibration as a Principal Issue. However, the Applicant and several Interested Parties (IPs) have, in places, referred to 'noise and vibration'. The ExA therefore includes consideration of vibration, so far as it is relevant.

7.3.4. There is greater detail about tranquillity in the South Downs National Park in section 7.9 of this Report. For the purposes of this section, there were no maintained positions in respect of noise impacts on the experience of tranquillity in the National Park except from the Campaign for the Protection of Rural England Hampshire (CPRE Hampshire) [REP7c-031].

Policy considerations

7.3.5. The main policy considerations relevant to the Proposed Development are set out below.

Noise and vibration

7.3.6. NPS EN-1 section 5.11 states:

'the Government's policy on noise is set out in the Noise Policy Statement for England (NPSE)... noise, with respect to human receptors, should be assessed using the principles of the relevant British Standards and other guidance...the project should demonstrate good design through selection of the quietest cost-effective plant available; containment of noise within buildings wherever possible; optimisation of plant layout to minimise noise emissions; and, where possible, the use of landscaping, bunds or noise barriers to reduce noise transmission...the Secretary of State (SoS) should not grant development consent unless it is satisfied that the proposals will meet the following aims:

- *avoid significant adverse impacts on health and quality of life from noise;*
- *mitigate and minimise other adverse impacts on health and quality of life from noise'.*

7.3.7. Paragraph 5.11.4 of NPS EN-1 advises that where noise impacts are likely to arise from a project, an application should be accompanied by a noise assessment, including the following:

- a description of the noise generating aspects of the proposal, including identification of any distinctive tonal, impulsive or low frequency characteristics;
- identification of noise sensitive premises that may be affected;
- the characteristics of the existing noise environment;
- a prediction of how the noise environment would change with the proposed development in the shorter term during the construction period and in the longer term during operation;

- variation during particular times of the day, evening and night as appropriate;
- an assessment of the effect of the predicted changes in the noise environment on any noise sensitive premises;
- measures to be employed in mitigating noise.

- 7.3.8. The noise impact of ancillary activities such as increased vehicle movements should also be considered (paragraph 5.11.5).
- 7.3.9. BS5228-1-2009 (+A1: 2014), *Code of practice for noise and vibration control on construction and open sites*, is a relevant document.
- 7.3.10. The NPSE requires that noise and vibration assessments identify impacts from a proposed development that would result in significant adverse effects on health and quality of life.
- 7.3.11. The Control of Pollution Act 1974 gives a local authority powers to serve a notice to a developer requiring the control of site noise under Section 60 of the Act.
- 7.3.12. Part 1.4(2)(a) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) requires, *inter alia*, the identification and assessment of the direct and indirect significant effects of a proposed development on population and human health.

Electromagnetic fields

- 7.3.13. With respect to EMF, NPS EN-1 paragraph 4.13 notes that direct effects on health from energy projects may include exposure to radiation.
- 7.3.14. The ExA considers NPS EN-5 to be important and relevant for the topic of EMF because paragraph 2.10.2 notes that, while putting cables underground eliminates the electric field, they still produce magnetic fields, which are highest directly above the cable. EMFs can have direct and indirect effects on human health, as noted by the Applicant in paragraph 26.6.2.23 of the ES [APP-141].
- 7.3.15. In 2004, the UK Government adopted the International Commission on Non-Ionizing Radiation Protection (ICNIRP, 1998) guidelines in accordance with the terms of the 1999 EU Council recommendation on limiting public exposure to EMF (EU, 1999). The criteria establish precautionary acceptable limits for exposure of the public to EMF. NPS EN-5 notes that the reference levels are such that compliance would ensure that the basic restrictions are not exceeded (paragraph 2.10.3).

The Applicant's case

Noise and vibration methodology

- 7.3.16. The principal application document relating to noise was Environmental Statement (ES) Chapter 24 on Noise and Vibration [APP-139]. This was supported by appendices containing further technical details on the

method of assessment, baseline survey information and modelling assumptions ([APP-335] to [APP-338]).

- 7.3.17. The Applicant produced an assessment of the potential noise and vibration effects of the construction, operation and decommissioning of the Proposed Development. An illustrative route for the onshore cable corridor [APP-336] was used as the basis for the noise and vibration assessments. At Issue Specific Hearing 3 ([EV-040] to [EV-047]), the Applicant confirmed that in sections 1, 2 and 3, no matter where the cable was laid within the Order limits, no property would be within 22 metres and so there would not be any worsening of the predicted significance of noise effects.
- 7.3.18. The Applicant principally used BS4142 in its assessments, although paragraph 24.1.2.3 of the ES identifies that a study area of 300m was used at the Converter Station construction site area in accordance with BS5228-1. The Applicant's noise assessment identified all sensitive receptors along the route of the Proposed Development. Unattended noise measurements were made at five locations at the converter station site and at a single location in proximity to the optical regeneration station, deemed representative of the nearest receptors.
- 7.3.19. The methods of assessment for construction, operation and decommissioning phases are described. The assessment identified receptors, the criteria used to determine the sensitivity of a receptor, and the magnitude of effects. Assumptions, constraints, background baseline survey, assessment findings, and proposed mitigation are detailed.
- 7.3.20. In response to a first written question (ExQ1) [REP1-091], the Applicant said that little reliance has been placed on the generic definitions in Table 24.13 of the ES. Instead, the magnitude categories adopted for each element of the noise and vibration assessment were underpinned by the appropriate British Standard (BS) or guidance document, and the methodology for each assessment element had been agreed with the relevant Environmental Health Officer. The general methodology appeared to be accepted by the relevant IPs in discussions at Issue Specific Hearing 3.

Potential noise and vibration effects during construction

- 7.3.21. The assessment of potential effects was set out in section 24.6 of the ES [APP-139]. In summary, the principal temporary effects during the construction phase were predicted to be:
- over unmade ground in sections 1 to 3 on the Works Plans [REP7-005], a negligible effect on any receptor greater than 22 metres away from the onshore cable working corridor;
 - a negligible effect on the receptors nearest to the converter station construction area with noise levels not exceeding 52 decibels (dB) ($L_{Aeq\ 10hr}$);

- vibration levels due to piling operations associated with the construction of the converter station would be below the level of perceptibility as no receptors would be within 130m of the building compound;
- trenching activities in roads, footpaths and verges would cause moderate adverse effects in some instances, though this, the Applicant suggested, would be tempered due to the short-term nature of the works in the vicinity of the worst-affected receptors;
- at the landfall where the cables would come ashore and the optical regeneration station would be built, minor adverse noise effects at a limited number of receptors, with negligible vibration effects.

7.3.22. The Applicant did not consider that these effects would be significant.

Potential noise and vibration effects during operation

7.3.23. The Applicant identified the converter station, the telecommunications buildings and the optical regeneration station as sources of noise once the Proposed Development was operational. The potential for noise from the onshore cables was scoped out of the assessment. The predicted effects were all said to be reversible on decommissioning and were set out in tables 24.25 and 24.7 of the ES. In summary:

- the broadband, operational converter station area free-field noise levels were said to be below the recommended levels ($L_{Ar, T}$ assessment criteria) at all properties except one, Hinton Daubney, which would experience a +0.4db ($L_{Ar, T}$) during the night-time period;
- the predicted octave band noise levels meet the criteria (i.e. the background noise levels in any octave band (31.5Hz to 8000Hz) are not exceeded) with the exception of Holme and Highfield Cottages (receptor 6), where the noise level exceeds the 63 Hz criterion by +0.3dB.

7.3.24. The Applicant submitted that the small exceedance at Holme and Highfield Cottages was not a concern.

Decommissioning noise and vibration

7.3.25. The Applicant predicts that the effects of noise and vibration would be no greater during the decommissioning stage than the construction stage.

Cumulative noise and vibration effects

7.3.26. During construction, the Applicant asserted that because effects would generally be short in duration, no other developments were identified for consideration in the cumulative effects assessment.

7.3.27. For operation, two energy storage systems and a battery storage plant in the proximity of the converter station were considered. However, the Applicant considered that noise mitigation could be secured on both projects and there would be a negligible cumulative noise effect as a

result of the developments operating alongside the Proposed Development.

Noise and vibration mitigation measures

7.3.28. The ES recognises that the Proposed Development would generate noise, with the potential to disturb noise sensitive receptors such as the occupants of residential properties. Several designed-in mitigation measures are proposed including:

- best practicable means, for example the use of quieter alternative methods, plant and equipment where reasonably practicable, and the use of screens and acoustic barriers;
- construction noise management measures for specific activities to be agreed with the relevant local planning authority;
- a Noise Management Plan for the operation phase to be agreed with the relevant local planning authority.

7.3.29. The Applicant would employ mitigation at the converter station and the optical regeneration station to accord with the Operational Broadband and Octave Band Noise Criteria Document [REP1-129], which is referred to in Requirement 20 of the draft Development Consent Order (DCO). Noise Management Plans, secured under the same Requirement, would be agreed with the relevant local authorities to monitor operational performance. The Onshore Outline CEMP [REP9-005], secured through Requirement 15 in the draft DCO, would provide overarching controls during construction.

EMF

7.3.30. The Applicant considered EMF in Chapter 26 of the ES on Human Health [APP-141]. This provided an assessment of the likely significant health and environmental effects of EMFs associated with the Proposed Development, describing the origin and nature of EMFs and noting that those produced by power cables are sometimes referred to as 'non-ionising radiation'.

7.3.31. An onshore electric and magnetic field report was submitted [APP-361], with direct reference to the ICNIRP criteria and guidance. The appraisal methodology was said to be in accordance with the industry Code of Practice on Compliance (Department of Energy & Climate Change, 2012).

7.3.32. EMF would only be generated when the cables and converter station went live, so the Applicant concluded that there would not be any effects during construction.

7.3.33. Once the Proposed Development was operational, the Applicant considered the burial depth of the onshore cable, no higher than 0.9m beneath the surface of rural ground or roadways, to be sufficient to reduce EMF effects above ground to negligible levels. The HVAC and HVDC cables would not produce any external electrical fields due to earthed sheaths around each cable.

- 7.3.34. The converter station would produce external electric fields, but the public would be shielded by earthed fencing on the compound perimeter. The Applicant therefore restricted the assessment to magnetic field exposure. At the converter station, it predicted that the rapid drop-off of EMF with distance would result in no appreciable effects on the background levels beyond 8.5m.
- 7.3.35. No EMF effects would arise from the optical regeneration station.
- 7.3.36. For decommissioning, if the decision was made to leave the cables and cable ducts *in situ*, these would be completely inactive, so would not generate any EMF.

Applicant's summary of potential effects

- 7.3.37. Table 24.58 of the ES [APP-139] summarised the assessment of likely noise and vibration effects of the Proposed Development. With the mitigation measures embedded in the Proposed Development and with the implementation of noise criteria set out in the control documents and draft DCO that require activities to achieve set maximum noise levels at receptor locations, the Applicant concluded that there would still be some residual significant effects on human receptors at the dwellings included in the assessment during the construction phase, but they would be temporary and short term.
- 7.3.38. During operation, the Applicant concluded that there would be no significant noise effects on human receptors.
- 7.3.39. For EMF, the Applicant concluded [APP-141] that, due to shielding and burial, there would be no electric or magnetic field present at a strength to affect human health along the onshore cable route. The Applicant concluded that there would be no significant effects on human receptors.

Planning issues

Relevant Representations

- 7.3.40. Issues raised by IPs, individuals and organisations, included:
- impacts of noise on tranquillity in the National Park, on the Monarch's Way and on other paths and bridleways ([RR-028], [RR-029], [RR-046] and [RR-043]);
 - impacts of electrical noise on the countryside ([RR-028] and [RR-057]);
 - construction noise on living conditions [RR-054];
 - cumulative noise effects from Proposed Development and the existing Lovedean Substation [RR-039].
- 7.3.41. Twelve Relevant Representations raised concerns about EMF (for example [RR-006] and [RR-138]), including individual personal health

circumstances and concern over wider public health hazards believed to be associated with proximity to high voltage cables, such as cancer.

Local Impact Reports (LIR)

- 7.3.42. In its LIR [REP1-161], East Hampshire District Council suggested that the construction phase would have the most significant effect in terms of noise on the local population.
- 7.3.43. Havant Borough Council [REP1-169] was content with the approach and methodology used for undertaking construction and noise assessments. It did, however, request clarification regarding the methodology and definitions used in ES Tables 24.4 and 24.6 [APP-139] and the definitions of magnitude set out in Table 24.13 [APP-139].
- 7.3.44. In its LIR [REP1-173], Portsmouth City Council recommended that noise levels should be monitored by the contractor to ensure that they comply with levels set in BS5288.
- 7.3.45. Portsmouth City Council noted that certain works, equipment and activities had not been taken into account in the night-time noise assessment, such as road breaking, trenching, the use of cutting equipment, and road resurfacing works. The Applicant confirmed [REP2-013] that such equipment and activities had been excluded from the noise assessment because these would not be permitted in the night-time period.
- 7.3.46. The Harbourside Caravan Park on the A2030 appeared to have been assessed by the Applicant as being a single property as opposed to 69 permanent individual pitches. In noting that works would take place outside the caravan park for up to 7 days, throughout the day and night, and that the caravans would not have the same noise insulation characteristics as a house, Portsmouth City Council suggested that alternative accommodation should be offered to residents affected by the noise.
- 7.3.47. The Applicant [REP2-013] noted that the Harbourside Caravan Park comprises multiple sensitive receptors but it had been considered as one receptor because the nature of the noise and vibration effects, and the appropriate mitigation measures, are expected to be the same at all of the caravans located closest to the works. In respect of temporary accommodation, the Applicant suggested that works would not cause a large adverse effect for 10 or more days in any 15 consecutive day period, and so neither noise insulation nor temporary rehousing were considered necessary.
- 7.3.48. Portsmouth City Council also raised concerns about noise increases for residents living along residential streets that would become diversion routes for vehicles seeking to avoid roadworks on the A2030.
- 7.3.49. The South Downs National Park Authority's LIR [REP1-178] welcomed proposed draft DCO Requirement 20 that would require submission of a Noise Management Plan in respect of the convertor station building. In

respect of Work Area 2, it requested the Requirement be discharged in consultation with the Authority because of the potential tranquillity effects.

- 7.3.50. Winchester City Council, in its LIR [REP1-183], raised an in-principle concern with Article 9 of the draft DCO (defence to proceedings in respect of statutory nuisance). In the first instance this was because the statutory nuisance assessment and the ES concluded that the Proposed Development would not result in a statutory nuisance. Secondly, it considered that Article 9 appeared to introduce a different threshold for defining statutory nuisance, potentially to the detriment of nearby residents.
- 7.3.51. Winchester City Council also raised concerns regarding the ability to secure mitigation for the noise arising from the converter station, and the need for more precision and control. As the design and specific equipment had not been finalised, assumptions had been made in the noise assessment to derive the conclusion that the impacts from the converter station would be negligible.
- 7.3.52. There are no references to EMF in any of the LIRs.

General concerns

- 7.3.53. CPRE Hampshire [RR-028] raised concern with regards to the adverse effects of operational noise on the tranquillity of the South Downs National Park.
- 7.3.54. At Deadline 1, CPRE Hampshire criticised [REP1-253] the Applicant's use of BS4142, suggesting instead that Paragraph 5.11.6 of NPS EN-1 directs developers to the *'Association of Noise Consultants Good Practice Working Group – March 2020'* and specifically section 6, *'Measurement Procedure; section 7 Specific Sound Level and section 8 Background Sound Level'*.
- 7.3.55. The Applicant confirmed [REP2-014] that BS4142 underpinned the noise assessments undertaken in accordance with paragraph 5.11.6 of NPS EN-1. However, CPRE Hampshire [REP7c-031] maintained its objection to the Proposed Development, alleging that the noise assessment did not comply with NPS EN-1.
- 7.3.56. The Parish Council of Denmead [REP5-079] reported that an electric 'hum' was audible at times from the existing Lovedean Substation and wondered if this could be augmented by the Proposed Development. The Applicant responded [REP6-061] that no complaints had ever been received by Winchester City Council or East Hampshire District Council in relation to the operational noise from the existing Lovedean Substation and the Proposed Development would include embedded mitigation to ensure low frequency noise and characteristic features (such as tones or hums) are robustly addressed.
- 7.3.57. Portsmouth City Council originally raised concern regarding the effect of noise emissions from the optical regeneration station on nearby residents

[RR-185] and noted that the ES did not contain any noise data for it [REP1-172]. However, at Deadline 6, Portsmouth City Council [REP6-081] confirmed that, although details of the equipment that would be installed had not been provided, the operation noise levels proposed by the Applicant would not exceed existing background levels in the area as specified in the ES and it considered the matter closed.

- 7.3.58. In respect of EMF, Public Health England [RR-065] and [REP1-218] did not raise any objection, concluding:

'we are satisfied that, based on the submitted documentation and suggested control and mitigation measures, the development is unlikely to present a significant risk to public health.'

Article 9 of the draft DCO

- 7.3.59. Article 9 was discussed at length in Issue Specific Hearing 1 ([EV-020] to [EV-031]) and Issue Specific Hearing 4 [EV-066] to [EV-079]. Winchester City Council [REP7-093], supported by Havant Borough Council [REP7-086], East Hampshire District Council [REP8-071] and Portsmouth City Council [REP8-075], raised fundamental objections to the powers in Article 9 that would absolve the Applicant from claims of statutory nuisance.
- 7.3.60. Winchester City Council proposed modifications to the Article to enable it to be retained [REP7-096] whereas Portsmouth City Council maintained that it should be deleted [AS-061]. At Issue Specific Hearing 4 ([EV-066] to [EV-079]), the Applicant referred to the need for compliance with a Noise Management Plan at all times, and that this would be prepared and submitted in accordance with Requirement 20 in the draft DCO. This was inclusive of a reliance on a Broadband and Octave Wave Document [REP1-129].
- 7.3.61. The matter remained unresolved at the end of the Examination and is discussed in more detail in Chapter 11 of this Report.

Out-of-hours construction

- 7.3.62. Hampshire County Council [REP8-072] and Portsmouth City Council [REP8-075] considered that it may be preferable for certain construction works to take place during night-time hours where this would accelerate the work programme and limit the disruption to highways during the daytime. The use of the respective authorities' permit schemes would allow the authorities to 'direct' that certain works were to take place out-of-hours in the interests of reducing traffic impacts.
- 7.3.63. The Applicant added Requirement 18(4)(c) to the draft DCO [REP9-003] enabling works to take place on traffic sensitive streets outside applied construction hours (detailed in Table 2.2 of the Onshore Outline CEMP [REP9-005]) where it could be evidenced by the relevant highway authority that the direction would not cause effects of greater significance than those predicted in the ES.

- 7.3.64. Hampshire County Council maintained an objection to this clause on the basis of the burden of proof being placed on the Council, and that slight extensions of construction hours in certain instances could take place without causing significant environmental effects. This matter was not agreed at the end of the Examination.

ExA response

- 7.3.65. The ExA is aware that the effect of noise and vibration is a concern for many residents, especially during the onshore construction works. The ExA has carefully considered the representations made during the Examination and has had regard to the concerns of the local authorities and others who have made submissions on this matter.

Approach and methodology

- 7.3.66. The Applicant's methodology for assessing noise, whilst containing some minor irregularities in terms of approach and terminology, is underpinned by noise legislation and British Standards. No substantive evidence was submitted to demonstrate the existence of a different noise environment to the conditions presented and considered in the ES. The ExA is satisfied that the Applicant has adopted a robust, consistent, reasonable and proportionate approach to the assessment of noise and vibration and has made appropriate proposals for mitigation in compliance with NPS EN-1 paragraphs 5.11.11 to 5.11.13.
- 7.3.67. The ExA is therefore content that the assessment undertaken by the Applicant was sufficiently robust to provide reliable outputs.
- 7.3.68. By the end of the Examination, all matters concerning the methodology, predicted and residual effects for noise and vibration were agreed between the Applicant and local planning authorities, with the exception of the inclusion of Article 9 in the draft DCO and the ability for highway authorities to direct out of hours working through the pertinent permit schemes ([REP8-044] to [REP8-049]). The ExA places significant weight on matters being resolved.
- 7.3.69. The ExA's deliberations on the inclusion of Article 9 in the Recommended DCO are set out in Chapter 11 of this Report. The ExA found no compelling reason to remove the Article from the Recommended DCO.

Construction stage effects

- 7.3.70. Whilst there would inevitably be temporary effects from the construction of the converter station and optical regeneration station, and from installation works along the onshore cable corridor, the ExA is satisfied with the Applicant's assessments and conclusions that construction noise could be appropriately managed and controlled through the Onshore Outline CEMP.
- 7.3.71. The ExA recognises that subjecting some residents to longer construction working hours and night-time noise would reduce some traffic effects and facilitate faster delivery of the Proposed Development. However, the ExA

finds no particular reason to encourage or require the Applicant to undertake further out of hours working that includes the noisiest activities, recognising a balance has to be struck between the work programme and the living conditions of residents in the proximity of the onshore cable corridor. Specific instances where this may be useful on traffic sensitive streets would be subject to a phase-related CEMP (derived from the Onshore Outline CEMP and Requirement 15), and any case the highway authority wished to make for night-time working could be raised in that forum.

Operational stage effects

- 7.3.72. The ExA has given weight to the embedded and additional mitigation measures detailed in the ES [APP-139] and the Onshore Outline CEMP [REP8-024]. Requirement 20 of the draft DCO requires the Applicant to provide a detailed Noise Management Plan to the relevant local authorities to monitor operational performance. The ExA is content that this would provide the local planning authority with the opportunity to ensure that the design and specific equipment used in the Proposed Development does not lead to an exceedance of the maximum noise limits assumed in the assessment.
- 7.3.73. Neither the South Downs National Park Authority nor Winchester City Council pursued the matter of predicted operational noise levels specifically, having agreed the methodology and findings were acceptable in Statements of Common Ground with the Applicant. The ExA finds no reason to give great weight to CPRE Hampshire's position in this regard.
- 7.3.74. The ExA is satisfied that no significant adverse noise and vibration effects would result from the operation of the Proposed Development and agrees with the Applicant's conclusions on these matters.

EMF

- 7.3.75. None of the statutory consultees pursued the matter of EMF and health during the Examination. The ExA notes the Applicant's submission [REP6-061] that there would be no adverse EMF effects along the onshore cable corridor route or at the converter station and that EMF strength would be below relevant guidelines. The ExA has no substantive evidence from any party to disagree with the Applicant's findings in this regard.
- 7.3.76. The ExA notes that several individual IPs were concerned about the effects of EMF on human health, including perceived cancer and cardiovascular disease implications. However, the ExA, guided by the available evidence and the position of Public Health England, is satisfied that the Proposed Development would not pose significant risks to human health in this regard.

Conclusions

- 7.3.77. Effects during the construction phase would be temporary, short-term and appropriately reduced through the implementation of industry best practice and other mitigation measures in the Onshore Outline CEMP, as

secured by draft DCO Requirement 15. The ExA therefore concludes that noise and vibration effects would be managed in a manner that complies with NPS EN-1.

- 7.3.78. The ExA considers the mitigation measures to be a reasonable and proportionate response to the noise and vibration issues raised. However, whilst they would serve to reduce disturbance and nuisance for local residents, the ExA recognises that some minor temporary effects would remain and these weigh against the Order being made.
- 7.3.79. The ExA is satisfied that the Noise Management Plans needed under Requirement 20 of the draft DCO would allow appropriate mitigation to be secured to ensure that no significant effects remain once the Proposed Development is operational.
- 7.3.80. As the cable would be buried and sheathed, the ExA agrees with the Applicant's ES and the advice from Public Health England that EMF effects arising from the project would be negligible and would not pose a significant risk to public health. The ExA finds no conflict with NPS EN-5 in this regard. Therefore, EMF matters do not indicate against the Order being made.

7.4. THE LOCAL COMMUNITY AND SOCIO-ECONOMIC MATTERS

Introduction

- 7.4.1. This section considers the effects of the Proposed Development on socio-economics and the local community, including tourism, recreation, sport, and employment. Socio-economic impacts were identified as a Principal Issue in the Examining Authority's (ExA) Initial Assessment [PD-010].
- 7.4.2. Community matters in relation to noise, air quality, traffic, parking, health and visual amenity are dealt with in other sections of this Report. Matters relating to allotments and other local land uses are addressed in section 7.13.

Policy considerations

National Policy Statements

- 7.4.3. Section 5 of the Overarching National Policy Statement for Energy (NPS EN-1) covers socio-economic matters. It states that the construction, operation and decommissioning of energy infrastructure may have socio-economic impacts at local and regional levels (paragraph 5.12.1).
- 7.4.4. It notes at Section 5.12 that, where the project is likely to have socio-economic impacts, the Applicant should undertake an assessment of these impacts as part of the Environmental Statement (ES). The assessment should describe the existing socio-economic conditions in the area, set out the Proposed Development's predicted effects, and refer to how these effects correlate with local planning policies.

- 7.4.5. Paragraph 5.12.3 requires applicants to consider all relevant socio-economic effects, which may include:
- the creation of jobs and training opportunities;
 - the provision of additional local services and improvements to local infrastructure, including the provision of educational and visitor facilities;
 - effects on tourism;
 - the impact of a changing influx of workers during the different construction, operation and decommissioning phases of the infrastructure;
 - cumulative effects – if development consent were to be granted for a number of projects in a region and these were developed in a similar timeframe.
- 7.4.6. The decision taker should have regard to the potential socio-economic impacts of new energy infrastructure identified by the applicant and from any other relevant sources. Limited weight may be given to assertions of socio-economic impacts not supported by evidence. Consideration should be given to any legacy benefits and relevant provisions to mitigate effects.
- 7.4.7. At paragraph 5.10.19, NPS EN-1 requires applicants to seek to minimise effects on the existing use of the proposed site by applying good design principles, including the layout of the project. Rights of way, national trails and other rights of access to land are recognised as important recreational facilities for walkers, cyclists and horse riders (NPS EN-1, paragraph 5.10.24). The Government makes clear that applicants are expected to take appropriate mitigation measures to address adverse effects on coastal access, national trails and other rights of way. Where this is not the case, appropriate mitigation Requirements may be attached to any grant of development consent.
- 7.4.8. Government policy is to ensure that there is adequate provision of high-quality open space and sports and recreation facilities to meet the needs of local communities (paragraph 5.10.2). Section 5.10 of NPS EN-1 includes policies that are relevant to land use considerations. In particular, the Government recognises that an energy infrastructure project would have direct effects on the existing use of the proposed site and may have indirect effects on the use, or planned use, of land in the vicinity for other types of development (paragraph 5.10.1). Land use more generally is covered in section 7.13 of this Report.

National Planning Policy Framework (NPPF)

- 7.4.9. Paragraph 80 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development.

- 7.4.10. Paragraph 83 requires policies to retain and develop accessible local services and community facilities such as sports venues and open space, with paragraph 93 reinforcing this by encouraging policies to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

Development plan

- 7.4.11. The Applicant's consideration of applicable development plan policies is set out in the Planning Statement [APP-108] and its Appendix 4 [APP-112]. Relevant policies from the South Downs National Park Authority are included, though the Applicant notes that the Proposed Development lies outside the National Park.
- 7.4.12. The ExA has reviewed the Applicant's analysis and is content that it provides a fair representation. No additional policies were highlighted by the local authorities in their Local Impact Reports. Taken as a whole, these policies seek to protect and encourage local employment, protect community facilities, and retain and enhance public open spaces, cycleways and footpaths. The ExA has considered the policies to be important and relevant in its deliberations on the matters in this section.

The Applicant's case

Methodology

- 7.4.13. ES Chapter 25 [APP-140] addressed the predicted socio-economic impacts of the Proposed Development, including effects on business premises, tourism, playing fields and other community facilities. Appendix 25.2 [APP-470] identified socio-economic receptors within 500m of the Proposed Development. The ES recognised the uncertainty associated with the assessment of socio-economic effects.
- 7.4.14. The assessment of socio-economic effects was informed by consultation, desk-based research and interrogation of resources such as maps, Office for National Statistics population and demographic data, and the Business Register and Employment Survey. In addition to residential properties, sensitive receptors included 17 schools, 11 early childhood facilities, one college (Portsmouth College), one library, 11 churches, three general practitioners and medical services, three dentists, nine pharmacies, two care homes and five opticians. The Applicant used the same sources of data to identify special category land and public open space within 500m of the Proposed Development.
- 7.4.15. In terms of assessing employment impacts, the Applicant focused on the whole south-east region as a study area, as the Proposed Development crosses the administrative areas of four local authorities.

Potential effects during construction

- 7.4.16. The assessment of construction impacts included the potential for effects on visual amenity, noise, recreation resources, the local road network, and access to properties.
- 7.4.17. With an anticipated cable installation rate in urban areas of 100m per week, the Applicant anticipated construction works would affect access to a property for up to 4 weeks in total. These may not be consecutive weeks. Effects on businesses and residences were considered minor to moderate and short-term.
- 7.4.18. For open space and community land, the Applicant considered the potential disruption, changes in amenity value and changes in access for users of the land, including potential severance effects.
- 7.4.19. The Proposed Development would affect areas of public open space used for leisure and recreation, and the effects on each were set out in Table 25.14 of the ES [APP-140]. Playing pitches for football, cricket and rugby would be affected, as well as some car parks that serve recreation areas. Construction would also entail works underneath the Eastney and Milton Piece Allotments, considered in section 7.13 of this Report.
- 7.4.20. In terms of employment, the Applicant projects that some 590 full-time equivalent employees would be involved with the construction of the Proposed Development over a four-year period. Tables 25.11 and 25.12 of the ES [APP-140] predicted that 93 of these would be sourced locally. During construction, the Applicant anticipated a beneficial though temporary effect on the local economy. This would result from the use of local labour and support for local businesses through direct expenditure on materials and services. The Applicant expected that many of the workforce from outside the region would use hotels and guesthouses in the Portsmouth area, so predicted further beneficial effects for local hotels and restaurants.

Potential effects during operation

- 7.4.21. Once operational, only occasional visits to the Proposed Development would be needed to undertake routine maintenance checks, repairs, or for security purposes. Most of these would be to the converter station and optical regeneration station. Any onshore cable maintenance would take place primarily from the joint bays along the route. There would therefore be limited effects from the Proposed Development in its operational phase.
- 7.4.22. Once operational, the temporary effects from construction on businesses, sports grounds, open space and tourism receptors would cease. None of the cable components would be obvious above ground at open spaces and there would be negligible effects. The converter station and optical regeneration station would remain visible from public rights of way and public open space respectively.

Potential effects during decommissioning

- 7.4.23. When the Proposed Development is decommissioned, it was assumed that the onshore cable ducts would remain *in situ*, with limited works undertaken to remove the cable via joint bays, and that the buildings would be removed. It was assumed that decommissioning impacts would be like those during construction, although they would be more limited along the onshore cable corridor.

Cumulative effects

- 7.4.24. Several projects with the potential to lead to cumulative effects were listed in paragraphs 25.8.1.4 and 25.8.1.5 of the ES [APP-140]. The Applicant concluded that there is potential for some cumulative effects of minor to moderate significance. Only one area, the Baffin Milton Rovers football ground on Portsea Island, would be subject to potentially moderate adverse (significant) effects, and only if the Proposed Development coincided with works locally for the North Portsea Island Coastal Defence Scheme.
- 7.4.25. In relation to open space and community land, potential was noted for cumulative effects to occur when multiple developments are being built at the same time. Effects described above, including disruption from impeded access, noise, dust and visual annoyance, traffic congestion and reduced amenity from multiple sources, have the potential to combine and increase the magnitude of effect on socio-economic receptors. The Applicant identified several developments in the proximity of the Proposed Development, some resulting in minor to moderate cumulative effects and others resulting in negligible cumulative effects.
- 7.4.26. Depending on a more detailed construction programme that would be developed when a construction contractor was appointed, potential was also identified for intra-project cumulative effects if multiple areas used for recreation and open space were to be affected concurrently.

Mitigation measures

- 7.4.27. The Applicant submitted that, with the Framework Traffic Management Strategy (FTMS) [AS-072] and the Framework Construction Traffic Management Plan (FCTMP) [AS-074] in place, coupled with the short term nature of the effects of construction in any one area, the effects of disruption and disturbance would be mitigated to a negligible level.
- 7.4.28. Where public recreation facilities were disturbed, the Applicant would undertake reinstatement and restoration to bring pitches and open space back into use in accordance with measures secured in the Onshore Outline Construction Environmental Management Plan (Onshore Outline CEMP) [REP9-005], arising from assessment in the Framework Management Plan for Recreational Impacts (FMPRI) [AS-062]. At the end of the Examination, further mitigations in respect of recreational land in Portsmouth were presented by the Applicant in a unilateral Development Consent Obligation [REP8-042].

- 7.4.29. Throughout the Examination, Winchester City Council pressed for a legacy fund ([REP1-183] through to [REP8-077]), but the Applicant contended [REP1-135] that only mitigation and compensation that addressed effects directly associated with the Proposed Development should be considered in the planning and DCO process.
- 7.4.30. For effects on open space and community land, the Applicant considered the temporary nature of construction works to result in short-term effects. Measures to divert paths and provide alternative parking or access would be provided in a traffic management strategy. Where avoidance of such facilities and land uses could not be achieved, the Applicant noted that disturbed land would be reinstated post-construction and landscaping would take place to improve amenity.
- 7.4.31. At the landfall, the use of horizontal directional drilling (HDD) would avoid the use of Eastney beach, with access retained throughout construction.

Applicant's summary of potential effects

- 7.4.32. Table 25.15 of ES Chapter 25 [APP-140] provided a summary of the findings of the assessment and listed the potential and residual effects following implementation of mitigation measures. The Applicant identified moderate adverse and significant effects on sports, recreation and areas of open space during construction as well as on tourism receptors through changes to access, noise, air and visual amenity.
- 7.4.33. Whilst some effects were considered significant, the Applicant suggested that the inherent mitigation measures would reduce the effects to either negligible or minor to moderate (and not significant) in the main. A minor beneficial effect to the local economy was predicted from employment generation.
- 7.4.34. In respect of cumulative effects, the ES found possible beneficial effects across several receptors, although it recognised the uncertainty attached to such an assessment.
- 7.4.35. Except for the permanent land take at Fort Cumberland car park for the optical regeneration station, the Applicant considered areas of open space would be restored to pre-existing conditions after a time-limited period of disruption. For areas of special category land, the Applicant considered special Parliamentary procedure need not be invoked as the land, post-restoration, would be no less advantageous to the users, as discussed in Chapter 11 of this Report.

Planning issues

Relevant Representations

- 7.4.36. Many Interested Parties (IPs) and, in particular, non-registered parties whose submissions were exceptionally accepted into the Examination ([REP1-321 to REP1-325]) raised concern about the effects on recreation venues and accessibility to open space for physical and mental health

and well-being, with a number citing the COVID-19 pandemic as demonstrating their importance. IPs also raised concerns regarding:

- negative effects on the viability of existing businesses ([RR-071] and [RR-157]);
- loss of open space, such as Milton Common, used for walking, recreation and enjoyment ([RR-106] and [RR-129]);
- the need for an education and skills programme [RR-157];
- effects on the National Park [RR-028];
- disturbance of playing fields ([RR-009] and [RR-064]);
- disruption to tourist attractions and facilities [RR-185].

Local Impact Reports

- 7.4.37. In its Local Impact Report (LIR) [REP1-161], East Hampshire District Council noted there would be a degradation of views from public footpaths in the vicinity of the converter station, particularly the long-distance path known as Monarch's Way to the north of the Proposed Development. It raised concern that there was little or no economic benefit at a local level during the construction phase with the majority of employment not being local and only limited shops and services nearby to benefit from construction worker spending. The Council concluded that there would be negligible economic benefits in its area, and hence that there was a need for a mechanism to secure local training and construction jobs.
- 7.4.38. Hampshire County Council's LIR [REP1-167] restricted commentary on socio-economic impacts to disruption to highways.
- 7.4.39. In its LIR [REP1-169], Havant Borough Council raised concern about effects along the A3 corridor in terms of access to residences, shops and businesses. The route provides access to retail areas such as the Asda Waterlooville store, Sainsburys and Wellington Retail Park, along with local centres in Purbrook and Hambledon Parade, which would all be affected by the works.
- 7.4.40. The Portsmouth City Council LIR [REP1-173] raised effects on sports grounds and playing pitches at Farlington, Zetland Field, Bransbury Park, the University of Portsmouth Langstone Campus and the Kendall stadium (Baffins), with construction works affecting the availability of pitches, potential displacement of users, loss of revenue to the authority and loss of limited facilities to residents of Portsmouth. In August each year, Portsmouth City Council hosts camping for the Victorious Festival at Farlington, and the Council contended that the Proposed Development would result in significant financial loss to Portsmouth City Council and could possibly affect the viability of the Festival.
- 7.4.41. Portsmouth City Council raised concerns about the car park at Fort Cumberland, the proposed location for the landfall and optical

regeneration station. Concern was also raised about the option to route the cables across Milton Common rather than using the A2030.

- 7.4.42. In its LIR [REP1-178], the South Downs National Park Authority highlighted effects on tranquillity and enjoyment of the National Park, including effects on views from the Monarch's Way long-distance footpath, and the Park's role as an International Dark Sky Reserve. This is addressed in section 7.9 of this Report.
- 7.4.43. The South Downs National Park Authority acknowledged that there would probably be negative effects on tourism businesses but considered these unlikely to be significant. Apart from tourism, it considered that the socio-economic impacts of the scheme would be limited and raised no objection in this regard.
- 7.4.44. As the host authority to the main converter station buildings, Winchester City Council's LIR [REP1-183] considered that the Applicant should be reaching out to the local community to share the benefits of the Proposed Development with them. To this end, the Council recommended an approach to community benefit set out in the Government publication, *Community Benefits from Onshore Wind Developments: Best Practice Guidance for England* on the basis that the proposal had similar attributes to a generating station.
- 7.4.45. Winchester City Council requested the production of an Employment and Skills Plan to benefit the local workforce and increase the number of locally sourced employees, and for educational visits. The Applicant added Requirement 27 in the draft DCO to secure this in accordance with the Employment and Skills Strategy submitted at Deadline 7 [REP7-077].
- 7.4.46. Winchester City Council noted that there were limited accommodation opportunities for workers in local settlements outside Portsmouth, and that any economic benefit from worker spending would not be realised locally in places like Denmead.
- 7.4.47. The Council was also concerned that the Applicant's assumptions about socio-economic benefits were not secured in any way through the draft DCO and therefore support for the local economy could not be guaranteed.

Farlington Playing Fields

- 7.4.48. Portsmouth City Council ([REP1-174] and [REP8-075]) and Sport England ([REP1-112] and [REP8-126]) expressed concerns about Farlington Playing Fields, one of the principal sports and recreation venues in Portsmouth. It has 11 football pitches and 3 crickets pitches. Sport England described the area as:

'the most strategically important site for community sport with a large number of grass football pitches as well as multiple cricket pitches accommodating a large amount of play across the year.'

- 7.4.49. The scope of the concerns raised in the Examination ranged from:

- loss of car parking with no suitable alternatives for users;
- extent of the Order limits across the whole of the facility;
- duration of construction works causing loss of playing pitches for a number of weeks;
- duration of construction works affecting the playability of remaining playing pitches;
- duration of reinstatement works and the length of time before surfaces become playable again;
- effects on the specialised drainage system;
- lack of alternative playing space in the area, potentially leading to displacement of community clubs (or even team closures);
- loss of revenue for the Council.

7.4.50. Appendix A of the final FMPRI [AS-062] provided an indicative phasing strategy for works at Farlington. The proposed construction activities and the consequent disruption were described in paragraph 4.2.1.12, which showed a non-continuous period of 52 weeks' working with a further eight weeks for restoration. The FMPRI set out reinstatement and restoration measures for playing pitches and the sub-surface drainage, formulated with a qualified agronomist. These would be secured through the Onshore Outline CEMP [REP9-005].

7.4.51. Notwithstanding the mitigation measures proposed, the FMPRI acknowledged:

- during phase 4 of works, whilst working areas would be cleared to allow for Victorious Festival camping, the surface would not be restored (paragraph 4.2.1.20);
- the car park would be subject to temporary partial closure in April 2022 and there is limited capacity at other car parks nearby;
- the 9v9 footpath pitch would need to be relocated temporarily.

7.4.52. Portsmouth City Council raised concern that the final version of the FMPRI was submitted too late for detailed assessment. Nonetheless, the Council and Sport England provided comment on the FMPRI at Deadline 8. Sport England [REP8-126] commented that the broad nature of the Order limits could permit an alternative route for the cable works that caused greater than predicted effects on the playing fields. Sport England also considered that further detailed issues requiring consideration were raised in the final version of FMPRI [AS-062], so they were unable to agree the proposed scheme of reinstatement.

7.4.53. Sport England expressed concern that no strategy for meeting the needs of existing teams and clubs using the playing fields had been identified and noted that the lack of capacity in Portsmouth's stock of playing fields could lead to an unmitigated displacement of users.

- 7.4.54. The Applicant provided a unilateral Development Consent Obligation [REP8-043], covering several areas and compensatory measures. This included the proposed provision of a £100,000 sports and recreation contribution to enable Portsmouth City Council to administer support for community sports clubs, teams and groups while capacity was reduced at Farlington Playing Fields (and other sports facilities) and to deliver alternative programmes in the affected areas to mitigate the residual effects of the Proposed Development. Portsmouth City Council suggested £250,000. The obligation was not agreed at the end of the Examination and both parties made submissions about their interpretation of this ([REP8-044], [REP8-075] and [REP9-014]).

Bransbury Park

- 7.4.55. The onshore cable corridor runs through Bransbury Park, affecting access to a skate park and one of three football pitches there. Paragraph 4.2.4.7 of the FMPRI suggested that the affected pitch could be reconfigured to lie outside the Order limits although this would require consequential reductions in another pitch. If the pitch was not realigned, the worst-case assessment is that it would be lost for up to 12 weeks (four weeks of construction and eight weeks for reinstatement).
- 7.4.56. Portsmouth City Council's noted that these realignments were not paid for in the Development Consent Obligation and as such the effect was not mitigated. Its position was that the sports and recreation contribution should be significantly increased to account for remedying the Applicant's unmitigated harm.
- 7.4.57. The Applicant [REP9-014] noted that realignment would form part of a detailed recreational management plan, which would be submitted post-consent under the terms of the Onshore Outline CEMP, and so there is no need for such to be included in the Development Consent Obligation. The Applicant further submitted [REP9-014] that:

'Portsmouth City Council calculated a contribution amount of £100,000 based on 87 weeks of pitch loss. The only 'non-mitigated' impact following Portsmouth City Council's position in relation to realignment outside the Order limits is Bransbury Park, which may be affected for up to 12 weeks. On a pro-rata basis that equates to £14,000. There is clearly no justification for the £150,000 increase recommended.'

Zetland Field

- 7.4.58. The FMPRI reported that if the cable corridor ran along the western edge of this playing field, the effects would be minimised. The single set of goal posts affected by the Proposed Development would be dismantled during construction and reinstated by the contractor in the original location once construction works are completed, which is an agreed mitigation [REP8-044].
- 7.4.59. Portsmouth City Council [REP8-075] maintained an objection at Zetland Field based on the extent of the Order limits when compared to the amount of land actually required to deliver the cable corridor (shown in

plate 9 of the FMPRI [AS-062]), which, it suggested, allowed for a more harmful route to be taken.

Baffin Milton Rovers and Langstone Harbour Sports Ground

- 7.4.60. Section 4.5 of the Applicant's change request [REP1-133] detailed the extent of the revised Order limits at the Langstone Harbour Sports Ground. The FMPRI anticipated works could be reduced to three weeks in total across the Baffin Milton Rovers Football Ground (Kendall Stadium) and the Langstone Harbour Sports Ground, with a further two to three weeks for restoration. If a full eight-week period was required for reinstatement, the first four weeks of the playing season would be lost (paragraphs 4.2.2.11). The cricket pitch would be lost for a period of approximately two weeks, with an additional eight weeks allowance for reinstatement.
- 7.4.61. Whilst Portsmouth City Council raised no specific concerns about the period of works or reinstatement provisions, there was concern about the financial status of sports clubs and that any loss of revenue caused by disruption to the playing season and suspension of fixtures may make survival difficult [REP8-075], justifying the need for a sports and recreation contribution.

University of Portsmouth campus

- 7.4.62. The FMPRI suggested that locating the cable route along the eastern edge of the Order limits at the University of Portsmouth campus would avoid direct effects on a football pitch, and also a rugby pitch if it were to be realigned to the west (outside the Order limits and not specified to be funded or provided by the Applicant). Direct effects on the northern rugby pitch would be unavoidable (paragraph 4.2.3.9).
- 7.4.63. At the end of the Examination, the University of Portsmouth [REP8-119] maintained an objection to the Proposed Development based on the unmitigated effect on the northern and middle pitches, and the potentially realigned southern pitch being reduced in size. The University noted that there was uncertainty regarding the ability to achieve the mitigation proposed in the FMPRI given that it was dependent on Applicant undertaking further investigations, potentially leading to an alternative (and more harmful) route being taken in the Order limits.
- 7.4.64. The Applicant responded [REP9-014] that, without additional mitigation, three pitches would be temporarily affected for 12 weeks and that there is currently no known reason why an eastern alignment of the cable corridor is not possible, and therefore the effectiveness of the mitigation was credible.

Milton Common

- 7.4.65. The Applicant's retention of options for cable routing at Milton Common was raised by Portsmouth City Council [RR-185]. Some IPs (for example [RR-129] and [REP3-044]) expressed concern about the loss of the

Common as a community resource for leisure, recreation and enjoyment during construction.

- 7.4.66. The Applicant's position in the Framework Management Plan for Recreational Impacts (FMPRI) [AS-062] was that only one cable route would be chosen following contractor investigations, that works would progress in sections over a 23 week (non-continuous) period, and that several alternative permissive paths exist around the Common that could be used during the short period of construction works.
- 7.4.67. The Applicant referred to Table 25.14 in ES Chapter 25 [APP-140] and noted that the mitigated effects at Milton Common would not be significant.
- 7.4.68. Portsmouth City Council [REP8-044] did not object to the use of Milton Common as a potential cable route option on the basis of recreational disturbance at the end of the Examination.

Fort Cumberland car park

- 7.4.69. Portsmouth City Council [REP4-036] considered that the car park, being intrinsically linked to the adjacent open space, constituted special category land, which the Applicant refuted [REP6-067]. Regardless of status, Portsmouth City Council maintained that the loss of parking temporarily during construction and permanently to the optical regeneration station during operation would affect visitors' ability to access and enjoy the open space.
- 7.4.70. IPs (for example, [REP5-133] and [REP1-325]) regarded the car park as a valued facility to access the Fort, the beaches at Eastney and the public open space that many enjoy for walking. At Open Floor Hearing 1 ([EV-014] to [EV-019]), Councillor Winnington [REP5-133] highlighted the importance of the car park to the local community and to the tourists it attracts. The Applicant did not directly respond but referred to the ES for the assessment of effects and mitigations.
- 7.4.71. Portsmouth City Council remained opposed to the use of the car park at Fort Cumberland for the optical regeneration station throughout the Examination, as reflected in its final Statement of Common Ground with the Applicant [REP8-044]. The unmade nature of the car park made it difficult to provide a precise estimate of its capacity. Portsmouth City Council [REP7-088] considered that no mitigation was proposed for the temporary loss of parking provision during construction and believed that the car park could currently accommodate 150 parking spaces rather than the 109 assumed in the ES.
- 7.4.72. The Applicant [AS-062] demonstrated that a phased approach would be taken to works in the car park, with approximately 75% of the car park being used for construction works. Works would be undertaken for a period of up to 66 weeks (non-continuous) and, during such time, visitors would have to find alternative parking on local roads. Following construction, the Applicant's proposal was to surface the car park and provide 121 marked-out parking bays. The Applicant sought to secure

the measures through a Development Consent Obligation [REP8-042], which was submitted in the form of a Unilateral Agreement.

- 7.4.73. However, the matter was unresolved at the close of the Examination [REP8-075].

Impacts on business

- 7.4.74. Sainsbury's Supermarkets Limited [REP1-303] raised concern about the timing, duration, programming and land take of construction works affecting the car park of its store between Drayton and Farlington. It highlighted impacts on the management of the store that it said would result in significant losses. Sainsburys did not find it acceptable that, whilst Eastern Road was preferred for the majority of cable installation, the route diverted onto its land, against the adopted principles of the scheme to follow highways.
- 7.4.75. The Applicant did not alter the route of the onshore cable corridor in response. Instead, as shown in documents submitted with change request 3 [REP7-078], limited parcels of land in the Sainsbury's site were removed from the Order limits and the rights sought over other land altered in part. The Applicant's rationale for choosing the route through Sainsbury's car park rather than the highway was set out [REP7-074], and the Applicant made concessions in the FTMS [AS-072] to avoid construction works during the busiest periods (Christmas and Easter). The matter remained not agreed at the end of the Examination.
- 7.4.76. Atlas Hotels [RR-148] (operators of the Portsmouth (North) Holiday Inn Express at the junction of the A2030 and A27) expressed support generally for the scheme but raised concerns about safeguarding amenity, with potential 24-hour shifts affecting guests and the entrance to the hotel. The Applicant [REP1-160] responded that the car park of the Holiday Inn Express is not in the Order limits, the access road to the car park does not form part of the onshore cable corridor and therefore no further mitigation was necessary beyond measures set out in the FCTMP [AS-074].
- 7.4.77. Shell UK Limited made a late representation to the Examination [REP8-116], seeking assurances that the operation of its service station on the A2030 would be safeguarded and that access and exit would be facilitated. The Applicant referred to measures in the FTMS [AS-072] and FCTMP [AS-074] as means of ensuring its operation was adequately protected.

Public rights of way

- 7.4.78. The South Downs National Park Authority [REP1-178] and some IPs noted the importance of the Monarch's Way long distance footpath as a destination for tourism, and the associated economic benefits it brought to communities along its route. Nevertheless, overall, the South Downs National Park Authority did not consider that the Proposed Development would have a significant effect on the tourist potential of public rights of way [REP1-178]. Matters relating to the visual amenity of users of public

rights of way are considered in section 7.9 of this Report, including the Development Consent Obligation [REP9-011] that secures contributions for improvements to the public rights of way network within 2km of the converter station.

- 7.4.79. Paragraph 5.1.33 of Portsmouth City Council's LIR [REP1-173] raised concerns about footway closures on the A2030, although the Applicant responded [REP2-013] that the FTMS would work to appropriately sign, divert and re-integrate pedestrian and cycle traffic onto the footway network. The final Statement of Common Ground between the Applicant and Portsmouth City Council [REP8-044] reported an unresolved matter relating to a temporary diversion of a public right of way in a socio-economic context. This is not referred to in documents submitted by Portsmouth City Council [REP8-075].

ExA response

Impacts on sports and recreation

- 7.4.80. Discussions on financial contributions to compensate for the effects on sports and recreation in Portsmouth came very late in the Examination. Consequently, the ExA did not have the opportunity to directly test the Applicant's and Portsmouth City Council's respective positions. Nonetheless, there is adequate information in the Statement of Common Ground and other submissions for the ExA to deduce:

- Portsmouth City Council and the Applicant agreed a sports and recreation contribution of £100,000 to support a combined loss of 87 weeks of individual pitch capacity for football and cricket;
- Portsmouth City Council considered that, in view of the Applicant not addressing pitch realignment outside the Order limits, there would be unmitigated effects of pitch loss and therefore a higher contribution of £250,000 would be required to assist Portsmouth City Council ameliorate the scheduling and pitch relocation;
- due to the width of the Order limits at Farlington Playing Fields, and - to a lesser though no less relevant extent - Zetland Field, greater impacts on playing pitches could occur beyond those predicted in the FMPRI;
- the Applicant took the view that on a *pro rata* basis, funding to cover the costs of the alleged unmitigated effect would only amount to £14,000 so the higher figure suggested by Portsmouth City Council was unjustified;
- due to disagreement between the parties, the Applicant submitted a unilateral undertaking.

- 7.4.81. The Order limits extend over a much wider area than the working corridor required to lay the onshore cables and for the construction compounds. However, given the in-depth attention that the matter of Farlington Playing Fields received in the Examination and the submitted environmental information, the ExA has no evidence to suggest the

Applicant's proposed phasing plans in the FMPRI could not be feasibly actioned. Similar considerations also apply to Zetland Field and the University of Portsmouth campus.

- 7.4.82. The ExA notes that the drafted Development Consent Obligation [REP8-042] does not appear to give the Applicant rights to enter onto land beyond the Order limits to facilitate the realignment of the affected pitches. Paragraph 4.2.4.10 of the FMPRI recommends that football pitches are realigned and reconfigured to be outside the Order limits. Paragraph 6.2.8.13 of the Onshore Outline CEMP states that a recreational management plan would cover reinstatement and realignment of any pitches in the Order limits. It is explained that the act of protecting playing pitches is a planning matter for which contributions can be made to make the development acceptable in planning terms (paragraph 4.11.3 [REP8-043]).
- 7.4.83. It is therefore a logical conclusion that a proportion of the £100,000 sports and recreation contribution would need to be spent on pitch realignment unless some other agreement is struck in the recreational management plan.
- 7.4.84. The ExA notes that there was, at one point, agreement between the Applicant and Portsmouth City Council on the figure of £100,000 and it is reported [REP8-043] that this passes the tests of necessity and reasonableness, as set out in paragraph 4.1.8 of NPS EN-1. If this figure was designed to cover 87 weeks of playing pitch unavailability (including the multiple pitch loss at Farlington Playing Fields for a longer sustained period), there is no explanation as to why the worst-case scenario reported in paragraphs 4.2.3.11 and 4.2.4.10 of the FMPRI (relating to Bransbury Park and the University of Portsmouth) would generate an additional sum of £150,000. That increase in contribution would also be wholly disproportionate to the costs of realigning a pitch for that period.
- 7.4.85. The ExA therefore concludes that Portsmouth City Council's bid for a higher contribution has not been substantiated in evidence. There is some uncertainty regarding the mechanism for securing and delivering pitch realignment outside the Order limits in the absence of express powers to do so, and it is not clear whether the financial contribution would fully cover this matter. Consequently, this reduces the weight that the ExA gives to the Development Consent Obligation.
- 7.4.86. The same applies to the pitch loss at the University of Portsmouth, where the ExA recognises that at least one pitch would be unavoidably lost for a period of at least 12 weeks, even with the construction works being located as close to the eastern boundary as possible, simply because there is no room for realignment to take place. It is not clear from the written submissions [REP8-043] whether a proportion of the sports and recreation contribution is ring-fenced for mitigating the losses of the University of Portsmouth in this regard. Since the recreational management plan referred to in the Onshore Outline CEMP relates only to the realignment of pitches outside the Order limits, the ExA can only conclude from the information provided that the loss of the pitch at the

University of Portsmouth for 12 weeks would be mitigated only by the scheduling and timing of works.

- 7.4.87. In its entirety, this is not a fully effective mitigation solution, and effects are likely to be felt by the public that use the various facilities. The ExA is mindful that Sport England's Deadline 8 response expresses agreement with most of the FMPRI except for certain aspects relating to Farlington Playing Fields.
- 7.4.88. The ExA considers that mitigations are secured through the Onshore Outline CEMP and that any short-term temporary loss of sports pitches (through a failure to realign), whilst significant for the users of the pitches, would not result in an effect so significant as to warrant a recommendation of refusal on this matter. However, these effects and the limited weight that can be given to the Development Consent Obligation, do weigh against the case for the Proposed Development. This is considered alongside other factors in Chapter 9 of this Report.

Impacts on tourism and tourist events

- 7.4.89. The effects of construction on tourism activity and spending are difficult to quantify. NPS EN-1 notes that it may be concluded that limited weight is given to assertions of socio-economic impacts that are not supported by evidence. There is no clear evidence that the effects on tourism would be of such magnitude that would result in a substantial decrease in tourism activity and spending or would potentially jeopardise the livelihood of local tourist dependent businesses.
- 7.4.90. The ExA observed during unaccompanied site inspections 1 and 2 ([EV-001] and [EV-002]) and from the Applicant's map of receptors [APP-340] that there are few tourism businesses or facilities in the proximity of the Proposed Development, other than a small number in the area of Eastney beach and Fort Cumberland.
- 7.4.91. The ExA agrees that the South Downs National Park and its associated paths and trails add to the attractiveness of the area and provide a focus for tourism. The proposed Development Consent Obligation is considered appropriate and proportionate to address the effects of the Proposed Development on the amenity of its visitors. The ExA is also satisfied that a strategy to handle effects on cyclists and pedestrians in Portsmouth is in place through the FTMS.
- 7.4.92. The Victorious Festival remains an area of concern. It would be affected in construction phases 4 and 9 (two consecutive years) of the Proposed Development. The ES [APP-140] recognises the music festival attracts many visitors, and that the effects on the off-site camping at Farlington Playing Fields would be significant. The FMPRI states:

'In agreement with festival organisers, the contractor would be able to put in place temporary surfacing for the car parking area however it is recognised that this would be difficult to deliver for the camping area of the site.'

- 7.4.93. Apart from proposed consultation with the event organisers with regards to a potential review of the construction programme, no specific mitigations are proposed for the Festival, no alternative locations for campers are suggested and the unilateral Development Consent Obligation does not appear to include any compensatory measures. This could lead to campers being accommodated in unsuitable land conditions, potentially leading to reputational damage for the event that would extend impacts beyond the two affected events themselves.
- 7.4.94. Section 4.5 of the Onshore Outline CEMP [REP9-005] requires the preparation, submission and implementation of method statements for different activities and Appendix D to the Onshore Outline CEMP provides an outline document for Farlington Playing Fields. The Onshore Outline CEMP goes on at paragraph 6.2.8.12 to require Recreational Management Plans to be produced covering the phasing of works (across all recreation spaces as well as Farlington) and these could include revisions to the timetabling of construction works being agreed to mitigate the effects accordingly.
- 7.4.95. However, the ExA does not take comfort from this assumption. Whilst several effects on tourism and tourist receptors have been satisfactorily mitigated, concern remains that the effect on the Victorious Festival is only partially mitigated and this must be weighed in the overall planning balance.

Impacts on business and employment

- 7.4.96. The ExA understands why a specialist workforce is required for certain aspects of the Proposed Development, and that not all workers would be sourced locally. Nonetheless, the ExA welcomes the inclusion of an Employment and Skills Strategy to benefit the local workforce and increase the number of locally sourced employees, and for educational visits.
- 7.4.97. The ExA has carefully considered the representations of businesses whose premises would be affected by the Proposed Development. Through implementation of the FTMS, FCTMP and the Onshore Outline CEMP, all reasonable and practicable measures have been taken by the Applicant to limit the effects on the normal operation of businesses across the onshore cable corridor. The ExA considers that the effects on businesses are sufficiently mitigated. Where Compulsory Acquisition matters are engaged, these are discussed separately in Chapter 10 of this Report.

Impacts on other community facilities

- 7.4.98. The ExA took careful note of the extent, quality and use of Milton Common on an unaccompanied site inspection [EV-002]. There would be local disruption to the use of the Common during construction, but access to large parts would remain unaffected throughout. All areas would be fully restored post-installation of the cables.

- 7.4.99. On this basis, the ExA is satisfied that the short-term effects of the Proposed Development would be subject to direct management and the Common would not be left in any less advantageous position for public use post-construction.
- 7.4.100. The ExA observed the nature and use of the Fort Cumberland car park during a site inspection in February 2020 [EV-002]. Its relationship to open space and Eastney beach was noted.
- 7.4.101. The FMPRI [AS-062] at paragraph 4.2.8.5 suggests a surveyed occupancy of 63 vehicles in the car park over a bank holiday in August 2020, out of a possible 109 spaces. The ExA considers it reasonable that demand may have been higher in the absence of COVID-19 public health restrictions.
- 7.4.102. Should 75% of the car park be closed to public use during the construction period, approximately 80 displaced cars would need to seek alternative parking in local residential streets, where lay-bys and on-street parking opportunities appeared already well used at the time of the ExA's site inspection. However, the ExA notes from Table 4.1 of the FMPRI [AS-062] that a proportion of works would take place during the winter season when, typically, there would be less demand for spaces in the car park.
- 7.4.103. The Applicant and Portsmouth City Council had not come to an agreement by the close of Examination about the number of spaces available at present, suggesting 109 and 150 respectively [REP8-044]. The Applicant has proposed to surface the car park and provide a formalised layout comprising 121 car parking spaces (Appendix B [AS-062]) and offers a Development Consent Obligation to secure this [REP8-042].
- 7.4.104. The ExA considers that the disruption to the car park and surrounding streets would be time-limited and non-continuous, and that the planned restoration of the car park represents some improvement over the current situation. In the ExA's opinion, given the current uncertain and varying capacity that is influenced by how car drivers use the space to park, the loss of 29 spaces to the optical regeneration station, based on Portsmouth City Council estimates, would not be significant.
- 7.4.105. The ExA is therefore satisfied that appropriate means to limit, mitigate and subsequently compensate the effects on the Fort Cumberland car park are secured in the Onshore Outline CEMP [REP9-005], the FTMS [AS-072] and the Development Consent Obligation [REP8-042].
- 7.4.106. Overall, the ExA is satisfied that locally important community spaces would not be significantly impacted by the Proposed Development.

Conclusions

- 7.4.107. During construction there is potential for some adverse effects on tourism and tourist facilities in Portsmouth, particularly through localised effects near the landfall where tourism activity is more concentrated. It is

difficult to quantify the magnitude of such effects although there is no clear evidence demonstrating that the effects would be significant. The construction effects would be short term and localised. The Applicant has proposed what the ExA considers to be reasonable measures seeking to mitigate and manage the adverse effects.

- 7.4.108. The Employment and Skills Strategy would deliver benefits in securing jobs, particularly over the construction period. However, there is some uncertainty regarding the level of other economic benefits that could potentially arise from the Proposed Development. It is possible that moderate positive effects would result. At this early stage of the design and procurement process there is little understanding of where any economic benefits would arise. Whilst potentially significant, the weight the ExA can attach to economic benefits is tempered by the uncertainty and only moderate weight has been attributed.
- 7.4.109. Construction would impact on the availability and attractiveness of sports pitches in Portsmouth. The ExA considers that, whilst steps have been taken to mitigate and compensate for the effects, there remain some aspects at the close of the Examination where uncertainty remains. There appear to be information gaps that raise some doubt as to the effectiveness of the proposed mitigation and whether the amount of compensation in the Development Consent Obligation takes account of all relevant factors.
- 7.4.110. The ExA considered socio-economic matters in line with the expectations of NPS EN-1, including all relevant socio-economic impacts and a correlation with relevant policies in the development plan. The analysis generated competing outcomes. In balancing the potential benefits against the mitigated effects on tourism receptors, including the South Downs National Park, and the potential residual effects on a limited number of sports pitches and the Victorious Festival, the ExA considers the issue of socio-economics to be a minor negative factor in the case for the Proposed Development.

7.5. THE MARINE ENVIRONMENT

Introduction

- 7.5.1. This section covers most of the aspects of the marine environment that were considered in the Applicant's Environmental Statement (ES):
- physical processes;
 - marine water and sediment quality;
 - intertidal and benthic habitats;
 - fish and shellfish;
 - marine mammals and basking sharks;
 - marine ornithology;
 - commercial fisheries.

- 7.5.2. The matters associated with onshore biodiversity and nature conservation addressed in section 7.7 and those relating to European sites and the Habitats Regulations Assessment (HRA) in Chapter 8 are not repeated here, though all three sections should be read together for completeness.
- 7.5.3. Issues relating to navigation and shipping, including commercial fishing vessels, are covered in section 7.6, while matters relating to fish stocks are included here.
- 7.5.4. Section 7.9 confirms that seascapes were scoped out of the Applicant's EIA, while marine archaeology matters are addressed in section 7.11.
- 7.5.5. Matters relating to details of relevant draft DCO Articles and the Deemed Marine Licence (DML) are set out in Chapter 11, cross-referenced here as necessary in relation to the topic and issues they refer to.
- 7.5.6. The Examining Authority's (ExA) Initial Assessment of Principal Issues [PD-010] included a section on the marine environment and specifically the;
- adequacy of submitted information in relation to dredging and disposal of sediment, and the potential need for the designation of a new disposal site;
 - accuracy of sediment contaminant data in the ES;
 - risk to herring spawning and the potential need for mitigation measures to be secured through the DML.

Policy considerations

- 7.5.7. The UK marine section of the proposed interconnector cable is subject to the Marine and Coastal Access Act 2009. This introduced the need to obtain marine licences for specified activities, including many of those involved in the Proposed Development. In this case, the Applicant seeks a DML through the draft DCO.
- 7.5.8. The UK Marine Policy Statement (MPS) is relevant and important to the marine section of the cable route. It reflects the National Policy Statements (NPSs) in its approach to Nationally Significant Infrastructure Projects and cross-refers to the Overarching National Policy Statement for Energy (NPS EN-1), noting that decision makers should take account of the national need for the energy infrastructure it describes.
- 7.5.9. The South Marine Plan covers the offshore elements of the Proposed Development. The South Inshore Marine Plan applies to the offshore cables from Mean High Water at Spring tides (MHWS) to 12 nautical miles, while the South Offshore Marine Plan applies to the remainder of the cable route to the boundary of the UK Exclusive Economic Zone.
- 7.5.10. Under section 104(2) of the Planning Act 2008 (PA2008), the Secretary of State must have regard to ... *the appropriate marine policy documents...* when determining an application for development consent.

The MPS and the South Marine Plan are the appropriate marine policy documents for the purposes of determining this application. The plan applies national policies in a local context and includes the following objectives:

- Objective 7 includes policies to avoid, minimise or mitigate adverse impacts on climate change adaptation measures, and on coastal change;
- Objective 10 includes policies to avoid, minimise or mitigate adverse impacts on marine protected areas;
- Objective 12 includes policies to avoid, minimise or mitigate significant adverse impacts on natural habitat and species.

7.5.11. The overarching policy context for the ExA's consideration of the marine matters has been provided by this framework, along with the limited important and relevant aspects of policy and guidance set out in the supporting technology specific NPSs relating to assessment of marine works.

The Applicant's case

7.5.12. Several Chapters of the Applicant's ES and associated application documents set out the Applicant's case for the marine element of the Proposed Development. Those most relevant to this section of the report comprised:

- ES Figure 3.1 Marine Cable Corridor [APP-146];
- ES Figure 3.3 UK Landfall [APP-148];
- ES Figure 3.4 Shallow Geology [APP-149];
- ES Figure 3.5 Indicative Seabed Preparation [APP-150];
- ES Figure 3.6 Mobile Sediment [APP-151];
- ES Figure 3.7 Atlantic Cable Crossing [APP-152];
- ES Figure 3.8 Cable Crossing Details [APP-153];
- ES Chapter 6 Physical Processes [APP-121] and Appendices ([APP-367] to [APP-371]); ES Chapter 7 Marine Water and Sediment Quality [APP-122], Figure 7.1 Study Area [APP-159], and Appendices ([APP-372] to [APP-376]);
- ES Chapter 8 Intertidal and Benthic Habitats [APP-123], Figures ([APP160] to [APP-166]), and Appendices ([APP-377] to [APP-381]);
- ES Chapter 9 Fish and Shellfish [APP-124], Figures ([APP167] to [APP-175]), and Appendices ([APP-382] and [APP-383]);
- ES Chapter 10 Marine Mammals and Basking Sharks [APP-125], Figure [APP-176] and Appendices ([APP-384] and [APP-385]);
- ES Chapter 11 Marine Ornithology [APP-126], Figures ([APP177] and [APP-178]), and Appendices ([APP-386] and [APP-387]);

- ES Chapter 12 Commercial Fisheries [APP-127], Figures ([APP179] to [APP-212]), and Appendices ([APP-388] to [APP-392]);
- ES Appendix 3.2 Marine Worst-Case Design Parameters [APP-356];
- ES Appendix 3.3 Qualitative Description of the Marine Cable Corridor [APP-357];
- ES Appendix 3.4 Additional Supporting Information for Marine Works [APP-358];
- Outline Marine Construction Environmental Management Plan [APP-488] (Outline Marine CEMP).

7.5.13. The following were updated during the Examination:

- ES Figure 8.2 Protected Areas (MCZ, Ramsar & SAC) [REP1-066];
- ES Figure 8.5 High Level Benthic Habitats in the Vicinity of the Proposed Development [REP1-067].

7.5.14. Further relevant documents submitted during the Examination included:

- ES Addendum [REP1-139];
- ES Addendum Appendix 4 Figure 2, Additional Information on Herring Spawning [REP3-013];
- Issue Specific Hearing 3 Appendix 1 Exhibit 1, (Magic Map of sensitive habitats and zones of influence) [REP5-070];
- ES Addendum 2 [REP7-067].

7.5.15. The route of the marine element of the Proposed Development was shown on ES Figure 3.1 [APP-146], with greater detail for the proposed landfall provided in ES Figure 3.3 [APP-148].

7.5.16. The Applicant's assessments were set out in detail in Chapters 6 to 12 of the ES, supported by the figures and appendices listed above. The general approach was similar for each topic, with the scope of the assessment, the relevant policy, the scoping opinion, the assessment methodology, a description of the baseline, an impact and cumulative impact assessment, mitigation and residual effects.

7.5.17. No potentially significant effects were predicted for the following topics, so no additional mitigation beyond that designed into the Proposed Development or considered 'industry standard environmental best practice' was proposed:

- physical processes (i.e. shallow geology (unconsolidated and rock), hydrodynamics and wave regime, surficial sediments, sediment transport, and geomorphology (bathymetry));
- marine water and sediment quality;
- fish and shellfish;
- marine mammals and basking sharks.

- 7.5.18. For intertidal and benthic habitats, the ES noted pre-application advice from Natural England and the Marine Management Organisation (MMO) to include a pre-construction survey to inform micro-routing of the marine cable route to avoid and thus minimise effects on any Annex I⁹ reef features if identified in construction areas, including any brittlestar beds. The Applicant included this measure in the DML in the draft DCO. Disposal of dredge material would not take place in or close to these areas and this would prevent significant smothering effects. As such, the Applicant predicted no significant residual adverse effects on intertidal and benthic habitats.
- 7.5.19. For marine ornithology, the predicted adverse effects were limited to disturbance of birds from the Langstone and Chichester Harbour and Portsmouth Harbour Special Protection Area (SPA) flocks whilst they were using parts of the SPA and associated functionally linked land onshore. The winter working restrictions would mitigate this, as described in the HRA section of this Report (Chapter 8).
- 7.5.20. Some potential significant effects were predicted in relation to commercial fisheries, relating to the temporary loss of fishing grounds and possible displacement of fishing activities into other areas during cable installation and any repair periods. Additional mitigation in the form of an inshore fisheries working group was agreed between the affected parties and the Applicant, as set out at section 12.8 of the ES [APP-127].
- 7.5.21. There would be no predicted residual significant effects for these topics in the Applicant's view.
- 7.5.22. The design of the Proposed Development was amended in January 2021 following an application for a marine licence for the 'CrossChannel Fibre' cable. The Applicant submitted ES Addendum 2 [REP7-067] to update the assessment for the marine topics as a result of a minor amendment to accommodate the additional cable crossing.
- 7.5.23. The proposed crossing design allows it to be incorporated into the Proposed Development without any changes to the spatial extent of the cable corridor. Whilst the Addendum provided other updates on marine matters, discussed below, no additional significant effects were found as a result of the CrossChannel Fibre cable crossing.
- 7.5.24. The Applicant would seek a separate marine licence for the detonation of any unexploded ordnance (UXO) that is found, so these activities were excluded from the draft DML. Further assessment and an updated cumulative assessment would be provided in that application when the number of items of UXO present along the cable route was known, including whether any detonations were required ([APP-384] and [APP-106]).

⁹ Annex 1 of the Habitats Directive lists the protected habitats for which SACs may be designated.

Planning issues

- 7.5.25. Most of the major issues raised and pursued through the Examination related to the detail of parts of the draft DML that the Applicant had proposed for inclusion in the draft DCO. These are set out in Chapter 11 of this Report. Most related to the Applicant's proposed approaches to the arbitration and appeal processes.
- 7.5.26. The ExA asked the Applicant written questions about marine matters and the relevant parts of the ES. The following clarifications about the EIA process and format of the ES were provided by the Applicant [REP1-091]:
- the baseline study area for the intertidal and benthic habitats study was defined on a precautionary basis and extends beyond the largest relevant determined Zone of Influence (ZoI);
 - the ZoI for benthic ecology was defined using the outputs of the sediment plume modelling (ES Chapter 6 [APP-121]) and receptor sensitivity was defined for each impact where there was connectivity with a given receptor, whether that receptor was within or beyond the marine cable corridor;
 - receptor importance and magnitude of impact were considered when determining effect significance; impact magnitude was considered to incorporate receptor sensitivity such that a given impact would lead to a higher magnitude for particularly sensitive receptors and lower magnitude for less sensitive receptors;
 - due to the varied nature of the marine receptors under assessment, there can be no exact definition of 'short', 'medium', and 'long term' in relation to duration of effects as it is relative to each receptor: however, broadly speaking, short term effects see recovery rapidly through active movement of individuals back to the impacted area or through colonisation by fast growing and rapid colonising species (generally within months), medium term effects see recovery through colonisation of the original species, with pre-impacted levels likely returning within 1-2 generations (within 1 year), and long term effects see recovery through re-colonisation over a longer period (multiple years) by longer-lived and slower-growing species;
 - 'embedded mitigation' where qualified by terms such as 'only where necessary' or 'minimised' and 'assumptions' in the EIA referred to operations that are an inherent part of the design but where the location and extent could not be finalised until pre-construction surveys are employed to inform the final cable route; they are an inherent part of the design of the project and have been assessed as such, and would be secured through the draft DCO through the Outline Marine CEMP [APP-488] and associated design plan, Cable Burial and Installation Plan, Cable Burial Management Plan, Marine Pollution Contingency Plan and Biosecurity Plan;
 - mitigation measures for fish and shellfish [APP-123], including some that 'constitute industry standard plans or best practice', were driven

by national guidance that is underpinned by legislative requirements such as the Invasive Species Regulations, and they could be controlled through the Outline Marine CEMP which would be approved by the MMO prior to the commencement of works;

- the Applicant was not aware of any likely changes to conservation designations in the marine cable corridor over the lifetime of the Proposed Development (including Annex I reef), and the robust nature of the baseline studies and impact assessment for benthic habitats means that the habitats that could form the basis of such future designations had already been considered;
- for intertidal and benthic habitats, the ES only presented an assessment for receptors that could be affected by a given impact, explaining why the list of receptors varied between impact types;
- the structure of Chapter 8 of the ES [APP-123] was explained in relation to the distinction between the loss of habitat resulting from construction activities and losses resulting from later placement of non-burial cable protection (operation).

7.5.27. Clarifications to the findings of the ES were also provided in response to ExQ1 [PD-011], including:

- maps to illustrate the interrelationship between water quality sensitive sites and habitat type locations, the proximity of sensitive receptors to the Proposed Development, and the suspended sediment levels in relation to sensitive receptors were provided into Examination as requested;
- the infralittoral muddy sand habitat type was not found to be present in the UK marine cable corridor according to the site-specific survey: infralittoral fine sand, which behaves in the same way and is inhabited by communities with similar sensitivities to the Proposed Development, was present and taken forward to assessment;
- Figures 8.2 [APP-161] and 8.5 [APP-164] were updated to show kilometre points in relation to the location of sensitive habitat receptors to provide greater clarity and coordination with the corresponding text;
- detailed responses to the MMOs questions and points in its Relevant Representation [RR-179], were addressed by the Applicant in its Response to the Relevant Representations [REP1-160];
- it had not been decided whether the landfall horizontal directional drilling (HDD) operation at Eastney would be onshore to offshore, offshore to onshore, or both [APP-121] but, for marine topics, the receptors and impacts to be assessed would be the same and the worst-case impact was assessed in each case;
- while the suspended sediment data in Table 8.6 of the ES [APP-123] appeared to show predicted levels resulting from construction activities well in excess of the baseline, the suspended sediment concentrations (mg l^{-1}) in the water column would be most relevant to

the benthic assessment, not the sediment volumes (m³) *per se* – hence the conclusion that, due to the limited sensitivity of habitats and species to increased suspended sediment concentration and the short duration, the effects would not be significant.

Scope of draft DML

- 7.5.28. In ExQ1 [PD-011], the ExA asked the Applicant and the MMO if the scope of works set out paragraph 6.6 of the MMO's Relevant Representation [RR-179] represented an agreed summary of the works sought through the DML. The MMO's view was that the onus rests on the Applicant to confirm this. The parties continued discussions and updated the Statement of Common Ground at regular intervals to reflect progress towards agreement. The final, signed Statement of Common Ground [REP8-034] agreed the general content of the draft DML, though it also highlighted some specific matters of disagreement, which are considered below.

Disposal site

- 7.5.29. MMO's Relevant Representation [RR-179] pointed out that, at the time of application, the Applicant had not identified a disposal site for the dredged material. Engagement continued between the parties over the matter, and it was agreed that the ES provided sufficient information to designate the disposal sites defined in the Applicant's Disposal Site Characterisation Report [APP-371] and these were registered by the MMO with reference codes WI048 and WI049. The draft DCO was updated accordingly.

Cable protection

- 7.5.30. The adequacy of information submitted by the Applicant in relation to cable protection during laying and operation was questioned by MMO [RR-179]. The Applicant issued a Cable Protection Technical Note and requested comments from the MMO and Natural England. This was appended to the evolving Statement of Common Ground [REP1-110]. Both indicated that they were content with the approach to surveys and assessment of cable protection and, with the addition of conditions for notifications for commencement and completion of works as well as post-works survey, they were content with the control mechanisms for laying of cable protection during construction and operation in the draft DML.
- 7.5.31. The MMO noted that a separate marine licence would be required for cable protection maintenance and that it was content for this to be for 15 years, provided that all the appropriate controls were in place.
- 7.5.32. However, the MMO noted a lack of clarity about the purpose of Part 1, 4(5) of the draft DML that would permit any '*other works as may be necessary or expedient*' and expressed concern that it could introduce scope for additional cable protection to be added without the necessary marine licence being sought.

- 7.5.33. The Applicant responded in detail to this matter in its Response to Written Questions [REP1-091]. It disagreed that a separate marine licence would be required and contended that provisions for the laying of cable protection during the first 15 years of operation could be accommodated in the draft DML, noting a similar approach in the Norfolk Vanguard Offshore Wind Farm Order 2020.
- 7.5.34. The ExA asked for a resolution at further written questions (ExQ2) [PD-031], and the final, signed Statement of Common Ground [REP8-034] noted that MMO was content that the DML should include operational cable protection conditions rather than requiring a separate marine licence. With the additional safeguards over the age of survey data prior to additional cable protection, along with a condition securing the need to provide descriptions of the seabed habitat and information regarding any cable protection laid to date, the MMO considered the matter resolved.
- 7.5.35. The ExA also asked the Applicant to explain the rationale for using a 10% contingency in relation to the maximum footprint of non-burial protection for maintenance and repair activities. The Applicant referred to the engineering team's calculations and a similar approach for earlier interconnectors. The calculations had been shared with the MMO and the 10% contingency had been agreed as satisfactory.
- 7.5.36. The issue of cable crossing protection was also considered during the Examination. The Applicant noted that worst case parameters for trenching and cable protection had been adequately assessed in the EIA. The MMO agreed that reliance could be placed on the Applicant's assessment of significance. However, as the effect on the seabed of the Atlantic cable crossing protection had been assessed as significant, MMO requested that the cable burial management plan should include details of the maximum length and area of the Atlantic cable crossing, and a requirement for the assessment of changes to the seabed around cable protection, to include scour and erosion and alteration to bed forms.
- 7.5.37. Whilst noting that the maximum area parameters set out included provision of cable protection for the Atlantic cable crossing, the Applicant acknowledged the benefit of defining the length and area of the Atlantic cable crossing and amended the draft DML. The MMO pointed out that the concept of 'authorise' was missing but was content with the revised wording.
- 7.5.38. The changes to the application to accommodate the CrossChannel Fibre cable crossing prompted further discussion in relation to cable protection at Issue Specific Hearing 4 ([EV-066] to [EV-079]), though all relevant parties were content that ES Addendum 2 [REP7-067] covered the implications.

HDD pit

- 7.5.39. The Applicant proposed the use of grout bags and rock at the pit that would be dredged to facilitate the landfall HDD works. The MMO objected to the use of grout bags in sensitive locations due to difficulties with

decommissioning. The Applicant [REP3-014] confirmed that grout bags would not be used in designated sites, including the HDD marine pit, where only rock bags or mattresses would be used.

- 7.5.40. Disagreement remained between the Applicant and the MMO at the close of the Examination over a need for additional contaminant sampling and analysis for sediments at the HDD site should dredging there not commence within 3 years from the earlier sampling [REP8-034]. MMO recommended this as a condition in the DML.
- 7.5.41. The MMO provided justification for this risk-based approach in its Deadline 5 submission [REP5-100], noting that similar conditions were applied to marine licence applications where analysis of results had been provided and where there could be a considerable lag between permitting and implementation. MMO noted that the need for additional sampling should be considered on a case by case basis to ensure that decisions are not made using outdated data and to account for any changes or new inputs into the surrounding environment. It also quoted OSPAR guidance¹⁰ for repeat sediment analysis at 3 to 5 years, and that contaminant levels obtained previously would need to be below the limit of detection or extremely low for repeat analysis not to be required. In the MMO's opinion, the contaminant levels presented did not fit these criteria. At Issue Specific Hearing 4 ([EV-066] to [EV-079]), the MMO also advised that only seven polychlorinated biphenyls had been tested for rather than the full suite of 25, which would have provided further confidence.
- 7.5.42. Further, the MMO noted a key difference between the HDD pit sediments and those offshore, in that assumptions could be made about the latter, notably that particle size data confirmed that they are coarse in nature. It considered this sufficient justification to not require repeat sediment analysis in those areas.
- 7.5.43. The MMO therefore maintained at the close of Examination that a condition requiring a sample plan should be included in the DML to ensure that the dredged material remains suitable for disposal at sea. This would not necessarily result in a requirement for further analysis, depending on the extent of any changes in the area since the previous sampling.
- 7.5.44. The Applicant noted that the MMO had not provided any examples of such a condition being applied to a similar project, and said that marine licences for interconnectors such as Nemo, Viking and IFA2 did not include any such condition despite there being a lag between sampling campaigns and construction. The Applicant also believed MMO's reference to the OSPAR guidance to be inappropriate and pointed out that the approach to polychlorinated biphenyls analysis had been agreed at pre-application scoping, as recorded in the scoping opinion [APP-366].

¹⁰ The Convention for the Protection of the Marine Environment of the North-East Atlantic: (<https://www.ospar.org/work-areas/eiha/dredging-dumping>)

- 7.5.45. Despite this, the Applicant confirmed in its final Statement of Common Ground with the MMO [REP8-034] that it would be willing to accept the inclusion of the condition it sets out there, should the Secretary of State consider it necessary, provided there are clear and enforceable timescales in the condition for the MMO to undertake the required actions for approval. This is discussed in the DCO section of this Report (Chapter 11).

Thermal modelling

- 7.5.46. In ExQ1 [PD-011], the ExA asked the Applicant what worst-case scenario circumstances could lead to the cable overheating, what temperatures might be reached in the surface sediments and seawater immediately above, and how would that affect the surrounding habitats, wildlife and environment (ES Chapter 8 [APP-123]).
- 7.5.47. The Applicant submitted modelled thermal data and analysis in section 5 of the ES Addendum, [REP1-139]. While the predicted temperature increases had the potential to cause a disturbance to faunal assemblages in the sediment, the effect would become less significant as individuals acclimated. Based on the small extent of the affected area, the short-term effect, and an expected recovery, the Applicant concluded that the effect of heat emissions on marine benthic organism abundances or distribution would not be significant.

Electromagnetic field (EMF)

- 7.5.48. The ExA asked the Applicant about the EMF strength along the sections of cable where the target burial depth had not been achieved, and whether monitoring of EMF and the behaviour of elasmobranchs and migratory fish during operation was necessary.
- 7.5.49. The Applicant noted [REP1-091] that the description of the Proposed Development [APP-118] expected the marine cable to be buried for approximately 90% of the corridor, and that the remaining 10% would require remedial non-burial protection. As such, the whole cable would be either buried or protected and no cable would be left exposed. The non-burial rock protection system would maintain a sufficient distance between the cable and sensitive marine organisms to ensure that EMF did not pose a significant risk, and the Applicant did not consider that monitoring of EMF and fish behaviour during operation was necessary.

Marine habitats, wildlife and fisheries

- 7.5.50. A few submissions from non-registered parties raised matters relating to marine wildlife in the areas affected by the Proposed Development, including grey seals, dolphins, a bass nursery and eelgrass.
- 7.5.51. The ES [APP-123] adopted pre-installation surveys and micro-siting adjustments to mitigate against any possible effects on the important benthic community known as brittlestar beds on sublittoral mixed sediment and Annex I stony reef habitats. In ExQ1 [PD-011], the ExA asked how confident the Applicant was that micro-siting would be

possible within the Order limits. Natural England [REP1-216] noted experiences where micro-siting had not been possible but suggested that pre-construction surveys would allow consideration of other mitigations.

- 7.5.52. The Applicant confirmed that there was not high potential for encountering these habitats, and that mitigation was in any case secured to avoid any significant effects to these habitats if they were to be found during the pre-construction surveys. In addition, Appendix 6.2, the Modelling Technical Report [APP-368] includes a 500m buffer for such habitats from disposal of dredged material, an approach agreed with the MMO and Natural England.
- 7.5.53. A possible inconsistency between two assessments of effects on the brittlestar beds on sublittoral mixed sediment community [APP-123] was also raised. The Applicant explained that this was due to differences in the scale of impact and the resulting effect on the receptor: in the case of disturbance (paragraph 8.6.4.30), the impact would not lead to the complete loss of the habitat at a local or regional scale and, as such, the function and services of that habitat would continue to be provided; while, in the assessment of deposition of sediment (smothering) from disposal of dredge material (paragraph 8.6.4.98), loss of the feature in its entirety was possible, with little chance of recovery and as such, a significant effect was predicted prior to mitigation.
- 7.5.54. The issue of whether a DML condition was required to prohibit works in certain parts of the cable corridor during the herring spawning season continued through the Examination. The Applicant considered its assessment in Chapter 9 of the ES [APP-124] to be satisfactory, but based on later data [REP3-013], the MMO advised restrictions during a 4-week period from mid-December to mid-January for the part of the cable corridor between kilometre point 90 and kilometre point 109. The Applicant did not agree with this, but nevertheless agreed the wording for a condition with the MMO and updated the draft DML accordingly [REP9-003].

Other consents

- 7.5.55. The Applicant's other consents report [APP-106] noted the need for marine European Protected Species licensing, and the ExA asked if this should be addressed now on a precautionary basis to demonstrate that such a licence was achievable. In its response to ExQ1 [REP1-211], the MMO confirmed that its marine conservation team was the relevant licensing authority and recommend that the Applicant applied no later than three and a half months before the relevant works were due to commence.

ExA response

- 7.5.56. The great majority of matters raised were satisfactorily addressed by the Applicant in the early stages of the Examination, including additional information and clarification of mitigation in relation to the disposal site

for the dredged material, cable crossings, cable protection and micro-siting of the cable route to avoid sensitive habitats.

- 7.5.57. The ExA is content that the Applicant's ES addresses relevant and important matters relating to marine habitats and wildlife raised in representations from non-registered parties, and that subsequent submissions provide adequate information and assessment of potential thermal and EMF effects on benthic habitats and marine wildlife, and the implications of the additional crossing of the proposed CrossChannel Fibre cable.
- 7.5.58. However, several points of principle remained between the Applicant and the MMO at the close of Examination. These related mainly to proposed procedures in the draft DCO and DML, and these are dealt with in Chapter 11 of this Report. The only other point of contention was the MMO's expressed request for a DML condition to require the production of a repeat sediment sample plan (and possibly further sampling and analysis) for works at the marine HDD pit should three years elapse between the previous sampling and implementation. The ExA notes the MMO's opinion that each case needs to be judged on its own merits, and in particular the risk associated with changes to the local environment in that intervening period. The Applicant's frustration over a perceived lack of more specific justification and precedent for such a condition was also noted.
- 7.5.59. The ExA is aware of the particular locational and environmental circumstances in the area that would be affected by the construction and use of the HDD pit. It is also conscious of the need to ensure that any contamination is not mobilised or spread locally or at any disposal site, and MMO's caveat that only a sample plan was being requested in the first instance, though of course this was no guarantee that its decision would be that further sampling and analysis was required. The ExA therefore tends, on balance, towards a need for such a condition.
- 7.5.60. Further, in light of relevant legislation and policy, the ExA concludes that, had this been an application directly to the MMO for a marine licence, it seems most likely that such a condition would have been applied, and it is therefore important to reflect that in the DML by the addition of a suitable condition for consistency between the two regimes.
- 7.5.61. The ExA notes that the Applicant provided proposed wording for a condition in the final Statement of Common Ground with the MMO [REP8-034], but that its acceptance was conditional on the inclusion of strict timescales for the MMO to respond. The MMO strongly objected to being held to any such time limits in relation to any aspect of the process, and the ExA's view on this is discussed in detail in Chapter 11 in relation to the Recommended DCO.

Conclusions

- 7.5.62. With the addition of a suitable condition to the DML to require a sample plan at the marine HDD site should three years have elapsed, and

subject to the resolution of matters around the proposed procedures in the Recommended DCO and DML (as discussed in Chapter 11), the ExA is content that the Proposed Development could be installed and operated in UK waters in accordance with the Marine and Coastal Access Act 2009, the MPS and the South Marine Plan and without significant adverse effects on the aspects of the marine environment listed at paragraph 7.5.1 and discussed in this section.

- 7.5.63. The Proposed Development satisfies NPS EN-1, and the ExA finds no reason to refuse the application in relation to these matters.

7.6. SHIPPING AND NAVIGATION

Introduction

- 7.6.1. This section considers the effect of the Proposed Development on matters relating to shipping and navigation, including marine safety and commercial fishing. These matters were considered a Principal Issue in the Examining Authority's (ExA) Initial Assessment [PD-010].

Policy considerations

- 7.6.2. The Overarching National Policy Statement for Energy (NPS EN-1) does not directly address the issue of shipping or navigation, although paragraph 5.4.21 discusses the need to mitigate any effects on radar, communications and navigational systems, and paragraph 5.4.8 refers to Ministry of Defence shipping.
- 7.6.3. The UK Marine Policy Statement requires that any decisions should minimise negative impacts on shipping activity, freedom of navigation and navigational safety. Fishing and fisheries are governed under various legislative provisions, which are being reviewed following Britain's departure from the EU.

The Applicant's case

- 7.6.4. The principal application documents relating to this topic are:
- Environmental Statement (ES) Chapter 12 Commercial Fisheries [APP-127];
 - ES Chapter 13 Shipping, Navigation and Other Marine Users [APP-128];
 - Navigation Risk Assessment [APP-393] and [APP-393(a)];
 - Shipping, Navigation and Other Marine Users Cumulative Assessment Matrix [APP-394].

Methodology

- 7.6.5. Section 12.4 of ES Chapter 12 [APP-127] detailed the guidance documents and publications used to inform the assessment of potential

effects on commercial fishing in the absence of a universally recognised methodology.

7.6.6. Section 13.4 of ES Chapter 13 [APP-128] noted that the assessment of impacts on shipping and navigation was based on the International Maritime Organisation (IMO) Formal Safety Assessment (FSA) (IMO, 2002) process, which is recognised as industry best practice for navigation risk assessment.

7.6.7. The Applicant confirmed [REP1-091] that the baseline assessments for commercial fisheries had no practical means to distinguish between fishing occurring landward and seaward of the marine horizontal directional drilling (HDD) station and therefore the definition of landfall, for the purpose of the assessment, included the intertidal area.

Potential effects during construction

7.6.8. The potential effects during construction were said to be:

- temporary loss or restricted access to established fishing grounds;
- temporary displacement of fishing activity into other areas;
- interference with normal fishing activities;
- navigational safety issues for fishing vessels;
- temporary increases in steaming times;
- obstacles on the seabed.

7.6.9. There would be an increased risk of vessel to vessel collision during the construction phase when cables were being laid. This effect, combined with the potential effects of the cables on the magnetic compass of navigating vessels, would be most pertinent where the Proposed Development crossed the Dover Straits Traffic Separation Scheme (TSS).

Potential effects during operation

7.6.10. The installation of non-burial cable protection could result in permanent loss of fishing grounds. Vessels may not wish to fish over the installed cables with a worst-case area of 8.64km² through increased potential of anchors snagging on the infrastructure. It was anticipated that, due to the reliability of the marine cables, one repair may be necessary every 10 to 12 years.

7.6.11. Other potential effects during the operation of the Proposed Development, including repairs and maintenance, were said to be:

- complete or temporary loss or restricted access to established fishing grounds;
- complete or temporary displacement of fishing activity into other areas;
- interference with normal fishing activities;

- navigational safety issues for fishing vessels;
- increased steaming times;
- obstacles on the seabed after maintenance or repair.

Potential effects during decommissioning

7.6.12. The options for decommissioning include leaving the marine cables *in situ*, removal of the cables entirely, or removal of sections of the marine cables. If cables are retrieved, decommissioning would be undertaken in line with industry best practice, and any effects were predicted to be equivalent to or lesser in nature than those assessed for activities undertaken during construction.

Mitigation

7.6.13. Proposed mitigation measures were detailed in paragraph 12.6.2.1 of ES Chapter 12 and paragraph 13.6.1.5 of ES Chapter 13. These included *inter alia*:

- compliance with The International Regulations for Preventing Collisions at Sea 1972 and the International Regulations for the Safety of Life at Sea;
- agreement of a Cable Burial and Installation Plan (through the Draft Marine Licence (DML)) including vessel procedures required;
- installation in the Dover Straits TSS to take place in consultation with the Dover Channel Navigation Information Service and Dover Straits TSS Working Group forum;
- management of access to Langstone Harbour when works are being undertaken in areas adjacent to the Harbour entrance;
- a Fisheries Liaison Officer.

7.6.14. During construction, a rolling 500m recommended safe passing distance would be deployed around dynamic positioning vessels and up to 700m around barges used for inshore cable installation works in shallower coastal areas that require anchor spreads. These would be monitored by the guard vessels. The safe passing distances would be considered as 'exclusion zones' for commercial fisheries with no placement of gear or fishing in these areas until completion of construction [REP1-091].

Applicant's summary of predicted effects

7.6.15. The Applicant submitted ([APP-128] section 13.9) that, without mitigation, effects during the construction and operation of the Proposed Development would be tolerable or broadly acceptable, and not significant. Following the application of mitigation agreed with the relevant statutory parties, the effects were assessed as tolerable to 'as low as reasonably possible' (ALARP).

7.6.16. Negligible residual effects would remain in relation to commercial fisheries after mitigation ([APP-127] section 12.9).

Cumulative effects

7.6.17. A list of projects with the potential for cumulative effects was set out in Appendices 12.3 [APP-392] and 13.2 [APP-394] to the ES. These were agreed with the Marine Management Organisation (MMO) and the matters were explored and considered in the navigation risk assessment.

7.6.18. The existing Rampion Offshore Windfarm and its proposed extension were considered for cumulative effects. The Applicant noted the extension, itself a Nationally Significant Infrastructure Project, is in the very early stages of planning and no information was available. Therefore, it was not included in the cumulative assessment.

Planning issues

Relevant Representations

7.6.19. There were very few Relevant Representations in respect of these topics. Concerns included:

- the proposed route for the marine cables crosses the proposed Rampion Extension offshore wind farm site [RR-018];
- a fisheries liaison and coexistence plan should be produced and secured through the DML to cover how any disruption to fishing activities is to be managed [RR-021];
- burial and protection methods for the cable should be discussed and included in DML [RR-021];
- saving provisions for Trinity House should be included in the draft DCO [RR-003];
- impact of the works taking place close to the Dover Strait TSS [RR-114];
- whilst the offshore cable route would intersect a military danger area, the Ministry of Defence had no safeguarding concerns, provided historic explosive munitions disposal sites and unexploded ordnance (UXO) were into account [RR-161].

Other representations to the Examination

7.6.20. Trinity House repeated its request [REP2-026] for saving provisions to be inserted into the draft DCO. It noted that such saving provisions were typically included in Orders of this nature to preserve Trinity House's ability to exercise its statutory functions, free from arbitration. The Applicant duly responded, and Article 49 was added to the draft DCO.

7.6.21. The Maritime and Coastguard Agency (MCA) signed a final Statement of Common Ground with the Applicant [REP8-035] confirming that the ES methodology, assessments and impact mitigations were acceptable and

appropriate. It agreed that the Proposed Development would reduce risks to ALARP, and that the Agency would be involved in the DML process.

7.6.22. In its Statement of Commonality [REP8-029], the Applicant reported that agreement was reached with RWE Renewables (the promoters of the Rampion Offshore Wind Farm Extension) that a Statement of Common Ground was not required between the parties. The Applicant [REP1-160] believed it to be likely that, if consented, the Proposed Development would have begun or completed construction by the time the Rampion extension was determined. The Applicant would meet its duty under Regulation 11 (3) of the Infrastructure Planning (EIA) Regulations 2017 and continue engagement to assist the EIA for the Rampion extension.

7.6.23. In the Statement of Common Ground between the Applicant and the MMO [REP8-034], all matters in respect of commercial fisheries, recreational angling, shipping and navigation had been agreed. Matters outstanding with regards to the DML are considered in Chapter 11 of this Report.

ExA response

7.6.24. There was general acceptance amongst the Interested Parties whose interests extend across the maritime environment that the Proposed Development would not adversely affect fisheries, shipping, navigation or recreational users of the waters off the UK shores and into the Channel. All matters regarding these topics have been dealt with through written representations.

7.6.25. The navigation risk assessment [APP-393] describes the collision risk modelling that has been undertaken. Having regard to the MCA's endorsement of the process followed, the ExA attaches significant weight to its outcome.

7.6.26. Details of any measures needed to ensure that safe navigation would not be compromised would have to be approved by MMO, in consultation with MCA and Trinity House. The ExA considers that this is an appropriate control measure to address the risk identified in the navigation risk assessment.

7.6.27. The ExA attaches significant weight to the agreements reached in relation to the Proposed Development from the relevant organisations and the approach to offshore safety management.

Conclusions

7.6.28. The Applicant carried out an assessment of navigational risk in accordance with the relevant guidance, taking account of inputs from the MCA and other navigational stakeholders including local operators.

7.6.29. Mitigation measures have been proposed where the navigation risk assessment has identified potential risks. Whilst the Proposed Development would cross a strategic route, the Dover Straits TSS, the mitigations measures proposed would reduce navigational risks to ALARP.

7.6.30. Taking account of the proposed mitigation, the ExA concludes that the Proposed Development would not pose unacceptable risks to maritime safety. The ExA is satisfied that the Proposed Development complies with NPS EN-1. The ExA therefore finds this to be a neutral factor in the planning balance.

7.7. ONSHORE BIODIVERSITY AND NATURE CONSERVATION

Introduction

7.7.1. This section considers the biodiversity and nature conservation issues associated with the onshore element of the Proposed Development. The corresponding marine matters are set out in section 7.5. Matters relating to European sites and the Habitats Regulation Assessment (HRA), including functionally linked, onshore grassland habitats, are set out in Chapter 8 and are not repeated here.

7.7.2. The Examining Authority's (ExA) Initial Assessment of Principal Issues [PD-010] included a section on habitats and onshore ecology, and listed three particular topics:

- disturbance of protected sites and species;
- mitigation, monitoring, management and compensatory measures and their effectiveness;
- loss of trees and hedgerows.

Policy considerations

NPS EN-1

7.7.3. At 5.3.3, the Overarching National Policy Statement for Energy (NPS EN-1) requires the Environmental Statement (ES) to set out any effects on designated sites of ecological conservation importance, protected species and habitats, and other species identified as being of principal importance for the conservation of biodiversity. The Applicant should also demonstrate that opportunities to conserve and enhance biodiversity have been recognised (5.3.4).

7.7.4. NPS EN-1 goes on to note that when making decisions, appropriate weight should be attached to designated sites of international, national and local importance, protected species, habitats and other species of principal importance for the conservation of biodiversity, and to biodiversity and geological interests in the wider environment (5.3.8).

7.7.5. Appropriate mitigation and enhancement should be included (5.3.18), and Natural England's intentions in relation to protected species licensing should be taken into account (5.3.20).

National Planning Policy Framework (NPPF)

7.7.6. Chapter 15 of the NPPF sets out overarching policies for conserving and enhancing the natural environment. It indicates that planning decisions should contribute to and enhance the natural and local environment by (in summary):

- protecting and enhancing sites of biodiversity value;
- recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services;
- minimising effects on, and providing net gains for, biodiversity.

The development plan

7.7.7. Each of the local plans that comprises the relevant development plan includes policies that relate to biodiversity and nature conservation. These are detailed in the Applicant's ES at section 16.2.2, along with details of the Hampshire Biodiversity Action Plan.

The Applicant's case

7.7.8. The principal application documents relating to onshore biodiversity and nature conservation were:

- Hedgerow and Tree Preservation Order Plans [APP-018];
- ES Chapter 16 Onshore Ecology [APP-131];
- ES Figure 16.1 Statutory Designated Sites [APP-290];
- ES Figure 16.2 Non-statutory Designated Sites and Priority Habitats [APP-291];
- ES Figure 16.3 Habitats [APP-292];
- ES Figure 16.4 Hedgerows [APP-293];
- ES Appendices 16.1 to 16.16 ([APP-409] to [APP-424]);
- Letter of No Impediment [APP-490];
- Outline Landscape and Biodiversity Strategy [APP-506].

7.7.9. Two of these documents were updated during the Examination. The final versions at the close were:

- Hedgerow and Tree Preservation Order Plans [REP7-011];
- Outline Landscape and Biodiversity Strategy [REP8-015].

7.7.10. Other relevant documents submitted by the Applicant during the Examination included:

- Biodiversity Position Paper [REP1-138];
- ES Addendum [REP1-139];

- ES Addendum Appendix 5 Figure 3, Habitat Mapping [REP1-154];
 - Biodiversity Position Paper [REP3-012];
 - Denmead Meadows Position Paper [REP6-072];
 - ES Addendum 2 Appendix 4 Figure 1 - Denmead Meadows: SINCs, NVC Survey Results and Compounds [REP7-071]
 - Kings Pond Meadow Position Paper [REP8-067].
- 7.7.11. The Applicant set out the approach to the assessment of the effects of the Proposed Development on onshore ecology in Chapter 16 of the ES [APP-131].
- 7.7.12. The baseline information was gathered from desktop studies, site surveys and consultation. The information was divided into three sections, the converter station area, the onshore cable corridor, and the landfall. Study areas were based on appropriate zones of influence after consultation with Natural England, and the approach taken to each survey and study was summarised in Table 16.3 of the ES [APP-131].
- 7.7.13. The important features described include:
- Kings Pond Meadow Site of Importance for Nature Conservation (SINC), horse-grazed pasture to the south of Anmore Road, with semi-improved and unimproved grassland.
 - Denmead Meadows, an area of unimproved grassland enclosed by species-rich hedgerows, to the south of Kings Pond Meadow SINC;
 - Milton Common SINC, an area of grassland, scrub and open water behind the sea wall at Milton;
 - Ancient woodland copses in the vicinity of the proposed converter station site, including Crabden's Copse SINC, Crabden's Row SINC, and Stoneacre Copse;
 - Great Salterns Lake SINC, an expanse of open water and wetland with extensive fringing reedbed.
- 7.7.14. Protected species found in the survey area included badgers and eleven bat species. Common reptiles were assumed to be present in places. Other wildlife of note included hedgehogs and a wide variety of wintering and breeding birds.
- 7.7.15. The potential impacts of the Proposed Development during construction, operation and decommissioning were set out in Table 16.2 of the ES [APP-131].
- 7.7.16. Section 16.6 described the 'embedded' mitigation and the predicted residual effects, with cumulative effects explored at section 16.7. Section 16.8 goes on to describe additional mitigation that would be secured through the Onshore Outline Construction Environmental Management Plan (Onshore Outline CEMP) [REP9-005] and the Outline Landscape and Biodiversity Strategy [REP8-015], both secured through Requirements in

the draft DCO. These addressed soil preservation and ground protection at high quality grassland habitats, seed harvesting and reseedling at Denmead and Kings Pond Meadows, improvement of grassland at the converter station site, lighting where bats are present, closure of badger setts and precautionary methods of working for hedgehogs and reptiles.

- 7.7.17. Table 16.9 provided a summary of the predicted residual effects. The Applicant concluded that, with the proposed mitigation, all effects would be negligible.

Planning issues

- 7.7.18. The ExA asked a series of questions of the Applicant in ExQ1 [PD-011]. The Applicant provided responses [REP1-091] in relation to:
- updating the application and constraints maps to show SINCS, noting also that Winchester City Council had requested the inclusion of a new Soake Farm Meadows SINC;
 - to confirm that, where access had been unavailable for survey, the assumptions made ensured that the assessment was robust, and that this had been agreed by Natural England [REP1-105];
 - to clarify the sequencing of scoping and surveys;
 - to confirm that the only potential contamination effects on ecological features would be from accidental spillages during construction, and that the mitigating measures discussed in the accompanying Onshore Outline CEMP [APP-505] would ensure full mitigation;
 - to clarify how a worst-case construction programme was used for the assessment.

Protected and priority species

- 7.7.19. The ExA asked the Applicant to provide further information about the possible effects of EMF generated during the operation of the Proposed Development on bats. Natural England concurred [REP1-216] that an assessment should be considered. The Applicant submitted [REP1-091] that there would be no above-ground EMF outputs from the Proposed Development that could affect ecological features.
- 7.7.20. Natural England [REP1-216] was content with the Applicant's badger survey work, as clarified by supplementary information, and issued a Letter of No Impediment in relation to badger sett licensing [APP-490].
- 7.7.21. Reptile surveys were undertaken at the convertor station site. No reptiles were found but the Applicant agreed with Natural England that their absence could not be confirmed with confidence. Vegetation clearance works would therefore be undertaken under ecological supervision at all suitable habitat along the terrestrial route, as necessary.
- 7.7.22. A submission from a non-registered party [AS-045] reported the presence of stag beetles in a hedgerow that was said to be lost to the Proposed Development. Whilst noting that stag beetles are not colonial

and that the habitats present seemed unlikely to support them [REP1-091], the Applicant amended the control documentation to extend the reptile hand searching methodology to include incidental finds of stag beetle.

- 7.7.23. A large number of the Deadline 1 submissions accepted from non-registered individuals ([REP1-321] to [REP1-325]) with an interest in the Eastney and Milton Piece Allotments included reports of various types of wildlife there, including the fully protected great crested newt. These reports were repeated by several speakers at Open Floor Hearings 1 and 2 ([EV-014] to [EV-017], and [EV-018] to [EV-019]). Whilst the Applicant had clarified that there would be no effects on the allotments as a result of the use of horizontal directional drilling (HDD) beneath the ground there, the ExA did ask the speakers if evidence of the newts could be provided. Whilst agreeing to the request, the relevant IPs had failed to produce any such evidence by the close of the Examination.

Priority and high value habitats

- 7.7.24. At change request 2 ([AS-051] to [AS-055]), the Applicant sought to extend the Order limits to include two areas of ancient woodland, Mill Copse and Stoneacre Copse. The principal reason for this was to allow direct management to ensure that the woodland retained its visual screening function despite the advancement of ash die-back disease, and this is discussed in section 7.9.
- 7.7.25. The biodiversity of these copses was also relevant, and the Applicant provided details of its proposed management with change request 2. The ExA asked for comments in ExQ2 [PD-031] on the appropriateness of the proposals set out in the updated Outline Biodiversity and Landscape Strategy [REP6-038], and whether they could be implemented without harming the integrity of the ancient woodland habitats. The responses from Natural England [REP7-107], Winchester City Council [REP7-094] and the South Downs National Park Authority [REP7-089] broadly welcomed the suggested measures and raised no serious concerns.
- 7.7.26. The landowners of Stoneacre Copse raised a concern [REP1-232] that run-off and air pollution could affect the woodland habitats during the three-year construction period. The Applicant was content that the standard mitigation measures included in the Onshore Outline CEMP [APP-505] would reduce any such pollution to a negligible level.
- 7.7.27. The three grassland SINCs in the Denmead area (Denmead Meadows, Kings Pond Meadow, Soake Farm Meadows) were discussed at some length throughout the Examination. Part of the area was recognised by the Applicant as priority grassland habitat and consequently much of the cable route through the area would be installed by HDD. However, this would require two compounds to be created for the HDD, one to launch the drill and one to receive it. Issues were raised about the impacts of these on the grasslands and the best approach to restoration and future management.

- 7.7.28. In response to ExQ1 [REP1-091], the Applicant pointed out that no work compounds were proposed within the boundaries of Kings Pond Meadows SINC, but the northern compound was to be located on adjacent land to the east, said to be of less botanical value. The Applicant had considered alternative compound areas to the north of Anmore Road, as favoured by Denmead Parish Council and Winchester City Council, but these were found to be technically unsuitable.
- 7.7.29. Two options for the location of the southern HDD compound at Denmead Meadows were retained in the application documents, and the Applicant reported that discussions were ongoing with Natural England in this regard. The Applicant's preferred option was to locate the southern HDD compound to the north of Hambledon Road.
- 7.7.30. The Applicant produced a HDD Position Statement [REP1-132] to provide additional information relating to the HDD, including that proposed in the vicinity of Kings Pond and Denmead Meadows.
- 7.7.31. At Deadline 6, the Applicant produced a detailed position paper [REP6-072] to inform discussions with Natural England, and the Statement of Common Ground between the parties [REP6-045] included an update on the position. It was agreed that the onshore cable route runs through sensitive lowland meadow habitats, with Denmead Meadow and King's Pond SINC's being recognised as of national importance in the assessment. Natural England's preference was for the habitats to be avoided, but other constraints were recognised and was agreed that the proposal for HDD under part of Denmead Meadows was acceptable in principle. However, concerns remained that the location of construction compounds would result in damage to this priority habitat and a residual loss of biodiversity.
- 7.7.32. Natural England made further submissions [REP7-107] in response to ExQ2 [PD-031]. This clarified that Natural England considered the field proposed for the southern compound to be of a type that qualified as priority habitat. It also referred to a survey report that Winchester City Council would be submitting into the Examination, which found that the part of the field to the east of Kings Pond SINC, whilst very heavily grazed, was also potentially of priority habitat status. This was the area where the northern compound was to be located. Natural England recommended the use of an alternative location south of Hambledon Road for the southern compound and suggested a series of additional mitigation and restoration measures that should be applied to the northern compound if no reasonable alternative was available.
- 7.7.33. At Deadline 6, Winchester City Council submitted its own detailed views on the matter in its Biodiversity Position Paper Relating to Matters at Lovedean and Denmead Meadows [REP6-087]. This also supported the compound to the south of Hambledon Road, expressed concerns about the access rights sought by the Applicant across Denmead Meadows, and suggested that the part of the field to be used for the northern compound had been undervalued due to its condition. It went on to submit the Kings Pond Meadow Habitat Survey by Hampshire Biodiversity

Information Centre [REP7-095], which seemed to support the contention that the eastern part of the field at Kings Pond that would be affected by the northern compound was inherently of a priority grassland type, but that the high level of grazing had reduced its diversity. It expressed the opinion that:

'with a relaxation of grazing levels, the site could support a more valuable wildlife habitat.'

- 7.7.34. Amendments to the Applicant's draft DCO and control documents at Deadline 7 confirmed the choice of the compound to the south of Hambledon Road, that the access sought across the meadows was on foot only, and added a number of new mitigation and restoration measures, similar to those suggested by Natural England. The changes were subject to an assessment in the Applicant's ES Addendum [REP7-067].
- 7.7.35. The position was discussed at Issue Specific Hearing 5, and there was general agreement that matters had progressed as far as possible, with the exception that Winchester City Council considered that the Applicant should commit to long term control and management of the restored meadows.
- 7.7.36. The Applicant produced a Kings Pond Meadow Position Paper [REP8-067] and this formed the basis of final discussions between the parties pending the completion of Statements of Common Ground. Natural England agreed with the proposals and measures set out in that position paper, as evidence in the signed, final Statement of Common Ground [REP8-031].
- 7.7.37. The Statement of Common Ground between the Applicant and Winchester City Council notes the Council's agreement to the measures as proposed but retains a disagreement over the five-year reinstatement and restoration period for the northern compound area. The Council believes that the Applicant should take management control for that period to ensure successful restoration. Denmead Parish Council made a similar submission [REP8-070]. However, the Applicant concluded that it would be inappropriate to take Compulsory Acquisition powers beyond those needed to restore the land to its original condition, and that it would not be reasonable to constrain the landowner's right to undertake activities that would otherwise be lawful.

Enhancements and net gain

- 7.7.38. The Applicant's Biodiversity Position Papers ([REP1-138] and [REP3-012]) summarised the recognised opportunities to provide biodiversity enhancements. It used baseline and post-development calculations of biodiversity units using Biodiversity Metric 2.0 (Natural England, 2019) in priority habitats, to provide an indication of the post-development biodiversity outcomes. It took account of restoration of hedgerows, restoration of lowland grassland at Denmead Meadows and the enhancement of grassland at the converter station site.

- 7.7.39. The calculations were provided in the second document but, in summary, with post-development intervention the Proposed Development was said to return a value of +4.25 hedgerow units and +17.06 calcareous grassland units. However, the Applicant's changes at Deadline 7 removed the reference to the creation of calcareous grassland at the converter station area, and the ExA asked the Applicant to explain the reason and any consequences for the biodiversity net gain credits at Issue Specific Hearing 5 ([EV-080] to [EV-089]).
- 7.7.40. The Applicant summarised the final position at Deadline 9 [REP9-014]. Winchester City Council and the Applicant had agreed the principle of grassland creation at the converter station site, but with further work, the Applicant had been unable to confirm the availability of suitable materials for the creation of calcareous grassland. Instead, the revised commitment was to species-rich grassland. The Applicant contended that the biodiversity units gain would not be affected, as the metric assigns a higher 'difficulty to deliver' value for calcareous grassland. This means that the units gained are multiplied by a third to take account of the risk to delivery. With this taken into account the Applicant firmly believed that a similar net gain could be delivered.
- 7.7.41. The final, signed Statement of Common Ground between the Applicant and Winchester City Council [REP8-045] showed agreement over this matter.

ExA response

- 7.7.42. The Applicant has submitted an appropriate ecological impact assessment with the application. This sets out predicted effects on designated sites, protected species and habitats, and other species and habitats identified as being of principal importance for the conservation of biodiversity. The Applicant has also provided evidence to demonstrate that mitigation has been incorporated where feasible to offset adverse effects, and that opportunities to conserve and enhance biodiversity have been recognised.
- 7.7.43. Natural England's intention in relation to licensing for works to badger setts has been addressed.
- 7.7.44. Most relevant matters were addressed or clarified to the satisfaction of the ExA in the early stages of the Examination. The only outstanding issue at the end of the Examination in relation to protected and priority species was the claimed presence of great crested newts at the Eastney and Milton Piece Allotments, but in the absence of evidence and with the proposed cable installation mitigation through HDD, the ExA has given this no weight.
- 7.7.45. The ExA is content that the examination of the matters around the ancient woodland at the converter station site and the priority species-rich grassland at Kings Pond and Denmead Meadows was thorough and led to a satisfactory final position in both cases.

- 7.7.46. Management plans for the ancient woodlands drawn up in accordance with the guidance referred to by Natural England and approved by the local authorities would ensure that the integrity of the habitats was not compromised by visual screening priorities. Standard measures in the Onshore Outline CEMP would protect the woodland from any harmful contamination during construction.
- 7.7.47. The ExA concurs with the Applicant that it would be unreasonable to seek Compulsory Acquisition powers to limit the landowner's lawful agricultural use of the fields at Kings Pond during their restoration and is content that the Applicant's proposed monitoring and management approach is proportionate.
- 7.7.48. The necessary mitigation set out in the final Outline Landscape and Biodiversity Strategy [REP8-015] could be secured in tandem with the Onshore Outline CEMP [REP9-005] and the relevant Requirements in the Recommended DCO to ensure that any adverse effects on onshore biodiversity and nature conservation are not significant.

Conclusions

- 7.7.49. The ExA fully considered biodiversity and nature conservation issues and its conclusions here should be read alongside the HRA section (Chapter 8) and section 7.5 on marine matters.
- 7.7.50. Full regard was given to applicable policy in NPS EN-1 and other relevant and important policy, and the principles of the United Nations Environmental Programme Convention on Biological Diversity of 1992, as required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010. The ExA took full account of the views of the relevant statutory nature conservation body, Natural England.
- 7.7.51. The ES concluded that there would be no significant adverse effects. A small number of issues relating to protected species and priority habitats were examined in more detail, and the Applicant further strengthened mitigation and protection measures for some matters in response.
- 7.7.52. The Applicant's proposals for monitoring and mitigation are properly secured and they adequately address each of the identified potential effects on biodiversity and nature conservation, such that there are no residual significant adverse effects.
- 7.7.53. The ExA is content that the Proposed Development would not add to any significant cumulative effects with other projects and plans.
- 7.7.54. With the proposed mitigation secured through the Recommended DCO, the ExA considers that the Proposed Development accords with NPS EN-1 and finds no grounds for refusal on the basis of onshore biodiversity and nature conservation in relation to important and relevant legislative and policy requirements. The findings in relation to the HRA, including functionally linked grassland habitats that are located onshore, are set out separately in Chapter 8.

7.8. DESIGN

Introduction

- 7.8.1. Issues were raised in the Examination in relation to the design of the Proposed Development, notably the principal buildings at the converter station and also the optical regeneration station at the landfall.
- 7.8.2. The extent to which the design of permanent structures should be controlled and secured through any DCO was a principal issue in the Examining Authority's (ExA) Initial Assessment [PD-010].
- 7.8.3. Matters relating to the influence that project design had on the landscape and visual assessment are discussed in section 7.9, and matters relating to the design of the buildings themselves are summarised here.

Policy considerations

- 7.8.4. In section 4.5, the Overarching National Policy Statement for Energy (NPS EN-1) sets out criteria for good design for energy infrastructure. It notes that good design goes beyond visual appearance and aesthetic considerations, and it can be used to reduce other environmental impacts such as noise. It states:

'Applying "good design" to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible. It is acknowledged, however that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area.'

- 7.8.5. The National Infrastructure Strategy encourages proponents to embed good design in all infrastructure projects, and section 12 of the National Policy Planning Framework provides further advice on designing high quality buildings and places. The development plan also includes policies that encourage high quality design. These have been considered important and relevant to the ExA's considerations.

The Applicant's case

- 7.8.6. The principal application documents relating to the design of the Proposed Development were:
- Indicative Converter Station Area Layout Plans [APP-013];
 - Indicative Converter Station Elevations [APP-014];
 - Indicative Telecommunications Buildings Elevations and Floor Plans [APP-015];
 - Indicative Optical Regeneration Station(s) Elevations and Floor Plans [APP-016];
 - Planning Statement [APP-108];

- Design and Access Statement [APP-114];
 - ES Chapter 3 Description of the proposed development [APP-118].
- 7.8.7. Some of these plans and documents were updated during the Examination, and the final versions at the close were:
- Indicative Converter Station Area Layout Plans [REP7-010];
 - Design and Access Statement [REP8-012].
- 7.8.8. The following documents were submitted by the Applicant in response to matters arising in the Examination including ExA questions [PD-011]:
- Appendix 1 to the Applicant’s Response to First Written Questions, Converter Station Design Approach [REP1-092];
 - Appendix 2 to the Applicant’s Response to First Written Questions, Optical Regeneration Station Design Approach [REP1-093];
 - Appendix 3 to the Applicant’s Response to First Written Questions, Proposed Site Levels and Earthworks methodology [REP1-094].
- 7.8.9. The Applicant’s main case in relation to the design of the Proposed Development was set out in the Design and Access Statement (DAS) [REP8-012]. This set out ‘design principles’ that would guide the subsequent detailed design of the converter station, telecommunications buildings and optical regeneration station when considered alongside the Parameter Plans [REP7-009] and the parameters table in the draft DCO ([REP9-003], Table WN2).
- 7.8.10. The DAS summarised the Applicant’s process for concept development that had informed the design principles and parameters, provided an illustrative example of how these could be developed into a detailed design, and demonstrated how the design principles ensure the Proposed Development would achieve ‘good design’. It looked at site context and analysis, site selection, and how building design principles were developed in close consultation with the relevant local authorities and, in the case of the converter station, the South Downs National Park Authority. Section 5 summarised the evolution of the designs.
- 7.8.11. The design principles for each element of the Proposed Development were set out and explained in section 6. For the converter station, for example, they included a series of general design principles and others relating to the buildings, the landscaping, drainage and sustainability. Section 7 and drawings in the Appendices provided an indicative illustrative design to demonstrate how the principles and parameters could be implemented. Section 8 tabulated the Applicant’s summary of how the approach complies with the design principles, legislation, policy and guidance.

Planning issues

- 7.8.12. The optionality for the location of the converter station buildings (options B(i) and B(ii) as set out in the Design and Access Statement) was raised

in the ExA's written questions and a number of submissions from the local authorities, most notably Winchester City Council, who believed that one option should be committed to prior to the close of the Examination and that option B(i) should be struck from the draft DCO [REP8-081]. Whilst the Applicant provided regular updates in the Statement of Reasons [REP8-008], it noted that the siting was subject to discussions with landowners. These had not been resolved by the close of Examination.

- 7.8.13. The Applicant was asked in ExQ1 [PD-011] whether the ExA would need to make a recommendation based on the worst-case in respect of each environmental factor associated with the two options if the optionality was not concluded prior to the end of the Examination. The Applicant confirmed this in response [REP1-091], noting that this was the basis of its assessment and application.
- 7.8.14. The ExA also asked the Applicant to explain the design approach and design credentials of the converter station (including how the final finished floor level was arrived at), the telecommunications buildings and the optical regeneration station, and how these responded to the objectives in section 4.5 of NPS EN-1. The Applicant was also asked how the Proposed Development sought to meet or exceed the expectations of good design set out in the National Design Guide. The Applicant [REP1-091] referred back to the DAS but also produced supplementary position statements in relation to the design approach to the converter station area buildings [REP1-092], the optical regeneration station [REP1-093], and proposed site levels [REP1-094].
- 7.8.15. The local authorities had concerns that the design approach relied too heavily on the acknowledgement in NPS EN-1 that such infrastructure development generally had limited potential to contribute to the quality of the area. East Hampshire District Council sought a more innovative design approach [RR-162]. A lower building height was also discussed, though the Applicant concluded that, while a lower roof line might reduce the extent of visual effects, there was a balance to be struck for engineering reasons and building aesthetics. The DAS notes that an additional 4m was included in the maximum height parameter for design flexibility, tolerance in relation to the electrical equipment, crange, lights and fittings to be housed. As such, the Applicant retained a maximum parameter height of 26m to the ridge.
- 7.8.16. There had been some uncertainty in the application documents as to what sort of plant and equipment might be fitted on the outside of the converter station building, and if it would raise the effective height or cause glint or glare. In its answer [REP1-091] to ExQ1, the Applicant confirmed that there would not be any plant or machinery on the roof, as secured through an update to the DAS [REP1-031]. Building design principle 8 was revised to state, '*there will be no plant on the roofs of the highest buildings.*' The Applicant also confirmed that external stairs to the roof had been removed as part of a design evolution.

- 7.8.17. The Applicant and relevant local authorities had undertaken a great deal of pre-application consultation on building design for the converter station and the design principles. This engagement continued during the Examination, including detailed discussions about architectural designs and colour palettes. In its response to ExQ1 [REP1-179], the South Downs National Park Authority raised concerns about the 'autumn palette' for the proposed converter station buildings. The ExA explored how the 'sign-off' of the final design would work in practice, given that a number of authorities, including the South Downs National Park Authority had contributed to the solutions that had been developed.
- 7.8.18. This was raised again at Issue Specific Hearing 4 and none of the authorities reported any problems with the proposals for securing design through the DAS, a certified document in Schedule 14 of the draft DCO. The South Downs National Park Authority confirmed that in the case of any disagreement between authorities, the host local authority, Winchester City Council, should have the final decision.
- 7.8.19. The Campaign for the Protection of Rural England Hampshire (CPRE Hampshire) [REP7c-031] supported the building design principles. It agreed that the converter station buildings should have a recessive rather than a 'celebratory' design, that the roof of each building should be a dark, recessive, non-reflective colour and that the cladding should comprise elements and colours to break up the mass of the buildings and their visual prominence.
- 7.8.20. The Statements of Common Ground between the Applicant and the relevant local authorities (including the South Downs National Park Authority) did not reveal any outstanding difference in relation to the design principles and the design process for the converter station area.
- 7.8.21. However, the Statement of Common Ground between the Applicant and Portsmouth City Council [REP8-044] showed that there was no common ground between the two parties in relation to the optical regeneration station at the landfall. The DAS included design principles for the optical regeneration station, but at Deadline 6, the City Council confirmed [REP6-083] that it did not agree that these provided appropriate guidelines for future detailed design. It noted that the introduction of the new structure would erode the existing openness of the area, and that a simplistic planting approach to mitigation exacerbated rather than reduced that effect. The Council's main concern was that the approach taken was inconsistent with the very high significance of the Fort Cumberland scheduled monument: that matter is addressed in section 7.11 of this Report.

ExA response

- 7.8.22. The design of the buildings and structures associated with the Proposed Development is explored in detail in the Applicant's DAS [REP8-012c].
- 7.8.23. The ExA considered the matter of two options remaining at the close of Examination for the converter station. Whilst the two options do not

differ markedly in terms of geographical location, option B(i) removes established hedgerow and trees and would lead to greater effects on views from the west in particular. Nevertheless, the ExA accepts that this is a valid approach and that the Applicant's assessment was carried out on the worst-case option for each environmental topic area and is therefore robust.

- 7.8.24. The ExA is content with the Applicant's rationale for retaining a maximum height parameter of 26m for the converter station buildings.
- 7.8.25. The ExA has considered the sustainability criteria included in Chapter 28 of the Environmental Statement (Carbon and Climate Change [APP-143]) and the full scope of design principles set out in the DAS. It is content that the Applicant has applied good design principles to the development of the converter station buildings, though their scale and nature in the receiving environment would mean that they would be most unlikely to enhance the quality of the area.
- 7.8.26. Whilst NPS EN-1 notes limitations on design due to the nature of energy infrastructure, the ExA did not see a corresponding level of evolution of good design in relation to the smaller-scale telecommunications buildings or the optical regeneration station, which would be utilitarian structures with few design quality principles applied.

Conclusions

- 7.8.27. The Applicant's DAS and allied control documents apply adequate good design and would secure an appropriate framework for the detailed design of the large buildings that form part of the Proposed Development. Consideration has been given to a range of design aspects, including sustainability and aesthetic appearance in relation to the converter station buildings in particular.
- 7.8.28. Outstanding significant effects remain in relation to the location, design and mitigation of the optical regeneration station at the landfall near Fort Cumberland, but these relate principally to the setting of the scheduled monument and the matter is explored in section 7.11 of this Report. Otherwise, the ExA gives the matter of design a neutral finding in relation to the planning balance and finds no reason in the context of NPS EN-1 to refuse the application on design grounds.

7.9. LANDSCAPE AND VIEWS

Introduction

- 7.9.1. The landscape and visual impact assessment (LVIA) [APP-130] was an important part of the Environmental Impact Assessment (EIA) undertaken by the Applicant. This section reports on the effects of the Proposed Development on landscape, views and visual amenity, including predicted effects on the South Downs National Park, its special qualities, and 'dark skies' and tranquillity.

- 7.9.2. The topic of trees (section 7.10) is linked, though the main landscape and visual implications of the Proposed Development relating to woodlands, hedgerows and rural trees are covered in this section.
- 7.9.3. The Examining Authority's (ExA) Initial Assessment of Principal Issues [PD-010] included the impact of the Proposed Development on landscapes and visual amenity, including the settings of protected landscapes, and the effects of temporary and permanent lighting.

Policy considerations

Overarching National Policy Statement for Energy

- 7.9.4. The Overarching National Policy Statement for Energy (NPS EN-1) notes that virtually all nationally significant energy infrastructure projects will have effects on the landscape (5.9.8). The existing character and quality of the local landscape, how highly it is valued and its capacity to accommodate change should all be considered in judging the impact of the Proposed Development. Energy infrastructure is also likely to have visual implications for many receptors around proposed project sites (5.9.18).
- 7.9.5. Projects should be designed carefully to minimise harm to the landscape, and reasonable mitigation should be provided where possible and appropriate.
- 7.9.6. Application documents should include an LVIA. NPS EN-1 refers to the use of good practice guidance in this regard (5.9.5). Reference should be made to any landscape character assessment and associated studies as a means of assessing landscape effects and should take account of local plan policies based on those assessments.
- 7.9.7. The Government confirms that National Parks have the highest status of protection in relation to landscape and scenic beauty (5.9.9) and the conservation of the natural beauty of the landscape and countryside should be given substantial weight in deciding applications for development consent in these areas. For developments outside nationally designated areas the NPS notes (5.9.15) that the scale of such projects may mean they would be visible within many miles of the proposed infrastructure.
- 7.9.8. A duty to have regard to nationally designated areas applies (5.9.12) and the aim should be to avoid compromising the purposes of the designation and such projects should be designed sensitively in the context of siting, operational and other relevant constraints.
- 7.9.9. Reducing the scale of a project can help to mitigate visual and landscape effects, but this may result in a significant operational constraint and reduction in generation output (5.9.21). Adverse landscape and visual effects can sometimes be reduced through appropriate siting, design and landscaping schemes (5.9.22).

National Planning Policy Framework (NPPF)

- 7.9.10. Chapter 15 of the NPPF contains overarching policies for conserving and enhancing the natural environment. It indicates that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside.

The development plan

- 7.9.11. Relevant local plan policies are set out in the Applicant's Environmental Statement (ES) in Appendix 15.2, National and Local Policy Review [APP-400]. Agreement on the importance and relevance of these is noted in the Applicant's Statement of Common Ground with the South Downs National Park Authority [REP8-076].

Marine Policy Statement

- 7.9.12. The Marine Policy Statement notes that the effects of coastal developments on the landscape and seascape would vary on a case-by-case basis according to the type of activity, location and setting. In considering the impact of a proposed development on seascape, existing character, quality, value and its capacity to accommodate the change caused by the development should be taken into account.

The Applicant's case

- 7.9.13. The following application documents contained the main information and analysis for the LVIA:

- Design and Access Statement [APP-114];
- ES Chapter 15 Landscape and Visual Amenity [APP-130];
- ES LVIA study area figures [APP-234] to [APP-237];
- ES landscape designation figures [APP-238] to [APP-241];
- ES ZTV figures [APP-242] to [APP-249];
- ES viewpoint locations, photography and visualisations [APP-250] to [APP-270] and [APP-284 to APP-289];
- ES landscape character and associated plans [APP-271] to [APP-280];
- ES indicative landscape mitigation plans [APP-281] to [APP-283];
- ES LVIA Appendices [APP-399] to [APP-408];
- Onshore Outline Construction Environmental Management Plan [APP-550];
- Outline Landscape and Biodiversity Strategy [APP-506].

- 7.9.14. Some documents were revised or updated during the Examination, as summarised in the Application Document Tracker [REP9-002]. The final versions of these at the close of examination were:

- Design and Access Statement [REP8-012];
- ES indicative landscape mitigation plans [REP8-017] and [REP8-018];
- Onshore Outline Construction Environmental Management Plan [REP8-024];
- Outline Landscape and Biodiversity Strategy [REP8-015].

7.9.15. Additional documents submitted during the course of the Examination included:

- Additional viewpoint photography and visualisations at Fort Cumberland (principally for heritage assessment, see section 7.11) [REP1-038] to [REP1-042] and [REP1-141];
- Additional viewpoint photography [REP6-055] to [REP6-057];
- Additional viewpoint visualisations [REP7-062] to [REP7-063].

7.9.16. Change request 2 included the addition of woodland copses to the Order limits in response to a more rapid than predicted incidence of ash die-back disease in the vicinity of the converter station site. As such, the following documents were relevant to this section:

- Request for Changes to the Order Limits [AS-054];
- ES Addendum 2 [REP7-067] and [REP7-070].

Approach to LVIA

7.9.17. The Applicant's approach to the LVIA treated landscape effects and visual effects as separate but interlinked topics. The LVIA was said to follow the good practice professional guidance set out in the third edition of *Guidelines for Landscape and Visual Impact Assessment*, Landscape Institute and Institute of Environmental Management and Assessment (2013) (GLVIA3).

7.9.18. At scoping, it was agreed that the landscape and seascape effects of the marine component of the scheme could be scoped out of the LVIA. Through scoping consultation, other factors such as views beyond 8km of the proposed converter station and the operation of the cable corridor element of the Proposed Development were also scoped out.

7.9.19. In line with consultation recommendations from the South Downs National Park Authority, the Applicant considered the converter station's proximity to the National Park boundary in the LVIA and explored how the site contributes to its setting, based on landscape character and visual amenity. The Applicant's analysis, including consideration of tranquillity and dark skies, was set out in Appendix 15.5 to the ES [APP-403].

7.9.20. The LVIA was based on a desk study of available information and site visits by a landscape architect between 2017 and 2019. A Zone of Theoretical Visibility (ZTV) was developed for the proposed converter station to help identify appropriate viewpoints for photography and

visualisations. Through pre-application agreement with Portsmouth City Council, no ZTV was determined for the optical regeneration station at the landfall.

- 7.9.21. The assessment of the converter station area and its compound was based on a maximum parameter design envelope. This was defined by the Converter Station and Telecommunications Buildings Parameter Plans [REP7-009]. These allowed flexibility in the siting, layout and dimensions of the converter station but ensured that the LVIA was carried out on a worst-case basis.
- 7.9.22. Two location options for the converter station were assessed. These were referred to on the Parameter Plans as option B(i) and option B(ii). The Applicant and many Interested Parties (IPs) expressed a preference for option B(ii) on landscape and visual grounds during the course of the Examination, as it would allow the retention of an existing hedgerow with trees. However, prior to the close of Examination, the Applicant had been unable to finalise terms with National Grid to secure the land required to build it.
- 7.9.23. The assessment of the optical regeneration station buildings at the landfall at Fort Cumberland was similarly based on a parameter envelope as defined by the Optical Regeneration Station Parameter Plan [APP-017].

Baseline

- 7.9.24. A detailed review of the landscape character baseline was set out at section 15.5.1 of the ES Chapter [APP-130]. This was not challenged during Examination.
- 7.9.25. Viewpoints were selected by reference to the ZTV and ground truthing, in agreement with the local authorities and the South Downs National Park Authority. They were listed in paragraph 15.4.4.15 *ff* of the Applicant's ES [APP-130] and illustrated in the accompanying figures ([APP-250] to [APP-270], and [APP-284 to APP-289]).

Assessment

- 7.9.26. The Applicant reported that the designation of the National Park was informed by studies that included an *Integrated Landscape Character Assessment and Tranquillity Study*, (South Downs National Park Authority, 2017). Policies reflecting the special qualities were included in the South Downs National Park Local Plan 2014-2033 and the South Downs National Park Partnership Management Plan (*Shaping the future of your South Downs National Park: South Downs National Park Partnership Management Plan, 2014-2019*, 2013). The South Downs National Park had also been designated as an International Dark Skies Reserve.
- 7.9.27. The Applicant's summary of potential landscape and visual effects was set out at section 15.3.6 of the ES Chapter [APP-130]. The LVIA methodology was detailed at section 15.4. The baseline was described for

ten sections of the route of the Proposed Development in section 15.5 of the ES, with a site description, landscape baseline and visual baseline for each. The assessment divided the Proposed Development into three sections: the converter station area (route section 1); Anmore to Eastney (route sections 2 to 10); and the landfall (route section 10). Only temporary effects were expected for the second of these.

- 7.9.28. With 'embedded' mitigation accounted for, section 15.8 and Table 15.10 provided a summary and tabulation of the Applicant's landscape assessment. The significant visual effects were set out in Table 15.11. A cumulative effects assessment followed at section 15.9.
- 7.9.29. In brief, for the converter station area, the Applicant predicted significant construction stage effects on three landscape character areas, for the setting of the South Downs National Park, and on local landscape features (landform, topography, vegetation, infrastructure and tranquillity). During operation, there were predicted significant effects on three character areas, though mitigation planting would reduce the effects in two cases to not significant after ten years and twenty years respectively. The effect on the setting of the National Park would reduce to not significant by year 20, while effects on local landscape features would reduce to not significant by year 10. Similar effects were predicted for decommissioning as construction.
- 7.9.30. Temporary significant effects were described for some sections of the cable route during construction, including on landscape character areas, the Denmead Gap local landscape designation, local landscape features (mostly trees and some grasslands), rights of way and open spaces, and tranquillity.
- 7.9.31. For the landfall at Eastney, predicted significant construction effects were listed for a public right of way, openness and tranquillity. Openness continued to be impacted during operation.
- 7.9.32. For the converter station area, the ES predicted significant effects on views during the construction stage from 17 residential properties, for users of four public rights of way (including the Monarch's Way long distance footpath), and for cyclists and other users of local lanes. During operation, the significant effects on views from many of the residential receptors would reduce over time though six were predicted to experience significant effects even after year 20. By year 20, mitigation planting would reduce effects to not significant for all but one of the public rights of way assessed. Significant effects would remain locally for users of the surrounding lanes.
- 7.9.33. There were no operational effects for the main cable route, but at the Eastney landfall there were predicted significant effects on views from local residential properties, and recreational and transport users in the immediate vicinity.

Approach to mitigation

- 7.9.34. Section 15.7 of the ES set out the Applicant's proposed mitigation. For the construction stage, the 'general embedded mitigation measures' would be assured through the Onshore Outline CEMP [REP9-005]. Landscape design principles included in the Design and Access Statement and the Outline Landscape and Biodiversity Strategy [REP8-015], both secured through draft DCO Requirements, would be used to develop the indicative landscape proposals into a final scheme that would need to be approved by the local authorities.
- 7.9.35. The Applicant's proposal for mitigation of landscape and visual effects was based around 'embedded' design and standard construction practice measures, and an extensive indicative plan that included landscape planting and management of existing woodland, trees and hedgerows. The indicative landscape mitigation plans were developed during the course of the Examination and the final versions were submitted at Deadline 8 [REP8-017] and [REP8-018].

Planning issues

Statutory purposes of the South Downs National Park designation

- 7.9.36. The Relevant Representation from the South Downs National Park Authority [RR-049] noted that, as a Statutory Undertaker, National Grid is required under s62 of the Environment Act 1995 to have regard to the statutory purpose of the National Park in decision making. The Authority questioned whether the assessment of substation alternatives in the 2014 feasibility study to select the preferred point of connection to the transmission system took this duty into account.
- 7.9.37. In response to ExQ1 [PD-011], National Grid referred the ExA to National Grid Electricity Systems Operators Limited (NGESO), now a separate entity [REP1-214]. The ExA issued a Rule 17 request to NGESO [PD-015].
- 7.9.38. NGESO's response [REP5-101] confirmed that environmental matters had been taken into account alongside technical and economic factors in the selection of the substation at Lovedean but did not specifically refer to the statutory purpose of the National Park. This prompted further concerns from Winchester City Council [REP6-089], the South Downs National Park Authority [REP6-099] and Campaign for the Protection of Rural England Hampshire (CPRE Hampshire) [REP7c-031].
- 7.9.39. NGESO's response [REP7-109] to ExQ2 explained its role in the feasibility study and subsequent Connections and Infrastructure Options Note, but again failed specifically to address the point, and appeared to pass responsibility for 'planning and environmental considerations' to the developer. The ExA added the matter to the agenda for Issue Specific Hearing 4 [EV1-016] and requested NGESO and the Applicant to provide further evidence and explanation.

7.9.40. NGESO declined the invitation to attend the Hearing but provided a further written submission at Deadline 7c [REP7c-033]. This repeated earlier submissions but added:

'In terms of the statutory duty under section 11A of the National Parks and Access to the Countryside Act 1949 (as inserted by section 62 of the Environment Act 1995) to the extent this applies among each of the CION parties, the explanation above demonstrates how the potential impact on South Downs National Park was weighed along with other factors in the identification of the connection point (which was subsequently accepted by the developer in the connection offer).'

7.9.41. The Applicant further addressed the point during Issue Specific Hearing 4 ([EV-066] to [EV-079]) and concluded that the duty had been properly discharged. A summary of the evidence and reasoning was later provided in a technical note [REP8-063]. This satisfied the concerns of the South Downs National Park Authority, as evidenced in its final signed Statement of Common Ground with the Applicant [REP8-048], though it remained a matter of disagreement in the Applicant's final signed Statement of Common Ground with Winchester City Council [REP8-045].

The landscape assessment

7.9.42. Several matters were raised by the ExA in ExQ1 [PD-011] in relation to the Applicant's approach to the landscape assessment. The Applicant [REP1-091] provided responses in relation to:

- the rationale for the selection of the three study areas (8km, 3km, 1.2km);
- the definition of 'direct' and 'indirect' effects;
- the relationship between the LVIA and the parameter design envelope at the converter station site;
- the flexibility allowed for the location and duration of the various construction compounds in the LVIA;
- confirming that the visual effects of exposed chalk associated with the cut and fill for the converter station platform and access road had been accounted for;
- the location, scale and nature of the proposed converter station site attenuation ponds and their compatibility with local landscape character.

7.9.43. In Appendix 1 to the ES Addendum [REP1-140], the Applicant corrected the omission of the category 'negligible' from the methodology in Appendix 15.3 to the ES [APP-401] and confirmed that the assessment did not need to be altered as a result.

7.9.44. Appendix 19 of the ES Addendum [REP1-150] responded to the ExA's written question about a lack of clarity in relation to how the LVIA had been conducted on a 'worst-case' basis, given the long list of 'assumptions' that were set out in the ES. The ExA was concerned that

these did not appear to be secured in any way, and many factors used in undertaking the LVIA had been caveated with 'where practicable' or 'uncertain'. The new Appendix provided greater certainty on how assumptions would be secured through updates and ongoing improvements to the Onshore Outline CEMP and the Outline Landscape and Biodiversity Strategy.

- 7.9.45. In ExQ1 [PD-011], the ExA asked the South Downs National Park Authority if it agreed with the ES [APP-130] that the 'sensitivity of the SDNP setting' is 'medium' for the purposes of landscape assessment. In response [REP1-179], the Authority referred to NPS EN-1 and confirmed that it considered that the sensitivity should be 'high'. Discussion of this matter continued at Issue Specific Hearing 3 ([EV-040] to [EV-047]), with the Applicant providing a detailed summary at Deadline 6 [REP6-062].
- 7.9.46. The Applicant noted that landscape sensitivity took account not only of value, but also the susceptibility of the landscape to the type of change and development proposed. The LVIA had concluded that the National Park was of high sensitivity, but that the part of the setting of the National Park affected by the Proposed Development had been found to be of mixed value due to factors such as degradation and detracting features, and was therefore considered of medium sensitivity. The final Statement of Common Ground between the South Downs National Park Authority and the Applicant [REP8-048] included an agreement that the ES provides an accurate reflection of landscape character effects (with the exception of tranquillity, which is addressed separately).
- 7.9.47. A difference remained between the Applicant and Winchester City Council in relation to the interpretation of landscape character local to the proposed converter station site. This is explained in the Council's Local Impact Report [REP1-183] and the Applicant's response [REP2-013] and related to the degree to which the existing substation and pylon lines influence local landscape character.

The visual assessment

- 7.9.48. A number of matters were raised by the ExA in ExQ1 [PD-011] in relation to the Applicant's approach to the assessment of views. The Applicant [REP1-091] provided responses in relation to:
- confirming that the use of the Landscape Institute guidance '*Visual representation of development proposals*' (TGN 06/19) that was updated after the LVIA would not have materially changed the approach and outcome of the LVIA;
 - the rationale behind the selection of three local viewpoints;
 - why residential receptors and private views had been included in the visual assessment;
 - the approach to using nearby public places to assess the visual effects at residential receptors;

- how the worst-case scenario was defined for the visual effects of the landfall and onshore cable corridor and how representative receptors were chosen in relation to worst-case views of the Proposed Development;
- how the ES deals with sequential views, such as those from a nearby public right of way;
- the rationale behind the visual assessment of the landfall and optical regeneration buildings, why a ZTV was considered unnecessary, and the more restricted range of visualisations than provided for the converter station area.

7.9.49. The suitability and coverage of viewpoints used in the visual impact assessment and their illustration in application documents was raised during the Examination. The Applicant considered that the selected viewpoints provided an appropriate representation and noted that viewpoints had been agreed with local planning authorities and South Downs National Park Authority.

7.9.50. The relevant local authorities were content with the representative viewpoints with the exception of the South Downs National Park Authority, which considered that two further viewpoints from public rights of way in the National Park, but at lower elevations than those provided, would be informative, along with further photography and analysis of the proposed new entrance to the converter station access road. Photography for these was initially provided by the Applicant ([REP6-055] to [REP6-057]), then following a further request from the ExA, these were supplemented by simple visualisations of the converter station location and a visual assessment for the two new viewpoints from public rights of way ([REP7-062] to [REP7-063]).

7.9.51. The ExA noted that the ES [APP-130] referred to up to 20 cranes on site each day during the construction of the converter station and asked the Applicant to explain their dimensions and how they were taken into account in the LVIA. In response [REP1-091], the Applicant acknowledged that full information had not been available at the time of assessment. However, the landscape architects responsible for the assessment had used their substantial experience of working on large-scale developments, and the Applicant confirmed that the more recently determined requirement for up to 10 cranes at any one time, two up to 84m in height, lay within the assumed parameters used in the assessment. The Applicant's landscape architect confirmed this verbally during Issue Specific Hearing 3 ([EV-040] to [EV-047]) and contended that the significance of construction stage effects would not change.

7.9.52. This new information brought responses from Winchester City Council and East Hampshire District Council in terms of the uncertainties over the number, operation, visibility and duration of impact caused by the cranes, given the estimated three-year construction period. The potential for tower cranes and their movements to become a long-term feature was of particular concern. The Applicant confirmed mobile telescopic cranes would be used rather than tower cranes, and that they would

extend up to 84m in height when is use, but probably only approximately 5m in height when not in immediate use. The duration was reported to be up to 8 months out of the 3-year construction period.

- 7.9.53. The Applicant submitted further information at Deadline 6 [REP6-063]. This referred to a commitment in the Onshore Outline CEMP not to use tower cranes and to ensure that cranes would be retracted when not in use. Further information was also provided on the landscape architect's experience of assessing large structure construction projects and two representative assessments from a short distance and long-distance viewpoint using the more accurate information on cranaage to demonstrate that the LVIA outcome would not change.
- 7.9.54. Matters relating to the proposed 15m high lighting columns (up to eight) and 30m high lightning masts at the converter station were raised in ExQ1 [PD-011] and discussed at length in the Examination, in terms of their inclusion in the ZTV, their contribution to visual effects, and the effect of lighting at night. The Applicant [REP1-091] confirmed that the LVIA had not disaggregated individual parts of the converter station area and that the masts had not been specifically included in the ZTV, but noted that they were narrow, slender features that were not likely to give rise to significant adverse effects. It considered that the lighting columns would only be noticed in immediate views whilst the lightning masts could be perceptible in some views from up to between one and two kilometres.
- 7.9.55. The South Downs National Park Authority noted [REP1-179] that the addition of the lightning masts to the ZTV could distort it and give a misleading impression and did not believe it was necessary given the wide extent of the ZTV in any case. It did, however, request a more robust dark skies assessment.
- 7.9.56. The Applicant confirmed [REP1-091] that there would be no permanent lighting associated with the converter station once operational. The lighting columns would be used only during emergency situations, such as an intruder or unplanned maintenance work. It was also noted that the lightning masts would not require flashing aviation warning lights. As such, it did not anticipate the lighting columns or lightning masts being visible during the hours of darkness in normal circumstances.
- 7.9.57. The Deadline 1 version of the Applicant's Onshore Outline CEMP [REP1-087] provided further information on lighting, including provision for a lighting scheme that would be developed for the construction and operational stages of the converter station area. It noted that the detailed design of emergency lighting falls under Requirement 6 of the draft DCO, and that it would need to be approved in writing by the relevant planning authority in consultation with the South Downs National Park Authority.
- 7.9.58. The final version of the Statement of Common Ground between the Applicant and the South Downs National Park Authority noted that the

Authority welcomed the amendments to the Onshore Outline CEMP and that:

'The Lighting Scheme will be developed in accordance to the SDNPA Technical Advice Note 2018, Dark Skies'.

7.9.59. The lighting regimes at the converter station, telecommunications buildings and the optical regeneration station were discussed further at Issue Specific Hearing 3 ([EV-040] to [EV-047]). The Applicant confirmed in a note following the Hearing [REP6-063] that the Design and Access Statement [REP1-031] demonstrated that both would be operational only in emergencies. Design principle 5 of the Telecommunications Buildings and Optical Regeneration Station design principles stated that:

'... the ORS and Telecommunications Buildings will not be illuminated other than in circumstances such as upon activation of an intruder alarm or maintenance or repair operations.'

7.9.60. So as to clearly secure this, draft Requirement 23 was updated to state:

'During the operational period there will be no external lighting of Works No. 2 or the optical regeneration stations within Works No. 5 during the hours of darkness save for in exceptional circumstances, including in the case of emergency and where urgent maintenance is required'.

7.9.61. The possible design of the lightning masts was given more detailed consideration in the Design and Access Statement as it evolved through the Examination. They are discussed and illustrated in the final version [REP8-012].

7.9.62. Winchester City Council, East Hampshire District Council, the South Downs National Park Authority and CPRE Hampshire all raised concerns about apparent inconsistencies in the application documentation about exterior and rooftop plant and equipment on the converter station buildings. As the Applicant's LVIA considered the converter station as a whole and did not disaggregate the components, this matter is dealt with in the design section of this Report (7.8).

7.9.63. The draft DCO was amended at Deadline 9 to make it clear that the substation extension equipment would not exceed 15m in height. The Applicant confirmed that the assessment had been undertaken on that assumption, though again, the individual components had not been disaggregated.

Tranquillity

7.9.64. Tranquillity was discussed throughout the Examination. The matter was discussed at Issue Specific Hearing 3 ([EV-040] to [EV-047]) and raised in several submissions, including those of the South Downs National Park Authority (for example [REP1-179] and [REP6-099]) and CPRE Hampshire [REP7c-031]. The South Downs National Park Authority confirmed that tranquillity is one of the special qualities of the South Downs National Park, and that it applied to the whole National Park. The

Applicant acknowledged this but noted that the converter station area is located outside the National Park.

- 7.9.65. The South Downs National Park Authority suggested at the Hearing that there would be significant effects on tranquillity during operation and construction, including from the movement of cranes, other plant and vehicles and from the provision and use of a car park with more than 200 car parking spaces.
- 7.9.66. The South Downs National Park Authority was not able to reach common ground with the Applicant in relation to the operational phase [REP8-048]. The parties' interpretation of 'tranquillity' in the LVIA even differed. The Applicant said that it had based the assessment on the glossary entry in the GLVIA3, which describes tranquillity as '*a state of calm and quietude associated with peace, considered to be a significant asset of landscape*'. The South Downs National Park Authority's interpretation of tranquillity, as used in the South Downs Local Plan and the South Downs National Park Tranquillity Study, was said to include references to the presence of buildings in the landscape. At the close of Examination, the Applicant maintained the opinion that there would be no effects on tranquillity during the operation of the Converter Station. The National Park Authority did not agree. The prediction of operational effects on tranquillity was therefore not agreed between the parties.
- 7.9.67. CPRE Hampshire submitted [REP7c-031] that tranquillity as a concept had been developed by CPRE and noted that it is a much wider construct than simply noise. It is described as, '*a state of calm and quietude associated with a feeling of peace: a perceptual quality of the landscape influenced by things that people can both see and hear in the landscape around them*'. It noted that, in this case, this would include the sight of the buildings and other structures at the converter station, and audible noise.
- 7.9.68. CPRE Hampshire also noted that tranquillity is a special quality of the National Park and that it therefore needed to be protected, as set out in Strategic Policy SD7 (Relative Tranquillity) of the South Downs National Park Local Plan, whether the development is within the SDNP or within its setting. CPRE Hampshire suggested that this wider concept of tranquillity must be considered by the Secretary of State, and that the converter station buildings would have a significant adverse effect on the tranquillity of users of rights of way within the National Park, notably Monarchs Way.

Mitigation

- 7.9.69. The Applicant [REP1-091] provided responses to matters raised by the ExA in ExQ1 [PD-011] in relation to:
- the interrelationship between archaeological investigations (such as trial trenching) and the landscape mitigation planting;
 - the proposed establishment of ground flora in newly planted woodland areas;

- the 'offset measures' for ancient woodland protection;
- the meaning of 'embedded' mitigation measures and GLVIA3 guidance (see ES Errata Sheet [REP1-140]);
- some of the detail of the indicative list of species used for mitigation planting (see ES Errata Sheet [REP1-140]);
- the benefit of mitigation planting suggested in the ES and the implications for Compulsory Acquisition (Table 15.3 of the ES [APP-130] estimates that the embedded mitigation only reduces the extent of visibility of the converter station by 2.5% to 3%);
- confirmation that monitoring and management of existing and proposed mitigation planting for the converter station would take place throughout the operational lifetime of the Proposed Development, as set out in the Outline Landscape and Biodiversity Strategy, and that it would be secured through a detailed scheme submitted to the relevant local planning authority and the South Downs National Park Authority for approval under draft Requirements 7 and 8 of the draft DCO;
- details of proposals for biodiversity enhancements through the landscape mitigation planting.

7.9.70. ExQ1 [PD-011] also asked the Applicant to explain how some of the 'embedded mitigation measures' listed for the construction stage assessment in the ES [APP-130] could be assured, as the Onshore Outline CEMP [APP-505] did not seem to include many of them, but they had been relied on in the assessment. The Applicant undertook a review and update to ensure the relevant measures aligned, and confirmed [REP1-091] that all of the assumptions were being secured through updates to the Outline Landscape and Biodiversity Strategy and the Onshore Outline CEMP, and through the related draft Requirements in the draft DCO.

7.9.71. The ExA also asked the Applicant through both sets of written questions to explain why draft Requirement 7 of the draft DCO was restricted to the approval of landscape schemes relating to Works 2, 4 and part of Work 5, and excluded Works 1, 3 and the rest of 5. The Applicant's response to ExQ1 [REP1-091] stated that:

'...the flexibility required for design and construction meant that it was more appropriate to develop any necessary mitigation in detail once the final alignment and construction areas have been decided and actual impacts can be understood.'

7.9.72. The ExA went on to ask the Applicant to expand on the differentiation, to explain further why some landscape mitigation measures would be subject to a Requirement while others appeared not to be, and to suggest what reliance could be placed on the outcome the parts of the LVIA where 'the actual impacts' were not yet understood.

7.9.73. The Applicant's second response [REP7-038] explained that the only exclusions were now the areas where the land was simply to be

reinstated, and where landscaping was not relevant to the proposed Works. The Deadline 6 updates to Onshore Outline CEMP [REP6-036], draft Requirement 15, draft Requirement 22 and draft Requirement 9 covered this. Updated draft Requirement 9 had an additional clause requiring:

'...details of a scheme for the reinstatement of land used as temporary compounds during construction and any replacement planting to replace removed sections of hedgerow or removed trees.'

7.9.74. The Applicant acknowledged that the onshore cable route information in the application documents contained a degree of uncertainty. However, it suggested that subsequent work on the Outline Landscape and Biodiversity Strategy had given more clarity. It also referred to the additional security provided through ES Addendum Appendix 19, Landscape Assessment Assumption Clarification [REP1-150]. In summary, the Applicant contended that, read together, Appendix 19 to the ES Addendum, the updated Outline Landscape and Biodiversity Strategy, and the updated Onshore Outline CEMP provided a robust assessment of the likely significant effects on which the ExA could rely.

7.9.75. The effectiveness of mitigation planting at the converter station site was a topic that ran through the Examination. The ExA asked the South Downs National Park Authority for its opinion on this in ExQ1 [PD-011]. In response [REP1-179], the Authority confirmed that it was not satisfied with the proposals on this matter but that discussions were ongoing. Disagreements included:

- inadequate assessment of the age, condition and species of existing trees to be managed for mitigation, including the implications of ash die-back disease;
- the benefits of further woodland planting away from the converter station perimeter security fence;
- the proposed alignment of new hedgerows along the access road;
- the rectilinear treatment of the western and northern boundary;
- the range of plant sizes, with larger specimens needed to achieve screening at an earlier stage, and to diversify the woodland structure and canopy height.

7.9.76. Winchester City Council provided a comment on the question [REP1-184], suggesting that the proposed landscape and visual mitigation measures in relation to the proposed and existing planting were acceptable. It went on to comment on the design of the converter station buildings in relation to this, and this is dealt with in the design section of this Report (7.8).

7.9.77. The Applicant provided a response to the National Park Authority's ongoing concerns [REP1-160]. A further arboricultural condition assessment was undertaken of Mill Copse, Crabden's Row, Crabden's Copse, and Stoneacre Copse as part of an ash die-back survey. The

results of this were shared with the South Downs National Park Authority and submitted into the Examination [AS-054].

- 7.9.78. The Applicant cautioned that the extent of new woodland planting had to be balanced with the impact on the viability of agricultural holdings. Nevertheless, the indicative landscape mitigation plans evolved to include additional areas of woodland planting, particularly to the south and west of the converter station area. The rectilinear edges were softened where practicable, a new hedgerow was introduced to the north of the converter station, following a historic field boundary, and the Outline Landscape and Biodiversity Strategy was updated to recognise the need for a mix of plant stock, including larger trees in specific locations and native 'pioneer' species to create variations in the woodland structure and mix.
- 7.9.79. The Applicant also noted that draft Requirement 7 of the draft DCO meant that these indicative plans would need to be detailed and approved post-consent. The discharging authority would be required to consult with the South Downs National Park Authority as part of the approval process.
- 7.9.80. The differences between the Applicant and the South Downs National Park Authority were narrowed through these improved mitigation measures, the provision of the ash die-back survey report and associated additional mitigation, and ongoing negotiation. Differences remained in relation to the benefits of further woodland planting away from the immediate vicinity of the converter station until close to the end of Examination, but the final, signed Statement of Common Ground between the Applicant and the South Downs National Park Authority indicated that all matters relating to landscape mitigation were agreed, and that a planning contribution towards woodland and hedgerow planting had been agreed, to be secured in a Development Consent Obligation. The Applicant submitted a signed legal agreement with the South Downs National Park Authority in respect of the Development Consent Obligation [REP9-011] at Deadline 9.
- 7.9.81. In its Relevant Representation [RR-028], CPRE Hampshire had suggested that the ability of a rural landscape to absorb change could not apply to buildings of the scale of the converter station. In its Deadline 7c submission [REP7c-031], it went on to note that the changes resulting from ash die-back disease reinforced concerns about the limited extent to which mitigation planting would reduce the effects, even after 20 years, and maintained that the landscape and visual effects of the converter station should be judged solely on the assessment at year 0.
- 7.9.82. The ExA had asked the Applicant to clarify the approach to assessment set out in Table 15.3 of the ES [APP-130] and Appendix 15.3 [APP-401] in relation to future years in ExQ1 [PD-011], and to confirm if the assessment related only to summer when the deciduous planting was in leaf. The Applicant confirmed that the assessment for years 0, 10 and 20 was based on winter views, and that summer views were also considered. It maintained that the new mitigation planting, combined with existing vegetation, would provide a depth and a layering sufficient

to provide a partial to full screen in winter months. It noted ongoing discussions with the local authorities over the introduction of extra heavy and heavy trees in specific locations to improve the screening function from specific locations in year 0.

- 7.9.83. The effectiveness of the landscape mitigation planting for the optical regeneration station at the landfall remained as a matter not agreed between the Applicant and Portsmouth City Council at the close of the Examination, as detailed in the Statement of Common Ground [REP8-044]. The Council's view was that there would be an urbanisation of an existing open space whose character is open and undeveloped, and that the mitigation would not address this. The Applicant remained of the view that the proposed mitigation would be effective, appropriate and satisfactory.

Project evolution and change

- 7.9.84. The Applicant's response to ExQ1 [REP1-091] indicated that an indicative location and surface finish for the proposed temporary car park at the converter station site had been identified and that the capacity had been increased from 150 to 226. The Applicant was asked at Issue Specific Hearing 3 if this altered the LVIA in any way, and it was confirmed [REP6-062] that the LVIA had assumed that the identified area would be used for car parking, and that the surface finish and increased size did not change the outcome.
- 7.9.85. Change request 1 ([REP3-016] and [REP3-019]) provided additional security to some trees at Baffins, but this is dealt with in the Trees section of this Report (7.10).
- 7.9.86. Change request 2 ([AS-052] and [AS055]) included the addition of Stoneacre Copse and Mill Copse to the Order limits, with the Applicant seeking powers to manage the ancient woodlands so as to minimise the adverse impact of ash die-back disease on their structure and visual screening function. Relevant Representations and other written submissions were received on the proposal, with some supporting it and some objecting. Notably, the owners of Stoneacre Copse objected on various grounds in several documents (for example [REP8-106]), including the suggestion that they were able to manage the woodlands themselves, while CPRE Hampshire [REP7c-031] expressed strong support.
- 7.9.87. The implications of the change request 2 had been added to the Deadline 6 version of the Outline Landscape and Biodiversity Strategy [REP6-038], included a 10m deep strip of new native tree planting to the south of Mill Copse. It was said that this would '*form a screen at eye level through a mix of trees and understorey planting...*'. This had been taken into account in a revised LVIA that had been undertaken with the proposed changes in place and reported in the change request documentation.
- 7.9.88. The land required for this 10m strip lay outside the changed Order limits, and the measure had been deleted from the Deadline 7 Outline

Landscape and Biodiversity Strategy [REP7-023]. The ExA questioned the Applicant on this at Issue Specific Hearing 5 ([EV-080] to [EV-084]). The Applicant reported that the necessary land had not been secured and that it did not believe that the negligible contribution that it would make to landscape and visual mitigation justified seeking Compulsory Acquisition powers. The strip of planting was described as a visual safety net that would only have any effect at all in the first few years after planting, as the Copse itself would provide the bulk of the mitigation. The Applicant also reported that it was still nevertheless pursuing an agreement to purchase the land.

- 7.9.89. In response to a further ExA enquiry, the Applicant confirmed that ES Addendum 2 [REP7-067] provided an updated LVIA that did not take the strip of planting into account.
- 7.9.90. Traffic management measures mean that some changes would need to be made in Day Lane to install passing bays. The assessment for this included potential effects on trees, hedgerows and landscape character, but this is dealt with in the transport section (Chapter 6).

ExA response

- 7.9.91. The ExA is content that the landscape and visual information provided by the close of Examination was sufficient to inform its consideration of effects when taken in combination with its site inspections.

Landscape character

- 7.9.92. The ExA notes the significant construction stage effects on three landscape character areas, but from its site inspections finds the character of the immediate vicinity of the proposed site for the converter station to be substantially affected by the existing substation, pylon lines and some 'urban-fringe' type land uses, though this reduces with distance as intervening topography and vegetation filters or obscures the man-made features. This was reflected when the boundary of the National Park was set.

Views

- 7.9.93. There would be some major changes to views from local lanes and properties and from a few local public rights of way during the construction and operation of the converter station. These would be filtered to some extent by existing trees, hedgerows and woodlands, though the effects on local public views from the west would be greater for converter station option B(i) than option B(ii). While the tops of the buildings would be visible in some views, especially those from the north and west, they would be seen in the context of existing electricity infrastructure or a backdrop of topography and vegetation, with few significant examples of breaking of the horizon or skyline from public vantage points.
- 7.9.94. The optical regeneration station buildings introduce structures into an open, flat area at the coast in Eastney, and the proposed landscape

planting would further change the local landscape character. However, this would be in the context of a largely urbanised area, and the principal concern relates to the setting of the Fort Cumberland scheduled monument, which is addressed in the cultural heritage section of this Report (7.11).

South Downs National Park

- 7.9.95. The proposed site for the converter station lies close to the southern edge of the South Downs National Park, and the boundary runs to the west, north and east of the site along rural roads, in places less than 300m away. In effect, the site sits in a pocket that was excluded from the National Park due to the presence of the existing Lovedean Electricity Substation. The ExA took great care to examine the visual and landscape relationship between the site proposed for the converter station and the National Park, its setting, and its special qualities during unaccompanied site inspections.
- 7.9.96. The Applicant's ZTV clearly illustrates that the converter station would be visible from the National Park, and by using some of the submitted visualisations during site inspections, the ExA was able to make a clear assessment of the visibility of the main buildings from nearby and more distant viewpoints.
- 7.9.97. As might be expected, the greatest visibility would be from local viewpoints such as the lanes and properties around the proposed site. With the exception of some views from nearby public rights of way, such as Monarch's Way, there would be relatively limited effects on local views from the National Park, as the site sits well down in the topography and in the context of some well-established woodlands and mature hedgerows. The Applicant's landscape mitigation planting and vegetation management proposals focus on dealing with the remaining effects, which are largely from viewpoints to the north-west and west. It is likely to take 10 to 20 years for such measures to become effective in some cases. Whilst ash die-back disease would likely exacerbate the effects and lengthen the time for mitigation planting to become effective, the ExA is content that the Applicant has introduced appropriate and proportionate additional responsive measures through change request 2 ([AS-052] and [AS055]).
- 7.9.98. There would be wider visibility of the converter station from more distant and elevated viewpoints in the National Park. The tops of the South Downs and some of the higher southern slopes afford clear, open views to the south towards Ports Down and the coast, and the tops of the existing pylons in the vicinity of the substation are distantly visible from some of these locations. The ExA visited several such viewpoints including Windmill Hill (4.5km), Old Winchester Hill (7.5km) and Butser Hill (7.5km) ([EV-003] to [EV-005]). These offer visitors dramatic, panoramic views, in some case through 360 degrees, and whilst the converter station would be visible, it would be partially screened by the trees and woodlands in its vicinity, and it would occupy a very small fraction of the view, with the viewer's eye typically drawn to other

features such as Ports Down and the coast beyond when looking to the south.

- 7.9.99. Despite the difficulties that the ExA had in gaining the relevant information from NGENSO, it was content by the close of the Examination that the studies undertaken to select Lovedean as the point of connection to the grid had taken the factors for which the National Park was designated into account, implicitly if not explicitly, and that, on balance, the statutory duty under s62 of the Environment Act 1995 had been complied with.

Construction cranes at the converter station area

- 7.9.100. The ExA remained concerned with the construction phase assessment for the converter station but was content that the additional mitigation offered by the Applicant during the Examination in relation to construction cranes would be sufficient to reduce the potential temporary effects to the minimum possible level. Construction activities would be noticeable from some local views, as acknowledged in the Applicant's ES, and the movement of cranes would be perceptible from some more distant viewpoints, including those in the South Downs National Park. However, they would be at such a distance and be such a small part of the view that the temporary effect is unlikely to be significant. Effects would remain in terms of tranquillity throughout the construction stage.

Lighting

- 7.9.101. The ExA is content that there are sufficient safeguards built into the Recommended DCO and control documents to ensure that the lighting schemes for the converter station and optical regeneration station would not lead to a significant effect, and that the dark skies assessment in front of the Examination by its close was sufficient for purpose.

Tranquillity

- 7.9.102. The ExA notes that tranquillity is a special quality of the National Park, that the converter station area sits outside the National Park, but that it clearly lies within its setting.
- 7.9.103. Disagreement remained over the different interpretation of 'tranquillity' in relation to the long-term presence of the converter station buildings. Having experienced the local area through site inspections, the ExA agrees with the National Park Authority and CPRE Hampshire that the presence of man-made structures such as the existing substation can diminish the experience of tranquillity by their presence, and it is therefore likely that the proposed converter station would lead to a further reduction. However, the ExA does not believe that the further deterioration would be significant in the context of the local baseline, as it would be experienced from within the National Park or from public locations in its immediate setting.

Mitigation

- 7.9.104. The indicative landscape scheme had evolved by the close of the Examination into a comprehensive example of how a planting and vegetation management strategy could be implemented to best provide and maintain screening and an appropriate landscape setting for the Proposed Development. This included the additional measures proposed in the Applicant's change requests. Many of the improvements that were achieved during the Examination reflected valuable inputs from the relevant local authorities.
- 7.9.105. Whilst noting the long lead-in time to full effectiveness, the ExA is content that the indicative scheme provides a proportionate response to the identified effects on landscape and views, and that the Recommended DCO and control documents provide surety that the local authorities can secure a planting programme that would be at least as effective as the indicative scheme provided.
- 7.9.106. The South Downs National Park Authority maintained that further woodland planting would be beneficial until near to the close of the Examination (though the matter had been agreed in the final, signed Statement of Common Ground). Whilst understanding that position, the ExA had also noted the Applicant's argument that any additional benefits of such planting locally would be so marginal as to not justify a request for Compulsory Acquisition. The ExA is content that the planning obligation agreed late in the Examination between the parties [REP9-011], which would provide funds for the National Park Authority to undertake woodland and hedgerow planting and improvements to public rights of way within 2km of the converter station, would deliver a proportionate response to the outstanding matters relating to the landscape harm in the National Park associated with the Proposed Development.
- 7.9.107. It would not be possible to provide full screening for the Proposed Development from some viewpoints, and the temporary views from some other local viewpoints would, in reality, last for 10 or 20 years, including from a local section of the Monarch's Way long distance footpath. The ExA agrees with the South Downs National Park Authority and Winchester City Council that some local effects from viewpoints to the west of the proposed converter station site would be significantly worse if option B(i) for the converter station was implemented, but it is conscious that the assessment has assumed this to be the case, and the mitigation was designed with this in mind.
- 7.9.108. Seventeen residential receptors located close to the proposed converter station and others close to the optical regeneration station (to a lesser extent) would experience particularly significant changes to their private views, many of which would be for 20 years or more, but not to the extent that the habitability of those properties would be significantly affected. The ExA thus gives this very limited weight.

Conclusions

7.9.109. Taking all relevant policy, representations and the statutory purposes and special qualities of the South Downs National Park into account, the ExA concludes:

- an appropriate LVIA was provided to inform the ExA's understanding of landscape and visual effects when considered alongside the information and impressions gained from site inspections;
- as with any nationally significant energy infrastructure project of this scale, the Proposed Development would inevitably have effects on the landscape and views;
- the Proposed Development has been carefully designed to reduce harm to the landscape, and reasonable and assured mitigation has been provided where possible and appropriate, including in relation to the proximity to the South Downs National Park;
- for the converter station;
 - there would be significant construction stage effects on three landscape character areas, for the setting of the South Downs National Park, and on local landscape features (landform, topography, vegetation, infrastructure and tranquillity);
 - its presence once built would lead to significant effects on three landscape character areas, though mitigation planting would reduce the effects in two cases to not significant after ten years and twenty years respectively;
 - the effect on the setting of the National Park would be significant at first, but would reduce to not significant by year 20;
 - effects on local landscape features would reduce to not significant by year 10;
 - some temporary significant landscape effects would be expected for some sections of the cable route during construction;
 - there would be significant effects on views during construction from four public rights of way (including Monarch's Way long distance footpath), and local lanes;
 - by year 20, mitigation planting would reduce effects to not significant for all but one of the public rights of way, though significant effects would remain from the surrounding lanes;
- for the landfall at Eastney;
 - there would be significant construction effects for a public right of way, openness and tranquillity, and openness would continue to be impacted during operation;
 - there would be significant effects on views from local residential properties, and for recreational and transport users in the immediate vicinity;

- the adverse landscape and visual effects would largely be reversible on decommissioning.

7.9.110. Taking account of the predicted significant adverse effects, and in the context of NPS EN-1 and important and relevant policy, the ExA considers that the adverse landscape and visual effects count against the Proposed Development, and considers this to be a factor of moderate weight in the overall planning balance against the benefits of the Proposed Development carried out in Chapter 9.

7.10. TREES

Introduction

7.10.1. The topic of trees was identified in the Examining Authority's (ExA) Initial Assessment of Principal Issues [PD-010] in relation to the impact of the Proposed Development on trees that were subject to Tree Preservation Orders (TPOs) and others of equivalent value. Issues around the wider landscape and biodiversity aspects of trees are reported in sections 7.9 and 7.7 respectively.

7.10.2. Article 41 of the application draft DCO [APP-019] proposed to disapply the Hedgerows Regulations 1997 and powers were sought over any tree in the Order limits rather than those listed in a schedule, as is the case in many comparable, recently made Orders. It was unclear from the information provided which trees, including those of sufficient quality for protection, would be affected by the Proposed Development.

7.10.3. Article 42 provided powers in relation to trees subject to TPOs, allowing damage without a need for replacement. The related Schedule 11, Trees subject to Tree Preservation Orders, referred to 'indicative works to be carried out' and 'potential removal', potentially too imprecise for a proper understanding of the impact of the Proposed Development.

Policy considerations

7.10.4. The Overarching National Policy Statement for Energy (NPS EN-1) notes the value of ancient woodland and aged or veteran trees, and that their loss should be avoided but it does not set policy for dealing with other trees that might be affected by a project.

7.10.5. Section 15 of the National Planning Policy Framework (NPPF) requires planning decisions to recognise the contribution of trees and woodland to the intrinsic character of the countryside, natural capital and ecosystem services, and their economic benefits. It goes on to say that development resulting in the loss or deterioration of ancient woodland and ancient or veteran trees should be refused, except in exceptional circumstances.

7.10.6. Each of the local plans that form the development plan also includes policies relating to the value and protection of trees, either specifically or as part of wider landscape and biodiversity policies. These are listed in section 3.12 of this Report. Some of the key policies are set out in the Applicant's Arboriculture Report [APP-411] in section 1.2.2. The ExA has

taken these to be important and relevant in respect of local losses of trees.

7.10.7. The Government notes the importance of street trees to good design in the National Design Guide¹¹.

The Applicant's case

7.10.8. The principal application documents of relevance were:

- Hedgerow and Tree Preservation Order Plans [APP-018];
- Environmental Statement (ES) Chapter 15 Landscape and Visual Amenity [APP-130];
- ES Appendix 16.3 Arboriculture Report [APP-411];
- Onshore Outline Construction Environmental Management Plan [APP-505];
- Outline Landscape and Biodiversity Strategy [APP-506].

7.10.9. Some documents were revised or updated during the Examination, as summarised in the Application Document Tracker [REP9-002]. The final versions of these at the close of examination were:

- Hedgerow and Tree Preservation Order Plans [REP7-011];
- Onshore Outline Construction Environmental Management Plan [REP8-024];
- Outline Landscape and Biodiversity Strategy [REP8-015].

7.10.10. An updated version of Appendix F of the ES Arboriculture Report (the Generic Arboricultural Method Statement) was submitted at Deadline 7 [REP7-066].

7.10.11. The Hedgerow and Tree Preservation Order Plans [APP-018] identified the locations of individual and groups of trees protected by TPOs.

7.10.12. The Arboriculture Report [APP-411] included a record of pre-application consultation, and a schedule and plans of important trees in the Order limits and confirmed that ancient woodland would be avoided, with an appropriate buffer, and that no ancient or veteran trees had been identified in the study area.

7.10.13. In response to a first written question (ExQ1) [PD-011] about the implications of the powers sought and effects on trees, and whether the information provided and powers sought were precise enough, the Applicant [REP1-091] undertook a review of trees subject to Tree Preservation Orders or in conservation areas in the Order limits to identify those that may be affected and to confirm those that would not be. Updated Tree Constraints Plans and Tree Survey Schedules were

¹¹ <https://www.gov.uk/government/publications/national-design-guide>

provided [REP1-101]. These further refined the trees identified as being at risk and those to be retained.

- 7.10.14. The Applicant went on to say that all effects on trees would be avoided where possible, as set out in the Onshore Outline Construction Environmental Management Plan (Onshore Outline CEMP) [REP1-087]. Where unavoidable, all pruning and felling works would be specified by an experienced arboriculturist and carried out by a suitably trained contractor, in accordance with the Outline Landscape and Biodiversity Strategy [REP1-034] (secured by draft Requirement 15 of the DCO), British Standard (BS)5837: 2012 *Trees in relation to Demolition Design and Construction – recommendations*, and BS3998: 2010 *Tree Work – Recommendations*.
- 7.10.15. The Applicant also noted that the Outline Landscape and Biodiversity Strategy proposed replacement trees for any that were unavoidably lost. The intention would be to replace any loss or partial loss of trees locally, where the replacements could be sited at least 5m away from the edge of the cable trench. As this intent was included in the Outline Landscape and Biodiversity Strategy, it would be secured by draft Requirement 9 of the DCO [REP9-003]. Draft Requirement 8 requires all landscaping to be carried out in accordance with the landscaping scheme approved under draft Requirement 7.
- 7.10.16. The Applicant also updated draft Requirement 7 to cover all works along the cable route that could affect trees to secure these measures through the Outline Landscape and Biodiversity Strategy and the proposed landscaping scheme.
- 7.10.17. Change request 1 sought (*inter alia*) amendments to the Order limits at the sports ground used by Baffins Milton Rovers FC [REP1-133]. One of the stated reasons was to provide additional flexibility for cable installation in this area whilst avoiding a row of trees that provide an amenity and screening function between the pitch and Eastern Road. Change request 2 sought the addition of two copses to the Order limits, but this is more relevant to the landscape and visual impact section of this Report (7.9).

Planning issues

Assessment of effects on trees

- 7.10.18. Given the powers sought in draft DCO Articles 41 and 42, issues were raised about the precision of the assessment of tree loss in the application documentation, and the ExA requested an update to ensure that the draft DCO and Explanatory Memorandum complied with Planning Inspectorate Advice Note 15, section 22 (hedgerows and trees), including the detailed identification of affected trees and hedgerows.
- 7.10.19. Hampshire County Council's Local Impact Report (LIR) [REP1-167] included a concern about the Applicant's approach to addressing effects on highway trees. It noted that these are generally not subject to a TPO as they are managed and protected by the County Council itself. As such,

it suggested that the absence of a TPO should not be inferred to mean that the condition, quality, or value of a highway tree is lower than that required for protection. The Applicant's restricted approach - to trees subject to TPOs - was said to risk undervaluing some highway trees and underestimating effects as a result.

- 7.10.20. Portsmouth City Council [REP1-172] noted that this 'blind spot' applied to trees on highways and Council controlled land in Portsmouth as well, and suggested that the Applicant's approach to the identification, retention, protection, mitigation and compensation for any lost trees was inadequate, as the draft DCO only took 'unnecessary damage' into account. It concluded that the potential for unmitigated loss of amenity and ecosystem services provided by trees was huge, that the Applicant's approach was not appropriate and that a detailed schedule of works to trees was required.
- 7.10.21. The Applicant considered [REP1-091] that the decision by Councils not to apply a TPO to their own trees did not affect their retention category, and that the aim would be to remove as few trees as possible in any case. The Applicant's tree survey [REP1-101] was said to be compliant with BS5837:2012, taking account of the trees condition, which, in turn informed the retention category. Thus, the category was informed by actual condition rather than designation.
- 7.10.22. Winchester City Council's LIR [REP1-183] commented that the broad powers sought in relation to trees in the draft DCO was not justified, and the Applicant should be required to provide greater definition of the cable route to avoid any trees protected by a TPO. It suggested that only referring to protected, high value trees set the bar too high, and it identified unprotected trees alongside Hambledon Road for the contribution made to the character of the gap that separates Waterlooville and Denmead.
- 7.10.23. The Council also criticised the wording in the Outline Landscape and Biodiversity Strategy as 'words of good intention'. The promise of 'retention where practicable' in relation to trees was not considered a sufficient safeguard. The Applicant updated the Outline Landscape and Biodiversity Strategy such that the final version [REP8-015] includes:
- 'In instances this Strategy outlines mitigation to be applied "where practicable". The reason for this... is because the final routing... cannot be confirmed at this time, with necessary flexibility included to allow for the navigation of the Onshore Cables around existing environmental constraints, including utilities. For example, in some instances it may prove not to possible to avoid certain tree root protection areas. However, measures which are "where practicable" must be applied where they reasonably can be applied.'*
- 7.10.24. The South Downs National Park Authority also raised an objection to the Applicant's proposed approach to trees in the Order limits [REP1-178].

- 7.10.25. Winchester City Council later designated a TPO at Hambledon Road and Soake Road (TPO No. 2290 of 2020, *Land at Hambledon Road, Denmead, Hampshire*, dated 3 December 2020). It was submitted into the Examination by the Council [AS-050] and discussed at Issue Specific Hearing 1 ([EV-020] to [EV-025]). The Applicant duly updated the Hedgerow and Tree Preservation Order Plans [REP6-013] and the Outline Landscape and Biodiversity Strategy [REP6-038] at Deadline 6.
- 7.10.26. At Deadline 7 [REP7-074], the Applicant noted that three of these new TPO trees had already been removed from Schedule 11 of the draft DCO (Trees subject to Tree Preservation Orders on which Works may be necessary) submitted at Deadline 6 [REP6-015], and confirmed that the remaining trees in this TPO would be avoided during the proposed works adjacent to Hambledon Road. This would be secured through a detailed arboriculture method statement to be prepared in consultation with the local planning authority under draft Requirement 15 of the DCO.

Compensation for loss or damage

- 7.10.27. While Winchester City Council [REP1-183] thought that the Applicant should establish a fund to facilitate tree planting close to the site of any lost tree, Hampshire County Council [REP1-167] favoured financial compensation for the loss of, or damage to highway trees utilising the Capital Asset Value of Amenity Trees (CAVAT) approach¹² rather than the direct provision of replacement trees.
- 7.10.28. At Deadline 8, the Applicant submitted a note on proposed Development Consent Obligations [REP8-043] that indicated agreement with Hampshire County Council that, where a highway tree must be removed in connection with the Proposed Development, CAVAT compensation would be paid, which the Council must use towards the provision of replacement trees. A process for determining the CAVAT compensation payment is also secured. A similar offer had been made by the Applicant to Portsmouth City Council.
- 7.10.29. At the close of the Examination the agreement between the Applicant and Hampshire County Council was confirmed in their signed Statement of Common Ground ([REP8-040] and [REP8-046]), while the Applicant's similar but unilateral undertaking to Portsmouth City Council was confirmed in the signed Statement of Common Ground ([REP8-042] and [REP8-044]).

ExA response

- 7.10.30. Articles seeking powers to undertake works to trees in and overhanging the Order limits are not unusual in draft Orders and the principle for their inclusion is well established.
- 7.10.31. In this case, there was originally very little detail about the likely extent of such works of losses, but additional analysis and information was provided by the Applicant during the Examination, such that, by the

¹² <https://www.tandfonline.com/doi/full/10.1080/03071375.2018.1454077>

close, the ExA was satisfied that it had sufficient information to form a judgement, including the implications of change request 1 in relation to trees.

- 7.10.32. The ExA recognises the Applicant's desire to retain some flexibility in the Order limits, given that the precise location of the cabling works could not be established until a contractor was appointed and a detailed design approved. The Applicant has developed the protection and wording in the control documents to the stage where it provides adequate reassurance that all trees would be treated equally and protected as far as practicable, though the final detail of losses and damage cannot be established.
- 7.10.33. The ExA is content that the assessment and protection is proportionate and reasonable but has had to assume a worst case in terms of effects on protected trees and those of sufficient quality for protection in reaching a conclusion on the matter. In making the assessment, the ExA has taken account of the mitigation secured through the draft DCO, plans and control documents, including replacement planting or CAVAT payments for highway trees through the draft Development Consent Obligations. The approach respects the National Design Guide's approach to placing importance on street trees and the contribution they make to a local environment.
- 7.10.34. The ExA is content that the CAVAT approach would facilitate a fair analysis of what is necessary or unavoidable in relation to highway trees with regard to reasonable alternative solutions for installing the cable in their vicinity.

Conclusions

- 7.10.35. Taking all relevant submissions and policy into account, the ExA concludes that:
- by the close of the Examination, sufficient information had been submitted to allow an assessment of the reasonable worst-case effect on trees;
 - the draft DCO and associated control documents provide reassurance that effects on trees would be minimised, while recognising that the Applicant does need to retain some flexibility until detailed Works Plans are submitted and approved;
 - the proposed measures and compensation payments would provide mitigation and replacement planting, albeit there could be a short-term reduction in the amenity and other benefits that trees bring whilst new planting matures;
 - there is no evidence that the impacts of the Proposed Development in relation to trees conflict with NPS EN-1 or the NPPF, and any conflicts in relation to local development plan policies would likely be minor and short-term;

- the ExA considers trees to be a neutral factor in the overall balance and finds no reason for refusal in relation to this matter.

7.11. CULTURAL HERITAGE AND THE HISTORIC ENVIRONMENT

Introduction

- 7.11.1. This section considers the Examination issues relating to designated and non-designated heritage and historic assets, including scheduled monuments, listed buildings and buried archaeology.
- 7.11.2. The Examining Authority's (ExA) Initial Assessment of Principal Issues [PD-010] included the effects of the Proposed Development on heritage assets and their visual and functional settings, and on buried and marine archaeology.

Policy considerations

National Policy Statements

- 7.11.3. The Overarching National Policy Statement for Energy (NPS EN-1) recognises that the construction, operation and decommissioning of energy infrastructure has the potential to result in adverse effects on the historic environment.
- 7.11.4. Heritage assets are those elements of the historic environment such as buildings, monuments, sites, places, areas or landscapes that hold value through their historic, archaeological, architectural or artistic interest. The sum of an asset's heritage interest is referred to as its significance.
- 7.11.5. Paragraph 5.8.8 requires an assessment of the significance of any affected heritage assets and the contribution of their setting to that significance. It indicates that the level of detail should be proportionate to the importance of the heritage assets and no more than is sufficient to understand the potential impact of the proposal on the significance of the heritage asset.
- 7.11.6. Paragraph 5.8.9 sets out that where a development site includes, or has the potential to include, heritage assets with an archaeological interest, applicants should undertake a desk-based assessment. A field evaluation should follow where the exercise is insufficient to assess interest properly.
- 7.11.7. NPS EN-1 also confirms a presumption in favour of the conservation of designated heritage assets. In circumstances where an application does not preserve those elements of setting which make a positive contribution to the significance of an asset, any negative effects should be weighed against the wider benefits of the application. The greater the negative effect on the significance of the designated heritage asset, the greater the benefits that would be needed to justify approval.

The Infrastructure Planning (Decisions) Regulations 2010

- 7.11.8. The ExA took full account of Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, which requires that:
- When deciding an application that affects a listed building or its setting, the decision-maker must have regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
 - When deciding an application relating to a conservation area, the decision-maker must have regard to the desirability of preserving or enhancing the character or appearance of that area.
 - When deciding an application for development consent that affects or is likely to affect a scheduled monument or its setting, the decision-maker must have regard to the desirability of preserving the scheduled monument or its setting.

Other policy

- 7.11.9. The National Planning Policy Framework recognises the need to conserve heritage assets in a manner appropriate to their significance. The development plan includes policies relating to the historic environment, and the principal ones are set out at section 21.2.3 of the Applicant's ES [APP-136].

The Applicant's case

- 7.11.10. The principal application documents of relevance were:
- Environmental Statement (ES) Chapter 14 Marine Archaeology [APP-129];
 - ES Chapter 21 Heritage and Archaeology [APP-136];
 - ES Figures 14.1 to 14.7 for marine archaeology [APP-227] to [APP-233];
 - ES Figure 21.1 Historic Environment features map [APP-314];
 - ES Figure 21.2 Baseline ZTV showing listed buildings considered for Settings Assessment [APP-315];
 - ES Appendices 14.1 to 14.4, [APP-395] to [APP-398], including Appendix 14.3 Marine Archaeology Outline Written Scheme of Investigation [APP-397];
 - ES Appendices 21.1 to 21.7 [APP-441] to [APP-447];
 - Onshore Outline Construction Environmental Management Plan (Onshore Outline CEMP) [APP-505].
- 7.11.11. Other key documents submitted during the Examination were:
- ES Addendum [REP1-139];

- ES Addendum Appendix 10, Figure 5, Historic England Visualisations [REP1-141];
- ES Addendum Appendix 17, Historic Environment Desk Based Assessment Figures and Appendices [REP1-148].

- 7.11.12. Appendix 21.2 of the ES [APP-442], the Historic Environment Desk Based Assessment, was inadvertently submitted without the accompanying figures or appendices, but these were later submitted as Appendix 17 to the ES Addendum [REP1-148].
- 7.11.13. Appendix 21.2 of the ES was updated during the Examination in response to Winchester City Council submissions, with the final version submitted at Deadline 2 [REP2-004].
- 7.11.14. The Onshore Outline CEMP was updated several times during the Examination with the final version submitted at Deadline 9 [REP9-005].
- 7.11.15. The heritage, historic and archaeological assessments for the marine and onshore environments were set out in Chapters 14 [APP-129] and 21 [APP-136] of the Applicant's ES respectively, each supported by a series of maps and figures, as indicated in the list above.

Marine assets assessment

- 7.11.16. The scope of the marine assessment included potential effects on known and unknown seabed prehistory features, maritime and aviation artefacts, and geophysical anomalies. Appendix 14.1 [APP-396] included a full gazetteer and assessment. A geophysical survey was carried out in 2017 to 2018, and the details of this were set out in section 3.3 of Appendix 14.1.
- 7.11.17. The main approach to mitigation adopted by the Applicant is avoidance. Archaeological exclusion zones were imposed around seabed features of known or probable high value. Micro-siting of the cable route was proposed for lesser value features, secured through the implementation of a Written Scheme of Investigation – the outline version of this was included as Appendix 14.3 [APP-397].
- 7.11.18. The Applicant's ES concluded that, with mitigation, there would be no significant adverse effects in the marine environment.

Onshore assets assessment

- 7.11.19. The onshore assessment focused on potential effects associated with the loss of archaeological remains where ground disturbance is proposed, and changes to the setting of assets such as listed buildings in the vicinity of the above-ground, permanent elements of the Proposed Development (structures at the converter station and the optical regeneration station buildings at the landfall).
- 7.11.20. In addition to desk surveys, which were reported in Appendix 21.1 [APP-442], geotechnical investigations were monitored, walkover surveys were

undertaken, and a geophysical survey of the greenfield elements of the Proposed Development Site was carried out in 2019 [APP-443].

- 7.11.21. In answer to a first written question (ExQ1) [PD-011], the Applicant confirmed [REP1-091] that Google Earth and Streetview had been used to supplement the site visit to the converter station area, and that three assets were inaccessible and had only been surveyed in this way. These were: Scotland, a cottage 2km to the north on a private road; and Rockwood and Granary, co-located on a wooded private estate 1.8km to the west.
- 7.11.22. The ES noted that there were no designated assets at the converter station site, though nearby listed buildings and the Catherington conservation area (all outside the Order limits) were assessed for potential effects on setting, and some important hedgerows were assessed for historic landscape value.
- 7.11.23. The proposed site for the landfall and optical regeneration station lies close to two scheduled monuments, Eastney Sewage Pumping Station and Fort Cumberland, along with other listed structures (all outside the Order limits). Fort Cumberland is a pentagonal artillery fortification that also contains one Grade II* and three Grade II Listed Buildings. The setting of Fort Cumberland contributes to its heritage significance and is crucial to understanding how it would have defended Langstone Harbour in the event of an attack. It had direct lines of sight out to sea and was also protected by a ravelin on its western side to defend landward approaches.
- 7.11.24. The Applicant set out the detail of the predicted effects in relation to onshore archaeology and assets in Appendix 21.4, the Heritage and Archaeology Impact Tables [APP-444].
- 7.11.25. During construction, the assessment concluded possible effects on unknown, below-ground assets for the whole onshore section of the Proposed Development Site. The severity of effect would depend on their significance, if found. The Applicant's proposed mitigation strategy was set out at section 21.8 of the ES [APP-136] and comprised archaeological evaluation with investigation and recording as feasible and warranted. The Applicant suggested that this would reduce all potential effects on buried archaeology to negligible significance.
- 7.11.26. In considering the effects on the settings of above-ground assets for the operational period, the Applicant relied on mitigation in the form of landscape planting to the north of the converter station site, and at the optical regeneration station at the landfall. This would be secured through the draft DCO and control documents.
- 7.11.27. The only asset in the vicinity of the converter station site found to be subject to an effect greater than negligible was the Grade II listed cottage to the north known as 'Scotland'. The assessment found a minor adverse effect prior to mitigation but concluded that the proposed

landscape planting would *'in effect offset the minor adverse effect'* [APP-136].

- 7.11.28. Of the assets located near the landfall site, only Fort Cumberland was predicted to experience a greater than negligible effect. The assessment of Fort Cumberland notes that its significance is very high and that its setting makes a 'high contribution' to its significance. The proposed optical regeneration station would be located in a car park some 225m to the west of the Fort.
- 7.11.29. The car park sits in the historic field of fire from the western ravelin of the Fort. The Applicant contended that this sight line is difficult to understand in the contemporary landscape due to fencing and vegetation on the edge of the Fort that prevent direct views to and from the asset. It further suggested that the car park does not currently contribute to the setting of the Fort, but as it is flat, it does allow continuation of the historic fields of fire from the ravelin towards Fort Cumberland Road, the original defence point.
- 7.11.30. As the optical regeneration station would only be approximately 4m high, that it would be fenced and enclosed with native vegetation, and that the remainder of the car park would remain open, the Applicant submitted it would have no effect on the historic fields of fire from the ravelin. The Applicant's assessment concluded that while the heritage significance of Fort Cumberland is very high, the magnitude of change was negligible, and the effect was of negligible significance.

Planning issues: marine

Securing post-consent investigations for A1 and A2 seabed anomalies

- 7.11.31. In its Written Representation [REP1-209], Historic England suggested that post-consent investigations needed to be secured with regard to identified seabed anomalies (A1 and A2¹³) to determine if they held any historical or archaeological interest. The matter was discussed further during the Examination.
- 7.11.32. The Applicant advised [REP7-038] that agreement had been reached, and this was reflected in the Statement of Common Ground between the Applicant and Historic England submitted at Deadline 6 [REP6-047]. Historic England agreed [REP7-105] this to be the case, confirmed that the Marine Archaeology Outline Written Scheme of Investigations (WSI) [APP-397] secured its recommendations, and that the Deadline 6 draft DML [REP6-015] adequately secured the Marine Archaeology WSI.

The geo-archaeological assessment

- 7.11.33. Historic England [REP1-209] expressed concern that the geo-archaeological assessment had focused on one 'high priority status' core

¹³ A1 refers to features of anthropogenic origin of archaeological interest. A2 refers to features of uncertain origin, but of possible archaeological interest.

with a peat deposit. It suggested that the fine-grained deposits recorded in other core samples, which it identified as being of 'medium' status, might have been suitable for optically stimulated luminescence and micro-faunal assessments. In Historic England's view, this limited the effectiveness of ground truthing the geophysical results and rendered them insufficiently robust to justify the Applicant's conclusion that effects would be low, and therefore not significant.

- 7.11.34. The Applicant continued discussions with Historic England on this matter and confirmed that agreement had been reached [REP7-038], as reflected in Appendix 6 of the Deadline 6 Statement of Common Ground between them [REP6-047].

Assessment of palaeo-landscape features

- 7.11.35. Historic England did not concur [REP1-209] with the suggestion in the ES that the large size of the possible palaeo-landscape features compared with the small size of the scheme footprint meant effects would be low and not significant. It suggested that the assumption that such identifiable features survive beyond the survey area was unreliable, and that the deposits of interest might not be homogenous and could differ in terms of survival, characteristics and archaeological potential.
- 7.11.36. This matter was raised in the ExA's further written questions (ExQ2) [PD-031]. In its answer [REP7-105], Historic England accepted that further geotechnical work could be undertaken post-consent and that engagement with the Applicant could continue as the pre-construction survey plans and marine archaeology WSI were developed prior to seeking formal approval from the Marine Management Organisation (MMO).
- 7.11.37. Historic England also acknowledged that the inclusion of methodologies to support geoarchaeological analysis in the marine archaeology outline WSI would guide the later production of the detailed document.
- 7.11.38. Historic England was therefore satisfied that a mechanism existed in the draft DML to provide for and secure the production of a marine archaeological WSI.
- 7.11.39. Agreement was confirmed in the Deadline 6 Statement of Common Ground between the parties [REP6-047].

Planning issues: onshore

Assessment of setting

- 7.11.40. The assessment of onshore, above-ground assets set out in the Applicant's ES [APP-136] considered the contribution of settings but appeared to focus almost exclusively on visual aspects, and, in some cases, relied on established or proposed planting to mitigate effects. In ExQ1 [PD-011], the ExA asked the Applicant, Historic England and the local authorities if this was adequate, or whether other factors that contribute to setting should have been considered. The extent to which

established vegetation and proposed mitigation planting should be taken into account in the assessment of setting was also questioned.

- 7.11.41. The Applicant's response [REP1-091] confirmed that the assessment considered other elements of setting as well as views, in line with Historic England's Good Practice Advice 3 *The Setting of Heritage Assets* (HE 2017). However, it had found that all the heritage assets in the study area around the proposed converter station site lay at least 800m away, and no significant historical links were identified.
- 7.11.42. The Applicant also confirmed that the assessment of effect on the setting of assets had taken into account 'embedded landscape mitigation', since this would form part of the Proposed Development.
- 7.11.43. Historic England noted [REP1-209] that the assessment relied primarily on views of the proposed converter station and the optical regeneration station from heritage assets. It noted that *The Setting of Heritage Assets* advises that views of or from an asset are not the only way in which it can be appreciated: it can also be experienced through other environmental factors such as noise, dust and vibration from other land uses, and by an understanding of the historic relationship between places.
- 7.11.44. With regard to vegetation and planting, Historic England suggested that the ExA could, to some extent, take established vegetation and proposed planting into account in the assessment of setting but there are other factors that may need to be considered.
- 7.11.45. Portsmouth City Council suggested [REP1-166] that an assessment should not rely on existing or proposed planting, as proposed planting can fail, and established vegetation can be removed.

Fort Cumberland scheduled monument and listed buildings

- 7.11.46. In its response to ExQ1, Historic England [REP1-209] went on to respond to the setting assessment for the optical regeneration station and Fort Cumberland, and the relationship between the ravelin and the wider landscape, including the field of fire and the relationship to Fort Cumberland Road. It had made a similar observation in its Relevant Representation (RR) [RR-199]. It suggested that no information had been provided by the Applicant to demonstrate that the view from the ravelin to Fort Cumberland Road would be retained, and that the assessment was therefore incomplete.
- 7.11.47. In its response to RRs [REP1-160], the Applicant acknowledged that the optical regeneration station would be visible in views from the western ravelin of Fort Cumberland but contended that the overall effect would be of negligible significance. It noted that the building would not be visually intrusive and that it would be viewed as part of the surrounding urban fabric, which comprises a nearby housing estate 15m to the north and a holiday park 25m to the south.

- 7.11.48. During engagement prior to the Examination, it had been agreed that the Applicant would produce additional visualisations using Viewpoint 22 from near the western ravelin, for two feasible layouts in the Order limits, with each building represented as a single block. These were submitted as Appendix 10 to the ES Addendum, Historic England Visualisations [REP1-141], which provided supplementary evidence and assessment based on the visualisations.
- 7.11.49. Viewpoint 22 was taken from open ground in the fields of fire rather than from the fortifications. As the western ravelin is elevated, the Applicant suggested that it is likely that views beyond the optical regeneration station to Fort Cumberland Road would be retained to some extent. It concluded that the second layout (Option B) would preserve wider views of the Fort Cumberland Road junction, that the buildings would be lower than the nearby houses and the line of tall trees bordering the caravan park, and that the houses and trees have already affected the open coastal plain in views looking out from the western ravelin. Based on this further assessment, the Applicant remained of the opinion that the effect would be negligible.
- 7.11.50. In ExQ1 [PD-011], the ExA requested further clarification from the Applicant about the geographical interrelationship between Fort Cumberland, the historic ravelin, the associated fields of fire and the proposed optical regeneration station buildings. The Applicant largely reiterated the information from the ES and the Addendum and reconfirmed its assessment opinions.
- 7.11.51. At Deadline 6, the submitted incomplete Statement of Common Ground [REP6-047] between the Applicant and Historic England reflected disagreement on the level of harm that this matter caused to the setting of Fort Cumberland. Historic England acknowledged that the setting was significantly altered by 20th century residential development in the wider surrounding area, but it did not agree with the level of harm identified for the relationship between Fort Cumberland, its field of fire and, in particular, the visual association between the ravelin and the approach road from Portsmouth, and considered it to represent less than substantial harm, a higher level than that suggested by the Applicant. The parties' respective positions remained in the final, signed Statement of Common Ground [REP8-033].
- 7.11.52. Portsmouth City Council's opinion over this matter also differed from the Applicant's, and the final Statement of Common Ground between the parties [REP8-044] noted the Council's opinion that the assessment ignored views towards the asset and that alterations to the height, scale, footprint, design and landscaping of the optical regeneration station could reduce the effect.

Scotland cottage

- 7.11.53. The Applicant was asked in ExQ1 [PD-011] to clarify what was meant in the assessment of the setting of the listed cottage known as Scotland, where landscape mitigation planting was said to 'offset' the minor effect,

and how it should be interpreted by the ExA and the Secretary of State in terms of harm (NPS EN-1).

- 7.11.54. The Applicant confirmed [REP1-091] that the predicted effect with mitigation planting was minor adverse and, in the Applicant's view, therefore not significant, and that the term 'offset' was a typographical error that should have read 'reduced'. The corrections were included in the Errata Sheet [REP1-140] submitted as part of the ES Addendum.
- 7.11.55. The final, signed Statement of Common Ground between the Applicant and Winchester City Council [REP8-045] shows agreement between the parties on this matter, and it is agreed that the predicted effect on Scotland (Cottage) would be minor adverse (equating to less than substantial harm).

Archaeological mitigation

- 7.11.56. Noting that the Applicant's archaeology mitigation strategy included preservation *in situ* for any exceptionally high value finds, the ExA asked the Applicant in ExQ1 [PD-011] how this would be achievable at the converter station site, given the cut and fill that would be required to achieve the formation levels.
- 7.11.57. The Applicant noted [REP1-091] that the geophysical survey showed limited potential for extensive archaeological remains in the area around the converter station that might warrant preservation *in situ*. As such it considered it highly unlikely that such remains are present. The local authority archaeologists at Hampshire County Council and Winchester City Council were asked for their opinions at ExQ2 [PD-031], and they confirmed that they considered the approach proportionate ([REP7-084] and [REP7-094] respectively). The Applicant added more detail to the Onshore Outline CEMP [REP7-032] as to what could be included in the final WSI, and what might govern decisions about a need for preservation *in situ*, or by record if not.

The former Portsmouth to Arundel canal

- 7.11.58. A small number of local residents submitted representations (for example [REP1-255]) in relation to the route of the former Portsmouth to Arundel Canal near the Thatched House Public House and Lockway Road in Portsmouth, noting that it was filled in after use ceased but that elements of historic value may remain below ground that could be disturbed by the cable installation works.
- 7.11.59. In response [REP2-014] the Applicant confirmed that the former canal had been identified and assessed as a potential undesignated heritage asset in Chapter 21 of the ES [APP-136], and that the mitigation set out in the ES would apply.

ExA response

- 7.11.60. The ExA notes that all but two of the key issues relating to cultural heritage and the historic environment were dealt with and mitigated to a

less than likely significant level prior to submission or through ongoing discussions and project evolution during the Examination. No marine heritage matters remained outstanding at the close of Examination.

- 7.11.61. Whilst taking all important and relevant cultural heritage and historical matters into account, the ExA has given most careful consideration to the two important and relevant matters remaining from the onshore assessment in relation to the Infrastructure Planning (Decisions) Regulations 2010 and relevant policy. NPS EN-1 has provided the basis for its consideration, supported by relevant parts of the NPPF and the development plan.

Scotland

- 7.11.62. The Grade II listed cottage known as Scotland, located approximately 2km north of the proposed converter station site, is an early-16th century timber framed hall later used as a farmhouse. With no nearby public access, the Applicant has made a worst-case assessment and used mapping and remote imaging sources to provide a better understanding. Scotland sits in an isolated position in a rural landscape and its setting contributes to its significance through the wide-ranging views of the surrounding fields that reflect its functional relationship to the historic agricultural landscape, including views to the south towards the Proposed Development Site. It is an asset of high significance, derived from its historic and architectural interest.
- 7.11.63. Given the distance, the small part of the view and setting that the Proposed Development would affect, and intervening, well-established vegetation, the ExA concurs with the agreed view of the Applicant and Winchester City Council [REP8-045] that the effect would be minor and that this would equate to less than substantial harm to a Grade II listed building.

Fort Cumberland

- 7.11.64. Fort Cumberland is a very important scheduled monument with one Grade II* and three Grade II listed buildings. Its setting makes a major contribution to its heritage significance.
- 7.11.65. While the inland section of its setting has undoubtedly been degraded by recent urban developments, large parts of the lines of sight, fields of fire, and the visual and functional association between the Fort, the ravelin and the inland approach remain and can still be appreciated. The car park in which the optical regeneration station is proposed forms part of the remaining flat, open ground that helps to retain that visual and functional relationship, and the ExA is of the view that two 4m high buildings and the associated landscape planting in this car park would be significantly detrimental to the understanding of the asset and its setting.
- 7.11.66. In terms of level of harm to the Fort Cumberland scheduled monument and the associated listed buildings, the ExA notes the Applicant's view that it would be negligible, and Historic England's and Portsmouth City Council's views that the effects equate to less than substantial harm. The

ExA concurs with the latter view and concludes that there would be less than substantial harm to the significance of the setting of Fort Cumberland.

Conclusions

- 7.11.67. The ExA took account of Regulation 3 of The Infrastructure Planning (Decisions) Regulations 2010, and had full regard to the desirability of preserving scheduled monuments and their settings, and the desirability of preserving listed buildings, their settings and any features of special architectural or historic interest in accordance with the NPPF.
- 7.11.68. In accordance with section 5.8 of NPS EN-1, the ExA considered whether the perceived harm to assets had clear justification, in order to weigh that harm against the public benefits of the Proposed Development.
- 7.11.69. The ExA is content that it has sufficient information to reach a conclusion on the nature, significance and value of identified heritage assets, including the two for which harm is identified, along with sufficient understanding of the contribution that setting makes to their significance and the implications of the Proposed Development for those settings.
- 7.11.70. The ExA concludes that the Proposed Development would not preserve those elements of setting that make a positive contribution to the significance of the Grade II listed cottage known as Scotland or of the Fort Cumberland scheduled monument and its associated Grade II* listed building and three Grade II listed buildings. In each case, the ExA concludes that there would be less than substantial harm to the significance of the asset's setting.
- 7.11.71. Taking full account of Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 and in accordance with NPS EN-1, the NPPF and relevant development plan policies, the ExA is aware that great weight is to be given to the conservation of historic assets, and that any harm to, or loss of significance of a designated heritage asset requires clear and convincing justification.
- 7.11.72. Whilst not finding grounds for a refusal on this basis alone, the ExA gives considerable weight to the less than substantial harm to the listed cottage known as Scotland and the Fort Cumberland scheduled monument with its associated listed buildings. This falls to be weighed against the benefits of the Proposed Development alongside other adverse effects in the overall balance carried out in Chapter 9 of this Report.

7.12. THE ONSHORE WATER ENVIRONMENT

Introduction

- 7.12.1. This section addresses the potential impact of the Proposed Development on flood risk (site drainage, conveyance and surface water flooding) and water resources (the physical, biological and chemical character of

surface water and groundwater). Both were identified as being Principal Issues in the Examining Authority's (ExA) Initial Assessment [PD-010]. The effects of contamination on human health are considered in section 7.14.

Policy considerations

- 7.12.2. The Overarching National Policy Statement for Energy (NPS EN-1) notes that applications should set out the impact of the proposed project on water quality, water resources, the water environment, water bodies and protected areas. Paragraph 5.15.3 requires an Environmental Statement (ES) to describe any impacts of the proposed project on water bodies or protected areas under the Water Framework Directive, (now the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017) (the Water Environment Regulations)) and Source Protection Zones around potable groundwater abstractions.
- 7.12.3. Section 5.7 of NPS EN-1 notes that the aim of development and flood risk policy is to ensure that the risk from all sources of flooding is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. Where new energy infrastructure is exceptionally necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible, to reduce flood risk overall.
- 7.12.4. NPS EN-1 Paragraph 5.98 advises that, where flood risk is a factor in determining an application for development consent, the Secretary of State should be satisfied that, where relevant, the application is supported by an appropriate Flood Risk Assessment (FRA) and that the sequential and exception tests have been applied as necessary.
- 7.12.5. In terms of construction, NPS EN-1 paragraph 5.7.10 requires the decision maker to be satisfied that the proposed drainage system complies with any national standards and that the DCO makes provision for the adoption and maintenance of sustainable drainage systems (SuDS).
- 7.12.6. NPS EN-1 notes at paragraph 4.10.2 that the planning and pollution control systems are separate but complementary. Paragraph 4.10.3 states that the decision-maker:
- '...should focus on whether the development itself is an acceptable use of land, and on the impacts of that use, rather than the control of processes, emissions and discharges themselves'.*
- 7.12.7. The Water Environment Regulations seek to protect or enhance all waters (surface, ground and coastal waters).

The Applicant's case

- 7.12.8. ES Chapter 20 [APP-135] considered flood risk and water resources, while Chapter 19 [APP-134] dealt with groundwater. An FRA [APP-439]

and an onshore Water Framework Directive Assessment [APP-437] accompanied the application. Chapter 18 on ground conditions [APP-134] was also relevant.

- 7.12.9. The FRA concluded a negligible risk of flooding from fluvial, pluvial or groundwater sources, and it found no significant effects on any floodplain from the Proposed Development. An Addendum to the FRA that included sequential and exception tests ([REP1-157] and [REP1-158]) was produced, leading to the following principal findings:
- sequentially there were no better sites for the location of the optical regeneration station in a zone of lesser flood risk;
 - the infrastructure is in the public interest, thus passing any exception test requirements;
 - where activities are being undertaken in areas at risk of flooding, the Applicant and its appointed designer and appointed contractor would obtain relevant Environmental Permits from the relevant regulatory bodies;
 - the conclusions of the Addendum did not change the original FRA used to inform the ES, although some mitigations were altered.
- 7.12.10. The Onshore Outline Construction Environmental Management Plan (Onshore Outline CEMP) [REP9-005] included an overview of the pollution prevention and other measures that would be considered by the Applicant to mitigate any potential effects on water quality and water resources. The Surface Water Drainage and Aquifer Contamination Mitigation Strategy submitted with the application [APP-360] was updated and incorporated as Appendix 3 to the Design and Access Statement (DAS) [REP8-012] and would form an integral part of the mitigation secured through Requirement 12 of the draft DCO. Combined, these documents would provide a starting point for the full phase-specific Construction Environmental Management Plan, to be approved at discharge of Requirements by the relevant local planning authority.

Methodology

- 7.12.11. The Applicant assessed the effects of the construction and operation of the Proposed Development on the onshore water environment including infrastructure and protection of surface and ground waters, and any flood risk arising from fluvial or tidal sources.
- 7.12.12. The converter station site at Lovedean was scoped as being in an area from which public drinking water was derived, known as the Bedhampton and Havant Springs Source Protection Zone 1. The underlying geology was investigated by the Applicant and karst features in the surrounding rock structure were identified. These could offer a direct route for any pollutants at the surface to the underground aquifers.
- 7.12.13. An assessment of the effects of the Proposed Development on hydrology, flood risk and water resources were included in the ES. This assessment noted that measures to prevent, reduce and off-set significant adverse

effects on these issues had been 'built-in' to the proposals from the outset. The assessment of the significance of effects included consideration of embedded mitigation measures.

- 7.12.14. The Applicant made assessments of the potential for pollution from contaminated land using historical information and site-specific ground investigations. Potential sources of contamination that were in or within 500m of the Order limits were surveyed to determine whether they involved any actual or potentially contaminating materials and activities. Pathways for contaminant migration and potential receptors to contamination were investigated.
- 7.12.15. In the construction optioneering process, two possible cable routes had been included across Milton Common, together with a third alternative following public highways. Milton Common is reclaimed land, formed between 1962 and 1970 when a chalk and clay bund was built across the mouth of a coastal lake and the confined area was progressively drained and filled with domestic refuse and other putrescible waste. Exploratory boreholes at Milton Common during the 2018 investigation were commonly abandoned short of the 5m target due to obstructions, asbestos or underground metallic anomalies.

Potential effects during construction

- 7.12.16. The assessment of potential effects was set out in sections 20.7 [APP-135], 19.6 [APP-134] and 18.7 [APP-133] of the ES. As a summary, the following potential effects were predicted:
- increased surface water run-off into nearby watercourses with increased risk of contamination of surface water and groundwater from spilled hydrocarbons and petrochemicals and mobilised silts and contaminants resulting from soil stripping and earthworks;
 - construction activities at the converter station affecting the quality of groundwater and public drinking water through transmission of pollutants via karst features - any pollution incident at the converter station site, including any increase in sediment in surface water run-off from stockpiles of spoil or other construction materials, could be far reaching;
 - if a route was to be taken across Milton Common, potential disturbance of underground material through construction activities - whilst groundwater was surveyed as being deeper than the proposed minimum cable depth of one metre below ground level, exposure of contaminated soils through construction activities including excavation of soil during trenching could increase the leachability of contaminants to groundwater.

Potential effects during operation

- 7.12.17. Once operational, the converter station and associated buildings would occupy sizeable footprints that would reduce natural infiltration compared to the existing agricultural land.

- 7.12.18. The optical regeneration station would be a permanent structure in flood zone 3 with consequential effects on water velocity and direction in a flood event.
- 7.12.19. The converter station and optical regeneration station were designed to be unmanned, only requiring personnel to attend for monitoring checks or maintenance. Therefore, the main potential effects from the operation of the Proposed Development would be on flow of surface water.

Potential effects during decommissioning

- 7.12.20. The Applicant reported that decommissioning activities would cause no greater effects than the construction phase ([APP-133] to [APP-135]).

Cumulative effects

- 7.12.21. A list of projects in the vicinity of the Proposed Development that would have the potential to give rise to a cumulative effect on groundwater receptors was presented in Appendix 19.4, Cumulative Effect Assessment Matrix (Stage 1 and 2) [APP-435]. Proposed mitigation measures would restrict the zone of influence of cumulative groundwater effects to areas directly above the cable corridor.
- 7.12.22. The predicted cumulative effects in relation to surface water resources and flood risk were considered for the construction and operation of the Proposed Development. The list of other developments considered in the stage 1 and 2 cumulative assessment was outlined in Appendix 20.5, Surface Water Resources and Flood Risk Cumulative Effects Assessment Matrix (Stage 1 & 2) [APP-440]. No developments were progressed to stage 3 or 4 cumulative assessment.
- 7.12.23. Providing all mitigation measures were implemented, the Applicant considered that the Proposed Development would have a negligible cumulative effect on the water environment.

Mitigation

- 7.12.24. Construction mitigation measures would be implemented as set out in the Onshore Outline CEMP [REP9-005] and the Surface Water Drainage and Aquifer Contamination Mitigation Strategy (Appendix 3 to the DAS [REP8-012]), secured by Requirement 12. The measures included trenchless crossing techniques for several sensitive watercourses, sediment management, construction drainage and best practice measures. This would include the grouting of karst features at the converter station site prior to any earth movements to prevent pollution of the aquifer in Source Protection Zone 1.
- 7.12.25. Foundations for structures at the converter station would require piles extending into the chalk groundwater aquifer. A piling works risk assessment, following best practice Environment Agency guidance, would ensure that piling operations did not create a pathway for the migration of contamination from the surface (either existing contaminants, those

that form part of the piling process or those that might be introduced during the operation of the converter station) to the aquifer.

- 7.12.26. The Applicant's compliance assessment [APP-372] showed that, with mitigation, there would be no non-temporary effects on the status of any river, coastal or groundwater body sufficient to result in deterioration in status. The Proposed Development was therefore Water Environment Regulations compliant.
- 7.12.27. Infiltration ponds would be created near the converter station to attenuate surface water run-off. The Applicant provided infiltration testing results [REP7-041] to demonstrate that the volumetric calculations informing the design were sufficient and that infiltration was a valid technique.
- 7.12.28. Construction activities would be undertaken in accordance with appropriate Construction Industry Research and Information Association (CIRIA) guidance:
- *Environmental Good Practice on site* (4th Edition) (CIRIA C741, 2015);
 - *Control of Water Pollution from Construction Sites* (CIRIA C532, 2001).
- 7.12.29. Should a route across Milton Common be deemed suitable, feasible and cost-effective, the Applicant proposed additional mitigation measures during construction. The excavated waste would be segregated and handled so as not to contaminate areas away from the works themselves [REP9-005].
- 7.12.30. Detailed Construction Method Statements would be included as part of the final Onshore Outline CEMP for each phase of the works and would provide details of the associated pollution control plans, including the detailed design of each horizontal directional drilling (HDD) location as well as measures for managing any breakout of drilling fluid.

Applicant's summary of effects

- 7.12.31. Cable installation has the potential to affect water quality through the mobilisation of contaminants or pollutants. These effects would be controlled using measures in the Onshore Outline CEMP and the Surface Water Drainage and Aquifer Contamination Strategy. As a result, the effects were expected to be negligible. Once built, there would not be any likely significant effects from the operation of the Proposed Development.
- 7.12.32. Surface water drainage run-off during construction and operation would have potential to cause localised flooding at the converter station and optical regeneration station. However, SuDS measures such as attenuation ponds and infiltration techniques would be implemented as part of the Surface Water Drainage and Aquifer Contamination Strategy, minimising the effects at both stages.

- 7.12.33. The FRA and the Onshore Outline CEMP secured by Requirement 15 in the draft DCO provided suitable measures and resilience in respect of managing tidal and pluvial flood risk. For the operational period, compliance with industry standard best practice for mitigating flood risk would be secured through the granting of the draft DCO based on the FRA.

Planning issues

Relevant Representations

- 7.12.34. The Environment Agency [RR-165] raised concerns over the protection of sensitive groundwater at the site of the converter station at Lovedean. Portsmouth Water Limited [RR-005] raised the same concern, noting that protection of the groundwater was of paramount importance, particularly in view of known karstic features. Havant Friends of the Earth [RR-057], whilst in support of the scheme, noted concerns about proposals to use HDD under Denmead Meadows and Kings Pond with regard to the potential risks to the underlying aquifer and Source Protection Zone.
- 7.12.35. Following the Applicant's update to the Surface Water Drainage and Aquifer Contamination Mitigation Strategy, the Environment Agency [REP7-103] and Portsmouth Water [REP7-112] confirmed that the mitigation measures provided sufficient reassurances and that the risk of contamination to the public water supply was minimised to an acceptable level. This position was reflected in the signed Statement of Common Ground between the Applicant and Portsmouth Water [REP8-039].
- 7.12.36. The Environment Agency and Portsmouth City Council [RR-185] raised the potential effects of cable installation on planned coastal flood defences on Portsea Island. However, the Statement of Common Ground with the Council submitted at Deadline 8 [REP8-044] confirmed that agreement had been reached on:
- works adjacent to the coastal flood defences would be designed to avoid existing or proposed coastal flood defence alignments;
 - the principle of a short HDD (HDD-6) under the existing coastal flood defence west of Frog Lake at Milton Common;
 - the principle of the proposed HDD under Broom Channel (Langstone Harbour HDD-3) to pass below or avoid any sheet piling associated with the coastal flood defence.
- 7.12.37. The only outstanding concern noted in the Statement of Common Ground [REP8-044] related to the timing of works for the Proposed Development and the delivery of a phase of flood defences. The parties were said to be working towards a work co-operation agreement to coordinate the construction programmes.
- 7.12.38. Examples of the other issues that Interested Parties (IPs) raised include:
- surface water run-off from large roof areas causing localised flooding [RR-149];

- water and sewage infrastructure under tension already [RR-149];
- effects on private water supply and private pipes [RR-027];
- clay shrinkage and general drainage of land [RR-052];
- disturbance of contaminated land at Fraser Range [RR-143];
- disturbance of contaminated land at Milton Common [RR-185].

Local Impact Reports (LIR)

- 7.12.39. In its Local Impact Report (LIR) [REP1-161], East Hampshire District Council raised water resources only insofar as policy CP26 in the East Hampshire Joint Core Strategy is relevant and requires new developments to protect water quality and quantity and to make efficient use of water.
- 7.12.40. Hampshire County Council [REP1-167], in the role of Lead Local Flood Authority, raised concern about the proposed use of SuDS infiltration ponds in view of known karstic features. Following receipt of further information from the Applicant [REP7-041], the Council considered the methods to manage surface water drainage were acceptable [REP8-072].
- 7.12.41. Hampshire County Council requested to be consulted prior to any discharge from excavation de-watering prior to determining a location, due to the potential risk of flooding downstream. This was agreed by the Applicant and incorporated into Requirement 6 and Requirement 12 of the draft DCO [REP9-003].
- 7.12.42. In its LIR [REP1-173], Portsmouth City Council raised concern regarding works at Farlington Playing fields where the Council had invested in an integrated land drainage system to manage surface water flooding at the site to enable the field to be used for sports pitches. It said that damage to the drainage system could render the pitches unusable. The matter is addressed in section 7.4 of this Report.
- 7.12.43. Portsmouth City Council also raised a concern about the made ground and landfill at Milton Common, and the risk to groundwater. This matter remained unresolved at the end of the Examination as reported in the Statement of Common Ground between the Applicant and Portsmouth City Council [REP8-044]. The Council considered that sufficiently detailed surveys were not carried out to inform the EIA, with consequent uncertainty whether groundwater would be encountered. Therefore, it was difficult to design groundwater mitigation or to rely on the measures suggested in the ES. Nevertheless, the parties recognised that further work would need to be undertaken at a detailed design stage, and the Council concluded [REP8-044] that the:

'...predicted impacts are as best as can be agreed with the information available'.

- 7.12.44. The South Downs National Park Authority LIR [REP1-178] commented that, with the mitigation proposed, there would be no increase in the risk of flooding off site, so therefore did not wish to take the issue further.
- 7.12.45. In its LIR [REP1-183], Winchester City Council raised queries regarding the proposed finished floor level of the converter station and whether the building could be sunk deeper into the ground in the interests of reducing the visual effects. The Applicant's response [REP2-013] identified the sensitive nature of the underlying hydrogeology and explained that the converter station slab could not be lowered further into the ground for that reason. This point was accepted by Winchester City Council [REP3-034].

Other representations to the Examination

- 7.12.46. The ExA's further written questions (ExQ2) [PD-031] included a question in respect of flood risk and general surface water management at active construction workings and HDD compounds. The Applicant confirmed [REP7-038] that matters relating to flood risk had been handled to the satisfaction of the Environment Agency and activities in flood zones 2 and 3 would be subject to the relevant permitting procedures.
- 7.12.47. Winchester City Council [REP7-094] had remaining concerns about groundworks potentially reducing the volume of surface water flowing into Kings Pond. A habitat survey [REP7-095] was submitted to demonstrate the water-dependent species present in the area. The Applicant [REP7c-012] confirmed that neither the Environment Agency nor Portsmouth Water raised concern in this regard subject to the application of measures secured through the Onshore Outline CEMP and Requirement 12 of the draft DCO.

ExA response

Water Environment Regulations Compliance

- 7.12.48. In the light of the Environment Agency's statement of no concern [REP7-055] and as all effects on the water environment were assessed as negligible in the ES, the ExA is content that the Proposed Development complies with the requirements of the Water Environment Regulations and NPS EN-1, contingent on all of the necessary mitigation measures set out in the ES being secured through the final Onshore Outline CEMP, and Requirements 12 and 15 of the draft DCO.

Flood risk

- 7.12.49. The ExA is satisfied that an appropriate FRA that meets the requirements of NPS EN-1 has been carried out and the results submitted. The ExA is satisfied that all matters relating to flood risk have been resolved and the approach to mitigation to manage flood risk would be appropriately and adequately secured by Requirement 6 of the draft DCO. Other activities in flood zones 2 and 3, such as laying of joint bays, are subject to necessary permits and would not have sufficient above-ground presence to have implications in a flood event.

- 7.12.50. The potential impact of the Proposed Development on existing and planned coastal flood defences has been adequately assessed, considered and mitigated. Compliance with the Onshore Outline CEMP in Requirement 15 would secure the integrity of the existing and proposed flood defences in or adjacent to the Order limits.

Surface water run-off

- 7.12.51. The ExA is satisfied that appropriate measures to manage surface water run-off during construction works are effectively secured in the Onshore Outline CEMP (section 5.7 and section 6.3.4 [REP8-024]) and the Surface Water and Aquifer Contamination Strategy, which forms Appendix 3 of the DAS [REP8-012]. This opinion was formed in light of acceptance from the Local Lead Flood Authorities (Portsmouth City Council [REP8-044], and Hampshire County Council [REP8-072] for areas of the Proposed Development outside Portsmouth) that no issues remain in relation to surface water management.
- 7.12.52. Methods to attenuate and dispose of surface water via infiltration techniques at the converter station compound and the optical regeneration station during their operation are acceptable. They are considered to meet the expectations of paragraph 5.7.10 of NPS EN-1.

Groundwater and ground conditions

- 7.12.53. The ExA notes that the Applicant has agreed a Source Protection Zone 1 Generic Method Statement (Appendix 7 to the Onshore Outline CEMP) with the Environment Agency and Portsmouth Water. The ExA is satisfied that adequate mitigation would be put in place to ensure the safety and integrity of the public water supply in Source Protection Zone 1.
- 7.12.54. The regulators and key IPs have agreed that the best approach to managing the risk of contamination of groundwater and water resources has been adopted by the Applicant, subject to further information that would become available at the detailed design stage. The ExA finds no reasons to disagree with the position reached on this matter.
- 7.12.55. The ExA agrees with the Applicant and the Environment Agency that the proposed mitigation and management measures in respect of general construction activities would greatly reduce the contamination risk. In addition, the risk of mobilising existing contamination would be further reduced by the proposed sectioning of workings.

Conclusions

- 7.12.56. Taking all relevant documents and policies into account, the ExA concludes that, subject to the implementation in full of the relevant measures identified in the relevant construction, operational and decommissioning management plans:
- the Proposed Development is compliant with the Water Environment Regulations;

- the Proposed Development meets the requirements of NPS EN-1 sections 4.10, 5.7 and 5.15 in terms of adequate protection of water quality and resources, compliance with the Water Environment Regulations and the avoidance of flood risk;
- the Proposed Development is policy compliant in relation to flood risk;
- the management of coastal change and associated risks have been adequately considered;
- the construction, operational and decommissioning effects and risks to the water environment have been addressed.

7.12.57. The ExA concludes that issues relating to hydrology, flood risk and water resources have been adequately addressed in the ES and subsequent discussions during the Examination and that there are no outstanding issues. Subject to the inclusion of the agreed provisions in the draft DCO, which the ExA considers in detail in Chapter 10, there should be no significant adverse effects on hydrology, flood risk or water resources. The Proposed Development would therefore be compliant with NPS EN-1 and the matter is considered to be neutral in the planning balance.

7.13. SOILS AND LAND USE

Introduction

7.13.1. In this section, the Examining Authority (ExA) considers soils and onshore land use matters. These include the effects of the Proposed Development on agricultural land, soil quality, farming operations and allotments. There are clear links and overlap with some of the matters that are considered in relation to the local community and socio-economic matters in section 7.4. Land uses relating to tourism, sports and recreation and open spaces are considered in that section.

Policy considerations

7.13.2. Section 5.10 of the Overarching National Policy Statement for Energy (NPS EN-1) includes policies that are relevant to land use considerations. In particular, the Government recognises that an energy infrastructure project would have direct effects on the existing use of a proposed site and may have indirect effects on the use, or planned use, of land in the vicinity for other types of development (paragraph 5.10.1).

7.13.3. Paragraph 5.10.5 requires the Environmental Statement (ES) to identify existing and proposed land uses near the project, any effects of replacing an existing development or use of the site with the proposed project or preventing a development or use on a neighbouring site from continuing. Applicants should also assess any effects of precluding a new development or use proposed in the development plan.

7.13.4. In addition, the Applicant should seek to minimise effects on the best and most versatile agricultural land, defined as grades 1, 2 and 3a of the Agricultural Land Classification (ALC), and preferably use land in areas of poorer quality except where this would be inconsistent with other

sustainability considerations. Applicants should also identify and seek to minimise effects on soil quality taking into account any mitigation measures proposed. For developments on previously developed land, applicants should ensure that they have considered the risk posed by land contamination (NPS EN-1 paragraph 5.10.8).

- 7.13.5. Applicants should not site a scheme on best and most versatile agricultural land without justification. Little weight should be given to the loss of poorer quality agricultural land (grades 3b, 4 and 5), except in areas where particular agricultural practices contribute to the quality and character of the environment or the local economy (NPS EN-1 paragraph 5.10.15).
- 7.13.6. Chapter 15 of the National Planning Policy Framework (NPPF) contains overarching policies for conserving and enhancing the natural environment, including an indication that planning decisions should contribute to the protection of soils and respect the economic benefits of the best and most versatile agricultural land. Paragraph 170 of the NPPF seeks decisions that protect and enhance valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).

The Applicant's case

Methodology

- 7.13.7. ES Chapter 17 [APP-132] set out matters relating to soils and agricultural land use. Non-agricultural land uses were considered in ES Chapter 25 [APP-140]. The use of Compulsory Acquisition (CA) powers and access to affected land is dealt with in Chapter 9 of this Report.
- 7.13.8. The Applicant applied the '*Agricultural Land Classification of England and Wales, Revised guidelines and criteria for grading the quality of agricultural land*' (Ministry of Agriculture, Fisheries and Food, 1988), as summarised in Natural England's Technical Information Note 049 (Natural England, 2012). This categorises agricultural soils into 5 Grades, with Grade 3 subdivided into Grades 3a and 3b. Grades 1, 2 and 3a are considered the best and most versatile soils referred to in national planning policy.
- 7.13.9. The effects on farming enterprises were established through interviews with relevant farmers and landowners.

Potential effects during construction

- 7.13.10. In relation to agriculture, seven farms would be affected, as summarised in Table 7.1 (data taken from section 17.6 of the ES [APP-132]).

Table 7.1: farm holdings affected by construction

Farm name	Extent of holding (ha)	Sensitivity rating in the ES	Land take (ha)
Denmead Farm	220	Medium	30.9 temporary 2.5 permanent
Land north of Little Denmead Farm	7	Low	4.6 permanent
Little Denmead Farm	21.5	Low	12.8 permanent
Mill Farm	5	Negligible	1 permanent
Mill View Farm	3	Low	1 permanent
Soake Farm	15.5	Low	7.7 temporary
Land at Kings Pond	5	Low	2.7 temporary

- 7.13.11. During construction, there could be loss or damage to the soil resource, loss of agricultural land and potential effects on the viability of affected farming business [APP-132]. With reference to the Applicant's ALC map [APP-295], the permanent effects on agricultural land would be in Section 1 near the Lovedean Substation. The effects in sections 2 to 9 would be temporary as the agricultural land would be restored post-installation. Although joint bays in these sections would be permanent features, the Applicant submits that the footprint of each is not considered sufficiently large to result in any discernible effects on agricultural or soil resources. Normal farming practices would be allowed to return across the temporarily-acquired land.
- 7.13.12. Paragraph 17.6.6.2 of ES Chapter 17 [APP-132] suggested that approximately 16.9 hectares of best and most versatile land would be affected by the Proposed Development with approximately five hectares taken permanently out of productive use for landscaping and access.
- 7.13.13. In respect of the Eastney and Milton Piece Allotments in Portsmouth, the Applicant stated that the use of horizontal directional drilling (HDD) would avoid any surface impacts on the allotments. There would be low potential [REP7-043] for the drilling fluid used to lubricate the HDD (bentonite) to break out and rise to the surface. Allotment holders would be able to continue their use of the allotments throughout the construction period, as the HDD would take place a minimum of 2.5m below ground level.

Potential effects during operation

- 7.13.14. The Applicant did not provide an assessment for operational effects. Soils affected along the onshore cable route and at the temporary laydown areas would be reinstated, and the land returned to its original use.
- 7.13.15. For the majority of the onshore cable corridor route that affects agricultural land, the Applicant acknowledged some minor deterioration of agricultural land quality following disturbance of soil, although the land is of low sensitivity (Subgrade 3b), and, as such, the Applicant considered there not to be a significant effect.
- 7.13.16. During operation, there would not be any effects on the Eastney and Milton Piece Allotments. Any maintenance of the cables underneath the allotments would take place from the joint bays at either end of the HDD.

Potential effects during decommissioning

- 7.13.17. When the Proposed Development was decommissioned, it was assumed that converter station would be removed and that the onshore cable ducts would remain *in situ*, with limited works being undertaken to remove the cable via joint bays. It was assumed that potential decommissioning effects are likely to be similar to those for construction, although more limited along the onshore cable corridor.

Cumulative effects

- 7.13.18. No significant residual cumulative effects were identified for soils and agricultural land.

Mitigation

- 7.13.19. Compensation relating to the permanent loss of land from affected farm holdings is a matter of private negotiation and was not incorporated into the Applicant's assessments.
- 7.13.20. In relation to temporary requirements for land, the Applicant would develop a Soil Resource Plan and a Materials Handling Plan as part of the Onshore Outline Construction Environmental Management Plan (Onshore Outline CEMP) [REP9-005] once the final route of the onshore cable corridor was determined. Mitigation to reduce the potentially significant effects relating to loss of and degradation of the soil resource would include the separation of topsoil and subsoil, and separate storage either side of the exposed trench. Much of the subsoil and topsoil would be reused or reinstated above the cable, with priority given to topsoil.
- 7.13.21. The use of HDD underneath the Eastney and Milton Piece Allotments would avoid any surface effects or interruptions to use. A mitigation strategy to be produced by the appointed contractor would seek to clean-up any bentonite breakout, though bentonite is considered a non-toxic material.

Applicant's summary of predicted effects

- 7.13.22. Most of the effects of the Proposed Development on agricultural land, soil resources and farm holdings would be of a temporary nature. With regard to best and most versatile land, which the Applicant considered a receptor of medium sensitivity, the overall magnitude of effect would be low, and the permanent effects were assessed as minor to moderate adverse, which is not considered significant.
- 7.13.23. By the close of the Examination, agreement had been reached with the relevant local authorities on the Applicant's approach to the EIA in relation to the existing environment and the assessment methodology ([REP8-044] to [REP8-049]).

Planning issues

Relevant Representations

- 7.13.24. Relevant Representations on this issue had a broad range. Where individuals commented, it was normally in relation to their own private assets. There was some overlap between these issues and those considered in the socio-economic section of this Report (dealing with sports and recreation), but they included:
- loss of agricultural land leading to cessation of agricultural businesses [RR-054];
 - the effects on the Eastney and Milton Piece Allotments [RR-062];
 - loss of Fort Cumberland car park [RR-100];
 - inhibited access to lifeboat station [RR-190].

Local Impact Reports

- 7.13.25. The South Downs National Park Authority [REP1-178] drew attention to the countryside at the converter station and surrounding areas. It noted that it was a characteristically farmed landscape, with agriculture being a key sector for the local economy as well as the upkeep of the quality of the landscape. The Authority noted that the majority of land to be taken for the converter station was not classified as good agricultural land but wanted the parcels of land that would remain around the converter station to be of a size and shape that would support agricultural use.
- 7.13.26. The Applicant referred to the principles of the Outline Landscape and Biodiversity Strategy [REP8-015]. Landscape matters are covered in greater detail in section 7.9 of this Report.
- 7.13.27. Winchester City Council [REP1-183] did not raise any concerns in respect of effects on agricultural land, soils or recreational land uses except as these aspects contribute to landscape character and setting, and on the conservation value of the farmland around King's Pond and Denmead Meadows, considered in section 7.7 of this Report.

7.13.28. Portsmouth City Council [REP1-173] identified a number of land uses and open spaces that were affected by the Proposed Development and raised concerns with the amount and duration of disruption and effects. The principal concern related to the use of the Eastney and Milton Piece Allotments.

Effects on rural businesses

7.13.29. Mr Peter and Mr Geoffrey Carpenter (the Carpenters) raised significant concern about the application for CA rights for the land required for the construction of the converter station, the telecommunications buildings, and landscaping and access rights and the impact on their farming business at Little Denmead Farm ([RR-054] and [REP1-232]). Concerns, as summarised, included:

- nearly 12 hectares of land would be removed from the farm;
- the remaining land would not be sufficient to continue a business, resulting in a loss of livelihood;
- excessive land take when the converter station compound does not extend to 12ha;
- excessive land take in respect of an ill-sited telecommunications compound.

7.13.30. CA matters are discussed in Chapter 10 of this Report. For the purposes of this section, the Applicant [APP-132] noted that there were no mitigations for the direct loss of agricultural land falling outside any private agreement.

7.13.31. The owners of Mill View Farm made representations (for example, [REP1-236]) regarding effects on businesses and features on their land, ranging from a moto-cross facility and important managed hedgerows (within the Order limits), to small commercial workshops, car repair enterprises, horse grazing and yards (outside the Order limits but in view of the converter station compound).

7.13.32. The Applicant [REP2-014] commented there would be no direct loss of workshops and businesses at Mill View Farm, and that the Outline Landscape and Biodiversity Strategy [REP8-016] provides suitable treatment for hedgerows and wider landscape management. Other aspects relate to CA, which is dealt with in Chapter 10 of this Report.

Eastney and Milton Piece Allotments

7.13.33. A large number of Interested Parties (IPs) and non-registered parties whose letters were exceptionally accepted into the Examination ([REP1-321] to [REP1-325]) raised concern about the effects of the Proposed Development on the Eastney and Milton Piece Allotments. Concerns ranged from loss of land and allotment structures and facilities to access, amenity, usability of plots, contamination, and loss of mental and physical health benefits. The Chairman of the Allotments Association addressed the Examination on behalf of the allotment owners at Open

Floor Hearing 1 ([EV-014] to [EV-017]) at the ExA's invitation, along with others concerned about the potential effects on the allotments. Further representations were made by allotment holders at Compulsory Acquisition Hearing 3 ([EV-092] to [EV-094]).

- 7.13.34. The Applicant provided written summaries ([REP4-028], [REP4-029], [REP4-030], [REP7-038]) to explain that there would be no effects on surface infrastructure at the allotments, as HDD would be used to drill the cable beneath the allotments at a level that would be well beyond cultivation depths. It was further explained that any surface access rights (see Chapter 10 in respect of CA considerations) were purely for walkover site inspections and no surface works were planned in the allotments apart from the clearance of an unlikely bentonite breakout.
- 7.13.35. IPs (for example, [REP8-087]) raised concern about bentonite breakout. The Applicant [REP7-043] responded that the risk of drilling fluid used in the HDD process breaking out was minimal, and that bentonite is a naturally occurring, non-toxic clay so there would not be any effect on the edibility of crops, even if they were affected by a breakout. The Applicant inserted provisions into Article 30 of the draft DCO and measures were included at 6.10.2 of the Onshore Outline CEMP [REP9-005] to provide reassurance in respect of activities permitted at the allotments and their adequate control during construction and operation. It was said to be unlikely that HDD would fail.
- 7.13.36. Most of the concerned parties maintained their objections at the conclusion of the Examination in relation to their perception of effects on what is clearly a highly valued local community resource.

Other matters

- 7.13.37. There was some concern at Open Floor Hearings 1 and 2 about blocking access to the lifeboat station near Fort Cumberland ([EV-014] to [EV-019]). The Applicant confirmed that access would be retained at all times and that traffic management measures would not prevent emergency access [REP6-061].
- 7.13.38. The Tudor Sailing Club [REP6a-002] raised concern about its land being included in the Order limits given the limited space available for access to their grounds, for winter storage of members' boats and the limited parking arrangements. The Applicant removed the relevant land from the Order limits as part of change request 3 [PD-033].

ExA response

Rural businesses

- 7.13.39. The ExA is mindful of the strong feelings expressed by parties whose livelihoods would potentially be affected by the Proposed Development. Matters relating to parties affected by CA requests are considered in detail in Chapter 10 of this Report.

- 7.13.40. The ExA considers that the Applicant has undertaken a robust assessment of soils and the ALC. Appropriate mitigation measures are secured through the Onshore Outline CEMP [REP9-005] for the restoration of land to a useable state and reasonable efforts have been made to avoid effects on best and most versatile agricultural land. The Proposed Development accords with relevant policy in NPS EN-1 and the NPPF.
- 7.13.41. The ExA considers the Soil Resources Plan an essential part of the mitigation and agrees with the findings of the Applicant [APP-132]. As directed by NPS EN-1, the ExA give very little weight to the loss of Grade 3b, poorer quality agricultural land.

Eastney and Milton Piece Allotments

- 7.13.42. The ExA recognises the strong body of concern that this highly valued local facility might be damaged or adversely affected by the Proposed Development and went to some length to ensure that it obtained a full understanding of relevant perceptions and opinions as well as facts.
- 7.13.43. The ExA notes the consistency of the Applicant's position in refuting the validity of the principal concerns that had been expressed and welcomes the depth of written submissions to provide relevant information and reassurances that the allotment holders would not be significantly affected by the Proposed Development (for example, [REP4-028]). The ExA is satisfied that, with the improvements made during the Examination, the draft DCO and Onshore Outline CEMP secure those reassurances. Evidence given at Issue Specific Hearing 4 and Issue Specific Hearing 5 ([EV-066] to [EV-072]) and ([EV-080] to [EV-084]) indicates that the use of HDD underneath the allotments would be technically feasible and that the cable ducts would be sufficiently deep so as not to sterilise, impede or otherwise affect the use of the land above. The access rights sought would be on foot and would be neither invasive nor problematical for allotment users.
- 7.13.44. The Applicant confirmed that the drilling product (bentonite) is listed on the Centre for Environmental Fisheries and Aquatic Science's 'Pose Little Or No Risk' list [REP7-043]. Nothing convincing has been submitted to the Examination to demonstrate any inaccuracies in the Applicant's mitigation strategy or reassurances in respect of bentonite breakout, and the ExA is satisfied that the Proposed Development would not pose an unacceptable risk to the use of the allotments or undermine the quality of the soils in that area.
- 7.13.45. Overall, while the ExA fully understands the strength of local feeling, the concerns raised appear to be based on misunderstanding and misinformation, and the ExA is content that there would be no impact on the continued use of the Eastney and Milton Piece Allotments at any time during the construction or operation of the Proposed Development.

Conclusions

- 7.13.46. The ExA considers matters in relation to CA in Chapter 10 of this Report.

- 7.13.47. The Applicant has sought to minimise effects on the best and most versatile agricultural land, and the site selection process directed activity to land of poorer quality wherever possible. Temporary potential effects on soil quality during cable trenching have been identified and suitable mitigation measures can be secured.
- 7.13.48. The ExA concludes that the Applicant has adequately assessed the effects of the Proposed Development on the existing and proposed use of land in the vicinity for other types of development in accordance with NPS EN-1.
- 7.13.49. The ExA is satisfied that the Proposed Development would not result in any significant land use effects.
- 7.13.50. The Proposed Development is considered acceptable in light of all important and relevant considerations. The matter of soils and land use is therefore considered to be neutral in the planning balance.

7.14. GROUND CONDITIONS AND CONTAMINATION

Introduction

- 7.14.1. This section deals with contamination that may arise either directly or indirectly from the Proposed Development. The Examining Authority's (ExA) Initial Assessment of Principal Issues [PD-010] identified contamination as a matter relevant to the onshore water environment. However, as representations were received, it was apparent that potential effects on human health was an issue of equivalent relevance. This section considers these matters, whilst effects on water resources are presented in section 7.12.

Policy considerations

- 7.14.2. Paragraph 5.10.8 of the Overarching National Policy Statement for Energy (NPS EN-1) states that for developments on previously developed land, applicants should ensure they have considered any risk posed by land contamination. Contamination of greenfield sites is not specifically addressed.
- 7.14.3. NPS EN-1 states that the decision makers:
- '... should focus on whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. The [decision taker] should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes, including those on land drainage, water abstraction and biodiversity, will be properly applied and enforced by the relevant regulator. It should act to complement but not seek to duplicate them.'*
- 7.14.4. Specific legislation on contaminated land is principally in Part IIA of the Environmental Protection Act 1990. The legislation endorses the principle of a 'suitable for use' approach to contaminated land, where remedial action is only required if there are significant risks to human health or

controlled waters. The regulation of contaminated land is described in Part IIA of the Environmental Protection Act 1990 inserted by Section 57 of the Environment Act 1995.

The National Planning Policy Framework (NPPF)

- 7.14.5. Paragraph 170 explains that planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil pollution or land instability. Paragraph 179 notes that when a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer or landowner.
- 7.14.6. Paragraph 178 requires planning decisions to ensure that the site is suitable for its proposed use, taking account of ground conditions and any risks arising from land instability and contamination. It also states that adequate site investigation information, prepared by a competent person, should be presented.

The Applicant's case

Methodology

- 7.14.7. Environmental Statement (ES) Chapter 18 [APP-133] considered the potential environment impact of the Proposed Development with regard to contamination and ground conditions. The assessment methodology was based on guidance presented in BS10175:2017 and Contaminated Land Report 11 (CLR11)¹⁴. The baseline conditions were established using historical Ordnance Survey maps, environmental data reports (Envirocheck), British Geological Survey maps and the Applicant's own ground investigations in 2018. A preliminary risk assessment was included at ES Appendix 18.1 [APP-429].
- 7.14.8. The assessment focused on the potential presence of contamination and pollutant linkages to sensitive receptors, future site users, geology and groundwater. A 'source-pathway-receptor' methodology was adopted to evaluate whether the presence of a source of contamination could potentially lead to harmful consequences.
- 7.14.9. A proportion of the onshore corridor runs through agricultural land where significant contamination was not expected. In general, based on the use of historical information, the potential for contamination across the majority of the onshore project area was considered to be low although there were areas in Portsmouth where significant contamination was predicted.
- 7.14.10. Former gravel pits were identified near the Order limits, but no sites of mineral working or safeguarding.

¹⁴ (Now withdrawn) *Model Procedures for the management of land contamination*, Environment Agency, 2004

Potential effects during construction

- 7.14.11. The predicted effects were set out in section 18.7 of Chapter 18 of the ES [APP-133]. The Applicant identified human health, controlled waters and geology as being end receptors that could be affected by contaminants or mobilised contamination as a result of construction works. There was potential across the whole of the Proposed Development for construction works to lead to pollution or contamination of groundwater or controlled waters, although, with one exception, the potential for affecting human health was said to be low.
- 7.14.12. The exception was Milton Common, a known historic landfill that was filled with putrescible domestic waste prior to the 1970s. Due to the unknown quantities and extent of contamination here, the Applicant maintained an option in the Order limits to divert one or both of the onshore cables along the A2030 highway corridor.
- 7.14.13. Other parts of the corridor, including the University of Portsmouth campus and the area south of the Eastney and Milton Piece Allotments, were identified as having concentrations of lead, zinc and other materials above the recommended standards. It was considered that there was a low potential for a significant contamination hazard except where landfill material was present, where the risk would be high.

Potential effects during operation

- 7.14.14. The Applicant considered that once the Proposed Development had been built, all necessary remediation would have been undertaken. Whilst the potential for contaminants to continue to have an effect remained, no significant adverse effects were predicted during operation.
- 7.14.15. The selection of inert rather than oil insulated cables would greatly reduce ongoing contamination risk.

Potential effects during decommissioning

- 7.14.16. Although not detailed, decommissioning of the development was predicted to have similar effects as the construction phase. If the ducts in which the cables would be laid were to remain *in situ*, the Applicant submitted the effects would be expected to be less as there would be less excavation and disturbance required.

Cumulative effects

- 7.14.17. Section 18.8 of the ES details the assessed cumulative effects. The Applicant concludes that the Proposed Development would have a negligible effect on adjacent developments with regard to contamination and ground conditions, during the construction, operation and the demolition phases, providing all mitigation measures were implemented.

Mitigation

- 7.14.18. Construction and operational stage effects from contaminated soil (waste) generation and disposal were identified as not significant, therefore no further mitigation measures were required.
- 7.14.19. The Onshore Outline Construction Environmental Management Plan (Onshore Outline CEMP) [REP9-005] provided details of the industry best practice measures that would be implemented to reduce potential construction effects. The sectionalised excavation of workings would reduce the risk of mobilising existing contamination and this would be managed through the Onshore Outline CEMP. A watching brief would be implemented during excavation to ensure that any unexpected contamination in made ground was identified, the risk assessed, and dealt with appropriately. If remediation was deemed necessary, an approach would be assessed on a site-specific basis and the works carried out, supervised, validated and verified in accordance with current best practice.
- 7.14.20. The re-use of soil in the Order limits would be governed by the production of a Soils Resources Plan in which chemical criteria would be specified for the import of soils and fill material from off site and for the re-use of site-won material. The stripping, storage and re-use of subsoil would be carried out in accordance with BS8061:2013. The Soils Resources Plan formed part of the Onshore Outline CEMP.
- 7.14.21. If works were to take place at Milton Common, additional mitigation measures would be implemented, as set out in ES Chapter 18, paragraph 18.9.2.3 [APP-133].

Applicant's summary of predicted effects

- 7.14.22. With the application of outlined mitigation, all effects were predicted by the Applicant to be negligible and not significant during the construction, operational and decommissioning of the Proposed Development.

Planning issues

Relevant Representations

- 7.14.23. Interested Parties (IPs) (for example [RR-143] and [RR-159]) generally did not question the methodology or approach of the Applicant, though raised significant concerns regarding the Milton Common landfill site and the potential for contamination and landfill gas to be disturbed or released.
- 7.14.24. The Environment Agency ([RR-165] and [REP7-055]) did not raise any concerns with regards to human health arising from potential contaminants or the strategy to deal with them. Public Health England [RR-065] believed there not to be any risks to human health arising from the Proposed Development.

- 7.14.25. Portsmouth City Council [RR-185] initially raised significant concerns with the methodology being used. It recommended that for each section of previously used land, a conceptual model (as described in BS10175) should be created to assess the risk associated with the installation of the cable. Portsmouth City Council suggested that testing of potentially polluted locations would normally have been undertaken to inform the ES and requested a watching brief for the entire route to be secured in the draft DCO.
- 7.14.26. The Applicant responded ([REP2-014], page 2-22) that a preliminary risk assessment and a generic quantitative risk assessment had been produced to inform the ES [APP-429]. These were prepared in accordance with contaminated land guidance including BS10175:2011+A2:2017 and, as this was produced before the new Land Contamination Risk Management document was released in October 2020, it followed guidance provided by CLR11. The Applicant highlighted that additional ground investigation including remediation options appraisal, remedial strategy, verification reports and subsequent monitoring were covered under Requirement 13 of the draft DCO and additional mitigations under Requirement 15.
- 7.14.27. The Statement of Common Ground between the Applicant and Portsmouth City Council [REP8-044] highlighted that the matter remained unresolved between the parties on a matter of principle.

Local Impact Reports

- 7.14.28. East Hampshire District Council's Local Impact Report (LIR) [REP1-161] did not raise contamination specifically. However, it drew attention to policy CP27 that requires development not to result in pollution that prejudices the health and safety of communities and their environments.
- 7.14.29. Hampshire County Council raised concerns about contamination in its LIR [REP1-167], though these were exclusively with regard to aquifers and the water environment. Consideration of this matter is dealt with in section 7.12 of this Report.
- 7.14.30. In its LIR [REP1-173], Portsmouth City Council noted that adopted policy included Supplementary Planning Guidance with respect to developing contaminated land. In relation to the Proposed Development, the Council was concerned that route options across Milton Common could prove unviable due to contamination and a less favoured route along the A2030 would prevail. The Council sought further information to demonstrate if a route across the Common could succeed.

Other representations to the Examination

- 7.14.31. A small number of representations (for example, [REP6-095]) raised the issue of buried asbestos being disturbed at locations along the onshore cable corridor. The Applicant referred to Requirement 13 and Requirement 15 of the draft DCO [REP9-003] that would secure mitigation in this regard.

- 7.14.32. The Environment Agency [REP1-203] requested that works should halt in the circumstances where contamination is discovered, pending the approval and implementation of a remediation scheme. The Applicant revised Requirement 13 of the draft DCO to accommodate this.

ExA response

- 7.14.33. The ExA would not expect fully detailed site investigations prior to the commencement of the Proposed Development but instead would look for a robust strategy that could be put in place during the works to deal with any unsuspected contamination that was encountered. The assessment methodology, assessment findings and approach to mitigation for contaminated land and ground conditions are considered to be robust and the Environment Agency raised no specific concerns in its Statement of Common Ground with the Applicant [REP7-055].
- 7.14.34. A written scheme to deal with contamination would be produced post-consent as part of the final Onshore Outline CEMP secured by Requirement 13 of the draft DCO. The scheme would include investigations at sites with a known contamination risk and would set out control measures for the discovery of (currently unknown) potential contamination, for local authority approval in consultation with the Environment Agency. The ExA therefore finds that suitable controls are in place to manage the levels of contamination that might be encountered during the construction of the Proposed Development.
- 7.14.35. The ExA is satisfied that the Onshore Outline CEMP, secured by Requirement 15, represents an appropriate control measure for the discovery and remediation of potential contamination. The ExA finds these elements to be compliant with NPS EN-1 and the NPPF.

Conclusions

- 7.14.36. The ExA is content with the Applicant's finding that there would be no significant adverse effects associated with land contamination and ground conditions subject to mitigation measures.
- 7.14.37. Matters relating to ground conditions and contamination have been satisfactorily explored in the application and during the Examination. Therefore, the ExA considers that the Proposed Development would accord with NPS EN-1 and the NPPF.
- 7.14.38. The ExA is satisfied that the Applicant has provided a sound and enforceable basis for the management and mitigation of safety risks associated with contaminated ground conditions and heard no compelling evidence to the contrary. The ExA considers this to be a neutral matter in the overall planning balance.

7.15. ExA's RESPONSE AND CONCLUSIONS ON OTHER IMPORTANT AND RELEVANT MATTERS

- 7.15.1. Taking into account all relevant policy, guidance, submissions and other documents presented during the Examination, the ExA is satisfied that no other important and relevant matters arise that need to be considered by the ExA in the planning balance and its recommendation, or taken into account in the DCO decision by the Secretary of State.

8. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

8.1. INTRODUCTION

- 8.1.1. This Chapter of the Report sets out the Examining Authority's (ExA) analysis, findings and conclusions in relation to Habitats Regulations Assessment (HRA). This would help the Secretary of State to perform the duties of a competent authority under the Habitats Regulations and the Offshore Marine Regulations (see section 3.5.3 of this Report) before reaching a decision on the application.
- 8.1.2. The Proposed Development is a project for the purposes of the Habitats Regulations. Therefore, the Secretary of State could only issue consent after having ruled out adverse effects on the integrity of the relevant European sites. Where an adverse effect on the sites' integrity could not be ruled out, and where there were no alternative solutions, the Proposed Development could only proceed if there were imperative reasons of over-riding public interest and if the necessary compensatory measures could be secured.
- 8.1.3. European sites in this context encompass sites protected by the Habitats Regulations (Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Sites of Community Importance (SCIs) and candidate Special Areas of Conservation (cSACs)) and those given an equivalent status by national planning policy (possible SACs (pSACs), potential SPAs (pSPAs), listed Ramsar sites and proposed Ramsar sites for which the UK is responsible). Areas secured as sites compensating for damage to a European site also require a HRA under Government policy.
- 8.1.4. The Applicant provided a HRA Report with the application and updated it during the course of the Examination, with the final version submitted at Deadline 8 [REP8-020].
- 8.1.5. Throughout the Examination, the ExA was mindful of the need to ensure that the Secretary of State had sufficient information to carry out the duties of a competent authority. To this end, the ExA reviewed and examined the evidence presented during the Examination concerning likely significant effects (LSE) and adverse effects on the integrity (AEoI) of European sites potentially affected by the Proposed Development, both alone and in-combination with other plans or projects.
- 8.1.6. A Report on the Implications for European Sites (RIES) [PD-035] was prepared during the Examination, with support from the Planning Inspectorate's Environmental Services Team.
- 8.1.7. The RIES compiled, documented and signposted information relating to the European sites provided in the application and by the Applicant and IPs during the Examination up to and including Deadline 7 (25 January 2021). The RIES was issued to ensure the ExA had correctly understood

the relevant information and the position of the IPs at that point in time. The RIES was published on the Planning Inspectorate's website on 3 February 2021.

- 8.1.8. Consultation on the RIES took place between 3 February 2021 and 1 March 2021 to ensure that IPs, including Natural England and the Joint Nature Conservation Committee, had been formally consulted on Habitats Regulations matters in respect of Regulation 63(3) and 63(4).
- 8.1.9. Comments on the RIES were received from the Applicant [REP8-066] and Natural England [REP8-086]; these comments have been taken into account in the drafting of this Chapter, along with subsequent discussions between the two parties set out in their final Statement of Common Ground in relation to onshore matters [REP8-031].
- 8.1.10. The RIES was not updated following consultation.

8.2. LOCATION OF THE PROPOSED DEVELOPMENT

- 8.2.1. As set out in Chapter 2 of this Report, the AQUIND electrical interconnector is proposed to run from Normandy in France to the boundary of the UK Exclusive Economic Zone (EEZ) in the English Channel, and then on to Lovedean in Hampshire via a landfall at Eastney on Portsea Island (Portsmouth).
- 8.2.2. The locations of European sites in relation to the Proposed Development were shown in volume 2 of the Applicant's HRA Report [APP-492] to [APP-499].
- 8.2.3. In terms of the UK element of the Proposed Development, the designation of several coastal European sites including the Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site and the Portsmouth Harbour SPA and Ramsar site bring the most significant HRA implications.

8.3. EUROPEAN SITES AND THEIR QUALIFYING INTEREST

- 8.3.1. Twenty designated sites (SACs, SPAs and Ramsar sites) were screened by the Applicant as sites for which there was potential for a LSE as a result of the construction, operation and decommissioning of the Proposed Development alone or in combination with other projects and plans [REP8-032]. Eleven are UK designated sites, eight are French designated sites and one is a Ramsar site in the Channel Islands (SPAs and Ramsar sites that coincide were counted as one site). The complete list is:
 - Chichester and Langstone Harbours SPA;
 - Chichester and Langstone Harbours Ramsar site;
 - Portsmouth Harbour SPA;
 - Portsmouth Harbour Ramsar site;

- Solent Maritime SAC;
 - South Wight Maritime SAC;
 - River Itchen SAC;
 - River Avon SAC;
 - River Axe SAC;
 - Solent and Dorset Coast SPA;
 - Solent and Southampton Water SPA;
 - Solent and Southampton Water Ramsar site;
 - Pagham Harbour SPA;
 - Pagham Harbour Ramsar site;
 - Plymouth Sound and Estuaries SAC.
-
- Alderney West Coast and Burhou Islands Ramsar site.
-
- Littoral Cauchois SAC;
 - Estuaires et Littoral Picards (Baies de Somme et d'Authie) SAC;
 - Baie de Somme Ramsar;
 - Baie de Canche et Couloir des trois Estuaires SAC;
 - Estuaire de la Seine SAC;
 - Marais Vernier Ramsar;
 - Baie de Seine Orientale SAC;
 - Récifs Gris-Nez Blanc-Nez SAC;
 - Ridens et dunes hydrauliques du détroit du Pas-de-Calais SAC;
 - Littoral Seino-Marin SPA.

8.3.2. The locations of these sites in relation to the Proposed Development were shown in volume 2 of the Applicant's HRA Report [APP-492] to [APP-499]. Summary information, including their approximate distances to the application site and their qualifying features, was provided in the Applicant's HRA report [REP8-020] and in the matrices in the RIES [PD-035].

8.3.3. At the time of the Applicant's assessment, the Solent and Dorset Coast was a potential SPA. The Minister classified the Solent and Dorset Coast SPA on 16 January 2020, after the submission of the application. The ExA asked the Applicant and Natural England if the classification altered the findings of the HRA, and both confirmed that it did not ([REP1-091] and [REP1-216]).

8.3.4. The ExA is satisfied that the Applicant has correctly identified the relevant European sites, the relevant qualifying features, and the potential effects for consideration in the HRA.

8.4. THE APPLICANT'S ASSESSMENT

8.4.1. The Proposed Development is not connected with, or necessary to, the management for nature conservation of any of the European sites considered in the Applicant's assessment [REP8-020].

8.4.2. The proposed Order limits overlap with the Solent Maritime SAC, the Solent and Dorset Coast SPA (both crossed by the marine trenched cable route), and the Chichester and Langstone Harbours SPA and Chichester and Langstone Harbours Ramsar site (crossed by horizontal directional drilling (HDD) at depth, so not directly disturbed).

8.4.3. They also encompass some areas of land that are functionally linked to the Chichester and Langstone Harbours SPA and Ramsar site, and the Portsmouth Harbour SPA and Ramsar site: these are some of the amenity grasslands comprising the Solent Waders and Brent Goose Strategy sites (SWBGS sites) used by qualifying feature bird species from the two flocks, especially dark-bellied brent geese (plate 5.4 of the Applicant's HRA Report [REP8-020]).

Likely significant effects

8.4.4. In terms of onshore effects, the Applicant and Natural England agreed [REP8-031] that there were LSEs for the Chichester and Langstone Harbours SPA and Ramsar site and the Portsmouth Harbour SPA and Ramsar site.

8.4.5. The Applicant's European Marine Sites Screening and Integrity Matrices (Appendix 1 to the HRA Report) [REP8-022] detailed the offshore sites considered at the various stages of the HRA, the qualifying features, the effects considered, and the LSEs for European sites. Similar information and assessment for the Ramsar sites was set out in Appendix 5 to the Applicant's HRA report [REP5-033].

8.4.6. The approach to the assessment of in-combination effects was discussed in section 8 of [REP8-020]. The plans and projects included in the in-combination assessment were listed in Appendix 3 to the Applicant's HRA report [REP1-086].

8.4.7. In summary, in its final version of the HRA report [REP8-020], the Applicant considered that LSE could not be excluded for the sites and effects set out in Table 8.1 below.

Table 8.1 LSEs identified by the Applicant

Site name	Qualifying features	Effects
Solent and Dorset Coast SPA	Little tern	<p><i>For all phases of the Proposed Development:</i> Disturbance and displacement from preferred foraging habitat within the SPA from noise or visual disturbance from the presence of vessels and associated activities. Increases in suspended sediment concentrations (SSC) as a result of construction activities affecting the seabed and cable maintenance could affect prey availability. Accidental oil or chemical spillages from activities in the marine and terrestrial environment. Accidental release of litter in the marine or terrestrial environment causing bird mortality through entanglement or ingestion.</p>
	Sandwich tern Common tern	<p><i>For all phases of the Proposed Development:</i> Increases in SSC as a result of activities affecting the seabed and cable maintenance could affect prey availability. Accidental oil or chemical spillages from activities in the marine or terrestrial environment. Accidental release of litter into the marine or terrestrial environment causing bird mortality through entanglement or ingestion.</p>
Chichester and Langstone Harbours SPA	Red-breasted merganser Little tern	As for the little tern feature of Solent and Dorset Coast SPA.
	Sandwich tern Common tern	As for Sandwich tern and common tern features of the Solent and Dorset Coast SPA.
	Dark-bellied brent goose Redshank Shelduck Pintail Shoveler Teal Wigeon Bar-tailed godwit Curlew Grey plover Waterfowl assemblage	<p>Disturbance and displacement from noise or visual disturbance caused by construction and decommissioning onshore activities. Accidental release of litter into the inter-tidal or terrestrial environment leading to bird mortality for all phases of the Pro-posed Development. Accidental oil or chemical spillages from activities in the marine or terrestrial environment.</p>

	Turnstone Sanderling Ringed plover Dunlin	Accidental release of litter into the inter-tidal or terrestrial environment leading to bird mortality for all phases of the Proposed Development. Accidental oil or chemical spillages from activities in the marine or terrestrial environment.
Chichester and Langstone Harbours Ramsar site	Dark-bellied brent goose Redshank Black-tailed godwit Shelduck Grey plover	As for dark-bellied brent goose feature of the Chichester and Langstone Harbours SPA.
	Ringed plover Dunlin	As for the ringed plover and dunlin features of the Chichester and Langstone Harbours SPA.
	Little tern	As for the little tern feature of Solent and Dorset Coast SPA.
Portsmouth Harbour SPA	Red-breasted merganser	Accidental oil or chemical spillages from vessels causing bird mortality through direct oiling of birds or through effects on prey availability. Accidental release of litter into the marine environment causing bird mortality through entanglement or ingestion.
	Dark-bellied brent goose	As for dark-bellied brent goose feature of the Chichester and Langstone Harbours SPA.
	Dunlin Black-tailed godwit	As for turnstone feature of the Chichester and Langstone Harbours SPA.
Portsmouth Harbour Ramsar site	Dark-bellied brent goose	As for dark-bellied brent goose feature of the Chichester and Langstone Harbours SPA.
Solent and Southampton Water SPA	Little tern Common tern Sandwich tern Roseate tern Mediterranean gull	Accidental oil or chemical spillages from vessels causing bird mortality through direct oiling of birds or through effects on prey availability. Accidental release of litter into the marine environment causing bird mortality through entanglement or ingestion.
Pagham Harbour SPA	Common tern	Accidental oil or chemical spillages from vessels causing bird mortality through direct oiling of birds or through effects on prey availability. Accidental release of litter into the marine environment causing bird mortality through entanglement or ingestion.
River Itchen SAC	Salmon	During construction and decommissioning there could be an increase in SSC as a result of activities such as dredge and disposal. This could act as a barrier to fish following migratory routes around the coast or affect fish directly through oxy-gen depletion. Pollution events as a result of accidental releases of substances such as pesticides, anti-

		foulants or bentonite from vessels during construction, operation and de-commissioning activities.
River Avon SAC	Salmon Sea lamprey	As for salmon feature of the River Itchen SAC.
River Axe SAC	Sea lamprey	Pollution events as a result of accidental releases of substances such as pesticides, anti-foulants or bentonite from vessels during construction, operation and de-commissioning activities.
Plymouth Sound and Estuaries SAC	Allis shad	As for sea lamprey feature of the River Axe SAC.
Solent Maritime SAC	Estuaries Sandbanks (slightly covered by seawater all the time) Mudflats and sandflats (not submerged at low tide) Spartina swards Salicornia and other annuals colonising sand and mud	Increases in SSC during cable installation or repair and maintenance. Sediment deposition during cable installation or repair and maintenance leading to smothering of habitats. For all phases of the Proposed Development, accidental releases of marine litter or discharges of oil and other substances could affect the qualifying features, for example through the smothering of habitats, leaching or contamination from chemicals. Invasive non-native species (INNS) could be introduced either directly (for example through discharges of ballast water) or through creating new hard substrate which could influence the introduction and spread of INNS.
South Wight Maritime SAC	Reefs Submerged or partially submerged sea caves	As for the Solent Maritime SAC.

Conservation objectives

- 8.4.8. Following a Rule 17 request from the ExA and discussions with Natural England, the Applicant submitted information about the Conservation Objectives and Supplementary Advice on the Conservation Objectives for the UK European sites (where available) at Deadline 6 in the document, *HRA Report: Appendix 6 UK Sites Conservation Objectives and Supplementary Advice Attributes* [REP6-058].

Adverse Effects on the Integrity of European sites

- 8.4.9. In relation to the stage 2 appropriate assessment of European sites, the Applicant's HRA report concluded that the Proposed Development would not lead to AEOI alone or in combination with other projects and plans on any of the sites listed above.

8.4.10. This conclusion of no adverse effects on the integrity of European sites depended on the following mitigation measures:

Marine environment

- disposal of dredged material at the designated disposal spot (located between KP 21 and KP 109);
- standard best practice in relation to waste management and spill response;
- a Marine Pollution Contingency Plan to be developed and approved post-consent;
- a Biosecurity Plan to be developed and approved post-consent.

Nearshore and onshore environment

- use of HDD under Langstone Harbour and part of Milton Common;
- standard best practice in relation to waste management and pollution prevention measures;
- winter working principles to control construction work in or adjacent to the Chichester and Langstone Harbours SPA and the SWBGS sites;
- screening around HDD compounds to avoid noise and visual disturbance;
- restoration measures for SWBGS sites affected by construction work.

8.4.11. The restrictions on the locations for disposing of dredged material would be secured through the Deemed Marine Licence (DML) [REP9-003], notably Conditions 4(1)(c), and 8(3). Delivery of the other marine measures would be secured through Condition 4 of the DML and through the Marine Outline Construction Environmental Management Plan.

8.4.12. Delivery of the nearshore and onshore environment measures would be secured through the Onshore Outline Construction Environment Management Plan (the Onshore Outline CEMP) [REP9-005].

8.5. HRA MATTERS CONSIDERED DURING THE EXAMINATION

Changes to the Proposed Development

8.5.1. The implications of each of the three onshore change requests made by the Applicant during the Examination (two material, one non-material) for the HRA findings, both alone and in combination, were considered by the ExA before being accepted. They were found not to have any implications for the outcome of the assessment.

8.5.2. The design of the Proposed Development was amended in January 2021 to facilitate another marine cable crossing. The proponents of 'CrossChannel Fibre', a proposed fibre-optic cable development extending from Brighton to France, submitted a marine licence application to the

Marine Management Organisation in January 2021 with a view to construction in September 2021. The Applicant's HRA Report was updated ([REP8-020] to [REP8-023]) to address this, though the overall conclusions in relation to European sites did not change.

Matters progressed during the Examination

Likely significant effects

- 8.5.3. In relation to the Applicant's conclusions on LSE, the only concerns raised during the Examination were:
- Natural England ([RR-181] and [REP1-216]) advised that the onshore cable construction could affect supporting habitat forming part of a network joining Portsmouth Harbour and Langstone Harbour, and that this could affect species that are qualifying features of the Portsmouth Harbour SPA and Ramsar site.
 - Natural England ([REP1-216]) advised that onshore construction could lead to visual disturbance of birds that are qualifying features of the Chichester and Langstone Harbours SPA and Ramsar site if it took place during the winter period when the birds are present.
 - Natural England [RR-181] and Portsmouth City Council [RR-185] queried the scope of the Applicant's in-combination assessment in relation to the Portsmouth Harbour SPA and Ramsar site and the Chichester and Langstone Harbours SPA and Ramsar site.
- 8.5.4. The Applicant produced revised versions of the HRA report during the Examination, and these addressed the concerns as far as possible. While the Applicant maintained that visual disturbance of the bird features of the Chichester and Langstone Harbours SPA and Ramsar site would not lead to a LSE, the HRA report was nevertheless revised to include this effect in its assessment.
- 8.5.5. The Joint Nature Conservation Committee confirmed that it agreed with the Applicant's conclusions on LSE in relation to marine European sites [REP8-032]. Natural England confirmed that apart from the dispute about visual disturbance leading to LSE on the Chichester and Langstone Harbours SPA, it agreed with the Applicant's conclusions in relation to LSE ([REP8-031] and [REP8-032]).
- 8.5.6. In its first written questions [PD-011], the ExA sought clarity on 'rolling safe passage distance' between craft, and the Applicant's reliance on this [APP-491] to demonstrate that disturbance effects on red-breasted merganser, a qualifying feature of the Portsmouth Harbour SPA, would be negligible. In response, the Applicant [REP1-091] provided an explanation and demonstrated that the assessment outcome – that there was no potential for significant effects on red-breasted merganser – was valid.
- 8.5.7. The ExA is satisfied that the Applicant's revised HRA report [REP8-020] identifies all the LSE that could result from the Proposed Development alone or in combination with other plans or projects.

AEoI

- 8.5.8. The Applicant's conclusion that AEoI could be excluded for all European sites was only disputed in relation to the dark-bellied brent goose feature of the Chichester and Langstone Harbours SPA and Ramsar site and the Portsmouth Harbour SPA and Ramsar site.
- 8.5.9. In order to avoid the identified AEoI on the dark-bellied brent goose interest feature, which principally resulted from disturbance of the birds using intertidal areas close to the coast and functionally linked grasslands where works were planned, the Applicant proposed mitigation in the form of winter working principles. These were discussed and refined through various submissions during the Examination. The final list of six principles was set out in the Onshore Outline CEMP [REP9-005]. They would be secured through draft Requirement 15 of the Recommended Development Consent Order (DCO).
- 8.5.10. Principles 1 and 2 ensure that there would be no adverse effects on birds in the SPA or using the SWBGS sites that lie within the Order limits, as no works with the potential for such disturbance would be permitted in the winter period when they are used by SPA birds. Principles 3 to 6 address the potential for noise and visual disturbance from winter working near to the SPA and SWBGS sites and set out the agreed mitigation for such effects, such as acoustic screening.
- 8.5.11. In response to Natural England's concerns about AEoI from visual disturbance, the Applicant noted that the Proposed Development would sit in an entirely urbanised environment subject to consistent visual disturbance. Where the onshore cable route would be adjacent to the SPA or SWBGS sites, the winter working principles would apply. Further information was provided about the proposed acoustic screening around works compounds that demonstrated to Natural England's satisfaction that it would provide effective visual as well as noise mitigation at installation sites slightly further away, as discussed at Issue Specific Hearing 3 ([EV-032] to [EV-035]). Natural England then confirmed agreement that AEoI would not arise on either SPA or Ramsar site as a result of visual disturbance of dark-bellied brent geese [REP8-031].
- 8.5.12. The Onshore Outline CEMP also addressed the need for any SWBGS sites disturbed by summer works to be restored to a grassland type suitable for supporting the geese before their return in the following winter. With the timing and type of turving proposed, the Applicant and Natural England agreed [REP8-031] that there would be no adverse effect on the integrity of the European sites.
- 8.5.13. The Relevant Representations from Portsmouth City Council [RR-185] and Natural England [RR-181] raised concerns about the adequacy of the in-combination assessment for effects on the SPAs and Ramsar sites and the functionally linked land, particularly in relation to the programme of coastal flood defence works on Portsea Island. The Applicant introduced an update in an ES Addendum [REP1-139] to address this, and also

updated the HRA Report to provide an in-combination assessment that responded to the points raised.

- 8.5.14. A related issue was raised by Natural England at Deadline 7 [REP7-107] under the heading of Milton Common Bird Refuge Areas. The ExA understood that information from Portsmouth City Council had led Natural England to believe that one part of Milton Common had been established as a refuge for dark-bellied brent geese by way of mitigation or compensation for works associated with Phase 4b of the North Portsea Island flood and coastal erosion management scheme, and that another was to come forward. As such, the ExA was concerned that these might comprise areas secured as sites compensating for damage to a European site, and the consequent implications for the HRA, as the Order limits include some parts of Milton Common.
- 8.5.15. As this matter was noted as outstanding in the RIES, the Applicant made comments in its Deadline 8 submission, Applicant's Comments on the Report on Implications to European Sites [REP8-066].
- 8.5.16. The matter was discussed at Issue Specific Hearing 5, and the Applicant followed this up with a detailed submission, *Applicant's Written Summary of the Oral Case at Issue Specific Hearing 5* [AS-067]. The Applicant contended that, based on a site visit and research into the planning history, no effective bird refuge had been established on Milton Common, that it had not been evidenced that a bird refuge could be successfully established on Milton Common, and that there is no planning permission or management plan that would require such areas to be established.
- 8.5.17. As Natural England did not attend Issue Specific Hearing 5, the ExA was unable to obtain an immediate response. A Rule 17 request was therefore issued to the Applicant [PD-036] to discuss the matter with Natural England before Deadline 9, and to provide an updated position in relation to these matters and in particular the implications for the HRA.
- 8.5.18. The specific matter was addressed in the Statement of Common Ground between the Applicant and Natural England under the SWBGS entry ([REP8-031], reference NE4.2.13), which was shown as agreed. This reported that the Applicant discussed the matter with Natural England on 11 February 2021. The Applicant outlined that there is no extant planning permission or management plan in relation to such areas being established. As a consequence, the Applicant did not consider that there are any implications for the HRA. The Applicant goes on to note that, should the ExA take a view that the establishment of a refuge is nevertheless lawful, then winter working principle 1 would apply in any case, and adequate mitigation was already secured through the Onshore Outline CEMP [REP9-005] and draft Requirement 15. The ExA concurs with this position.

8.6. HRA CONCLUSIONS

- 8.6.1. On the basis of the information relating to HRA before the Examination, including the controls set out in the Recommended DCO and the final agreement from Natural England and the Joint Nature Conservation Committee ([REP8-031] and [REP8-032]), the ExA can advise the Secretary of State that it is satisfied that the Proposed Development would have no AEOI, either alone or in-combination with other plans or projects, on any European site.
- 8.6.2. The ExA is further satisfied that sufficient information has been provided by the Applicant to enable the Secretary of State to fulfil the duties of competent authority and to undertake the necessary HRA and appropriate assessment.

9. THE CASE FOR DEVELOPMENT CONSENT

9.1. INTRODUCTION

- 9.1.1. The Examining Authority (ExA) concludes on the case for development consent in this Chapter. Chapter 10 then focuses on the Applicant's proposals for Compulsory Acquisition and related matters. This is followed by the ExA's consideration of the draft Development Consent Order (DCO) in Chapter 11. An overall recommendation as to whether or not development consent should be granted for the Proposed Development is set out in Chapter 12.
- 9.1.2. This Chapter brings together the Proposed Development described in Chapter 2, the legal and policy context set out in Chapter 3, and the matters, issues and findings determined in relation to the planning issues explored in Chapters 4 to 7. Whilst the Habitats Regulation Assessment (HRA) has been considered separately in Chapter 8, relevant matters are taken fully into account.
- 9.1.3. Examination Library references are not included in this summary, but the full references are available from the corresponding sections of Chapters 2 to 8.
- 9.1.4. The statutory framework for deciding Nationally Significant Infrastructure Project (NSIP) applications where there is a relevant designated National Policy Statement (NPS) is set out in section (s)104 of the Planning Act 2008 (the PA2008). In deciding the application, the Secretary of State must have regard to:
- any NPS which has effect in relation to development of the description to which the application relates (a relevant national policy statement);
 - the appropriate marine documents (if any) determined in accordance with s59 of the Marine and Coastal Access Act 2009;
 - any local impact report (LIR) (within the meaning given by s60(3) of the PA2008) submitted to the Secretary of State before the deadline specified in a notice under s60(2);
 - any matters prescribed in relation to development of the description to which the application relates;
 - any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.
- 9.1.5. The designated Overarching National Policy Statement for Energy, NPS EN-1, provides the primary basis for making decisions on development consent applications for energy sector NSIPs in England by the Secretary of State for Business, Energy and Industrial Strategy. It is engaged here as a result of a s35 Direction from the Secretary of State that it should have effect in a manner equivalent to its application to development consent for the construction of a generating station of a similar capacity in s14(a) of the PA2008. The suite of supporting technology specific energy NPSs has some importance and relevance in terms of limited and

specific aspects of the Proposed Development and the assessment of its effects.

- 9.1.6. The need case for the Proposed Development is provided in paragraphs 3.1.1 to 3.1.4 of NPS EN-1, which include:

'The [IPC] should therefore assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this Part.'

9.2. FINDINGS

Policy justification for the Proposed Development

- 9.2.1. The ExA considers that the Proposed Development reflects Government policy and the objectives of NPS EN-1 in relation to sustainable development, contributing to a secure, diverse and affordable energy supply, and in terms of mitigating and adapting to climate change.
- 9.2.2. To the extent that they are important and relevant to matters in the Examination, the ExA considers that the Proposed Development reflects the objectives and guidance in the supporting technology specific energy NPSs, for example through a suitable assessment of the marine cabling and by minimising the risk to human health from electromagnetic fields (EMF).
- 9.2.3. The ExA also believes that the Proposed Development accords with the National Planning Policy Framework (NPPF) and development plan policies in terms of planning for climate change, supporting a diversified energy supply, and contributing to the transition to a low carbon future.
- 9.2.4. In their LIRs, Hampshire County Council and Havant Borough Council pointed to benefits from the Proposed Development, qualified by the need to balance any potential adverse environmental effects.
- 9.2.5. The ExA also finds strong support for greater interconnection capacity, and therefore the Proposed Development, in the UK Government's *Energy White Paper: Powering our Net Zero Future* (Secretary of State for Business Energy and Industrial Strategy, 2020).
- 9.2.6. The ExA considers that the Proposed Development aligns with the policy support for greater energy security, affordability and sustainability and that the need case is made, subject to the consideration of the adverse effects that would weigh against it, as identified in the remainder of this Chapter.

EIA considerations

- 9.2.7. The Proposed Development is an Environmental Impact Assessment (EIA) development. Having regard to the requirements of The Infrastructure Planning (Environmental Impact Assessment) Regulations

2017, as amended, (the EIA Regulations), the ExA is satisfied that, by the close of the Examination, the submitted documentation represents a compliant Environmental Statement (ES) and provides an adequate basis for the identification of likely significant effects, as required by the EIA Regulations. Where options and parameters are retained for the Proposed Development, the ExA is satisfied that a worst case is reported in the ES.

- 9.2.8. The ExA is also content that the final version of the Mitigation Schedule submitted by the Applicant provides comprehensive and clear links between the ES, its mitigation commitments and the various outline management and control documents. This ensures that details needing to be approved post-consent, as referred to in the Recommended DCO, would be within the parameters assessed in the EIA.

HRA considerations

- 9.2.9. The Proposed Development is development for which a HRA Report has been provided. In coming to its recommendations, the ExA considered all documentation relevant to HRA as required by section 4.3 of NPS EN-1, including all pertinent design and mitigation proposals in the ES, as secured through the Recommended DCO, and representations made by Natural England and Interested Parties (IPs). The Secretary of State, the competent authority under the Habitats and Species Regulations 2017 (the Habitats Regulations), would make the definitive assessment.
- 9.2.10. Having taken into account the advice from Natural England and the mitigation secured through the Recommended DCO, the ExA is satisfied that the Proposed Development would not lead to an adverse effect on the integrity of any European site, either alone or in-combination with other projects or plans. This includes consideration of functionally linked onshore grasslands used by birds from SPA flocks.
- 9.2.11. The ExA is content that the body of HRA evidence submitted by the close of the Examination provides an adequate basis on which the Secretary of State can fulfil the duties of competent authority.

Project delivery

- 9.2.12. The ExA considers that the Proposed Development is consistent with Government policy to ensure a secure, diverse and affordable energy supply. The ExA is content that alternative locations and cabling routes were evaluated for the purpose of the EIA and found to lack equivalence. It is notable that the Proposed Development Site is adjacent to an available connection to the National Electricity Transmission System and that the Applicant has an extant connection offer.
- 9.2.13. The Applicant has set out a compelling case for the Proposed Development in the public interest in its Needs and Benefits Report ([APP-155] and Addenda [REP1-136] and [REP7-064]).
- 9.2.14. The ExA finds no important and relevant evidence to support the concerns expressed by some IPs who questioned the Applicant's financial

viability or its credibility in relation to the delivery of the Proposed Development.

- 9.2.15. The Proposed Development could make a substantial contribution towards the identified need for a secure, diverse and affordable energy supply, the facilitation and accommodation of additional renewable energy generation, and sustainable development.

Highways and onshore traffic

- 9.2.16. The ExA concludes that the Applicant has adopted a robust and proportionate approach to the highways and traffic assessment, and that the findings are generally sound.
- 9.2.17. The ExA is satisfied that the effects during operation would be negligible given the low generation of traffic. The ExA also agrees with the Applicant that effects during decommissioning could be satisfactorily mitigated by an onshore decommissioning plan that would be approved through Requirement 24 of the draft DCO.
- 9.2.18. Overall, the ExA considers there would be some temporary significant adverse effects on highways and traffic flows during construction. However, these temporary effects would be reduced to acceptable levels through the application of mitigation measures in the FCTMP and FTMS, as secured through the Recommended DCO.
- 9.2.19. The ExA concludes that these matters accord with NPS EN-1 and that transport and traffic alone does not indicate against the Order being made.

Air quality

- 9.2.20. There would not be any significant air quality effects during the operation of the Proposed Development. Any occasional maintenance requiring traffic management measures would be no more significant in relation to air quality than any other authorised utility work within the highway.
- 9.2.21. In terms of the construction phase, the Onshore Outline CEMP includes a range of best practice dust mitigation measures for the Proposed Development for all works with potential for adverse effects on sensitive receptors such as homes, schools and designated wildlife sites. Mitigation would be secured through the preparation and implementation of a phase-specific CEMP by the construction contractor, approved by the local authority. Each CEMP would need to accord with the Onshore Outline CEMP. Sensitive receptors within 200m of works are at higher risk and further measures are proposed. Mitigation measures are based on industry best practice and IAQM guidance on the assessment of dust from demolition and construction sites.
- 9.2.22. The Applicant's assessment indicates that any increases in air pollution from vehicular traffic, resulting directly from traffic management measures or potential diversions around any construction works, would not present a significant risk of breaching the exposure limits in the AQS

Regulations. An appropriate monitoring strategy would be secured through the Onshore Outline CEMP to ensure compliance is maintained throughout the construction period.

9.2.23. Similarly, construction traffic would only be present for a short duration in any one area during cable installation and would not cause a significant deterioration in air quality. Taken together with general traffic movements, the Proposed Development would not affect the ability of the local authority to comply with relevant Ministerial Directions.

9.2.24. The ExA considers the approach and evidence to be robust, and concludes that effects on air quality during the construction and operation stages have been properly assessed and that all reasonable steps have been taken or would be taken to ensure that air quality limits are not breached, in compliance with the requirements of NPS EN-1. Matters of air quality do not therefore indicate against the Order being made.

Noise, vibration and electromagnetic fields

9.2.25. Noise and vibration effects during the construction phase would be temporary and appropriately reduced through the implementation of mitigation measures in the Onshore Outline CEMP, as secured by Requirement 15. Whilst these would serve to reduce noise and vibration disturbance and nuisance for local residents, the ExA recognises that some minor and temporary effects would remain and considers that these weigh against the Order being made.

9.2.26. The ExA is satisfied that the noise management plans needed under Requirement 20 of the Recommended DCO would secure appropriate mitigation to ensure no significant effects remain once the Proposed Development is operational.

9.2.27. As the cable would be buried and sheathed, the ExA agrees with the Applicant's ES and the advice from Public Health England that EMF effects would be negligible and would not pose a significant risk to public health. The ExA finds no conflict with NPS EN-5 in this regard. Therefore, EMF matters do not indicate against the Order being made and the ExA finds this to be a neutral factor in the final planning balance.

The local community and socio-economic matters

9.2.28. During construction there is potential for an adverse, short-term effect on tourism in Portsmouth, particularly near the landfall where tourism activity is more concentrated. The ExA considers the Applicant's proposed mitigation to be reasonable and finds no clear evidence that the effects would be significant.

9.2.29. The Employment and Skills Strategy would help deliver employment benefits during construction, but there is uncertainty around the level of other economic benefits. It is possible that moderate positive effects would result, but the weight that can be attached is tempered by the uncertainty and the ExA has attributed it only moderate weight.

- 9.2.30. Construction impacts on sports pitches in Portsmouth would be partially mitigated, but some uncertainty remains. Information gaps raise some doubt as to the effectiveness of the proposed mitigation and whether the amount of compensation in the proposed Development Consent Obligation takes account of all relevant factors.
- 9.2.31. The ExA considered socio-economic matters in line with the expectations of NPS EN-1, including all relevant impacts and policies in the development plan. The analysis generated competing outcomes. In balancing the potential benefits against the mitigated effects on tourism receptors, including the South Downs National Park, and the potential residual effects on a limited number of sports pitches and the Victorious Festival, the ExA considers the issue of socio-economics to be a minor negative factor in the case for the Proposed Development.

The marine environment

- 9.2.32. The ExA is content that the Applicant's ES adequately address matters relating to physical processes in the marine environment, marine water and sediment quality, fish and shellfish, marine mammals and basking sharks, intertidal and benthic habitats, marine ornithology and commercial fisheries.
- 9.2.33. The ExA recommends the addition of a condition to the Deemed Marine Licence (DML) in the draft DCO to require a sediment sample plan for dredging at the marine horizontal directional drilling site to ensure that the dredged material is, at that time, suitable for disposal at sea. With this in place, the ExA is content that the Proposed Development could be installed and operated in UK waters in accordance with the Marine and Coastal Access Act 2009, the UK Marine Policy Statement and the South Marine Plan and without significant adverse effects. The Proposed Development satisfies NPS EN-1, and the ExA considers these matters to be neutral in the planning balance and finds no reason to refuse the application in relation to them.

Shipping and navigation

- 9.2.34. The Applicant's assessment of navigational risk accords with the relevant guidance and took account of inputs from the Maritime and Coastguard Agency and other navigational stakeholders, including local operators.
- 9.2.35. Mitigation measures are available where the navigation risk assessment identified potential risks. Whilst the Proposed Development would cross the busy Dover Straits Traffic Separation Scheme (TSS), the proposed mitigation measures would reduce navigational risks to 'as low as reasonably possible' (ALARP).
- 9.2.36. Taking account of the proposed mitigation, the ExA concludes that the Proposed Development would not pose unacceptable risks to maritime safety, and that it complies with the requirements of NPS EN-1.
- 9.2.37. The ExA considers this to be neutral in the planning balance.

Onshore biodiversity and nature conservation

- 9.2.38. The ExA has considered all of the evidence in the Examination in relation to protected, priority and high value sites and species, and the Applicant's proposed mitigation, compensatory and enhancement measures in the context of relevant and important policy, including the principles of the United Nations Environmental Programme Convention on Biological Diversity of 1992.
- 9.2.39. With the additional, strengthened and clarified mitigation and protection measures discussed and secured during the Examination, the ExA is content that the ES prediction of no significant residual adverse effects is reliable.
- 9.2.40. The ExA considers that the Proposed Development accords with NPS EN-1 and important and relevant legislative and policy requirements and finds onshore biodiversity and nature conservation to be a neutral factor in the planning balance.

Design

- 9.2.41. The criteria for good design for energy infrastructure set out in NPS EN-1 and other important and relevant policy were considered in the Examination and by the ExA in considering the impacts of the design of the Proposed Development, especially the permanent buildings. The ExA is content that the design principles set out in the Applicant's Design and Access Statement [REP8-012] provide an adequate framework for future design work, and that the final design could be secured within the parameters used in the Applicant's assessment.
- 9.2.42. The ExA considers that the Applicant, working cooperatively with the local authorities, gave due consideration to the sustainability and aesthetic appearance of the converter station buildings, but less so to the optical regeneration station at the landfall near Fort Cumberland. As a result, the ExA found residual concerns in relation to the design of the latter, but these are summarised in the cultural heritage section below. Otherwise, the matter of design is given a neutral finding in relation to the planning balance.

Landscape and views

- 9.2.43. As noted in NPS EN-1, virtually all energy Nationally Significant Infrastructure Projects would have effects on the landscape and views. The Applicant undertook a siting and design exercise for the largest above-ground element of the works, the converter station and its compound, and determined the least intrusive solution in respect of landscape character and visual amenity within reasonable technical constraints.
- 9.2.44. Given that the proposed site sits in the immediate setting of the South Downs National Park, which has the highest status of protection in relation to landscape and scenic beauty, the ExA gave very close scrutiny

to the adverse landscape and visual effects of the Proposed Development in daytime and night time, including those on tranquillity.

- 9.2.45. The two retained options for the converter station, B(i) and B(ii), lie to the west of the existing Lovedean Substation, and both sit reasonably well down in a valley head that is, in general, effectively screened from all directions, except in local views from the west. The effects would be worse for option B(i), which would necessitate the removal of a hedgerow with trees that would provide some local screening for option B(ii).
- 9.2.46. The building would be visible from short stretches of local public rights of way, including the Monarch's Way long distance footpath, though mitigation measures have been secured that would minimise and gradually reduce the adverse effects through the maintenance of existing vegetation and further planting.
- 9.2.47. The Applicant's visualisations and the ExA's site inspections suggest that the building, where seen from sensitive, local public views, would generally sit low in the landscape with a backdrop of vegetation and the existing substation, rather than prominently breaking the skyline.
- 9.2.48. The converter station would also be quite widely visible in more distant views from the elevated parts of the South Downs National Park, though only as a very small element in generally expansive or even panoramic views. Local topography and existing woodland at the converter station site would help to limit the views to the upper part of the main building, while the design principles set out in the Design and Access Statement would help to further reduce the effect.
- 9.2.49. The ExA is content that the Applicant correctly identified the potential for ash die-back disease to reduce future screening, and that the change request made to take control of the management of additional copses was a reasonable and proportionate response.
- 9.2.50. The only other long-term feature would be the optical regeneration station at Fort Cumberland. Whilst this would have some very localised effects on views and openness, it is more properly dealt with in the cultural heritage section below.
- 9.2.51. The ExA concludes that, despite careful design, the Proposed Development would inevitably have adverse effects on tranquillity, the landscape and views, especially in relation to the converter station and its compound. There would be significant local, construction stage effects on landscape character and the setting of the South Downs National Park, and on local landscape features.
- 9.2.52. The built development at Lovedean would have significant effects locally on landscape character and the setting of the National Park, though mitigation planting would reduce the severity of effects over time. There would be significant effects on views from a few local rights of way and lanes, but proposed mitigation would reduce the effects over time.

- 9.2.53. The adverse landscape and visual effects would largely be reversible on decommissioning.
- 9.2.54. In the context of NPS EN-1 and important and relevant policy, including the NPPF and the development plan, the ExA considers that these adverse landscape and visual effects weigh against the Proposed Development, and considers this to be a factor of moderate weight in the overall planning balance.

Trees

- 9.2.55. The widely differing positions between the Applicant and some IPs on important trees narrowed through the Examination as more precision was added to the documentation and assessment predictions, and further protection and compensation for losses was secured through the draft DCO and other provisions. A Capital Asset Value of Amenity Trees (CAVAT) approach was agreed with one of the two highway authorities in relation to unavoidably lost or damaged street trees, and a similar approach is offered by the Applicant to the other.
- 9.2.56. The ExA concludes that sufficient information was submitted to allow an assessment of the reasonable worst-case effect on trees and that the draft DCO, associated control documents and Development Consent Obligations provide reassurance that effects on important trees would be minimised and compensated.
- 9.2.57. With no evidence that the Proposed Development conflicts with NPS EN-1 or the NPPF, and that any conflicts in relation to local development plan policies would likely be minor and short-term, the ExA considers the matter of trees to be a neutral factor in the overall balance.

Cultural heritage and the historic environment

- 9.2.58. The ExA concurs with the Applicant's ES in finding no likely significant effects on marine archaeology once the proposed mitigation has been implemented.
- 9.2.59. Noting that the Applicant's geophysical survey showed limited potential for archaeological remains, and the views of Hampshire County Council, Winchester City Council and Portsmouth City Council that the Applicant's approach to investigations and mitigations was proportionate, the ExA is content that the proposed Written Scheme of Investigation would be sufficient to deal with any onshore archaeological finds.
- 9.2.60. The ExA gave close scrutiny to onshore heritage assets, and included local scheduled monuments, conservation areas and listed buildings in a number of site inspections, where public access was available. Its observations, along with the relevant submissions to the Examination, provided adequate information to reach a conclusion on the nature, significance and value of the relevant heritage assets, including sufficient understanding of the contribution that setting makes to their significance.

- 9.2.61. The ExA identifies harm to two assets. The Proposed Development would not preserve those elements of setting that make a positive contribution to the significance of the Grade II listed cottage known as Scotland or of the Fort Cumberland scheduled monument and its associated Grade II* listed building and three Grade II listed buildings. In each case, the ExA concludes that there would be less than substantial harm to the significance of the asset's setting.
- 9.2.62. Taking full account of Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, NPS EN-1, the NPPF and development plan policies, the ExA is conscious that great weight must be attributed to the conservation of historic assets, and that any harm to, or loss of significance of a designated heritage asset requires clear and convincing justification. Whilst it did not find grounds for a refusal on this basis alone, the ExA gives considerable weight to the less than substantial harm to the listed cottage known as Scotland and the Fort Cumberland scheduled monument with its associated listed buildings.

The onshore water environment including flood risk

- 9.2.63. Potential impacts on the water environment have been addressed through mitigation measures secured via the Onshore Outline CEMP and the Surface Water and Aquifer Contamination Strategy. The ExA finds that issues relating to hydrology, flood risk and water resources have been adequately addressed in the ES and subsequent Examination discussions. Subject to the agreed provisions in the Recommended DCO, which are considered in Chapter 10, there should be no significant adverse effects on hydrology, flood risk or water resources.
- 9.2.64. The ExA concludes that:
- the Proposed Development meets the requirements of NPS EN-1 in terms of protection of hydrology, water quality and resources, compliance with the Water Environment Regulations and the avoidance of flood risk;
 - the management of coastal change and associated risks have been adequately considered;
 - the construction, operational and decommissioning effects and risks to the water environment have been addressed.
- 9.2.65. The ExA considers that the overall residual effect of the Proposed Development on the onshore water environment is likely to be minimal and not significant. This is considered to be neutral in the planning balance.

Soils and land use

- 9.2.66. The Applicant has sought to minimise effects on the best and most versatile agricultural land and directed activity to land of poorer quality wherever possible. Temporary potential effects on soil quality during cable trenching have been identified and suitable mitigation measures can be secured.

- 9.2.67. The ExA concludes that the Applicant has adequately assessed the effects of the Proposed Development on the existing and proposed use of land in the vicinity for other types of development in accordance with NPS EN-1.
- 9.2.68. The ExA is satisfied that the Proposed Development would not result in any significant land use effects.
- 9.2.69. The Proposed Development is considered acceptable in light of all important and relevant considerations. The matter of soils and land use is therefore considered to be neutral in the planning balance.

Ground conditions and contamination

- 9.2.70. The ExA is content with the Applicant's finding that there would be no significant adverse effects associated with land contamination and ground conditions once mitigation measures had been applied.
- 9.2.71. Such matters have been satisfactorily explored in the application and during the Examination. Therefore, the ExA considers that the Proposed Development would accord with NPS EN-1 and the NPPF in this regard.
- 9.2.72. Overall, the ExA is satisfied that the Applicant has provided a sound and enforceable basis for the management and mitigation of safety risks associated with contaminated ground conditions, having heard no compelling evidence to the contrary. The ExA considers this to be a neutral matter in the overall planning balance.

9.3. THE PLANNING BALANCE

- 9.3.1. This Chapter synthesises the individual analyses set out in previous Chapters of the Report to guide the ExA's recommendation as to whether the case is made for granting development consent for the Proposed Development.
- 9.3.2. The Proposed Development would make a significant contribution to the UK policy imperative to deliver a secure, diverse and affordable energy supply with sustainable means to securing decarbonisation of the supply. The case for meeting energy need is very strong. The ExA recognises the benefits that the Proposed Development would bring, including its contribution to meeting wider policy targets for greater interconnection.
- 9.3.3. Whilst the ExA finds nothing to challenge the principle of the need case, there are several adverse effects that weigh against the Order being made.
- 9.3.4. The construction of the Proposed Development would result in significant, though temporary, effects on highway conditions and onshore transport during the construction phase, a local social inconvenience and economic impact that the ExA considers to be a factor of moderate weight.
- 9.3.5. Some residents living close to the construction works would experience temporary noise and vibration disturbance. The ExA attributes this minor negative weight.

- 9.3.6. There would be a loss of access to and availability of formal sports facilities along the cable route during construction, in a City where the Council advises there is already pressure on very limited resources. Whilst the Applicant has committed to mitigation and has provided a unilateral Development Consent Obligation to address temporary shortfalls, the remaining uncertainty over mitigations at this stage mean that the ExA attributes this a minor negative weight.
- 9.3.7. The Proposed Development would lead to short and long-term adverse landscape and visual effects, including some local harm to the setting of the South Downs National Park. These weigh moderately against the Proposed Development in the overall planning balance.
- 9.3.8. There would be harm to the significance of the grade II Listed cottage known as Scotland and the Fort Cumberland scheduled monument and its associated grade II* Listed Building and three grade II Listed Buildings. In each case, the ExA concludes that the harm to the significance of the asset's setting would be less than substantial but gives the adverse effects considerable weight.
- 9.3.9. There are also a number of issues which, on balance, do not weigh significantly for or against the Order being made including:
- air quality;
 - EMF;
 - the marine environment;
 - shipping and navigation;
 - biodiversity and nature conservation;
 - design;
 - trees;
 - the onshore water environment;
 - soils and land use;
 - ground conditions and contamination.
- 9.3.10. The ExA is satisfied that the identified adverse effects would be mitigated as far as is reasonably practicable and that the necessary measures could be properly secured through the Recommended DCO and the associated control documents, such that the identified significant adverse effects would be largely time-limited and reversible.
- 9.3.11. Taking into account all relevant policy, the ExA concludes that the matters that are identified as disbenefits do not outweigh the significant benefits that are described, either alone or when considered together. The ExA therefore considers that the final balance indicates strongly in favour of granting development consent.

9.4. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

- 9.4.1. In the judgement of the ExA, the combined significant adverse effects that are identified above in relation to the construction, operation and decommissioning of the Proposed Development do not outweigh the national benefits that would be gained from the Proposed Development in terms of its contribution to a secure, diverse and affordable energy supply, greater levels of electricity systems interconnection, and further accommodation of decarbonised electricity generation, and the case for development consent has been made.

10. COMPULSORY ACQUISITION AND RELATED MATTERS

10.1. INTRODUCTION

10.1.1. This Chapter sets out the relevant legislative requirements relating to Compulsory Acquisition (CA) and Temporary Possession (TP), describes the request by the Applicant for CA and TP powers, explains the purposes for which land would be required, describes the examination of the CA and TP case and gives the Examining Authority's (ExA's) conclusions and recommendations.

10.2. LEGISLATIVE REQUIREMENTS

10.2.1. CA powers can only be granted if the conditions set out in section (s)122 and s123 of the Planning Act 2008 (the PA2008) are met.

10.2.2. Section 122(2) requires that the land must be required for the development to which the development consent relates or is required to facilitate or is incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required and proportionate, as set out in DCLG Guidance¹⁵. A conclusion on this matter is reached later in this Chapter.

10.2.3. Section 122(3) requires that there must be a compelling case in the public interest, which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land would be affected. In balancing public interest against private loss, CA must be justified in its own right. This does not mean, however, that the CA proposal can be considered in isolation from the wider consideration of the merits of the project. There must be a need for the project to be carried out and there must be consistency and coherency in the decision-making process. A conclusion on this matter is reached later in this Report.

10.2.4. Section 123 requires that one of three conditions must be met by the proposal¹⁶. The ExA is satisfied that the condition in s123(2) is met because the application for the Development Consent Order (DCO) includes a request for CA of the land to be authorised.

¹⁵ *Guidance on Compulsory Purchase and the Criche Down Rules* (DCLG, 2015)

¹⁶ (1) An order granting development consent may include provision authorising the CA of land only if the Secretary of State is satisfied that one of the conditions in subsections (2) to (4) is met. (2) The condition is that the application for the order included a request for CA of the land to be authorised. (3) The condition is that all persons with an interest in the land consent to the inclusion of the provision. (4) The condition is that the prescribed procedure has been followed in relation to the land.

10.2.5. Several general considerations also have to be addressed, either as a result of CA Guidance¹⁷, CA Regulations¹⁸ or in accordance with legal duties on decision-makers. These include that:

- all reasonable alternatives to CA must be explored;
- the Applicant must have a clear idea of how it intends to use the land and demonstrate funds are available;
- the decision-maker must be satisfied that the purposes stated for the acquisition are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

10.3. THE REQUEST FOR CA AND TP POWERS

10.3.1. The Proposed Development comprises the construction of the UK and UK marine area elements of a sub-sea and underground bi-directional electric power transmission link. This link would run between the south coast of England and Normandy in France and link the British and French electric power grids. The application for the DCO seeks powers for the CA of freehold and leasehold interests in the Order land, new rights over the Order land including the imposition of restrictions and TP powers for the construction, operation and maintenance of the Proposed Development.

10.3.2. CA of land and rights and TP powers are only sought in relation to land onshore in the UK. The CA rights sought under the application are divided into three categories, as follows:

- New Connection Works Rights - to install, operate and maintain the underground electrical and fibre-optic cables;
- New Access Rights - to create permanent rights of access and for landscaping works;
- New Landscaping Rights - for landscaping and ecological measures.

10.3.3. Each category is then sub-divided into sub-categories (Table 1-1 of [REP8-010]). The power to serve a notice to treat or make a declaration in relation to CA would cease to apply at the end of the period of five years from the date of the Order being made.

10.3.4. The application also seeks powers for the TP of areas of the Order land for construction and maintenance purposes. Within the cable corridor, the application also seeks TP powers over the Order land to allow entry for construction purposes in advance of the vesting of the relevant rights.

10.3.5. CA powers are not sought in the highway. Works implemented as part of the application would be carried out pursuant to the New Roads and Street Works Act 1991 (NRSWA). Where works would be carried out

¹⁷ *Guidance related to the procedures for the compulsory acquisition of land* (Sept 2013, DCLG)

¹⁸ Infrastructure Planning (Compulsory Acquisition) Regulations 2010

below the highway strata, the application seeks CA powers over land in private ownership below the depth over which the 1991 Act would apply.

- 10.3.6. A full description of the extent and existing nature of the land required by the Applicant for the construction, operation and maintenance of the Proposed Development is set out in the Environmental Statement (ES) and the Statement of Reasons ([APP-118] section 3.6.4, and [REP8-008] section 5).
- 10.3.7. At the commencement of the Examination, the application was accompanied by:
- a Statement of Reasons [APP-022];
 - a Funding Statement [APP-023];
 - a Book of Reference in five parts [APP-024];
 - an Explanatory Memorandum [APP-020];
 - Land Plans [APP-008];
 - Crown Land Plans [APP-009];
 - Access and Rights of Way Plans [APP-011].
- 10.3.8. Details of the changes made to the CA and TP powers sought by the Applicant were tracked during the Examination process. This was done in:
- Schedules of Changes to the draft DCO ([REP1-090], [REP3-006], [REP5-022], [REP6-041], [REP7-036], [REP8-027] and [REP9-008]);
 - Schedules of Changes to other documents ([REP1-089], [REP2-007], [REP3-005], [REP4-007], [REP5-021], [REP6-040], [REP7-035], [REP8-026] and [REP9-007]);
 - track changed versions of the Statement of Reasons ([REP1-026], [REP5-013], [REP6-020], [REP7-018] and [REP8-009]);
 - track changed versions of the Book of Reference ([REP1-028], [REP4-004], [REP5-015], [REP6-023], [REP7-020] and [REP8-011]);
 - track changed versions of the Explanatory Memorandum ([REP1-023], [REP5-011], [REP6-018], [REP7-016] and [REP8-007]).
- 10.3.9. The Applicant made three change requests (change request 1 to change request 3) (under the CA Regulations where applicable) during the Examination, and the relevant documents are:
- change request 1 ([REP1-002], [REP1-133] and [REP3-019]);
 - change request 2 ([AS-051] to [AS-055]);
 - change request 3 [REP7-078].
- 10.3.10. The ExA accepted these into the Examination ([PD-019], [PD-020], [PD-026], [PD-027] and [PD-033]).

- 10.3.11. The final Examination versions of the following documents are:
- Statement of Reasons [REP8-008];
 - Funding Statement [REP6-021];
 - Book of Reference in five parts [REP8-010];
 - Explanatory Memorandum [REP8-006];
 - Land Plans [REP7-003];
 - Crown Land Plans [REP7-004];
 - Access and Rights of Way Plans [REP8-003].
- 10.3.12. The Book of Reference, Land Plans, Crown Land Plans and Access and Rights of Way Plans are secured in the Recommended DCO.
- 10.3.13. The details of the CA powers sought, including interference with third party rights, together with the TP powers and other compulsory powers sought are set out in Parts 4, 5 and 7 of the Recommended DCO. The principal Articles are:
- Article 20 allows the undertaker to acquire land described in the Book of Reference that is required for the construction, operation or maintenance of the Proposed Development or to facilitate it or is incidental to it.
 - Article 21 allows the undertaker, in carrying out anything authorised by the Order, to override easements and other rights. Compensation would also be payable to any person whose land is affected by interference with an interest or right or affected by the breach of a restriction due to the carrying out of the Proposed Development.
 - Article 22 gives the undertaker a period of five years in which to exercise the powers of CA to install, operate, landscape, access and maintain the Proposed Development.
 - Article 23 allows the undertaker to acquire rights and impose restrictive covenants to protect the Proposed Development over land described in the Book of Reference.
 - Article 24 provides that all private rights of way over land subject to CA are extinguished from the date of the acquisition of the land or on the date of entry by the undertaker, whichever is earlier. In addition, all private rights of way over land of which TP is taken would be suspended and unenforceable for the period of possession. Any person who suffers loss by such extinguishment or suspension would be able to claim compensation.
 - Article 47 prevents entry, interference or use of Crown land under the Recommended DCO without the consent of the Crown Estate Commissioners or the relevant Government department.

- 10.3.14. The powers sought in relation to the TP of land do not constitute CA and are provided for in separate articles in the Recommended DCO, albeit in the powers of acquisition section.
- 10.3.15. Article 30 allows two categories of land to be temporarily possessed for the construction of the Proposed Development. The first of these is the land specified in Schedule 10 of the Recommended DCO for the purposes stated. The second of these is any other Order land where no notice of entry or general vesting declaration has been served, for the purposes specified in Article 30. This would enable the undertaker to compulsorily acquire the minimum amount of land and rights over land required to construct, operate and maintain the Proposed Development. In addition, compensation would be payable to the owners and occupiers of land who suffer loss or damage arising from the exercise of the TP power.
- 10.3.16. Article 31 provides that the TP entry powers for the construction of the Proposed Development cease to apply after five years from the date of the Order. Under Article 30, the power to continue to temporarily possess land generally ceases one year after this five-year period.
- 10.3.17. Article 32 provides for the TP of land for maintaining the Proposed Development. This power ceases to apply at the end of the maintenance period which is five years from parts of the authorised development starting operational use or from the completion of replacement or landscape planting. The possession of the land under this Article is also restricted for so long as may reasonably be necessary to carry out the maintenance. Under Articles 20 and 23, this would enable the undertaker to compulsorily acquire the minimum amount of land and rights over land required to maintain the Proposed Development.
- 10.3.18. Article 33 allows the undertaker to acquire compulsorily land or new rights over land or to impose restrictive covenants over land belonging to Statutory Undertakers. It also provides for the extinguishment of rights and the removal or relocation of apparatus belonging to Statutory Undertakers and to construct the Proposed Development in such a way as to cross underneath or over the apparatus.
- 10.3.19. Any interference with rights, restrictions etc. over the land affected by the Proposed Development from the exercise of any of the above Articles that provide access or use of the land is identified in Part 3 of the Book of Reference [REP8-010].
- 10.3.20. The Recommended DCO would give the following additional powers to the undertaker that could interfere with land or rights over land and, as such, are captured in Part 3 of the Book of Reference [REP8-010]:
- Article 17 - to discharge water into any watercourse, public sewer or drain with the approval of the owner of the destination, which is not to be unreasonably withheld;
 - Article 18 - to survey for and carry out protective works to buildings in the Order limits;

- Article 19 - to survey investigate any land in the Order limits;
- Article 41 - to fell, lop or cut back the roots of any tree not subject to a tree preservation order in or overhanging the Order limits or shrub near any part of the Proposed Development to prevent it obstructing or interfering with the construction, operation or maintenance of the Proposed Development;
- Article 42 - to fell, lop or cut back the roots of any tree identified in Column (1) of Schedule 11 to prevent it obstructing or interfering with the construction, operation or maintenance of the Proposed Development.

10.3.21. The Explanatory Memorandum sets out in more detail the above Recommended DCO Articles together with those that relate to other compulsory powers sought [REP8-006]. Section 5 of the Statement of Reasons [REP8-008] also describes the land over which all these powers are sought.

Other matters

10.3.22. Article 25 of the Recommended DCO seeks to incorporate the provisions of the Compulsory Purchase (Vesting Declarations) Act 1981, giving the option to use the process in the 1981 Act, rather than the 'notice to treat' process, with some modifications ([REP8-006] paragraph 9.16). The Article also reflects changes brought about by the Housing and Planning Act 2016, clarifies the authority for the undertaker and refers to s134 of the PA2008.

10.3.23. Article 51 of the Recommended DCO seeks to provide a security for CA and TP compensation payable to landowners under the made Order.

10.3.24. Section 120(5)(a) of the PA2008 provides that a DCO may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the DCO. Section 117(4) provides that, if the DCO includes such provisions, it must be in the form of a statutory instrument. The Recommended DCO seeks to apply, modify or exclude statutory provisions, and it is therefore in the form of a Statutory Instrument ([REP8-006] paragraph 1.6).

10.4. THE PURPOSES FOR WHICH LAND AND RIGHTS ARE REQUIRED

10.4.1. The Statement of Reasons indicates that the Applicant's purpose for seeking CA is to secure the land and rights required to construct, operate and maintain the Proposed Development [REP8-008]. The powers sought relate to the CA land and rights over land together with the TP of land. The Book of Reference sets out in detail five classes under which land or rights may be acquired permanently or land possessed temporarily [REP8-010]. These are identified by the colour of the plot on the Land Plans [REP7-003] and by the wording used in the Book of Reference plot description. They are as follows:

- pink plots - freehold and leasehold interests to be compulsorily acquired (under Article 20), the temporary use of land and powers to override or interfere with easements and other rights and to extinguish private rights of way (under Articles 21, 24 and 30);
- blue plots - new connection works rights (including restrictions) to be compulsorily acquired (under Article 23), the temporary use of land and powers to over-ride or interfere with easements and other rights and to extinguish private rights of way (under Articles 21 and 30);
- green plots - new landscaping rights (including restrictions) to be compulsorily acquired (under Article 23), the temporary use of land and powers to over-ride or interfere with easements and other rights and to extinguish private rights of way (under Articles 21 and 30);
- purple plots - new access rights (including restrictions) to be compulsorily acquired (under Article 23), the temporary use of land and powers to over-ride or interfere with easements and other rights and to extinguish private rights of way (under Articles 21 and 30);
- yellow plots – the temporary use of land and powers to over-ride or interfere with easements and other rights and to extinguish private rights of way (under Article 31).

10.4.2. The Statement of Reasons describes the Proposed Development and the need for CA powers ([REP8-008] sections 4 and 6). The Statement of Reasons also lists the plots in the Order land and gives details of the purpose for which CA and TP powers are sought for each plot ([REP8-008] paragraph 6.3.1 and Appendix A).

Crown land

10.4.3. The Statement of Reasons explains that part of the land that is required for the Proposed Development comes within the definition of Crown land under the PA2008 ([REP8-008] section 8.3). The Book of Reference ([REP8-010] Part 4) and the Crown Land Plans [REP7-004] identify the relevant plots. The Applicant has had discussions with the Crown Estate and the Ministry of Defence to obtain Crown land consent. Matters relating to these discussions are addressed later in this Chapter.

Statutory Undertakers

10.4.4. If a Statutory Undertaker makes a representation about the CA of land or a right over land which has been acquired for the purpose of its undertaking, and this is not withdrawn, s127 of the PA2008 applies. In these circumstances, the DCO can only include a provision authorising the CA of that land or right if the Secretary of State is satisfied that the land or right can be purchased without serious detriment to the carrying on of the undertaking, or that any such detriment can be made good by use of alternative land.

10.4.5. Section 138 of the PA2008 applies where a Statutory Undertaker has a relevant right or relevant apparatus in land over which CA is sought. In those circumstances, the DCO can only authorise the extinguishment of

the right or removal of the apparatus if the Secretary of State is satisfied that this is necessary for the purpose of carrying out the development to which the Order relates.

- 10.4.6. The land affected by the Proposed Development includes land, rights or other interests owned by several Statutory Undertakers ([REP8-008] paragraph 8.2.1). The Statement of Reasons reports on the Applicant's negotiations with each of these Statutory Undertakers ([REP8-008] Appendices B and C).
- 10.4.7. Representations that were subsequently withdrawn were made by the following Statutory Undertakers:
- National Grid Gas Plc ([RR-031] and [REP1-213]);
 - National Grid Electricity Transmission Plc ([RR-030] and [REP 8-110]);
 - Southern Gas Networks Plc ([RR-012] and [REP7-113]);
 - Highways England ([RR-096] and [AS-079]);
 - Network Rail Infrastructure Limited ([RR-182] and [AS-078]).
- 10.4.8. Representations that were not withdrawn during the Examination were made by the following Statutory Undertakers:
- Southern Water Services Limited ([RR-192], [REP6-100], and [REP7-038] reference CA2.3.17);
 - Portsmouth Water Ltd ([RR-005] and [REP8-039]);
 - Vodafone Limited ([REP6-102] and ([REP7-038] reference CA2.3.16).

Open space

- 10.4.9. Section 132 of the PA2008 says that an Order granting development consent that authorises the CA of a right over open space would be subject to special parliamentary procedure unless the Secretary of State is satisfied that one of the subsections applies. Subsection 132(3) applies if the Order land, when burdened with the Order right, would be no less advantageous to the persons in whom it is vested, other persons entitled to rights of common or other rights, and the public.
- 10.4.10. The Applicant is seeking rights over special category land, more specifically classed as open space, and considers that s132 of the PA2008 is engaged ([REP8-008] section 1.5). The Book of Reference describes the types of open space [REP8-010] in Part 5. The relevant plots of land are included in the Book of Reference and on the Land Plans [REP7-003].

10.5. EXAMINATION OF THE CA AND TP CASE

- 10.5.1. The ExA raised first written questions (ExQ1) [PD-011] in relation to CA, TP and other land or rights considerations ([PD-011] references CA1.3.1 to CA1.3.108). The questions to the Applicant, Affected Persons (APs)

and Interested Parties (IPs) covered a range of issues. The Applicant was also requested to complete a CA and TP Objection Schedule in the form provided by the ExA ([PD-011] CA1.3.47]) with an updated version of the Summary of Negotiations with Other Apparatus Owners in the application Statement of Reasons ([APP-022] Appendix C).

- 10.5.2. The Applicant provided responses to these questions at Deadline 1 ([REP1-091] to [REP1-095] and [REP1-102]). These responses included the CA and TP Objection Schedule [REP1-126], a CA Schedule [REP1-124] and Appendices B, C and D to the Statement of Reasons [REP1-026], which were subsequently updated as the Examination progressed. Responses were also provided from APs and IPs at Deadline 1. These responses are examined in more detail when the cases of those who responded are considered later in this Chapter.
- 10.5.3. The Applicant also made a change request at Deadline 1 (change request 1) that removed land from the Order limits, amended some of the rights sought over land and added land to the Order limits under the CA Regulations ([REP1-002], [REP1-133] and [REP3-019]). The removal of land from the Order limits included four areas that previously formed options for the route of the proposed cable corridor and other areas that reduced the width of the Order limits. These matters had been the subject ExQ1 questions ([PD-011] references CA1.3.6, 17, 20, 30, 38, 72, 73 and 75). The ExA accepted this as a material change into the Examination [PD-019]. Representations from APs and IPs in relation to the additional land sought were made at Deadline 6a, with responses to these representations received at Deadline 7 [PD-023].
- 10.5.4. Portsmouth City Council raised concerns that APs with an interest in land at the Eastney and Milton Piece Allotments had not been notified by the Applicant as part of its statutory CA process ([AS-047] and [REP1-174]). Further information [PD-014] was requested from and provided by the Applicant and Portsmouth City Council ([REP3-020] and [REP3-026]).
- 10.5.5. The ExA received several requests from persons with interests in the Eastney and Milton Piece Allotments to become IPs under s102A of the PA2008. These were accepted, and the Applicant was requested to ensure that all such relevant parties were properly included in the Book of Reference, with Portsmouth City Council affording full assistance to the Applicant by providing the necessary details [PD-021].
- 10.5.6. Notwithstanding previous consultations ([REP8-058] and [REP8-075]), a formal request for information to update the Book of Reference was sent by Portsmouth City Council, on behalf of the Applicant, to the allotment holders to avoid the disclosure of any personal details [REP5-001]. The Applicant sent the draft request for information to Portsmouth City Council for distribution on 26 November 2020, between Deadlines 4 and 5. An amended Book of Reference was then submitted at Deadline 6 [REP6-023].
- 10.5.7. The ExA held two Compulsory Acquisition Hearings (Compulsory Acquisition Hearing 1 and Compulsory Acquisition Hearing 2) virtually on

10 and 11 December 2020. The ExA issued agendas for these Compulsory Acquisition Hearings ([EV-011] and [EV-012]). The ExA also received pre-Hearing transcripts from the Applicant for Compulsory Acquisition Hearing 1 ([REP5-034] to [REP5-056]) and Compulsory Acquisition Hearing 2 [REP5-057] and pre-Hearing transcripts from various APs, the relevant parts of which are addressed later in this Chapter.

- 10.5.8. At the Compulsory Acquisition Hearings, the ExA pursued several matters with the Applicant and APs, as set out on the agendas and APs' representations. Written summaries of the oral submissions presented at the Compulsory Acquisition Hearings together with action points and post-Hearing notes were submitted by the Applicant ([REP6-062] to [REP6-066]). Similar post-Hearing submissions were made by APs, the relevant parts of which are addressed later in this Chapter.
- 10.5.9. The Applicant made a further change request on 11 December 2020 after Compulsory Acquisition Hearing 2 and between Deadlines 5 and 6 (change request 2). This also added land to the Order limits under the CA Regulations ([AS-051] to [AS-055]). The ExA accepted this as a material change into the Examination [PD-026]. Representations from APs and IPs, in relation to the additional land sought, were made at Deadline 7a and responses to these representations received at Deadline 7c [PD-032].
- 10.5.10. Parties who responded with information to update the Book of Reference in relation to the Eastney and Milton Piece Allotments were then added ([REP6-001] and [REP6-023]) and advised of their opportunity to be heard at a further Compulsory Acquisition Hearing (3) [PD-032].
- 10.5.11. In the light of the responses to ExQ1, other written submissions and matters raised at Hearings, the ExA asked several CA related further written questions (ExQ2) (references CA2.3.1 to CA2.3.17) [PD-031]. The Applicant provided responses to ExQ2 at Deadline 7 [REP7-038]. APs and IPs also responded.
- 10.5.12. The Applicant made a final change request at Deadline 7 (change request 3) that removed land from the Order limits and amended some of the rights sought over land [REP7-078]. The ExA accepted this as a non-material change into the Examination [PD-033].
- 10.5.13. The ExA held Compulsory Acquisition Hearing 3 on 19 February 2021. The ExA issued an agenda [EV1-015]. At the Hearing, the ExA pursued a number of matters with the Applicant and APs as set out on the agenda and APs made representations. Written summaries of the oral submissions presented at the Compulsory Acquisition Hearing together with action points and post-Hearing notes were submitted by the Applicant ([REP8-056] to [REP8-063]). Similar post-Hearing submissions were made by APs, the relevant parts of which are addressed later in this Chapter.

- 10.5.14. The Applicant then made submissions at the final Deadline (9) with a draft DCO and responses to submissions made on or before Deadline 8. The Examination was closed as timetabled on 8 March 2021 [PD-038].

10.6. THE APPLICANT'S CASE

Introduction

- 10.6.1. The Applicant's case for the grant of CA and TP powers is set out in the final Examination Statement of Reasons [REP8-008] together with the final Funding Statement [REP6-021] and the final Book of Reference [REP8-010].
- 10.6.2. The Statement of Reasons explains that it forms part of a suite of documents accompanying the application and should be read alongside those documents, which include:
- the final Examination Land Plans [REP7-003];
 - the final Examination Book of Reference [REP8-010];
 - the Funding Statement [REP6-021];
 - the Needs and Benefits Report, addenda and errata ([APP-115], [REP1-136], [REP7-064] and [REP7c-008]).
- 10.6.3. Additional information in relation to Crown land and Ministry of Defence land was submitted in response to the ExA's questions and in further representations submitted by the Applicant as previously described.
- 10.6.4. The Applicant describes the land subject to CA in section 5 of the Statement of Reasons [REP8-008].

Need for Compulsory Acquisition powers

- 10.6.5. The draft DCO contains powers to acquire land, new rights and the imposition of restrictions that are necessary for the construction, operation and maintenance of the Proposed Development ([REP8-008], section 6). No CA powers are sought for the marine cable seaward of mean low water springs.
- 10.6.6. The Applicant has undertaken assessments to obtain as much certainty as possible about the most appropriate cable route, taking into account known constraints and reasonable alternatives ([APP-117], [APP-353] and [REP1-152]). Some flexibility is essential to deliver the Proposed Development successfully. The Applicant is seeking consent to lay the cables anywhere in a defined corridor, because the alignment of the cable route would need to take account of existing utilities and design flexibility to optimise delivery of the Proposed Development.
- 10.6.7. In addition, while the preferred cable route would be through Milton Common to avoid disruption to highways, the history of the Common as a landfill presents uncertainty as to its suitability for cable installation.

Route options are therefore included for flexibility subject to design feasibility.

- 10.6.8. The Applicant has considered the interests it needs for the Proposed Development in relation to each plot of land ([REP8-008] paragraph 6.3.1). It considers that it is only necessary to acquire all freehold and leasehold interests in a limited number of plots:
- for the converter station at Lovedean;
 - potentially to widen the highway at the access to the converter station by the junction of Broadway Lane and Day Lane;
 - for the optical regeneration stations near the landfall.
- 10.6.9. This land is shaded pink on the Land Plans [REP7-003].
- 10.6.10. The right to install, operate and maintain the cables would be required for the whole of the route from the landfall to the converter station and on to the Lovedean Substation. The exercise of CA powers over land in private ownership below the highway would be rare in occurrence, such as to avoid existing utilities.
- 10.6.11. The new connection works rights land is shaded blue on the Land Plans. Rights of access to install and maintain the cable, and landscaping rights are also required over this land.
- 10.6.12. Where the four-cable route is to be trenched, two cables would be installed in each of two trenches. A typical easement rights width would be 11m, allowing 1m for each trench, 5m between the trenches and 2m either side of each trench for maintenance and protection of the cables.
- 10.6.13. Cable installation by horizontal directional drilling (HDD) would require a wider easement as each cable would need its own bore. The bores would also splay out from the launch and reception pits for thermal independence and to reduce drilling risks.
- 10.6.14. The Applicant considers that it is necessary to create a permanent right of access, with landscaping rights where required:
- to the converter station site;
 - to the cable corridor at a site off Eastern Road;
 - at the Eastney and Milton Piece Allotments over the existing paths.
- 10.6.15. This new access rights land is shaded purple on the Land Plans [REP7-003].
- 10.6.16. New landscaping rights are sought over the land shown green on the Land Plans for landscaping and ecological measures only. These are required for the visual screening of the converter station.
- 10.6.17. Whilst not CA, the temporary use of land would also be required during the construction, initial operation and 5-year maintenance of the

Proposed Development. This would also allow entry onto land for construction purposes in advance of the vesting of the relevant land or rights, minimising the amount of CA.

- 10.6.18. A power to impose restrictive covenants is required to:
- protect the cables from becoming exposed, damaged or built over;
 - prevent operations which may obstruct, interrupt or interfere with the cables or new land rights;
 - ensure access for future maintenance;
 - minimise CA.
- 10.6.19. The Applicant considers that such restrictions are necessary, justified and proportionate to preserve the integrity and future operation of the Proposed Development including associated matters such as the maintenance of landscape screening.
- 10.6.20. The five-year period in which CA powers could be exercised is said to be reasonable in relation to this 20km development. It would allow time for all pre-construction matters, the installation of the cable, and the permanent easement width to be confirmed, thereby minimising CA.
- 10.6.21. The Applicant asserts that all the CA and TP land shown on the Land Plans and described in the Book of Reference is required either for the purposes of the project, to facilitate it or for purposes incidental thereto. The exercise of all the above powers would therefore be necessary where land or rights over land cannot be acquired by voluntary agreement.

Justification for the use of powers of Compulsory Acquisition

- 10.6.22. The Applicant explains that location and extent of the CA powers for land and rights sought has been carefully considered to optimise the route, cause as little disruption as possible, minimise land take, and avoid the unnecessary sterilisation of land ([REP8-008] section 7). In addition, compensation would be payable to all affected landowners and occupiers.
- 10.6.23. CA powers are sought over land belonging to Statutory Undertakers together with powers to extinguish Statutory Undertaker rights and remove or relocate apparatus to allow the cables to cross. These powers are essential, particularly in areas congested with apparatus. Subject to Protective Provisions and any third-party agreements, the Applicant does not consider that construction would unfairly prejudice or impact any Statutory Undertaker ([REP8-008] Appendices B and C).
- 10.6.24. The Book of Reference details all third-party rights that would be extinguished, suspended or interfered with and which were identified through diligent enquiry ([REP8-010] Part 3). Unknown interests would still be subject to the provisions and protections provided by the draft DCO, to ensure the Proposed Development can be delivered without impediment in a reasonable and proportionate manner.

- 10.6.25. Landowners, lessees, tenants and occupiers identified by diligent enquiry have been notified and included in the consultation process in accordance with s42 of the PA2008. Such interests would be compulsorily acquired without negotiation. The Applicant notes that each has been contacted to enter into negotiations, apart from those with interests in highway subsoil. This is because the relevant owner has no use or enjoyment of that subsoil, would not be prejudiced by the CA and because the subsoil of a highway is not recognised to have any market value. Highway subsoil acquisition negotiation along the 20km length of the cable corridor would therefore not be a proportionate approach.
- 10.6.26. The Applicant has successfully concluded negotiations for some of the land over which rights are required. However, this land remains in the Order limits to ensure that it can be secured, as there may be unknown rights, restrictions or easements that would need to be extinguished if they arose. The Applicant would continue to negotiate wherever possible ([REP8-008] Appendix D). In view of the length of the cable corridor, it is reasonable and accords with CA Guidance to include provisions authorising CA over all the land required at the outset and then continue to negotiate in parallel.
- 10.6.27. Except for highway subsoil, there are only two unknown interests in the Book of Reference [REP8-010]. One relates to a mines and minerals reservation below a depth of 200 feet but, without power of entering on the surface, it would not impact on the Proposed Development. The second relates to a path, and the Applicant is working to resolve the ownership with the party believed to own the land.
- 10.6.28. In addition, it has not been possible to identify all the individual tenants of allotment plots in the Eastney and Milton Piece Allotments. Following diligent enquiries and the placing of site notices, the Applicant engaged with Portsmouth City Council, as landowner, to obtain this information, which has been included in the Book of Reference where received.
- 10.6.29. By linking the British and French electric power grids, the Proposed Development would make energy markets more efficient, improve security of supply and enable greater flexibility to adapt to different sources of renewable energy. The project would have the capacity to transmit up to 16,000,000 MWh of electricity per annum, which equates to approximately 5% and 3% of the total consumption of the UK and France respectively.
- 10.6.30. The Proposed Development would therefore be similar in terms of electrical capacity to a generating station that would qualify to be considered under the PA2008. The CA powers sought would enable the construction, operation and maintenance of the Proposed Development to realise the significant public benefits that would be derived from it ([APP-115], [REP1-136], [REP7-064] and [REP7c-008]). The Applicant considers that the significant public benefits would outweigh the private loss that would be suffered by those whose land would be acquired or affected. The Secretary of State can therefore be satisfied that there is a

compelling case in the public interest for the CA powers sought and the TP powers are justified.

- 10.6.31. The Applicant has explained how it is expected that the construction of the Proposed Development would be funded, as well as the acquisition of land or interests in land [REP6-021]. The Applicant therefore considers the Secretary of State can be satisfied that adequate funds are likely to be available for payment of compensation within the five-year period following the Order being made.
- 10.6.32. The Applicant has sought to minimise the amount of land that would be affected by the Proposed Development and over which CA powers are required. Significant public benefit would be realised from the Proposed Development. This public benefit would only be realised if there is no impediment to its delivery, which the CA powers sought are necessary to ensure.
- 10.6.33. The European Convention on Human Rights (ECHR) was incorporated into UK law by the Human Rights Act 1998. The Applicant has considered the potential infringement from the CA and TP powers sought. The Applicant considers that there is a compelling case in the public interest for the inclusion of the CA and TP powers in the Order and that, on balance, the significant public benefits outweigh the effects on persons who own property or rights over property that would be affected. Compensation, where appropriate, would also be payable.
- 10.6.34. In relation to Article 6 of the ECHR, persons potentially affected by the powers have had the opportunity to make representations in accordance with the PA2008. Should the Order be made, any person aggrieved by it may challenge it in the High Court. Any compensation may, in the event of dispute, be determined by the Upper Tribunal (Lands Chamber), an independent judicial body.
- 10.6.35. Overall, the Applicant considers that the Order strikes a fair balance between public benefit and the interference with the rights that would be affected. The Applicant therefore considers it would be appropriate and proportionate for the Secretary of State to make the Order, including the CA and TP powers.

Special considerations

- 10.6.36. Special category land would be affected by the CA powers sought ([REP8-008] section 8). There would, however, be no permanent physical infrastructure installed on the surface of the land. Furthermore, the CA sought would not affect the character of the land, since the surface would be restored to its former state. There may be a need for future maintenance due to cable failure or an emergency, but this would be rare and temporary in nature.
- 10.6.37. The Applicant therefore considers that the special category land, when burdened with the rights sought in the Order, would be no less advantageous to any person or the public than it was before. Section 132(3) of the PA2008 is therefore satisfied. Furthermore, although the

special category land comprises various forms of open space, none is subject to a dual designation with any other special categories. There is no suitable alternative land available for the period of construction.

- 10.6.38. To require the grant of the Order to be the subject of special parliamentary procedure under s132(2) of the PA2008 would delay the Proposed Development. This is said to be against the strong public interest for implementation at the earliest opportunity. The Applicant draws particular attention to the significant carbon emissions benefit that the Proposed Development would deliver and its contribution to helping the UK meet its target of net zero carbon emissions by 2050, as well as the significant economic stimulus at a time when it is imperative to boost the UK economy in the short term following the COVID-19 pandemic. Section 132(4A) of the PA2008 is therefore also satisfied.
- 10.6.39. The land affected by the Proposed Development includes land, rights or other interests owned by Statutory Undertakers ([REP8-010] Parts 2 and 3). Protective Provisions, together with third party agreements where required, would provide adequate protection for Statutory Undertakers. The Applicant considers that Statutory Undertakers affected by the Proposed Development would not suffer serious detriment to the carrying on of their undertakings as a result of the CA or TP powers sought. Section 127 of the PA2008 is therefore satisfied.
- 10.6.40. Construction of the Proposed Development would interfere with Statutory Undertakers' apparatus, but the Applicant considers that the necessity test of s138 of the PA2008 is met. The exercise of CA powers would comply with the Protective Provisions and any third-party agreements, ensuring the safeguarding of Statutory Undertakers' apparatus.
- 10.6.41. The CA powers in the Order relate to land that is held by the Crown or subject to Crown interests ([REP8-010] Part 4, and [REP7-004]). The Book of Reference states that any interests owned by the Crown are excluded from the ambit of the CA powers sought. Consent under s135 of the PA2008 is being sought from the Crown Estate and should be obtained soon after the close of the Examination ([AS-065] Question 3.18). A copy would then be provided to the Secretary of State.
- 10.6.42. Notwithstanding the absence of a consent under s135 of the PA2008, the Crown Estate has confirmed that it does not consider that the escheat land at Plot 3-21 forms part of the Crown Estate and therefore does not consider that it can grant a consent in relation to it under s135 of the PA2008 [REP8-060]. It also advises that it would be unlikely to interfere with the CA sought or the carrying out of any works under a DCO.
- 10.6.43. The Ministry of Defence has provided consent under s135(2) of the PA2008 [REP8-059].

Other consents

- 10.6.44. Other consents and licences are required for the Proposed Development, in the UK and France ([REP1-029], [AS-069], and [REP8-008] section 9). The Applicant is not aware of any reason why these other consents and licences would not be granted.

Conclusion on Applicant's case

- 10.6.45. The Applicant contends that the CA powers sought meet the tests of s122 of the PA2008, and all other relevant statutory requirements ([REP8-008] section 11). The CA and TP powers sought are no more than would be reasonably necessary for the Proposed Development to be delivered and operated without impediment and are proportionate.
- 10.6.46. The Order limits for the cable route include a necessary and proportionate level of flexibility to ensure the delivery of the Proposed Development without impediment. Furthermore, there is a compelling case in the public interest, in light of the need for the Proposed Development and the significant public benefits that would be realised by it, for the land or rights over land to be acquired through compulsion, where it is not possible to do so by private voluntary agreement.
- 10.6.47. The Applicant therefore submits that the Order be made and all CA and TP powers and other powers to interfere with land or rights over land sought in the Order be granted.

10.7. OBJECTIONS AND THE APPLICANT'S AND EXAMINING AUTHORITY'S RESPONSES

Introduction

- 10.7.1. This part of the Chapter considers representations made by APs and Statutory Undertakers under s127 and s138 of the PA2008, including all representations made at Compulsory Acquisition Hearings and Open Floor Hearings. The ExA has only identified the points considered to be important and relevant when reporting on the representations and the Applicant's responses.
- 10.7.2. The ExA's considerations on each of the individual objections made in relation to specific plots and the rights and powers sought are addressed, and each consideration then goes forward to inform the finding on the general case in respect of all plots.
- 10.7.3. The ExA has considered all the objections received. Many of the issues raised by objectors have also been considered in earlier parts of this Report when considering the planning issues arising in relation to the Proposed Development. The objections are considered here in the context of the application for the grant of CA powers and for the grant of powers of TP. Other objections have also been received from APs listed in the Book of Reference. However, these other objections refer to concerns not directly related to CA or TP and are not reported below.

- 10.7.4. The ExA examined CA objections against the tests set out in s122 and s123 of the PA2008, having regard to the CA Guidance and the provisions of the Human Rights Act 1998. The ExA also considered objections to the application for powers of TP under Articles 31 and 32 of the Recommended DCO and by those who may be able to make a claim under s10 of the Compulsory Purchase Act 1965 or Part I of the Land Compensation Act 1973. Similarly, the ExA had regard to the Human Rights Act in considering the application for the grant of CA and TP powers, and also the need and justification for such powers.
- 10.7.5. In considering these objections, the ExA took into account the CA Schedule provided by the Applicant at the end of the Examination. This identifies the Relevant Representation objections, where made, and the plots concerned [REP8-050].

Affected Persons having an interest in highway subsoil

Representations

- 10.7.6. Objections to CA have been received from some APs with ownership interests in respect of subsoil up to half of the width of the highway that fronts their properties. Many of these APs shared similar concerns, and the ExA has therefore grouped these, the Applicant's response and the ExA's consideration of the objections raised. The principal objections and related matters are set out below.
- 10.7.7. The following APs have interests in the subsoil below Moorings Way:
- P J Brown [REP1-298];
 - Janice Burkinshaw ([REP8-090], and [EV-092] to [EV-094]);
 - Susan Caffrey ([REP5-148], and [EV-092] to [EV-094]);
 - MP Doyle [REP6-144];
 - Mildred Middlemiss [REP1-291];
 - Denise Moore [REP4-048];
 - Diane C Roberts [RR-086] and [REP1-259];
 - RJE Roberts [REP1-274];
 - Jon Squires [REP1-276];
 - T A Stark ([REP1-307], [REP5-150], and [EV-018] to [EV-019]);
 - Mrs E V Stevens [REP1-292];
 - Claire Tear [REP1-248];
 - Michael F Ware [REP1-290];
 - Charlotte and Matthew Wright [RR-063], [RR-077] and [REP1-245].

10.7.8. The following APs have interests in the subsoil below other highways:

- Mr and Mrs Trevor Collingwood [REP6-141];
- N Craise ([RR-036] and [REP1-293]);
- Denmead Parish Council [RR-052], [REP5-079] and [REP9-070];
- Michael Johnson [REP1-289];
- Julian Lloyd [REP5-140];
- Louise Passells [REP6-151];
- Kelvin and Vanessa Pyne [RR-105] and [REP1-280];
- James and Joan Veryard ([RR-006], [REP1-273], [REP4-057], and [EV-014] to [EV-017]);
- Sue Wilkinson [REP1-306].

10.7.9. These objections express concern in terms of disruption, loss of access and impact on personal circumstances caused by the CA sought and consider that other route options would result in less disruption.

Applicant's response

10.7.10. This relevant owners of the subsoil beneath the highway have no use or enjoyment of that subsoil land. They would therefore not be prejudiced in any way by the rights to be granted over that land that are necessary for the Proposed Development to be installed and operated [REP1-131]. The approach taken here is also supported by many recent precedents. The Applicant has fully considered alternatives to the CA of highway subsoil.

Examining Authority's consideration

10.7.11. The ExA is content that rights in the subsoil below the highway would only be sought where it is not possible to locate the Proposed Development at a depth that is within the highway, and it is satisfied that alternative routes have been properly considered. The extent of the CA is therefore justified, and appropriate compensation provisions apply in the Recommended DCO. Any such subsoil rights would have protection pursuant to the NRSWA directly above them. It is the possession of the highway pursuant to the NRSWA that could potentially cause disruption, not the subsoil right below it. Portsmouth City Council has suggested that a payment to owners of the highway subsoil should be made, but the ExA can see no justification for such compensation.

Conclusion in relation to APs with an interest in highway subsoil

10.7.12. The ExA cannot see anything in these objections that would prevent the grant of the CA powers sought. The ExA is thus satisfied that land in the Order limits is required and proportionate for the Proposed Development and that there is a compelling case for the CA powers sought.

Allotment holders

Representations

10.7.13. Several objections to CA and TP have been received from APs as allotment holders at the Eastney and Milton Piece Allotments. The landowner, Portsmouth City Council, has confirmed that the land is 'garden allotment' and not 'fuel or field garden allotment' and therefore not special category land under the PA2008 [REP3-026]. Many of the allotment holders' concerns were similar, and the ExA has therefore grouped them, the Applicant's response and its consideration of the objections raised. The principal objections and related matters are set out below.

10.7.14. The allotment holders are:

- Janice Burkinshaw ([REP8-090], and [EV-092] to [EV-094]);
- Claire Camden [EV-092] to [EV-094];
- Sydney Dooley ([REP8-118], and [EV-092] to [EV-094]);
- Bernard George [REP5-105];
- Vic Haynes [REP1-316];
- Janet Jenkins [REP8-089];
- Cathy Kew [REP1-244];
- David Langley ([REP5-135], [REP6-149], [REP8-087], and [EV-092] to [EV-094]);
- Mark Lemon [REP5-144];
- Andrew Leonard ([REP5-104] and [REP5-145]);
- Julian Lloyd [REP5-140];
- Kelly Martin [REP1-279];
- Derek McCullough [REP5-136];
- Kirsten McFarlane ([REP5-142], [REP6-150], [REP8-057] paragraph 4.4.1(D), [REP8-091], and [EV-092] to [EV-094]);
- Robert Milner ([EV-092] to [EV-094]);
- Patrick O'Hara ([REP8-111] and [EV-092] to [EV-094]);
- Philippa Pettitt [REP5-146];
- Catherine Reddy [REP5-129];
- Diane C Roberts [REP1-259];
- Brian Simmons [REP5-128];
- T A Stark ([REP1-307], [REP5-150], and [EV-018] to [EV-019]);
- Linda Williams [REP1-283];
- Malcolm Williams [REP5-143];
- Jenny Woods ([EV-092] to [EV-094]).

- 10.7.15. Other objections were received from persons claiming to be allotment holders, but who did not appear in the Book of Reference following the issue and return of land information questionnaires for known allotment holders:
- Andrew CW Cooper [REP1-226];
 - Christine Elmer [REP8-121];
 - Ludmila Haskins [REP8-123];
 - Rachel Lajon ([REP8-057] paragraph 4.4.1(E), [REP8-115], and [EV-092] to [EV-094]).
- 10.7.16. The allotment holders describe how the use of their plots is important to them in terms of exercise and their well-being, social life and connections. The plots are seen as a haven of peace and tranquillity, where plot holders often have no other garden available. The plots have also seen much investment in time and money.
- 10.7.17. The allotment holders are concerned about disruption to their use of the plots following a bentonite breakout. Temporary possession powers are sought over a large area, and the need for surface works access could be frequent in such area of poor and variable made ground and retreating coastline.
- 10.7.18. The presence of near-surface groundwater could also increase the frequency of access for bentonite remedial works or other hydrological disturbances. There are also concerns relating to the feasibility of HDD in poor ground conditions, with a potential for trenching if HDD is not possible.
- 10.7.19. The allotment holders recall the loss of plots for a period following damage from previous tunnel boring under the site. They are concerned that the TP powers sought could result in the removal of vegetation and structures on the plots, together with lengthy replacement and serious disruption over a wide area, including to accesses and parking, particularly as the temporary access paths are generally not wide enough for vehicles and prone to damage from heavy machinery. The effect of chemicals on use of the plots and food production following a breakout is also raised and plots should be returned to their normal condition.
- 10.7.20. Many plot holders feel that consultation has been inadequate and are concerned that the Applicant may not have sufficient funds to complete the work. The plot holders also claim conflicts in terms of human rights, with a particular impact on disadvantaged sections of the community. The seasonal nature of the plot use means restrictions on access, particularly mid-summer disruption, can mean at least 12 months of wasted effort. Other route options would cause less disruption.

Applicant's response

- 10.7.21. The cable corridor would be installed under the allotments using HDD to avoid any surface effects ([REP6-069] Table 4.1). The HDD would be a minimum of 2.5m below ground level, and its use is secured by draft DCO Requirement 6 ([REP6-063] section 2.1, and [REP9-003]). No works would take place on the allotments.
- 10.7.22. The rights sought over the allotments are access on foot over paths for visual inspections during construction to allow for checks to be made for any breakout and rights to temporarily access the plots for clearing any such breakout, in the unlikely event that it occurs ([REP5-058] paragraph 3.82]). Bentonite is a Centre for Environment Fisheries and Aquaculture Science approved, non-toxic, clay lubricant [REP7c-016]. There would be no restriction on access for allotment holders, or removal or destruction of their plots or structures.
- 10.7.23. Operational maintenance would only involve surveying from the paths, including visual inspections for any settlement [REP9-005]. It would not be intrusive, with minimal impact on allotment users. Any maintenance of the cable would be from the entrance and exit pits outside the allotments.
- 10.7.24. The Applicant does not expect any residual damage to the allotment plots as all bentonite could be removed, and the area could then be raked over with hand tools, leaving only footprints.

Examining Authority's consideration

- 10.7.25. The ExA can see that the use of the allotment plots is very important to their holders in many ways. The use of HDD under the allotments to reduce surface effects is therefore an important factor in terms of mitigation. The TP powers sought under draft DCO Article 30 [REP9-003] would be required to clear any surface breakout of HDD drilling lubricant (bentonite clay) and would not include any right to trench across the plots or to access the plots for any other purpose. Access to any plots would have to be along the existing tracks that link the plots to the public highway. The CA powers sought on these tracks only allow passage on foot ([REP8-010] Plots 10-13, 14a and 14b), and this would restrict activities that could take place on the plots.
- 10.7.26. Any bentonite breakout clean-up in an individual allotment plot could require TP and may result in the loss of some produce or other vegetation. However, this would be limited to circumstances where a breakout occurred in a productive area. The potential for a breakout would be restricted to the area of HDD operations and the time at which drilling was undertaken. The removal of structures in plots would not be permitted under draft DCO Article 30.
- 10.7.27. The undertaker would determine how much possession was necessary, in terms of extent and duration, although Recommended DCO Article 30 would limit this to that which was necessary. Such possession could

prevent access by the plot holder after the undertaker had given as much notice as is reasonably practicable in the circumstances.

- 10.7.28. In the event of a breakout, there could be some loss of use. However, the ExA is satisfied that any disruption would be temporary and that Recommended DCO Article 30 would require any plots to be restored to the reasonable satisfaction of the plot holders and provide appropriate compensation for any loss or damage.
- 10.7.29. It appears to the ExA to be difficult to judge the risk of a breakout accurately and there would therefore be the potential for one or more to occur. Many factors appear to be at play, and, while the Applicant informed the Examination that the HDD under the allotments would be through competent geology, it seems to the ExA that the poor, possibly waterlogged and variable made ground above this and immediately under the allotments could either dissipate the loss of bentonite drilling fluid or provide it with a route to the surface.
- 10.7.30. Overall, the ExA is content with the reassurances given by the Applicant during the Examination that HDD is a tried and tested technology and that the likelihood of a breakout is very limited. Even if one did occur, the remediation measures secured through the Recommended DCO would mean that the level of disruption would be minimal and the effects reversible. The small risk and minor inconvenience that could be caused need to be balanced against the public interest and benefits that would result from the Proposed Development. The ExA has already considered need and the benefits that would result from the Proposed Development, and its views are that these would outweigh the risk of disruption to the allotments and their accesses. Similarly, in terms of the human rights of the plot holders, any interference with human rights would be for legitimate purposes, proportionate and justified in the public interest.
- 10.7.31. The ExA is satisfied that reasonable alternatives to the route below the allotments have been satisfactorily considered, and the width of the Order land at the allotments is necessary to allow for the best and most secure route to be found below the allotments. The width of the Order land is therefore not an indication of the width over which disruption could occur ([REP8-057] paragraph 4.4.1). The ExA is also satisfied that appropriate measures have been taken to identify and consult with APs within the extent of the Order land.

Conclusion in relation to allotment holders

- 10.7.32. From all of the above, the ExA cannot see anything in these objections that would prevent the grant of the CA or TP powers sought. The ExA is therefore satisfied that land which is the subject of these objections is required and proportionate for the Proposed Development and that there is a compelling case for the CA powers sought and that the TP powers are justified.

Other Affected Persons Peter and Geoffrey Carpenter

Representation and Applicant's response

- 10.7.33. The AP owns land at Little Denmead Farm ([REP8-050] ID1), of which some 12ha is to be the subject of the permanent CA of land, some 3ha for the CA of rights and some 0.2ha for TP [REP8-010]. The AP made more than 90 representations during the Examination the two largest of which comprised 466 and 376 pages of documentation ([REP7c-029] and [REP7c-030]). The AP has also made a costs application [REP8-099], which will be dealt with separately post-decision.
- 10.7.34. The AP has repeated its position on matters in numerous submissions. The Applicant responded to submissions at each deadline. This is a summary of the AP's position and the Applicant's response with matters grouped for clarity. Further detail can be found in the referenced documents. This summary, whilst taking all submissions and legal cases referred to by the AP into account, generally uses the latest deadline at which a matter was raised as a reference point and raises important and relevant points only.

The consideration of alternatives and the extent of Compulsory Acquisition

- 10.7.35. The AP argues that the Applicant has not properly explored all reasonable alternatives to CA and the extent of CA in accordance with the CA Guidance [REP8-096]. The AP suggests that this lack of action undermines the justification for CA.
- 10.7.36. The Applicant responds that it has undertaken a robust assessment of the alternatives to CA as part of the overarching consideration of the alternatives ([REP1-152], and [REP9-019] section 2) and has given a detailed explanation of why the AP's Plot 1-32 is required [REP6-063]. The reasonable alternatives to these elements to reduce the extent of CA have been explored and discounted as physically unsuitable in accordance with the Overarching National Policy Statement for Energy (NPS EN-1) paragraph 4.4.3 [APP-117]. The permanent access road, and TP for its construction, is required for operational and safety purposes, and the drainage, landscaping and security measures are necessary for, or to facilitate, the Proposed Development ([APP-402]; [REP2-008] LV1.9.5; [REP2-014]; [REP4-027]; [REP6-063]; [REP6-067] Table 1.1; [REP6-069]; [REP7-075] Appendix A; [REP7c-014] and ([REP8-012] paragraph 5.2.4.3). Draft DCO powers also provide a test of necessity ([REP7-075] Appendix B, paragraph 5.3).
- 10.7.37. The AP's position is that the permanent access road is not required for the operation of the converter station ([REP7c-029] Appendix G, and [REP8-104]).
- 10.7.38. The Applicant responds that the converter station access road would be required during operation ([REP6-063], [REP7-075], [REP7c-014], and

[REP8-065] paragraphs 2.13.4 to 2.13.13), and the AP's suggested alternative access arrangements would not be physically suitable ([REP6-062] and [REP6-063]). Fire and other emergency access would be needed, such as for failed high voltage plant removal and replacement and craneage ([APP-118] and [REP8-012] sections 5.2.9 and 5.3.6). Transformers represent the largest and heaviest single load, each weighing about 300 tonnes, and have dimensions which are typically 5m length x 3m width x 4m height ([REP7-021] paragraphs 5.2.3.41 and 5.2.3.42). The additional transformer to be provided on-site would be for resilience. The storage of spare transformers and on-site replacement, as suggested by the AP, would not be technically feasible ([REP7-075] Appendix A paragraph 2.8).

- 10.7.39. The AP also suggests that there may be no real risk of transformer failure ([REP7c-029] section I). The Applicant responds that transformer failure would have a major effect in terms of national energy capacity and proper access road provision must therefore be made ([REP8-065] paragraph 2.13).
- 10.7.40. The AP suggests reduced drainage proposals. The Applicant responds that these are based on the AP's alternative access and would be physically unsuitable ([REP7-075] Appendix A section 6). The sustainable drainage system has been developed in collaboration with Portsmouth Water, the Environment Agency and Hampshire County Council as Lead Local Flood Authority to ensure protection to Source Protection Zone 1 in this area ([REP7-055], [REP8-012] Appendix 3 and [REP8-039]).
- 10.7.41. The AP states that the CA for landscaping of a large area to change vegetation from farm to unfarmed plants is not necessary or proportionate, in conflict with CA Guidance ([REP6-135] paragraphs 105 and 106).
- 10.7.42. The Applicant responds that the proposed planting and seeding on the AP's land would provide essential visual mitigation and a wider public benefit ([APP-402], [REP2-014], [REP6-063] and [REP6-067] Table 1.1). The Applicant must therefore take responsibility for the management of these works for the lifetime of the development. The AP's reduced landscaping suggestions would not provide sufficient mitigation and enhancement as sought by the local authorities and the South Downs National Park Authority ([REP7-025], [REP7-026] and [REP8-052]).
- 10.7.43. The AP suggests that the Applicant's ability to remove persons from the surrounding land who seek to trespass at the converter station may be addressed by amending the specification of the inner security fence to reduce the extent of land subject to CA ([REP6-135] paragraph 21). The Applicant responds that the fence would accord with National Grid guidelines ([REP8-012] paragraph 5.2.7.3). The undertaker would therefore be able to prevent trespass on this land and security breaches ([REP7-075] Appendix A section 3).
- 10.7.44. The AP also suggests a unilateral planning obligation and Protective Provisions in relation to its land as part of its alternative to avoid

unnecessary impact from the CA proposed ([REP8-104] and [REP8-108]). The Protective Provisions are based on the Riverside Energy Park DCO. The Applicant responds that the obligation would not be lawful as it is a planning obligation given to no one, and therefore entirely unenforceable ([AS-065], Question 16.1). The Protective Provisions would remove land required in connection with the Proposed Development and make the scheme inoperable. They are therefore not acceptable.

- 10.7.45. In respect of all of the above, the Applicant responds that the CA and TP sought is necessary, appropriate and proportionate to the scale of the Proposed Development [REP7-075]. Furthermore, the AP's alternatives are not 'reasonable alternatives' or important or relevant to the Secretary of State's decision.
- 10.7.46. The AP seeks early confirmation of the converter station option, with any corresponding reduction in CA ([REP6-135] paragraphs 24 and 25). The Applicant responds that this matter is appropriately secured in the draft DCO ([REP5-034] paragraphs 4.24.3 and 4.24.4, [REP7-075] Appendix A section 4, and [REP9-003]).
- 10.7.47. The AP suggests that the undertaker alone would determine the land to be acquired in the Order limits ([REP6-138] section B paragraphs 8, 15 and 19). The Applicant responds that the powers are wholly appropriate ([REP7-075] Appendix B sections 2, 3 and 5).
- 10.7.48. The AP suggests significant interference with farming activities, including the loss of a viable business and the use of a right of way to the east towards Broadway Lane, due to the extent of CA and TP compared to the size of the holding. The AP also suggests interference with the AP's human rights ([REP1-232] section 6). The Applicant responds that the land required is no more than necessary, and the Proposed Development is nationally significant infrastructure ([APP-115], [REP1-136], [REP3-014] page 2-14, [REP7-064], [REP7c-008] and [REP8-008]). The Applicant recognises that the loss of land would have a significant impact on the farm and notes that the AP had substantial plans for the expansion of the farming business. However, the clearly demonstrated benefits would outweigh the harm caused by the Proposed Development and justify the interference with human rights for this legitimate purpose in a necessary and proportionate manner. Furthermore, adequate compensation provisions would be in place to cover any losses that could be incurred as a result of the effects of CA on the business.
- 10.7.49. The AP asserts there is no compelling case in the public interest for CA, only a private interest in obtaining a strategic energy distribution related land holding ([REP6-135] paragraph 21).
- 10.7.50. The Applicant highlights that the public benefits would clearly outweigh the private loss that would be suffered by those whose land is to be acquired ([APP-115], [REP1-136], [REP7-064] and [REP7c-008]). The need for, and the benefits of the Proposed Development are unchallenged by the AP ([REP7-075] Appendix A section 9). The

Applicant therefore considers that the CA sought is necessary and proportionate.

- 10.7.51. The AP suggests that the Applicant's attempts to negotiate have been inadequate. The Applicant responds that it has been engaged with the AP since 2016 and has consulted with them on the development of the proposals for the scheme and negotiated on acquisition ([REP7c-014] section 2). This included amendments following consultation feedback from the AP, such as the siting of the attenuation ponds. Each time the Applicant has provided revised heads of terms, it has sought to address the AP's concerns and the Applicant has accurately represented the position in the Statement of Reasons [REP8-009].

The availability of funding for Compulsory Acquisition and implementation

- 10.7.52. The AP contends that the solvency of the Applicant is in doubt and that this is relevant in terms of live compensation liabilities such as blight claims ([REP8-100] paragraphs 42 to 50). The Applicant responds that it is not insolvent and nor is there any reason why the Applicant would become insolvent in the future ([REP9-019] section 3, and [REP9-020]).
- 10.7.53. The AP suggests that, due to the proposed CA, the AP should be provided with a full, unredacted copy of the Applicant's KPMG Report, which addressed engagement with a group of debt providers and equity investors and showed interconnectors to be an attractive type of future investment ([REP1-091] reference CA1.3.1). The AP argues that not to do so would breach the AP's right to a fair hearing in terms of human rights ([REP6-138] section E paragraphs 24 and 25]). The Applicant responds to identify that there is no merit or foundation in law for the AP's suggestion. The point is of prejudice where confidential commercial information is not provided to them personally or into the Examination more generally, but none of the points made have any substance ([REP7-075] Appendix B, section 10).
- 10.7.54. The AP asserts that there is no reasonable prospect of funds becoming available for the CA sought ([REP6-138] section B paragraph 20, and [REP8-096]). The Applicant disputes this assertion and says that statutory requirements and CA guidance have been met ([REP8-065] section 3, and [REP9-019] section 2). The Applicant has also responded on this matter at various stages during the Examination with an updated Funding Statement [REP6-021], a response to ExQ2 ([REP7-038] reference CA2.3.2) and responses to the AP's submissions ([REP7-075] Appendix B section 6, and [REP7c-014]).
- 10.7.55. The AP contends that all CA powers should be removed from the draft DCO ([REP7c-030] paragraph 11). The AP adds that, to comply with the CA Guidance, the Applicant must, during the Examination, demonstrate that it either has the funds to fund the CA and the project more generally or that there is a binding framework to ensure funding, including for blight ([REP6-138] section E, and [REP7c-030] paragraph 5).

- 10.7.56. The Applicant responds that paragraph 17 of the CA Guidance does not include a need for the Applicant to be able, at Examination, to demonstrate the immediate availability of funding or secured funding ([REP5-034] paragraph 5.8, [REP7-075] Appendix B section 8, and [REP8-065] section 3). There is here a reasonable prospect of regulatory status being obtained and project financing secured within the statutory period ([REP1-091] reference CA1.3.10, and [REP7-075] Appendix B section 8)).
- 10.7.57. The AP submitted its own revised version of the Applicant's Funding Statement [REP8-094], which asserts that the Applicant's Funding Statement fails to accord with the CA Guidance in lacking reference to the importance of securing relevant regulatory exemption to facilitate funding of the Proposed Development. The Applicant has, in the updated Funding Statement [REP6-021] and other submissions ([REP5-034], [REP7-038] reference CA2.3.2, [REP7-075] Appendix B, [REP7c-014], and [REP8-065]) clearly demonstrated the rational basis on which it has properly concluded that there is a reasonable prospect of the project funding becoming available within the statutory period ([REP9-019] section 9).
- 10.7.58. The AP argues the Applicant's calculation of CA costs is not correct ([REP8-096] paragraph 47) and that the Applicant has underestimated the compensation that it would need to pay ([REP6-138] section D paragraph 3, and [REP7c-030] section E).
- 10.7.59. The Applicant responds that the full extent of the land likely to be acquired has been valued and the Applicant's likely maximum exposure reflects all CA and TP powers ([REP6-021] paragraph 5.6, [REP8-065] paragraphs 3.16 to 3.22, and [REP9-019] section 2)). It would be incorrect to include the cost of acquiring all freehold and leasehold interests in all land in the Order limits when that is not what consent is sought for and is not what the draft DCO seeks to authorise ([REP7-075] Appendix B section 7). In addition, the Applicant has settled option agreements in respect of similar land in the same area at prices which are not dissimilar to those offered to the AP.
- 10.7.60. The Applicant continues that matters relating to compensation may be disregarded by the Secretary of State in a decision, but they could be relevant to demonstrate a genuine attempt by either side to reach agreement [REP7c-014]. The Applicant considers that the compensation offered exceeds the market value. However, the parties remain far apart, with the AP's most recent counter-offer being many multiples greater than the Applicant's previous offer. The Applicant understands the counter-offer value to be not as agricultural land.
- 10.7.61. The AP asserts that all land in the Order limits and to which TP powers apply is at theoretical risk of being permanently acquired. The Applicant responds that this is wrong as the Applicant would have the power to seek only the necessary land and rights in the Order limits ([REP7-003], [REP7c-014] and [REP8-011]).

- 10.7.62. The AP contends that, from the date of a DCO application, there exists a compensation liability in relation to blight and that the Applicant needs to hold cash to cover any such claims ([REP8-093] section 3).
- 10.7.63. The Applicant responds that no such liability currently exists ([REP9-019] section 3). However, it does accept that the AP could, in principle, serve a blight notice on the Applicant. This would entail 3 to 6 months' marketing to support the notice, the opportunity for the Applicant to serve a counter notice and then the possibility of an Upper Tribunal ruling to require land acquisition at its unblighted value. There is no evidence of any actions being commenced in this regard.
- 10.7.64. The Applicant continues that there is no evidence of any current entitlement to issue a blight notice in terms of the Town and Country Planning Act 1990 (TCPA 1990). It has considered whether any landowner would be able to satisfy the statutory pre-conditions for the service of a blight notice and concluded that this was not likely because:
- the number of landowners who hold qualifying interests under s149(2) of the TCPA 1990 is extremely limited;
 - the majority of the impacts on land in the Order limits are temporary and limited to cable installation, with a significant proportion being under the highway, making it highly unlikely that blight claims could be made ([REP7-038] reference CA2.3.4);
 - engagement with the great majority of landowners has demonstrated that their interests could be secured by agreement, and no blight notices have been served to date.
- 10.7.65. If a blight claim was made and upheld by the Upper Tribunal, the cost of meeting this claim, and in so doing acquiring the land, would be met as all other development costs have been met to date [REP9-020]. The Directors of the Applicant have every confidence that financing would be available to address any blight claims. Experienced investors are aware that development costs cannot be forecast with complete accuracy. Having invested £35m and budgeted and arranged for a further £15m in respect of a £1.3bn project, it is fanciful to imagine that investors would not settle a relatively small claim of this nature, in respect of land which is essential to the Proposed Development and would in any event need to have been acquired in due course.
- 10.7.66. Many DCO projects, even those promoted by an established utility company, will be made in the name of a special purpose company that will not itself have cash available to cover blight claims. The Applicant is not aware that the Secretary of State has refused to grant DCOs in such cases or required guarantees in respect of blight over and above CA costs.
- 10.7.67. If the AP's position is correct, it would be impossible for private investors to provide early funding for projects which they intend ultimately to finance with debt and equity during the construction phase, as is the case here, where there was a possibility of blight notices being served.

The Applicant's funding model is a common approach to project finance, and one which is essential to the development of UK, and indeed global, infrastructure.

- 10.7.68. The AP suggests that funding has not been available for the investigation of alternatives [REP8-096]. The Applicant responds that it has invested £35m in the development of the project, which has included the exploration of reasonable alternatives ([REP6-021] and [REP9-019] section 2). The Applicant has also sought to negotiate option agreements with the AP and others, again incurring the costs of doing so. It has concluded and entered into option agreements with other parties, such as most recently Network Rail in respect of the micro-tunnelling beneath the railway.
- 10.7.69. The AP claims that the definition of 'undertaker' creates uncertainty in terms of who claims for compensation could be enforced against and their capacity to meet such claims ([REP7c-030] section G). The Applicant responds that CA powers cannot be exercised until funds for compensation are secured and liabilities would be enforceable against the guarantor ([REP9-003] Article 51). Transfer of the Order powers to another entity is also subject to Secretary of State consent prior to the time limits for claims for compensation ([REP7-075] Appendix B section 12).

Compliance

- 10.7.70. The AP alleges that the Applicant has misled the ExA and that the ExA has fundamentally failed to comply with relevant procedures in terms of the CA and Environmental Impact Assessment (EIA) Regulations, and to make rational, evidence-based decisions in relation to change request 2 [REP8-106]. The AP suggests that these failures undermine the justification for CA.
- 10.7.71. The Applicant responds that the CA Regulations have been followed and the AP has not been prejudiced ([REP9-019] paragraphs 8.14 to 8.41). The AP has been involved in all of the processes, which have been correctly followed, has participated in the Open Floor Hearings and Compulsory Acquisition Hearings in relation to change request 2, and has made many submissions on the matter ([PD-032] and [REP8-057] section 4.5). The AP has therefore had ample opportunity to raise any matters that it wishes to in relation to change request 2.
- 10.7.72. The AP questions whether the CA Regulations allow for land outside the originally submitted Order limits to be considered as 'additional land' [REP8-106]. The Applicant responds ([REP9-019] paragraph 8.4 to 8.13) that there is nothing in the CA Regulations, other legislation or common law which provides that land not within the original Order limits cannot be authorised for CA where the s123 of the PA2008 tests are satisfied ([PD-026], [AS-051] and [AS-053]).
- 10.7.73. The AP alleges that the ExA incorrectly considered the implications of change request 2 for the outcome of the EIA when determining the

materiality of the changes ([REP8-106] paragraph 66). The Applicant responds that it is clear that the ExA has correctly summarised the information on the changes sought and taken it into account when determining that the proposed changes do not materially alter the original application ([AS-054], [PD-027] and [REP9-019] paragraphs 8.42 to 8.45).

- 10.7.74. The AP puts forward a collateral challenge to the making of the s35 Direction by the Secretary of State. It is contended that the commercial use of the surplus fibre-optic cable capacity and related buildings does not sit in the field of energy or other fields for the purposes of 14(6) of the PA2008, and the Secretary of State therefore cannot make such a Direction ([REP7c-029] section B and section E). It is further contended that the PA2008 does not allow a Direction to be made in respect of a project addition that entails a commercial profit ([REP7c-029] section D).
- 10.7.75. The Applicant sets out why the Direction by the Secretary of State was within the powers available ([REP1-127], [REP7-038] and [REP8-065] section 2). It notes that, whether the conclusion reached is that commercial use of the fibre-optic cable infrastructure is development for which development consent is required or is development that satisfies the legal requirements for Associated Development, the Secretary of State's Direction was lawfully made.
- 10.7.76. The AP seeks to rely on the decisions in relation to the Swansea Bay Tidal Lagoon and Thorpe Marsh Gas Pipeline DCOs in supporting its contentions ([REP7c-029] section A, section F and section I). The Applicant responds that in the Swansea Bay DCO there was no s35 Direction and such Associated Development was not capable of being authorised for that project in Wales. In the Thorpe Marsh DCO, there was also no s35 Direction ([REP8-065] section 2).
- 10.7.77. The AP further argues that the commercial use of the fibre-optic cable and associated buildings is not part of the authorised development ([REP6-135] paragraph 63(d)). The Applicant responds that the commercial use of the fibre-optic cable is an integral part of the development in the s35 Direction ([AS-039] and [AS-040]). It is therefore the case that the related signal-enhancing and management equipment is also part of the development. The Applicant considers buildings associated with the use of the cables to be Associated Development ([REP7-075] Appendix A section 7).

Impediments to implementation and Compulsory Acquisition

- 10.7.78. The AP suggests many impediments to the implementation of the Proposed Development which it says could place the Applicant in conflict with the CA Guidance and undermine the justification for CA. The AP argues that the Applicant has not demonstrated that it has taken into account the need to obtain any operational and other consents and the Secretary of State is therefore 'unable to know' whether a number of potential risks or impediments to the implementation of the Proposed

Development are being properly managed ([REP8-100] paragraphs 5, 25 and 26).

- 10.7.79. The Applicant responds that it has explained its interpretation of the CA Guidance ([REP8-065] section 3). Paragraph 9 of the CA Guidance lies under the heading of 'General Considerations' and advises applicants that they should demonstrate that 'there is a reasonable prospect of the requisite funds for acquisition becoming available' as part of satisfying the Secretary of State that the s122 of PA2008 requirements are met. Further guidance on funding appears under the heading 'Resource implications of the proposed scheme' in paragraphs 17 and 18. These paragraphs identify factors that are relevant to assessing whether the 'reasonable prospect' test in paragraph 9 is met.
- 10.7.80. The Applicant continues that the CA Guidance then turns to 'Other matters', which must mean matters other than the 'Resource implications of the proposed scheme' which are dealt with in the previous section. The AP is therefore wrong to contend ([REP8-100] paragraph 22) that the funding can qualify as an impediment for the purposes of paragraph 19.
- 10.7.81. Furthermore, the AP is wrong to contend, under paragraphs 9 and 17, that the CA Guidance applies a higher test for CA funding than for project funding and that the reasonable prospect test excludes the exercise of judgement ([REP8-100] paragraphs 16 to 18).
- 10.7.82. Paragraph 17 of the CA Guidance relates to CA and implementation funding. Together with paragraph 18, it provides guidance on the evidence that is likely to be required by the Secretary of State in forming the judgments required by s122 of PA2008. Contrary to what the AP has asserted ([REP8-100] paragraph 18), paragraph 17 does not set an 'implications' test. It is, however, concerned with the evidence likely to be required in the generality of cases to enable the Secretary of State to be satisfied that the statutory tests are met and does not itself set a test. The word 'implication' is simply used as a noun. There is, therefore, no conflict between paragraphs 9 and 17.
- 10.7.83. Finally, the AP addresses paragraph 19 of the CA Guidance ([REP8-100] paragraphs 20 to 26). The Applicant responds that paragraph 19 simply stresses that applicants will need to be able to demonstrate that potential risks and impediments have been properly managed and that any other physical and legal matters have been taken account. From all of the above, the Applicant considers that Paragraphs 9 and 17 to 19 of the CA Guidance have been satisfied ([REP9-019] section 3).
- 10.7.84. The AP suggests that the Applicant's exemption application to the EU Agency for the Cooperation of Energy Regulators (ACER) cannot now be progressed ([REP8-100] paragraphs 40 and 41, and Appendix 1).
- 10.7.85. The Applicant responds that this application has been remitted to the ACER board of appeal following the Applicant's successful appeal to the General Court of Justice of the EU ([REP9-019] sections 2 and 3). The ACER board of appeal is bound to follow the judgment of the General

Court and the Applicant therefore considers that it is in a strong position on this exemption application ([AS-069] section 3, [REP1-091] CA1.3.2, [REP5-034], [REP6-021] paragraphs 8.3 and 8.4, and [REP6-062]). The board of appeal of ACER has resumed proceedings, and the board must be presumed to be competent to take a decision on the exemption application [REP8-065].

- 10.7.86. The AP raises the implications of retained EU legislation post-Brexit for the Applicant's opportunities for securing an exemption under the terms of the Trade and Cooperation Agreement between the UK and the EU (TCA) ([REP8-100] paragraphs 32 to 39).
- 10.7.87. The Applicant responds that it has previously submitted a partial exemption request to Ofgem and the Commission de Régulation de l'Energie, which regulates the energy sector in France, pursuant to the EU Electricity Regulation. This request was brought to an end on the basis that they no longer had legal powers to assess the exemption. Exemption regimes are, however, retained in the UK in a similar form to the EU Electricity Regulation, and the Applicant has confidence in its ability to obtain an exemption under the TCA [AS-069]. This is because:
- the TCA takes precedence over national and EU regulations;
 - the TCA commits the UK and the EU to cooperate on energy interconnectors;
 - the close alignment of each exemption regime.
- 10.7.88. The Applicant continues that the Secretary of State can therefore consider the prospects of an exemption being granted to the Applicant following the ACER appeal or under the TCA. The risks have been taken into account and properly managed as required by the CA Guidance ([REP9-019] section 3). There is more than one pathway to securing the necessary exemption, and both have a reasonable prospect of success.
- 10.7.89. The AP asserts that the Applicant would be reliant on a separate grant of planning permission for the delivery of the National Grid Lovedean Substation extension [REP8-100]. The Applicant responds that the extension is part of the works for which development consent is sought. There is therefore no such impediment ([REP9-019] section 3).
- 10.7.90. The AP's contends that the Applicant should have considered the risk of not obtaining CA powers. The Applicant responds that this is illogical. The Secretary of State must consider whether this is an impediment in deciding whether to include CA powers in any made order ([REP9-019] section 3).
- 10.7.91. The AP also contends that there is no evidence that the scheme would be attractive to the market without the commercial use of the surplus fibre-optic cable capacity. The Applicant responds that it has demonstrated that the scheme is not dependent on funding from commercial telecommunications [REP1-127].

- 10.7.92. The AP contends that the scheme at the end of the Examination is very different to that applied for. Change requests 1 and 2 have added land to the Order limits and change request 1 and change request 3 removed land. The Applicant responds that none of those changes has resulted in the scheme itself being amended ([REP9-019] section 3).
- 10.7.93. The AP questions the position in relation to CA if neither the Crown Estate nor the Ministry of Defence consents are obtained ([REP8-100] paragraphs 54 to 61). The Applicant responds that it has been properly managing these impediments and has secured Ministry of Defence consent and Crown Estate consent in relation to escheat land ([REP8-059] and [REP8-060]). The Applicant is in advanced discussions with the solicitors representing the Crown Estate in relation to the remaining consent required ([REP9-019] section 3).
- 10.7.94. The AP asserts that the Applicant has included, in the draft DCO, development that is not assessed in the application ES [REP8-102]. The Applicant confirms this is not correct ([REP9-019] paragraphs 6.1 to 6.8).
- 10.7.95. The AP contends that because the ES future baseline includes a National Grid Lovedean Substation extension, for which planning permission may have lapsed, the assessment of landscape and visual impacts is flawed [REP8-102]. The Applicant responds that the assessment is robust and did not rely on mitigation planting associated with the substation extension ([REP9-019] paragraphs 6.9 to 6.19).
- 10.7.96. The AP questions the enforceability of the Applicant's submitted planning obligations [REP8-104]. The Applicant responds that this matter is fully reflected in the draft DCO [REP8-043]. The Development Consent Obligations are therefore secured, and there is no impediment to obligations being entered into in the future in compliance with s106 of the TCPA 1990 ([REP9-019] paragraph 11.16).
- 10.7.97. The AP alleges that the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 have not been followed in terms of the submission of environmental information during the Examination ([REP8-106] paragraph 48, and [REP8-099]). The Applicant responds that there is no specified procedure in the EIA Regulations for the submission of, or consultation on further environmental information submitted by an Applicant in the absence of a request from the ExA ([REP9-019] paragraphs 8.46 to 8.52, and 11.13 to 11.15).
- 10.7.98. The AP contends that the Applicant has not re-assessed the impacts of the Proposed Development on the AP's residential properties taking into account the effects of ash die-back disease and a realistic worst case baseline, and did not take account of the AP's alternative proposal that they would manage Stoneacre Copse against the impact of the disease ([REP8-107] section E and Appendix 1). The Applicant responds that has been considered ([REP9-019] section 9).
- 10.7.99. The AP is unaware of any EIA or visual evaluation of the lightning masts undertaken, despite these being a necessary functioning part of the

converter station ([REP6-135] paragraph 31). The Applicant responds that the Landscape and Visual Impact Assessment maximum parameter design envelope is defined on the building Parameter Plans, which refer to lightning masts. The approach taken is therefore appropriate and robust ([APP-118], [REP7-075] Appendix A, section 5 and [REP8-012]).

Examining Authority's consideration

10.7.100. As can be seen from the summaries above and the representations made, the parties involved reflected on matters relating to the interests of the AP in great detail during the course of the Examination. Similarly, the ExA has carefully considered the objection and responses, including the legal cases referred to by the AP.

10.7.101. The ExA finds nothing to dissuade it from agreeing with the Applicant's response to the objection in all areas. The ExA's positions on the main points of the AP's objection are as follows. These positions, although briefly reported, take fully into account the cases made by the AP and the Applicant.

The consideration of alternatives and the extent of Compulsory Acquisition

10.7.102. The ExA finds that the assessment of alternatives raised in this objection was robust. The ExA agrees with the Applicant's justification for the extent of CA and TP in relation to the AP's land. In particular, the need for the converter station access road and security must be seen in the context of the importance of the Proposed Development to UK electricity supplies and its rural and somewhat isolated location.

10.7.103. The ExA is satisfied that the AP has a right of way within the Order land, from its main landholding to Broadway Lane, although details of the nature of this right have not been provided to the Examination. Whilst not included in the Book of Reference, the ExA is content that appropriate compensation provisions exist in the Recommended DCO and that the TP power could only be exercised for activities in connection with the construction or reasonable maintenance of the converter station. It is also of note that any access facilitated by the TP power would be superseded by the construction of the permanent access road. The ExA is therefore content with the provisions in the Recommended DCO in this regard.

10.7.104. Landscaping has been requested by the relevant authorities charged with the protection of the character of the surrounding area, including the South Downs National Park Authority, and the area's landscape sensitivity is reflected in the need to obtain design approvals. The ExA is therefore satisfied that extent of CA and TP in relation to this objection is required and proportionate to the Proposed Development. In coming to this view, the ExA has taken into account the personal circumstances and human rights of the AP in relation to Stoneacre Copse.

10.7.105. The ExA has considered the AP's representations and is satisfied that any interference with farming activities and the human rights of the AP would

be clearly outweighed by the need for and public benefit from the Proposed Development. If issues regarding financial loss and viability arise, the ExA is also satisfied that they can be considered under the compensation provisions in the Recommended DCO and that this can cumulatively take into account all land in which Mr Peter Carpenter has an interest. The ExA is also mindful that, in appropriate circumstances, the compensation provisions contemplate situations where there may be a total extinguishment of a business.

- 10.7.106. The ExA agrees with the Applicant that the AP's suggested unilateral obligation could have implementation difficulties. It would also create a potential impediment, in terms of providing the AP with an ability to prevent the Proposed Development taking place, a major consideration in the ExA's recommendation. Such an impediment must be balanced against the need for and public benefit from the Proposed Development. The ExA's position is that this need and benefit vastly outweigh the advantage of any safeguarding that the obligation may give to the AP, particularly when the compensation arrangements in the Recommended DCO are taken into account. The ExA does not therefore agree with the AP's obligation suggestion.
- 10.7.107. In a similar manner, in terms of the AP's ability to prevent the Proposed Development taking place, the ExA does not agree with the AP's suggested Protective Provisions. Moreover, the AP's suggestion would prevent the CA powers being used, prevent the construction of anything related to commercial telecommunications on the land and disapply many of the general powers in the Recommended DCO. The Protective Provisions included in the recent Riverside Energy Park DCO are very different in terms of their much-reduced scope compared to the AP's suggestions. The ExA does not therefore agree with the AP's suggested Protective Provisions.

The availability of funding for Compulsory Acquisition and implementation

- 10.7.108. In terms of matters raised by the AP and the Applicant's responses, the ExA has not seen anything to suggest that the Applicant is not of sound financial standing and that the necessary funds have not been, and would not be, available to finance the project, including any potential for blight claims. The ExA is satisfied that the Applicant's cost estimates, including the matter of blight claims, have been appropriately compiled in a justified manner and sufficient information on funding has been provided. Furthermore, the Recommended DCO secures CA funding outside the need to source project and CA funding from the market.

Compliance

- 10.7.109. Notwithstanding the points made, and examples quoted by the AP, the ExA is content that the procedures followed to date accord with the Regulations and guidance identified in the objection. Furthermore, the AP contributed extensively in the Compulsory Acquisition and Open Floor Hearings in relation to change request 2. There is also nothing before the

ExA to suggest that the change request 2 additional land that was not identified in the application Book of Reference could not be accepted into the Examination.

- 10.7.110. The ExA has fully explained its reasoning as to why it is satisfied that the ES Addendum submitted with change request 2 did not result in materially different outcomes in terms of significance of effects ([PD-026] and [PD-027]). Nevertheless, change request 2 would represent a material change to the application as a result of the inclusion of additional land.
- 10.7.111. Moreover, the ExA has already found that, in accordance with the s35 Direction, the use of the surplus fibre-optic cable capacity for commercial telecommunications and the associated buildings are development for which development consent is required by the Secretary of State. The identification of other made DCOs by the AP does not change the ExA's views in this regard.

Impediments to implementation and Compulsory Acquisition

- 10.7.112. The ExA finds nothing in this objection to suggest that the Applicant has not properly managed potential risks or impediments to funding and implementation in accordance with the relevant guidance. Furthermore, the ExA has already found the EIA to be appropriate and in accordance with the relevant guidance and is satisfied that the ES reflects the Proposed Development at the close of the Examination. The AP's representations do not change this finding in any way.

Overall summary of ExA's considerations in relation to Peter and Geoffrey Carpenter

- 10.7.113. From all of the above, the ExA cannot see anything in this objection that would prevent the grant of the CA or TP powers sought. The ExA is therefore satisfied that land which is the subject of these objections is required and proportionate for the Proposed Development and that there is a compelling case for the CA powers sought and that the TP powers are justified.

Mr Peter Carpenter and Mrs Dawn Carpenter

Representation

- 10.7.114. Land owned by this AP would be subject to CA in terms of permanent acquisition (approximately 5ha) and the acquisition of new landscaping rights (approximately 0.3ha) ([REP8-050] ID2). The permanent acquisition of land would reduce their land holding to such an extent to cause serious interference and detriment, particularly when combined with other land in which Mr Peter Carpenter has an interest and is also subject to the CA sought by the Applicant ([RR-054], [REP1-229] and [REP1-268]). The AP would no longer be able to make a living from farming due to a lack of land. The AP also questions the justification for the landscaping rights sought when landscaping would be incorporated in

the land to be permanently acquired. Furthermore, the rights may prevent the AP from re-shaping the remaining parts of the land.

- 10.7.115. The AP believes that the Applicant has failed to explore reasonable alternatives and the disproportionate harm and loss of interest significantly outweighs any public benefit. The proposed interference with the AP's rights is therefore not justified having regard to Article 1 of the First Protocol to the ECHR and does not meet the tests for CA.

Applicant's response

- 10.7.116. The need and justification for the extent of CA sought has been addressed ([REP8-008], and [REP1-160] Table 5.1). The reasonable alternatives studied taking into account technical, cost and environmental considerations are explained in the ES ([APP-117] and [REP1-152]).

Examining Authority's consideration

- 10.7.117. The ExA has considered the AP's representations and is satisfied that any interference with farming activities and the human rights of the AP would be clearly outweighed by the need for and public benefit from the Proposed Development. If issues regarding financial loss and viability arise, the ExA is also satisfied that they can be considered under the compensation provisions in the Recommended DCO and that this can cumulatively take into account all land in which Mr Peter Carpenter has an interest. The ExA is also mindful that, in appropriate circumstances, the compensation provisions contemplate situations where there may be a total extinguishment of a business. Furthermore, the CA sought, and alternatives considered meet the relevant statutory tests and guidance.

Patricia Conran

Representation

- 10.7.118. The AP's land is used for grazing horses, and permanent access rights are sought on some of this land to plant and maintain hedges and fencing ([RR-045], and [REP8-050] ID11). The AP's concerns are:
- equine health and safety during access to the land and from the planted species and fencing;
 - the loss of land value.

Applicant's response

- 10.7.119. Careful consideration would be given to equine fencing where it is required ([REP1-160] section 5). Discussions are ongoing with the landowner [REP8-008].

Examining Authority's consideration

- 10.7.120. The ExA is satisfied that relevant losses would be subject to appropriate compensation in the manner set out in the Recommended DCO and that adequate protections would exist to limit the extent and impact of the CA and TP powers sought.

Julie Elliott, Robin Elliott, Richard Elliott and Phillip Elliott

Representation

- 10.7.121. The AP's land would be affected by permanent easements through the centre of their holding and, from the limited information provided to date, the route is impractical from a land management viewpoint ([RR-194], and [REP8-050] ID18). The Applicant is relying solely on the CA powers sought.

Applicant's response

- 10.7.122. Discussions are ongoing with the AP on CA in the hope of reaching an agreement [REP8-008]).

Examining Authority's consideration

- 10.7.123. The ExA is satisfied that business disruption would be subject to appropriate compensation in the manner set out in the Recommended DCO and that engagement with the AP has continued during the Examination.

Kevin Flynn

Representation

- 10.7.124. The AP has a right of access over a public footpath that adjoins his rear garden ([REP8-010] Plots 1-52, 1-64 and 1-65). The public footpath would be subject to TP powers which could be inconvenient and prove dangerous when the garden is used for recreation [REP7-123].

Applicant's response

- 10.7.125. The farm track and public footpath is already used by agricultural machinery and heavy goods vehicles accessing grain stores ([REP7c-012] Table 2.7). The Applicant's use of this track would be temporary, during the initial stage of the construction, until a permanent access road is constructed further north [REP7c-016].

Examining Authority's consideration

- 10.7.126. The ExA is satisfied that adequate protections would exist in the Recommended DCO to limit the extent and impact of the TP powers sought.

Sue Gosham

Representation

- 10.7.127. The AP's land would be subject to new landscaping rights along a hedgerow boundary. The AP is concerned about the impact during and after the proposal ([RR-069], and [REP8-050] ID12).

Applicant's response

- 10.7.128. The Outline Onshore Construction Environmental Management Plan (Outline Onshore CEMP) would ensure that any construction impacts would be regulated. The area of rights to be acquired has been minimised and careful consideration would be given to fencing where it is required [REP8-008].

Examining Authority's consideration

- 10.7.129. The ExA is satisfied that adequate protections exist in the Recommended DCO to limit the extent and impact of the CA powers sought.

Mr Michael Jeffries and Mrs Sandra Jeffries

Representation

- 10.7.130. The AP's land is used for horse grazing and storage in connection with a car repair business. Part of the land sought also forms a moto-cross circuit which is said to be subject to a tenancy. The land would be subject to the CA of title and new landscaping rights ([REP8-050] ID3).
- 10.7.131. The AP considers that Applicant is not negotiating but is seeking to rely solely on the CA powers sought, having not sufficiently explored all reasonable alternatives. The AP questions the necessity and proportionality of the CA sought, and whether the Applicant has allowed sufficient funds for CA. The AP argues that the proposed landscaping would not be proportionate, or aid security, and any ecological benefit is not required for the functionality of the interconnector or justified in terms of the CA powers sought. Furthermore, the CA could result in the loss of the moto-cross circuit and the rental income from it. The AP is wholly dissatisfied with how they have been dealt with by the Applicant and considers that their human rights have been violated.

Applicant's response

- 10.7.132. The converter station location is required to be within 2 km of the existing substation due to factors including cable transmission losses, cable easement widths, footprint requirements, highway connections and environmental and residential amenity effects ([REP1-160] and [REP6-067]). The proposed location is the most suitable, being able to utilise the topography and existing vegetation for visual screening.
- 10.7.133. The AP's land sought, and that nearby, would accommodate the converter station, telecommunications buildings, attenuation ponds, the

access road and areas of landscaping [REP2-014]. The CA sought is only so much as is necessary for the chosen converter station option, aligns with the scale and national security significance of the project and results from engagement with statutory consultees, particularly on landscape and ecology ([REP3-014] and [REP7-074]).

10.7.134. No information has been provided to the Examination in relation to any moto-cross tenancy to enable it to be added into the Book of Reference. The Proposed Development, landscaping and ecological enhancements would significantly constrain other uses of the land sought and therefore the CA of rights only would not be appropriate, except where existing landscaping is to be maintained.

10.7.135. The Applicant has engaged with the AP, including face to face meetings. Heads of terms have been issued and discussed ([REP7-076] and [REP8-008]). Potential interferences are proportionate and necessary in terms of the Human Rights Act, striking a fair balance between public benefit and interference with the rights that would be affected.

Examining Authority's consideration

10.7.136. The ExA is satisfied that the CA and TP sought on the AP's land is justified and proportionate. The AP has had, and still has, the opportunity to provide information to the Applicant on the suggested tenancy, but there is no evidence that this has been done. The ExA is, however, satisfied that business disruption would be subject to appropriate compensation in the manner set out in the Recommended DCO. The ExA is also satisfied that engagement with the AP has continued during the Examination. Furthermore, the public benefit from the Proposed Development would outweigh any private loss in terms of human rights. Matters relating to CA funding are considered later in this Chapter.

Mr Robin Jefferies

Representation

10.7.137. The AP's land subject to CA includes part of a field used in connection with stabling and let to a tenant for horse livery ([REP8-050] ID4). The remaining part of the field would be too small to continue this use and sterilised to prevent any other use or development potential thus resulting in business and livelihood loss.

10.7.138. Generally, the extent of CA is unnecessary, disproportionate and unjustified, particularly in relation to the landscaping proposed. Furthermore, alternatives have not been sufficiently explored and the private loss significantly outweighs any public benefit. The resulting interference is therefore not justified in terms of human rights.

Applicant's response

10.7.139. Reasonable alternatives have been studied for the Proposed Development taking into account technical, cost and environmental considerations ([REP1-160] and [REP6-067]). The AP's land sought, and that nearby,

would accommodate the converter station, telecommunications buildings, attenuation ponds, the access road and areas of landscaping [REP2-014]. The CA sought is only so much as is necessary for the chosen converter station option, aligns with the scale and national security significance of the project and results from engagement with statutory consultees, particularly on landscape and ecology ([REP3-014] and [REP7-074]).

- 10.7.140. No information has been provided to the Examination in relation to any livery tenancy to enable it to be added into the Book of Reference. The CA sought would impact on the livery business from reduced grazing land, but this would not equate to the loss of the business and the AP's tenant's livelihood. The Proposed Development, landscaping and ecological enhancements would significantly constrain other uses of the land sought and therefore the CA of rights only would not be appropriate, except where existing landscaping is to be maintained.
- 10.7.141. The Applicant has engaged with AP, including face to face meetings. Heads of terms have been issued and discussed ([REP7-076] and [REP8-008]). Potential interferences are proportionate and necessary in terms of the Human Rights Act, striking a fair balance between public benefit and interference with the rights that would be affected.

Examining Authority's consideration

- 10.7.142. The ExA is satisfied that the CA and TP sought on the AP's land is justified and proportionate and that the consideration of alternatives meets the relevant guidance. The AP has had, and still has, the opportunity to provide information to the Applicant on the suggested tenancy, but there is no evidence that this has been done. The ExA is satisfied that business disruption would be subject to appropriate compensation in the manner set out in the Recommended DCO. The ExA is also satisfied that engagement with the AP has continued during the Examination. Furthermore, the public benefit from the Proposed Development would outweigh any private loss in terms of human rights.

Jackie Stevens

Representation

- 10.7.143. The AP's land includes garden land and rights over an access track ([REP8-050] ID15). Rights are sought to divert overhead cables and TP is sought over part of the access track. The AP is concerned about disruption.

Applicant's response

- 10.7.144. Mitigation measures to minimise disruption would be secured through the Outline Onshore CEMP. It is possible the diversion rights sought are covered under an existing wayleave agreement [REP8-008].

Examining Authority's consideration

- 10.7.145. The ExA is satisfied that adequate protections exist in the Recommended DCO to limit the extent and impact of the CA powers sought.

JR Sykes Farms

Representation

- 10.7.146. The AP's land is currently farmed with arable crops ([REP8-050] ID8). The AP is concerned about disruption.

Applicant's response

- 10.7.147. The terms of a voluntary agreement are agreed in principle, solicitors are instructed, and a legal agreement is being finalised [REP8-008].

Examining Authority's consideration

- 10.7.148. The ExA is satisfied that business disruption would be subject to appropriate compensation in the manner set out in the Recommended DCO.

Karen Holden-Craufurd

Representation

- 10.7.149. This IP is not an AP in the Book of Reference but is concerned about impacts on a private water supply pipe to her property near Salt Box Barn on Edneys Lane [RR-027].

Applicant's response

- 10.7.150. Each water supply crossing would be designed with the agreement of the service owner, who would define the parameters for the crossing, review the design, and be invited to attend the installation [REP1-160]. All crossings would be undertaken with a nominal clearance of 500mm between the Proposed Development and any service. The replacement of any temporarily severed water supplies as may occur would be secured under the Outline Onshore CEMP.

Examining Authority's consideration

- 10.7.151. The ExA is satisfied that adequate protections exist in the Recommended DCO to limit the extent and impact of the CA powers sought.

Atlas (Portsmouth) Limited

Representation

- 10.7.152. In general terms, the AP (the owner and operator of Holiday Inn Express Portsmouth North) is supportive of the Proposed Development but is concerned to maintain access to the hotel across the AP's land which is to

be subject to the CA of new rights for access ([RR-148], and [REP8-050] ID40).

Applicant's response

- 10.7.153. The Applicant is confident the rights sought can be agreed with the AP's landlord without having any impact on the AP's interests [REP8-008].

Examining Authority's consideration

- 10.7.154. The ExA is satisfied that adequate protections exist in the Recommended DCO to limit the extent and impact of the CA powers sought.

Investin Portsmouth Ltd

Representation

- 10.7.155. The AP's land comprises beach and concrete pillars ([REP8-050] ID50). The AP made a holding objection given the possible overlap of a development on the Fraser Range site and the CA sought in terms of extent and programme.

Applicant's response

- 10.7.156. The proposed cables would be installed under the intertidal and beach area, including the AP's land, using HDD [REP1-160]. As a result, the Applicant has a requirement for an easement for the cable route under the beach in the area owned by the AP. The Applicant is in discussions with the AP with regards to potential impacts on land within its control, has issued an offer of terms for a voluntary agreement and is engaged in active negotiations with the AP [REP8-008].

Examining Authority's consideration

- 10.7.157. The ExA is satisfied that adequate protections exist in the Recommended DCO to limit the extent and impact of the CA and TP powers sought. The AP did not make any further representation after its Relevant Representation.

Sainsbury's Supermarkets Limited

Representation

- 10.7.158. The AP's land comprises the access to and part of a supermarket car park together with access to an associated petrol filling station and car wash ([REP8-050] ID37). The extent of CA rights sought impact on the AP's management of the store, cause considerable disruption and result in significant losses. These CA rights sought represent a severe deviation from the strategic principle of the scheme that the Proposed Development is routed in the highway, as it is for much of its land route. In view of the private loss, the route should be retained in the highway where alternative options exist and should be utilised. Furthermore,

there is no justification for the extensive new rights sought over the AP's land.

Applicant's response

- 10.7.159. The Proposed Development has been routed through the AP's land to mitigate construction related traffic effects on the A2030 Eastern Road, particularly at its junction with Fitzherbert Road [REP2-014]. The AP's land lies immediately to the south of this junction. Immediately to the north of this junction, the route similarly avoids the highway by passing through the open space, special category land of Zetland Field.
- 10.7.160. To the south of the AP's land, a railway line must be crossed using trenchless methods. If the Proposed Development was to be routed in the highway, it would need to cross the railway in the highway bridge. The Applicant has sought to avoid this to minimise impact in terms of the structural integrity of the bridge, traffic over the bridge, and the future vulnerability of the cables [REP5-034]. The rights sought therefore reflect the least impactful route, and the extent has been reduced during the Examination [PD-033]. Partial closure of the car park could include the temporary suspension of 30 to 40 spaces on the western side of the car park, which has approximately 640 bays.
- 10.7.161. Construction in the supermarket, filling station and car wash access road would be facilitated through single lane closure to ensure that access is maintained at all times. Single lane closures would be required for up to one week per circuit to facilitate construction. This work could also take place overnight to mitigate the effect [REP8-008].
- 10.7.162. The alternative to the use of this access road would be to route the cables through the sloped verge between the supermarket car park and the A2030, cross the highway footway, which contains three sewers, two pairs of high voltage electricity cables, one low voltage electricity cable, three gas mains and two drains. The Proposed Development could not be accommodated in the footway but would have to be installed in the highway across the two busy A2030 junctions with Fitzherbert Road and Grove Road. The AP's land would therefore provide a much less impactful route [REP7-074].

Examining Authority's consideration

- 10.7.163. The ExA is satisfied that the CA and TP sought on the AP's land is justified and proportionate and that the consideration of alternatives meets the relevant guidance. There is much public benefit in avoiding disruption to the highway and the railway line in this congested area which would clearly outweigh the impact of the CA and TP sought. Moreover, the AP would be subject to appropriate and measurable compensation whereas disruption to infrastructure would have wider impacts beyond those which could be compensated.
- 10.7.164. The ExA is also satisfied that business disruption would be subject to appropriate compensation in the manner set out in the Recommended DCO. Moreover, given the size of the supermarket, the ExA considers

that all steps would be taken to reduce the potential for substantial claims, albeit for temporary land loss, under the terms of the Recommended DCO.

Shell U.K. Limited

Representation

- 10.7.165. The AP's land comprises a service station which adjoins the A2030 ([REP8-050] ID39). Whilst the AP does not oppose the principle of the proposed scheme, it has concerns in terms of disruption to its entrance and exit from the CA of access rights over this land, particularly for construction purposes [REP8-116].

Applicant's response

- 10.7.166. There is no alternative means of access to the proposed construction works at Farlington Playing Fields that do not pass through the AP's land [REP9-014]. The Applicant would continue to engage with the AP to ensure that its operations are adequately protected [REP8-008].

Examining Authority's consideration

- 10.7.167. The ExA is satisfied that adequate protections exist in the Recommended DCO to limit the extent and impact of the CA and TP powers sought and that business disruption could be settled in the manner set out in the Recommended DCO.

Southsea Caravan Park

Representation

- 10.7.168. Concerns are raised by Ian Daye in relation to disruption to tenants of the caravan park because of the rights sought to undertake the HDD construction process below the park [REP8-088]. Similarities are made with the protections offered at the Eastney and Milton Piece Allotments.

Applicant's response

- 10.7.169. The cable would be installed by HDD, with no effect on the surface of the land during construction [REP9-014]. There would be no restriction or intervention on vehicular movements in the park. The reinstatement approach at the allotments and the caravan park would be similar. Should they be affected by the HDD works, such as in the very unlikely scenario of bentonite breakout, both would be reinstated to their original state.
- 10.7.170. The Applicant engaged with the leaseholder of the caravan park, P J Estates Limited as an AP ([REP8-050] ID51), who does not have any issues with or objections to the CA sought [REP8-008]. The AP requested that the Applicant did not contact the caravan park occupiers. However, the Applicant placed notices outside the caravan park entrance and nearby. In discussions with the AP, it was not anticipated there would be

any impact on the interests of the occupiers of mobile homes at the park as they do not hold any interest in the subsoil. The occupiers have therefore not been included in the Book of Reference.

Examining Authority's consideration

- 10.7.171. The ExA is satisfied that adequate protections exist in the Recommended DCO to limit the extent and impact of the CA and TP powers sought. The AP has had, and still has, the opportunity to provide information to the Applicant on any tenancies, but there is no evidence that this has been done. The ExA is also satisfied that engagement with the AP has been appropriate and in accordance with relevant guidance.

Tudor Sailing Club

Representation

The AP's land includes an area used for parking and the storage of members' vessels which would have been subject to TP ([REP8-050] ID44). Alternative storage arrangements would be less secure [REP6a-002].

Applicant's response

- 10.7.172. The AP's land used for storage and parking was removed from the Order limits in change request 3 ([REP7-078] and [PD-033]). The sailing club's Commodore was said to be supportive of the change [REP7-076].

Examining Authority's consideration

- 10.7.173. The ExA is satisfied that adequate protections exist in the Recommended DCO to limit the extent and impact of the CA and TP powers sought. The AP had the opportunity to respond to change request 3 but did not do so. The ExA is satisfied that the change request, in addition to the above protections, addresses the AP's concern.

University of Portsmouth

Representation

- 10.7.174. The AP's land includes playing fields and sports pitches ([REP8-050] ID48). Mitigation and method statements have been offered by the Applicant during the Examination [REP8-119]. However, the Order limits are wide to accommodate construction and associated works and include pitches that are used outside University term time.
- 10.7.175. The final extent of CA and TP to be sought is subject to further geo-technical investigations and the appointment of a contractor. There is therefore no certainty that impacts on the sports facilities could be reduced, as suggested by the Applicant, and the worst-case scenario of pitch unavailability, potentially including during Women's Euro 2022, must be assumed. The pitches were used to their capacity before the

pandemic, and the recent limited usage and lack of pitch markings results from the resultant public health restrictions.

Applicant's response

- 10.7.176. In its attempts to secure a voluntary agreement [REP8-008], the Applicant has committed to install the cables as far east as technically possible in the Order limits and avoid any conflict with the Women's Euro 2022 [REP9-014]. The Applicant believes that effects, following mitigation, would be less than those envisaged by the AP and that proposed pitch relocations are feasible and consistent with existing sizes.
- 10.7.177. Without additional mitigation, three pitches could be temporarily impacted for 12 weeks. However, there is currently no reason why an eastern cable corridor would not be feasible. With such an alignment, the effect could be restricted to one pitch.

Examining Authority's consideration

- 10.7.178. The ExA is satisfied that the CA and TP sought on the AP's land is justified and proportionate and that adequate protections exist in the Recommended DCO to limit the extent and impact of the powers sought. It is also of note that, during the Examination, the Applicant removed alternative Order land that occupied private roads in the University campus.

West Waterlooville Developments/ Grainger Plc

Representation

- 10.7.179. The AP's land benefits from planning permission for infrastructure development associated with the delivery of 2,550 dwellings, a local centre, and community and employment uses ([REP8-050] ID26). The AP is concerned that the CA and TP sought could adversely affect the delivery of this development. The AP requests that all design work is issued for consultation prior to works taking place.

Applicant's response

- 10.7.180. The Applicant has progressed a Statement of Common Ground with the AP, although it is unsigned [REP8-038]. The draft DCO requires the submission and approval of detailed design prior to construction and these approvals would determine the final extent of easement required. The unsigned Statement of Common Ground records that the AP agrees to the works being carried out on its land on the basis that reinstatement restores it to its former condition.

Examining Authority's consideration

- 10.7.181. Having considered the detailed representations made, the ExA is satisfied that the CA and TP sought on the AP's land is justified and proportionate, and that there are adequate protections in the Recommended DCO to limit the extent and impact of the powers sought. Furthermore, the

agreement of the AP to design consultation and reinstatement measures in the Recommended DCO is recorded in a draft of the Statement of Common Ground at Deadline 4 [REP4-023], and no contrary comments were received from the AP during the remainder of the Examination.

Portsmouth City Council

Representation

- 10.7.182. The AP has various land holdings in the Order limits ([REP8-050] ID30) and has put forward a large range of objections to the CA and TP powers sought. Some related to generic matters such as:
- the availability of funding including for blight;
 - the mechanism for the CA of rights in highway subsoil;
 - the presence of consents and ongoing litigation as serious impediments to implementation;
 - the Applicant's consideration of alternatives;
 - the loss of open space;
 - the impact on human rights;
 - the status of the fibre-optic cable;
 - inadequate engagement with the AP and others including no genuine efforts to acquire its interests by agreement.
- 10.7.183. The following matters are those related to specific areas of the AP's land that the ExA considers to be important and relevant to its recommendation.
- 10.7.184. Notwithstanding any special category land considerations, the AP considers that the Order limits include an unjustified amount of land in which it has an interest. Examples are at Farlington Playing Fields, Zetland Field, Fort Cumberland Road Car Park and the Eastney and Milton Piece Allotments, where the Applicant has failed to demonstrate that all the land over which CA is sought is required or proportionate and therefore the tests of s122 of the PA2008 cannot be satisfied or the CA guidance complied with.
- 10.7.185. The AP has concerns over the Applicant's lack of funds for CA and in particular blight notices. The AP also has concerns over the lack of negotiation by the Applicant.

Applicant's response

- 10.7.186. The Applicant has responded to the AP's representations, on the generic and specific objections, at each stage of the Examination. Specifically, the Order limits have been designed to accommodate all construction operations. Some reductions may be possible, but this could only be addressed at detailed design [REP9-014]. The Applicant also has sought to engage with the AP during the Examination [REP8-008].

Examining Authority's consideration

- 10.7.187. The generic matters identified above are considered elsewhere in this Chapter, which also takes into account all of the points raised by the AP. Having considered the detailed representations made, the ExA is satisfied that the CA and TP sought on the AP's land is justified and proportionate and that adequate protections exist in the Recommended DCO to limit the extent and impact of the powers sought. The parties have also completed a signed Statement of Common Ground which details their engagement during the Examination [REP8-044]. The ExA is therefore satisfied that engagement with the AP has been appropriate and in accordance with relevant guidance.

Hampshire County Council

Representation

- 10.7.188. The AP has various land holdings in the Order limits and raised a number of objections to the CA and TP powers sought ([REP8-050] ID56). Those that were not explicitly withdrawn included the mechanism for the CA of rights in highway subsoil and the availability of funding.

Applicant's response

- 10.7.189. The Applicant has responded to the AP's representations in terms of CA and TP at each stage of the Examination [REP8-008].

Examining Authority's consideration

- 10.7.190. Having considered the detailed representations made, the ExA is satisfied that the CA and TP sought on the AP's land is justified and proportionate and that adequate protections exist in the Recommended DCO to limit the extent and impact of the powers sought. The parties have also completed a signed Statement of Common Ground which details their engagement during the Examination [REP8-046] and a legal agreement in respect of a Development Consent Obligation, which includes matters relating to entry onto, and conduct within, the AP's land. The ExA is therefore satisfied that engagement with the AP has been appropriate and in accordance with relevant guidance.

Havant Borough Council

Representation

- 10.7.191. The AP's land includes a car park and access road together with highway subsoil ([REP8-050] ID25). The AP raised a number of objections to the CA and TP powers sought. These included the consideration of alternatives and the sterilisation of development land.

Applicant's response

- 10.7.192. The AP is satisfied with details provided on alternatives during the Examination and their assessment is now agreed between the parties [REP8-049].

Examining Authority's consideration

- 10.7.193. ExA is satisfied that the CA and TP sought on the AP's land is justified and proportionate and that the consideration of alternatives meets the relevant guidance.

Denmead Parish Council

Representation

- 10.7.194. The AP's land comprises field and woodland ([REP8-050] ID21). The AP has concerns over the wide-ranging powers sought ([RR-052] and [REP5-079]).

Applicant's response

- 10.7.195. The Applicant has agreed the in-principle terms of a voluntary agreement with the AP and solicitors have been instructed to issue legal agreements [REP8-050].

Examining Authority's consideration

- 10.7.196. The ExA is satisfied that the CA and TP sought on the AP's land is justified and proportionate.

Conclusion on Objections Listed Above

- 10.7.197. In view of all the above points, the ExA cannot see anything in these objections that would prevent the grant of the CA or TP powers sought. The ExA is therefore satisfied that the land which is the subject of these objections is required and proportionate for the Proposed Development and that there is a compelling case for the corresponding CA powers sought and that the related TP powers are justified. The ExA addresses matters relating to all land that would be subject to powers of CA or TP later in this Chapter.

Statutory Undertakers Southern Water Services

Representation

- 10.7.198. The AP is the statutory sewerage undertaker for the area of the Order land, and it has interests in highway subsoil in which CA is sought ([REP8-050] ID61). Appropriate Protective Provisions are required to ensure the protection of the AP's assets and ensure that necessary provisions are in place to ensure that the apparatus can be maintained in perpetuity [RR-192].

Applicant's response

- 10.7.199. The Applicant has attempted to engage with the AP, but no contact details have been provided nor has a representative been nominated ([REP7-038] Question CA2.3.17). The draft DCO Protective Provisions provide adequate protections and align with many made DCOs.

Examining Authority's consideration

- 10.7.200. The ExA is satisfied that the rights sought are required to allow the Proposed Development to proceed. In view of their location below the highway and the nature of the Protective Provisions incorporated in the Recommended DCO, the ExA is also satisfied that the rights sought would not cause serious detriment to the carrying on of the AP's undertaking.

Portsmouth Water Ltd

Representation

- 10.7.201. The AP is a statutory water supply company and its land in the Order limits comprises field, hedgerow and trees ([REP8-050] ID32). The AP seeks adequate provisions to preserve its assets.

Applicant's response

- 10.7.202. The parties are in agreement that the Proposed Development could be accommodated on the AP's land without detriment to the AP's undertaking, with further assessment taking place in relation to existing utilities and minimising impacts on the future development potential of the land [REP8-039].

Examining Authority's consideration

- 10.7.203. The Applicant's response set out above is in a signed Statement of Common Ground. There is no evidence that the area of land is of specific importance to the AP's undertaking. On the basis that the parties have agreed that the rights sought would not cause detriment to the AP's undertaking, the ExA is satisfied that the rights sought would not cause serious detriment to the carrying on of the AP's undertaking.

Vodafone Limited

Representation

- 10.7.204. The AP does not have any land or rights identified in the Book of Reference but does have apparatus in the Order limits ([REP8-050] ID68). The AP seeks the safeguarding of its apparatus and the reimbursement of costs for any necessary works.

Applicant's response

- 10.7.205. The Applicant is working with Vodafone's appointed solicitors to agree Protective Provisions ([REP7-038] Question CA2.3.16). The Protective Provisions included the draft DCO do, however, provide adequate protection for the AP's apparatus and reflect other made Orders.

Examining Authority's consideration

- 10.7.206. The ExA is satisfied that the rights sought are required to allow the Proposed Development to proceed.

Conclusion on Statutory Undertakers

- 10.7.207. As previously reported, five Statutory Undertakers withdrew their representations during the Examination. In the context of s127 and s128 of the PA2008, the ExA cannot see anything in the remaining representations discussed above that would prevent the grant of the CA powers sought.

10.8. THE EXAMINING AUTHORITY'S CONSIDERATIONS

General case

Examining Authority's approach

- 10.8.1. The ExA's approach to the question of whether and what CA powers it should recommend the Secretary of State to grant has been to seek to apply:
- the relevant sections of the PA2008, notably s122 and s123;
 - the CA Guidance;
 - the Human Rights Act 1998.
- 10.8.2. In light of the representations received and the evidence submitted, the ExA's approach has also been to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.
- 10.8.3. There are representations from Statutory Undertakers that have not been withdrawn and therefore s127 of the PA2008 is engaged in the consideration of the application. There are also relevant Statutory Undertaker rights and apparatus on land that is the subject of CA of new rights under the Recommended DCO. Section 138 of the PA2008 is therefore also engaged, and the ExA has considered the application and representations accordingly.
- 10.8.4. The ExA also understands that the draft DCO deals with the Proposed Development itself and CA powers. The case for CA powers cannot properly be considered unless and until the ExA has formed a view on the case for the Proposed Development overall, and the consideration of the CA issues must be consistent with that view.

- 10.8.5. The ExA has shown in the conclusions to the preceding Chapter that it has reached the view that development consent should be granted. Therefore, the question that the ExA addresses here is the extent to which, in the light of the factors set out above, the case is made for the CA and TP powers sought to enable the Proposed Development to proceed.
- 10.8.6. In these considerations, a number of general matters relating to the Applicant's case for CA and TP, which are also pertinent to points raised by a number of objectors, need to be addressed, including the tests set out in s122(2) and s122(3) of the PA2008. The ExA has already considered the cases for objectors and has found that none of them would give any reason to override a general conclusion on the Applicant's case for CA and TP.
- 10.8.7. The ExA has also concluded on Statutory Undertakers' land and found that, where representations have not been withdrawn, there would be no serious detriment to the carrying on of the undertaking. The ExA then considers Statutory Undertakers' apparatus, Crown land, special category land, human rights issues, the Equality Act and funding.
- 10.8.8. Although the ExA has specifically referred to objections raised by APs, it appreciates that this represents only a proportion of the 300 or so parcels of land that would be affected [REP8-010]. Even though a specific objection may not have been raised in relation to a particular plot of land, the ExA has nevertheless applied the relevant tests to the whole of the land that would be subject to powers of CA or TP in reaching its overall conclusions.

Associated Development

- 10.8.9. Section 122(2) of the PA2008 sets out the purposes for which CA may be authorised. The CA Guidance explains that, in the light of s122, applicants must be prepared to justify their proposals for the CA of any land to the satisfaction of the Secretary of State.
- 10.8.10. Section 115 of the PA2008 provides that, in addition to the development for which development consent is required under Part 3 of the PA2008 (the principal development), consent may also be granted for Associated Development. The PA2008 defines Associated Development as development which is associated with the principal development.
- 10.8.11. The ExA is of the view that the Associated Development in Schedule 1 of the Recommended DCO accords with DCLG Guidance. The land required for this Associated Development can therefore, in principle, be compulsorily acquired pursuant to s122(2)(a) of the PA2008. Later in this Chapter, the ExA considers whether all of the land in respect of which CA and TP powers are sought is required for the development.

Public benefit

- 10.8.12. NPS EN-1 suggests that the Government expects the interconnection of electricity systems to play an important role in a low carbon electricity system. Furthermore, the Government's *Energy White Paper: Powering our Net Zero Future* (Secretary of State for Business Energy and Industrial Strategy, 2020) recognises that interconnection increases the ability of the GB electricity market to trade with other markets, enhances the flexibility of our energy system and has been shown to have clear benefits in terms of decarbonisation.
- 10.8.13. The Applicant sets out the need case for the Proposed Development ([APP-115], [REP1-136], [REP7-064] and [REP7c-008]). The ExA agrees with the Applicant that the Proposed Development would contribute to making energy markets more efficient, improving security of supply and enabling greater flexibility to adapt to different sources of renewable energy. Its transmission capacity would also represent a noticeable proportion of the total electricity demand in the UK.
- 10.8.14. The ExA has already concluded in Chapter 5 of this Report that there is a need for the Proposed Development. It has also concluded in Chapter 9 that the benefits, including this need, outweigh any harm to such an extent that development consent should be granted. In terms of CA, the ExA relies on this conclusion that development consent should be granted. From what the ExA has found in relation to the Proposed Development, it also considers that there is sufficient certainty regarding the identified need for the extent of CA sought and that now is the right time to request the CA powers that are sought. All of these matters lead the ExA to the view that there is considerable public benefit to be weighed in the balance concerning the compelling case for CA.

Private loss

- 10.8.15. The Applicant has not assessed in detail the effect on individual APs and their private loss that would result from the exercise of CA powers in each case. Any private loss suffered by an individual AP may, however, become the subject matter of a claim for compensation, with any claim determined by the Upper Tribunal of the Lands Chamber [REP8-008].
- 10.8.16. The Applicant has taken steps to limit the exercise of CA powers in respect of each plot and each individual AP. These include:
- keeping the areas of land affected by CA to a minimum, commensurate with the implementation of the Proposed Development and addressing constraints;
 - seeking wherever possible to rely on TP as an alternative to CA;
 - engaging with persons with an interest in affected land with a view to reaching an alternative voluntary agreement ([REP8-008] Appendix D).
- 10.8.17. The ExA recognises that the Applicant has introduced flexibility in terms of the width of the Order limits. However, the extent of the Order limits

has been justified to the ExA's satisfaction over the length of the route in terms of the need to avoid constraints, including poor ground conditions. Furthermore, the Applicant's use of TP powers wherever possible would serve to mitigate the extent of any private loss through the use of CA powers only after the detailed design has been completed. This would inherently reduce the extent of the private loss experienced by those affected by CA.

Alternatives

- 10.8.18. In Chapter 5 of this Report, the ExA has already considered the assessment of alternative routes undertaken by the Applicant. The ExA has found that the assessment was robust and can see no reason to disagree with the outcome of it.

Temporary Possession

- 10.8.19. TP powers are sought to facilitate some construction activities and, in some instances, as an alternative to reduce the extent of CA. The ExA considers that the TP powers sought would be appropriate to support the delivery of the Proposed Development in respect of all plots identified for TP in the Land Plans and Book of Reference ([REP7-003] and [REP8-010]).
- 10.8.20. These powers are not CA powers, and accordingly the tests under s122 and s123 of the PA2008 are not applicable. However, the request for the TP powers to enable the Proposed Development to be implemented and maintained must be justified. Moreover, their inevitable interference with human rights must be justified, and there must be adequate compensation provisions in place for those whose land is affected.
- 10.8.21. The ExA has considered the objections raised by those persons affected by the application for the permanent acquisition of land and the permanent acquisition of rights in land where they may be preceded by TP. The ExA has also taken all relevant objections into account in reaching conclusions on the application for TP powers on plots where they are sought alone, in the same way as for permanent acquisition.
- 10.8.22. The ExA is satisfied that the TP powers sought would be needed to facilitate implementation of the Proposed Development and that they are justified, including their period of operation. Adequate compensation provisions are in place in the Recommended DCO.

Conclusion on the general case

- 10.8.23. From all of the above, the ExA concludes that the Applicant has made a case sufficient to justify its general request for CA and related powers.
- 10.8.24. The ExA now moves on to consider whether there are specific matters relating to objections, Statutory Undertakers, Crown land, special category land, the Human Rights Act 1998, the Equality Act 2010 and funding that would outweigh the finding on the general case in any regard.

Objections

- 10.8.25. The ExA has considered all of the objections as set out above. None of these objections leads the ExA to the view that its conclusion in relation to the Applicant's general case in relation to CA and TP should be changed in any way. The ExA therefore recommends the grant of CA and TP powers in each individual case as set out above.

Statutory Undertakers

- 10.8.26. The ExA has considered all representations associated with s127 of the PA2008. In each case, the ExA finds that the CA of land and rights sought in the Recommended DCO could be achieved without serious detriment to the carrying on of the undertaking concerned. In relation to s138 of the PA2008, the ExA is satisfied that, throughout its scope, the extinguishment and the removal or relocation of apparatus under the Recommended DCO would be necessary for the purpose of carrying out the Proposed Development.

Crown land

- 10.8.27. The Order land includes Crown land at Plot 7-24 in Langstone Harbour, at Plot 10-38 on the foreshore at Southsea and at Plot 7-22 in respect of mines and minerals below the A27. The ExA is content that the Applicant has made reasonable attempts to obtain Crown consent in respect of these plots during the Examination and is continuing to seek consent. If and when any consent is received, the Applicant will forward this to the Secretary of State.
- 10.8.28. If, subject to the Secretary of State being content with the remainder of the Recommended DCO, this consent cannot be obtained before the Secretary of State is in a position to make the Order, then the ExA is content that an option exists to amend the Recommended DCO in accordance with the Applicant's suggestions to remove the need for consent ([AS-065] question 3.18).
- 10.8.29. The Order land also includes Crown land which is the highway subsoil below Plot 3-21 and is subject of *bona vacantia*. The Crown Estate does not accept that it should be regarded as the current owner of the property, at least in any conventionally understood sense [REP8-060]. It accepts, however, that the property falls to be dealt with by the Crown Estate, although it does not propose to take any action which might be construed as an act of management, possession or ownership.
- 10.8.30. On this basis, whilst the Crown Estate advises that it cannot grant consent to the CA of the interests sought, it is unlikely that the Crown Estate would seek to interfere with the acquisition of land or the implementation of any works carried out under a DCO.
- 10.8.31. The ExA considers that the Secretary of State should take the position of the Crown Estate on *bona vacantia* into account when deciding if and how any DCO should be made. The ExA, in view of the position of the

appropriate Crown authority, cannot see anything to prevent the CA of the interests sought in respect of Plot 3-21.

- 10.8.32. The Ministry of Defence, as the appropriate Crown authority, has given consent under s135(1) of the PA2008 for the provisions in the Recommended DCO that authorise the CA of non-Crown interests in Crown land [REP8-059]. The relevant plots are identified in the Book of Reference ([REP8-010] Part 4).
- 10.8.33. The Ministry of Defence has also given consent under s135(2) of the PA2008 for any other provisions in the Recommended DCO that affect the Crown land over which it has given s135(1) consent. As a result of the Ministry of Defence consents, the ExA cannot see anything to prevent the CA of the interests sought in respect of the plots in which the Ministry of Defence has an interest.
- 10.8.34. The ExA considers it important to stress that the CA elements of the Recommended DCO cannot be made without Crown consent in respect of land at Langstone Harbour, the foreshore at Southsea, and mines and minerals below the A27 highway or amendments to the Recommended DCO. The necessary amendments to the Recommended DCO that would be necessary to facilitate the second option are described in Chapter 11 of this Report.

Special category land

- 10.8.35. The Order land includes special category land, more specifically classed as open space, so s132 of the PA2008 is engaged. The relevant plots of land are included in the Book of Reference and on the Land Plans ([REP8-010] and [REP7-003]). The ExA agrees with the Applicant that, with the exception of Farlington Playing Fields ([REP8-010] Plot 7-12), the physical effect of the CA powers sought would be restricted to cable installation and maintenance and would be marginal, in terms of extent and duration, when pitch and equipment relocation is taken into account.
- 10.8.36. The ExA therefore considers that this special category land, when burdened with the rights sought in the Order, would be no less advantageous to any person or the public than it was before and s132(3) of the PA2008 is thus satisfied.
- 10.8.37. On Farlington Playing Fields, the CA powers would result in the loss of use of some sports pitches for a period during construction together with the potential, but rare, possibility of disruption for maintenance. The Applicant has engaged with the landowner, Portsmouth City Council, and has developed a Framework Management Plan for Recreational Impacts to mitigate effects on the open space [AS-062]. Whilst this would mitigate much of the loss, what would remain could not be classed as minimal.
- 10.8.38. In terms of s132(4A) of the PA2008, the Order land at Farlington Playing Fields forms part of open space. None of this land has a dual designation with any other special categories and there appears to be no suitable alternative land available for sports pitches over the period of

construction. Moreover, any special parliamentary procedure in relation to this element of the Recommended DCO would delay the Proposed Development and be against the strong public interest for implementation at the earliest opportunity. The tests under s132(4A) of the PA2008 are therefore satisfied.

10.8.39. In relation to s132(4B) of the PA2008, it is also the case that the Order land at Farlington Playing Fields forms part of open space and none of this land has a dual designation with any other special categories. Moreover, the Order land is being acquired for the temporary, although possibly long-lived, purpose in respect of the use of the surface of the land. The tests under s132(4B) of the PA2008 are therefore also satisfied.

10.8.40. Furthermore, the Recommended DCO also records the subsections concerned in the introductory note in accordance with s132(2)(b) of the PA 2008.

10.8.41. The ExA therefore considers that the tests of s132 of the PA2008 in relation to special category land are satisfied.

Human rights

10.8.42. In assessing whether there is a compelling case in the public interest for the land to be acquired compulsorily, it is necessary to consider the interference with human rights which would occur if CA and TP powers were granted. The ExA agrees with the Applicant that the Recommended DCO would engage Article 1 of the First Protocol and Article 8 of the ECHR and is satisfied that the ECHR is incorporated into UK law.

10.8.43. Article 1 provides a right to the protection of property, which can include the peaceful enjoyment of property or possessions or any effect of development on property values. Article 8 provides a right to respect for private and family life, which can include interference with home life through disturbance. However, these rights are qualified and can be interfered with in certain circumstances, such as if it is necessary to protect the legitimate interests of the wider community.

10.8.44. In this case, the ExA has attributed substantial weight to the need described in Chapter 5 of this Report. This is a legitimate interest of the wider community. In this context, it is also relevant that those affected would be entitled to compensation. Moreover, the Applicant has taken steps to ensure its approach to land acquisition is proportionate and would not give rise to interference with private rights beyond what is absolutely necessary.

10.8.45. The Applicant has varied the Order limits during the Examination to ensure that the land affected has been kept to a minimum, and the detailed route choice has avoided key infrastructure and development. Reliance has also been placed on TP wherever possible, rather than permanent acquisition. The Applicant has also sought to reach voluntary agreements with persons with an interest in the land affected.

- 10.8.46. The ExA is therefore satisfied that the powers sought would be no more than is required to secure the interests of the wider community. The ExA is also satisfied that they would not be likely to place an excessive burden on those whose human rights could be affected. The ExA therefore considers that there would be no violation of Articles 1 and 8.
- 10.8.47. The ExA also agrees with the Applicant that the Recommended DCO engages Article 6 of the ECHR (as incorporated in the Human Rights Act), which relates to the need for a fair hearing. The application and its Examination procedurally accord with the PA2008 and related guidance. There is therefore nothing to suggest that any parties have not had a reasonable chance to put their case, or that they have been put at a substantial disadvantage in relation to other parties. The ExA therefore considers that there has been no violation of Article 6.
- 10.8.48. Finally, in terms of the overarching aims of the Human Rights Act 1998, CA Guidance and the required balancing exercise, the ExA is satisfied that the public benefit from the Proposed Development would clearly outweigh any interference with the human rights of those with an interest in the land affected.
- 10.8.49. The ExA therefore considers that any interference with human rights would be for legitimate purposes, proportionate and justified in the public interest.

Equality Act

- 10.8.50. Section 149 of the Equality Act 2010 requires a public authority, in the exercise of its functions, to:
- have due regard to the need to eliminate discrimination harassment and victimisation and any other conduct prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic (age, sex, gender reassignment, disability, pregnancy and maternity, religion and belief and race) and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.8.51. There is no evidence in the Applicant's Equality Statement [REP6-068] that the Proposed Development would have any specific impact in relation to persons who share a protected characteristic as compared to persons who do not, or that there has been any lack of regard to the needs of the Equality Act.

Funding adequacy

- 10.8.52. The Funding Statement indicates that the estimated total capital cost of the Proposed Development is £623m, of which £4.97m is land acquisition costs [REP6-021]. The ExA can see no reason to doubt the validity of these estimates. It is of note that much of the cable route would lie in

the public highway and in land owned by statutory bodies and only some 40% of the Order land lies in other ownerships ([REP7-038] reference CA2.3.4).

- 10.8.53. The Applicant has secured financing from its current investors to complete the development stage, which includes all necessary permissions and authorisations. The remainder of the Proposed Development, including CA, would be funded through finance secured against future operational profits. Furthermore, CA compensation funding would be secured separately under the Recommended DCO.
- 10.8.54. A final decision on this funding would be made following the appointment of a contractor. Bearing in mind the stage the design is at, and the potential for the Applicant to source funding, the ExA considers this to be a realistic and reasonable approach.
- 10.8.55. The ExA raised questions during the Examination in relation to exemptions ([PD-011] and [PD-031]), and Peter and Geoffrey Carpenter and Portsmouth City Council, amongst others, raised concerns regarding impediments to the funding and implementation of the Proposed Development. The Applicant has responded to these questions and concerns ([REP1-091], [REP5-034], [REP6-021], [REP6-062], [REP7-038], [REP8-065], [REP9-019] and [AS-069]).
- 10.8.56. Under paragraph 19 of the CA Guidance, the Applicant needs to demonstrate that any potential risks or impediments to implementation have been properly managed and that any legal matters, including the need for any operational or other consents, have been taken into account.
- 10.8.57. The Applicant is of the view that an exemption from the ACER regulatory regime would be necessary to allow the Proposed Development to be offered to the market to source funding. The exemption from some regulation in respect of third-party access to the electricity network would be of particular interest to funders, in terms of access by the Applicant, and the regulation of tariffs and charges which could be levied by the Applicant. The Applicant does not yet have this exemption and the ExA therefore sees the current absence of such an exemption to be a potential impediment to implementation. The withdrawal of the UK from the EU has also resulted in an emerging and new environment in terms of such an exemption.
- 10.8.58. The Applicant's exemption application to ACER was refused and then successfully appealed to the General Court of Justice of the EU. This effectively results in a redetermination of the application. The Applicant believes itself to be in a very strong position, partly due to there being a sole reason for the initial refusal and an award of costs at appeal. Any redetermination could take one of two routes. The ACER Board of Appeal should grant the exemption by 5 June 2021 or refer the application up the ACER Board of Regulators, again by 5 June 2021, for a decision within six months of any referral.

- 10.8.59. Exemption decisions are said by the Applicant to be declaratory and must take effect from the date of the exemption request. In this case, the Applicant refers to the request being the appeal, which was lodged on 17 August 2018, prior to the UK withdrawing from the EU. The Applicant is of the view that the TCA between the UK and the EU is clear that exemptions granted to interconnectors continue to apply after the withdrawal of the UK from the EU.
- 10.8.60. From the evidence submitted during the Examination, it appears to the ExA that the value to the Proposed Development of any grant of exemption by ACER would be dependent on the continued application of exemptions following the UK's withdrawal, as set out above. The continued application of exemptions is said to be necessary for the Proposed Development to be funded, even where exemptions have been granted after the UK's withdrawal.
- 10.8.61. The Applicant is also of the opinion that the TCA may also offer an alternative route to an exemption. The TCA seeks to continue some regulation, particularly in relation to tariffs, charges, transparency of operator functions and conflicts of interest. The UK could, however, decide not to apply the TCA Articles ENER.8 and ENER.9, which relate to the above regulatory matters. TCA Annex ENER-3 sets out four conditions that would need to be met before any decision to disapply the above Articles could be made.
- 10.8.62. The ExA's view on the first three conditions is:
- the Applicant is of the view that the risk attached to the investment in the Proposed Development is such that the investment would not take place unless an exemption is granted, and the ExA can see no reason to disagree;
 - the ExA has already come to the view that the Proposed Development, and therefore the investment in it, would enhance security of supply;
 - from the evidence submitted, the ExA is of the opinion that the Proposed Development would be owned by a legal person separate, at least in terms of its legal form, from the National Grid system operators in whose systems it would be built.
- 10.8.63. There is a further condition where the UK would need to decide on the rules and mechanisms for the management and allocation of capacity before granting the exemption. This is not a matter for this Examination and no specific evidence has been submitted on this subject.
- 10.8.64. The Applicant has, however, suggested that the administrative procedures of the TCA are currently being established, with the appointments of members of the relevant oversight committee, the Specialised Committee on Energy, expected shortly.
- 10.8.65. From all of the above, the ExA is satisfied that, at the end of the Examination, the Applicant has done all that it can in terms of the proper management of these potential ACER and exemption related

impediments to funding and implementation. Nevertheless, the ExA recommends that, in view of the emerging and new environment in terms of such an exemption, the Secretary of State gives particular consideration to matters that relate to:

- the continued application of any ACER exemption following the UK withdrawal from the EU in the context of the Applicant's interpretation of the situation;
- the establishment of the TCA Specialised Committee on Energy.

10.8.66. The Applicant has also advised that it would not envisage seeking funding for the Proposed Development until the relevant French consents are in place.

10.8.67. The French single environmental authorisation includes regulatory approvals to allow confirmation of the rights required for the Proposed Development and compliance with the relevant environmental assessment regulations following a validated application and a public inquiry. The application was submitted in October 2019 and pre-validation consultation is ongoing.

10.8.68. French marine cable authorisation is also in progress. Other consents required to deliver the Proposed Development are:

- a building permit for the converter station;
- the grant of temporary occupation rights, including for public roads and rights of way;
- archaeological approvals;
- agreement of a railway crossing with SNCF, the French national state-owned railway company.

10.8.69. Apart from the building permit, which would be sought later, matters are ongoing with the consenting authorities.

10.8.70. The Applicant has been engaged in obtaining the French consents since 2017. It is of the view that there is a reasonable prospect of the above French consents being obtained in line with the envisaged making of the Order.

10.8.71. As a result of the above and all other matters raised, the ExA is satisfied that the Applicant has demonstrated that any potential risks or impediments to funding and implementation have been properly managed and that any legal matters, including the need for any operational or other consents, have been taken into account in accordance with paragraph 19 of the CA Guidance.

10.8.72. The Applicant would also provide security for the CA element of the estimated costs, and the ExA is content that this would accord with the CA Guidance.

- 10.8.73. The ExA has not seen anything to suggest that the Applicant is not of sound financial standing and that the necessary funds would not be available to finance the project [REP9-020]. The ExA therefore considers that there is a reasonable prospect of funds for CA becoming available.

10.9. CONCLUSIONS

Section 122(2) - the purpose for which Compulsory Acquisition is sought

- 10.9.1. The ExA is satisfied that the CA sought in all the plots of land included in the final Book of Reference and shown on the final Land Plans would be required and is proportionate for, to facilitate, or be incidental to the Proposed Development to which the development consent relates. Both the principal development and the Associated Development identified by the application would be needed for that purpose. The final Book of Reference includes additional land, the CA of which is necessary for change request 1 and change request 2. The requirements of s122(2)(a) and (b) of the PA2008 are therefore met. The ExA is also satisfied that the Applicant has met the relevant parts of the CA Regulations and the CA Guidance.

Section 122(3) - whether there is a compelling case in the public interest

- 10.9.2. The ExA has had regard to the objections raised by all APs. Notwithstanding the objections, the ExA concludes that the public benefits associated with the Proposed Development would strongly outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation and maintenance of the project.
- 10.9.3. The ExA has also taken into account the particular points made by objectors in relation to alternatives. The ExA is, however, satisfied that the Applicant has explored all reasonable alternatives to CA, including modifications to the Proposed Development. The objections raised do not dissuade the ExA from the conclusion that there are no alternatives to the CA powers sought which would be preferred.
- 10.9.4. The Applicant has demonstrated a clear idea of how it intends to use the land and rights which it proposes to acquire. It has shown that there is a reasonable prospect of the requisite funds, both for acquiring the land and implementing the project, becoming available.
- 10.9.5. The ExA concludes that:
- the development for which the land is sought would be in accordance with national policy as set out in the relevant NPS and development consent should be granted;
 - NPS EN-1 suggests interconnection has an important role in a low carbon electricity system, and the Government's 2020 Energy White Paper recognises that interconnection increases the ability of the GB

electricity market to trade with other markets, enhances the flexibility of the UK energy system and has clear benefits in terms of decarbonisation;

- the need to secure the land and rights required and to construct the development within a reasonable timeframe represent a significant public benefit to weigh in the balance;
- the private loss to those affected has been mitigated through the selection of the application land and the extent of the land, rights and interests proposed to be acquired, and would be outweighed by the public benefit derived from the CA;
- the Applicant has explored all reasonable alternatives to the CA of the rights and interests sought, and there are no alternatives which ought to be preferred;
- There is a reasonable prospect that adequate and secure funding would be available to enable the CA within the statutory period following the Order being made.

10.9.6. Taking these various factors together, the ExA considers that there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the final Land Plans. The proposal would thus comply with s122(3) of the PA2008.

Sections 120(5)(a) and 126 - the incorporation of other statutory powers

10.9.7. In a number of instances, the Recommended DCO seeks to apply s120(5)(a) of the PA2008 and apply, modify or exclude a statutory provision. Since the Recommended DCO is in the form of a Statutory Instrument, it would comply with s117(4) of the PA2008. Furthermore, no provision would contravene the provisions of s126 of the PA2008 which relates to the modification or exclusion of a compensation provision.

Sections 127 and 138

10.9.8. Section 127 representations have been made and not withdrawn. These have been considered as set out above. In the case of each s127 representation, the ExA concludes that the Secretary of State can be satisfied that there would be no serious detriment caused to the carrying on of the undertaking of the Statutory Undertaker in question should the CA powers sought be granted. In the case of s138, the ExA is satisfied that the extinguishment of the relevant rights, or the removal or relocation of the relevant apparatus, would be necessary for the purpose of carrying out the development to which the Order relates.

Section 135 - Crown land

- 10.9.9. The ExA considers that the Secretary of State must await receipt of s135 consent from the Crown Estate before making any Order authorising the CA of the interests in Crown land as set out in the Book of Reference. If this consent is not forthcoming these plots should be excluded from the scope of CA sought by the Recommended DCO. The ExA is satisfied that the necessary Ministry of Defence s135 consent has been received. The ExA considers that s135 consent is not required for the highway subsoil land in Waterlooville, which is the subject of *bona vacantia*.

Temporary Possession

- 10.9.10. The ExA is satisfied that the TP powers sought are necessary to facilitate implementation of the Proposed Development and to maintain it, and that adequate compensation provisions are in place in the Recommended DCO.

Human Rights Act 1998 and the Equality Act 2010

- 10.9.11. The ExA is satisfied that, in relation to the inclusion of CA and TP powers in the Recommended DCO, any interference with human rights would be for legitimate purposes, proportionate and justified in the public interest. The ExA is also satisfied that there is no evidence that the Proposed Development would not accord with s149 of the Equality Act 2010.

Adequacy of funding

- 10.9.12. The identified sources of funding do not provide the ExA with any cause for concern or reason to doubt that the Proposed Development would be implemented if granted consent. The ExA is satisfied that, at the close of the Examination, there is a reasonable prospect of funding becoming available for CA and that potential impediments to funding have been properly managed.

10.10. THE EXAMINING AUTHORITY'S RECOMMENDATIONS ON COMPULSORY ACQUISITION AND TEMPORARY POSSESSION

- 10.10.1. Should the Secretary of State be minded to grant development consent for the Proposed Development, the ExA recommends that:
- the CA powers included in the Recommended DCO be granted, subject to the matters as set out below in relation to Crown land and regulatory exemptions;
 - the TP powers included in the Recommended DCO be granted;
 - the CA powers sought in respect of Crown land should not be granted until the necessary consent from the Crown Estate has been obtained or the Recommended DCO has been amended and until the particular circumstances in relation to Plot 3-21 have been reviewed;

- the powers authorising the CA of Statutory Undertakers' land and rights over land included in the Recommended DCO be granted;
- the powers authorising the extinguishment of rights and removal of apparatus of Statutory Undertakers included in the Recommended DCO be granted;
- the powers included in the Recommended DCO to apply, modify or exclude a statutory provision be granted.

11. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

11.1. INTRODUCTION

- 11.1.1. This Chapter of the Report describes the Development Consent Order (DCO) as applied for and the changes made to it during the Examination. It sets out matters that remained in dispute at the end of the Examination, the Examining Authority's (ExA's) recommendations on those matters and the changes made to the Applicant's preferred draft DCO to produce the ExA's Recommended DCO.
- 11.1.2. The ExA held two Issue Specific Hearings on the draft DCO (Issue Specific Hearing 2 and Issue Specific Hearing 4) ([EV-032] to [EV-039], and [EV-066] to [EV-079]) and issued two sets of Written Questions (ExQ1 and ExQ2, [PD-011] and [PD-031]).
- 11.1.3. The draft DCO as submitted [APP-019] was accompanied by an Explanatory Memorandum [APP-020] and a Validation Report [APP-021]. The draft DCO was revised by the Applicant on seven occasions during the course of the Examination ([REP3-003], [REP4-003], [REP5-008], [REP6-015], [REP7-013], [REP8-004] and [REP9-003]). The seventh revision [REP9-003] was the Applicant's final draft. The Applicant also submitted a final Explanatory Memorandum [REP8-006].
- 11.1.4. Statements of Common Ground recorded agreement or disagreement on the content and wording of the draft DCO, and many other submissions included relevant comments. The ExA took all relevant written and oral submissions on the draft DCO into account before deciding on its recommendations
- 11.1.5. The changes made at each evolution of the draft DCO between the application version [APP-019] and the Applicant's final, preferred draft DCO [REP9-003] were documented by the Applicant in tracked change versions of the draft DCO and a Schedule of Changes to the Draft Development Consent Order. The Applicant's latest version of the draft DCO and accompanying Land Plans reflect and include the material and non-material change requests accepted into the Examination, and as commented on by Interested Parties (IPs) during the Examination.
- 11.1.6. In order to help IPs interpret the cumulative changes that had been made, the Applicant submitted a composite comparative version of the Draft Development Consent Order [AS-063] that identified the sequence of changes made between the application submission and the Deadline 7 draft of the DCO. In addition, a comprehensive schedule of changes was provided by the Applicant at Deadline 9 [REP9-008].

11.2. THE DRAFT DCO

- 11.2.1. The draft DCO submitted with the application [APP-019] and as finalised [REP9-003] would grant development consent for, and authorise the

Applicant to construct, operate and maintain the Proposed Development including all necessary Associated Development. The draft DCO would authorise the Applicant to purchase land and rights to use land, as well as to override easements and other rights. The draft DCO would also grant a Deemed Marine Licence (DML) for the licensable activities involved in the laying of offshore cables.

11.2.2. The ExA is of the view that the Associated Development sought in Schedule 1(2) of the Recommended DCO accords with DCLG Guidance.

11.2.3. The final draft DCO has a conventional structure:

- Part 1 is the general provisions, with definitions set out in Article 2;
- Part 2 provides the principal powers in Articles 3 to 9, including Article 3, which grants development consent, with the authorised development being described in Part 1 of Schedule 1;
- Part 3 encompasses Articles 9A to 16, relating to streets;
- Part 4 relates to supplemental powers provided in Articles 17 to 19;
- Part 5, Articles 20 to 36, provides powers of acquisition;
- Part 6 (Operations) is Article 37, which provides for the grant of a DML;
- Part 7 (Articles 38 to 51) sets out miscellaneous and general provisions, including Article 45 in relation to arbitration, Article 46 for the appeal procedure, Article 47 for Crown rights, Development Consent Obligations at Article 50, and funding security in relation to Compulsory Acquisition (CA) in Article 51.

11.2.4. The draft DCO includes 17 schedules:

- Schedule 1 sets out the authorised development as Works No. 1 to 7 and Associated Development, and provides the grid coordinates for that part of the authorised development which is seaward of mean high water (MHWS);
- Schedule 2 is the Requirements, of which there are 28;
- Schedule 3 set out the procedure for approvals, consents and appeals;
- Schedules 4, 5, 6, 7 and 8 list the Land Plans, Works Plans, Access and Rights of Way Plans, Parameter Plans and rights of way to be closed or diverted respectively;
- Schedule 9 describes the modification of compensation and compulsory purchase enactments;
- Schedule 10 lists the land of which temporary possession may be taken;
- Schedules 11 and 12 list trees subject to Tree Preservation Orders and important hedgerows to be removed respectively;

- Schedule 13 sets out the Protective Provisions for: electricity, gas, water and sewerage undertakers; operators of electronic communications networks; Southern Gas Networks plc; railway interests; National Grid; and, Highways England;
- Schedule 14 is the certified documents;
- Schedule 15 is the DML, including the licensed marine activities and conditions;
- Schedule 16 provides the DML procedure for appeals;
- Schedule 17 sets out the arbitration rules.

The justification for the DCO provisions

- 11.2.5. The Explanatory Memorandum [REP8-006] provides summary details of the Applicant, the Proposed Development (including works that comprise Associated Development), phasing, parameters used in the assessment of works in the draft Order, the structure of the document, and the purpose of the draft Order.
- 11.2.6. The provisions of the draft Order are set out with a brief description of each Article and reference to any relevant legal powers. Articles that generally follow model provisions are noted, and exceptions are explained, generally with reference to made Orders that have a similar approach.
- 11.2.7. Schedule 9 incorporates changes to the Land Compensation Act 1973 and the Compulsory Purchase Act 1965 arising from the Housing and Planning Act 2016.

11.3. CONTENTIOUS MATTERS IN THE EXAMINATION

- 11.3.1. The following section reports on changes to the draft DCO that were the subject of substantial written and oral submissions and negotiations during the Examination.

Article 2, Definitions

- 11.3.2. Highways England requested [REP1-204] that the Applicant's definition of 'relevant highway authority' in the draft DCO was amended to include Highways England. The Applicant [REP1-091] considered its definition to be appropriate, as no works were proposed on roads for which Highways England was responsible, other than a length of horizontal directional drilling (HDD) at depth beneath the A27 (T), for which Protective Provisions were to be agreed.
- 11.3.3. This was discussed at various Hearings and in subsequent submissions, but agreement was reached that it was not necessary to amend the definition, as confirmed in the final Statement of Common Ground between the parties [REP8-030].

Article 9, Defence to proceedings in respect of statutory nuisance

- 11.3.4. As reported in section 7.3 of this Report, some parties (including Winchester City Council, Havant Borough Council, East Hampshire District Council and Portsmouth City Council) were concerned about the inclusion of Article 9 in the draft DCO and remained so to the close of Examination. Winchester City Council's position changed during the Examination, from requesting complete removal of the Article to suggesting modifications to allow the Article to remain in the draft DCO [REP7-096]. The Applicant's position was that the Article was needed to protect the construction and operation of the Proposed Development from impediments [REP7c-016].
- 11.3.5. The ExA raised a question in ExQ2 [PD-031] on this matter with respect to the inclusion of the operational phase of the Proposed Development in the provisions of the Article. The Applicant referred to examples of other recently made DCOs (for example, the Southampton to London Pipeline DCO and the Norfolk Vanguard DCO) where similar provisions have been allowed.
- 11.3.6. The scope of Article 9 was modified by the Applicant to relate to noise levels in a noise management plan that would be approved under draft Requirement 20. This would protect against noise nuisance claims when the Proposed Development was operating in accordance with the specified limits but would remove the protection and facilitate a route for complaints if the operational noise exceeded those agreed limits.
- 11.3.7. The ExA is persuaded that the revised Article, if properly applied, would prejudice neither the delivery or operation of the Proposed Development nor the ability of the public to challenge excessive noise nuisance. The ExA does not therefore propose any amendments to, or removal of the Article, and notes that it is similar in form to Articles included in several recently made DCOs for energy projects.

Article 9A, Application of street works permit schemes

- 11.3.8. The original draft of the DCO [APP-019] disapplied the provisions of the permit schemes pertaining to works in highways under the jurisdiction of Hampshire County Council and Portsmouth City Council. This was amended by the Applicant by the insertion of Article 9A into the draft DCO at Deadline 5 [REP5-009]. This followed exchanges between, and submissions from the various parties.
- 11.3.9. As reported in Chapter 6 of this Report, Hampshire County Council sought the ability to direct that certain highway works be undertaken outside the Applicant's stated construction hours to ease any traffic burden on the highway during busy times. The Applicant made a change that retains primacy for its Framework Traffic Management Strategy (FTMS) [REP6-030] to ensure that there could be no unreasonable impediment to construction and that the environmental effects predicted

in the Environmental Statement (ES) (especially night-time noise) would not be exceeded.

- 11.3.10. The ExA is satisfied that the revised draft DCO provides the flexibility and potential for appropriate night-time working agreements to be reached.

Article 12, Application of the New Roads and Street Works Act 1991

- 11.3.11. Hampshire County Council [REP8-072] and Portsmouth City Council [AS-061] raised concerns in relation to the Applicant's proposed disapplication of sections (s)58 and 58A of the New Roads and Street Works Act 1991 (NRSWA), which would otherwise prevent Statutory Undertakers from carrying out works for a period of time on those parts of the highway affected by the works associated with the Proposed Development. Changes to the draft DCO were requested to address these concerns.
- 11.3.12. The Applicant noted [AS-061] that the imposition of a moratorium would potentially present an impediment to the delivery of the Proposed Development, and therefore an explicit reference to its disapplication was necessary. It suggested that it was common for s58 and s58A of the NRSWA to be disapplied to ensure no impediment to the timely delivery of a Nationally Significant Infrastructure Project where part of the works were carried out in a highway, and highlighted a similar approach in the made Southampton to London Pipeline Order 2020.
- 11.3.13. Following discussions at Issue Specific Hearing 4 ([EV-066 to EV-072]), and subsequently outside the Examination, the Applicant accommodated the representations through amendments to the Framework Traffic Management Strategy ([AS-072] section 2.7.1.2). The ExA is content that the approach taken provides proportionate protection to the Proposed Development.

Approval of detailed design for highway works

- 11.3.14. Hampshire County Council [REP6-078] asked the Applicant to provide the highway authorities with either Protective Provisions in the draft DCO or agreements under s278 of the Highways Act 1980 to facilitate approval of the detailed design of highway works in connection with the Proposed Development.
- 11.3.15. The Applicant, through the signed Development Consent Obligation [REP9-010], has agreed a s278 agreement route with Hampshire County Council. The ExA notes that the unilateral Development Consent Obligation with Portsmouth City Council [REP8-042] offers a similar commitment.
- 11.3.16. The ExA considers the wording of the Development Consent Obligations appropriate for purpose in this respect.

Marine Management Organisation concerns

- 11.3.17. Four matters of concern to the Marine Management Organisation (MMO) received extensive attention throughout the Examination in ExA written questions, various Hearings and other submissions. The concerns relating to arbitration, the appeal process, and time limits for response are very closely linked and should be considered together.

Arbitration

- 11.3.18. The MMO requested (e.g. [AS-070], [AS-071] and [REP8-034]) that Article 45 be re-worded to make it explicit that any matter for which the consent or approval of the MMO is required under any provision of the Order would not be subject to arbitration. The MMO's opinion was that a referral to arbitration would be contrary to the intention of Parliament when it created the MMO in the Marine and Coastal Access Act 2009 (the 2009 Act) and would usurp its role as regulator for activities in the marine environment.
- 11.3.19. The MMO explained that the responsibility for the DML would pass from the Secretary of State to the MMO once granted. As such, the MMO is responsible for any post-consent approvals or variations, and any enforcement actions, variations, suspensions or revocations associated with the DML. The MMO contended that it was not the intention of Parliament to create separate approaches to marine licensing through the 2009 Act and the Planning Act 2008 (the PA2008), and that it is crucial that consistency is maintained between DMLs granted through the provision of a DCO, and marine licences issued directly by the MMO independently of the DCO process.
- 11.3.20. The MMO also noted that the arbitration process set out in the Applicant's draft DCO was a private process that would reduce transparency and accountability.
- 11.3.21. The Applicant contended (for example, [REP8-034]) that Article 45 was not applicable to the DML by virtue of the '*Except as otherwise expressly provided*' wording used in that Article, but nevertheless added the following subsection to Article 45 in the final version of the draft DCO [REP9-003]:
- '(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.'*
- 11.3.22. The ExA is content that the amendment addresses the MMO's concern in relation to arbitration by excluding it from the provisions of Article 45 and therefore draft DCO Schedule 17, Arbitration Rules. The ExA notes that the drafting does not fully comply with Office of the Parliamentary Counsel (OPC) drafting guidelines and suggests that '*shall not*' be replaced by '*is not to be*' in its Recommended DCO.

Appeals

11.3.23. The MMO similarly objected to the Applicant's proposed inclusion in the draft DCO of an appeal process for matters relating to post-consent marine licence decisions. It considered that any matter in relation to the DML should not be subject to appeal (e.g. [AS-070], [AS-071] and [REP8-034]). It believed that the inclusion of an appeals provision as drafted would lead to inconsistency between decisions made under DMLs and those made in relation to marine licences issued directly by the MMO, and noted that there was no indication in the PA2008 that this had been intended by Parliament. The MMO also drew attention to Annex B of Planning Inspectorate Advice Note 11, which states that:

'the MMO will seek to ensure wherever possible that any deemed licence is generally consistent with those issued independently by the MMO.'

11.3.24. The ExA explored this in written questions and at Hearings and asked the Applicant's opinion of similar matters in relation to other relevant, recently made Orders, such as the Norfolk Vanguard Offshore Wind Farm Order 2020¹⁹.

11.3.25. The Applicant did not agree to the removal of an appeals process from its draft DCO [REP8-034]. It took the view that the MMO should be held to account for delays, and that it would not be appropriate for the progress of the authorised development to be hindered by delays that were in the control of the MMO.

11.3.26. At Deadline 8, the Applicant made amendments to Article 46 of the draft DCO to make it clear that the general appeals process provisions in the draft DCO would not apply to the DML conditions:

'(2) The procedure set out in paragraph (1) relating to the appeal process of Schedule 3 has effect in relation to any other consent, agreement or approval required under this Order (including the requirements but excluding any matter for which the consent, agreement or approval of the Marine Management Organisation is required) where such consent, agreement or approval is granted subject to any condition to which the undertaker objects, or is refused or is withheld.'

11.3.27. However, the final draft DCO [REP9-003] retains a process for appeals to the Secretary of State in relation to post-consent refusals or a failure to determine within the Applicant's stated timescales through Condition 13 of the DML and Schedule 16 of the draft DCO. This would be achieved by modifications to the Marine Licensing (Licence Application Appeals) Regulations 2011, as set out in Schedule 16.

11.3.28. The ExA has carefully considered the arguments put forward and considered guidance and similar matters in relation to other relevant, recently made Orders. It can find no reasonable justification in support of

¹⁹ Following an Order of the High Court made on 18 February 2021, the decision of the Secretary of State to grant development consent for the Norfolk Vanguard Offshore Wind Farm has been quashed.

the Applicant's intention to adapt existing provisions relating to the discharge of DML conditions by the MMO in the exercise of its regulatory function. Conversely, it can appreciate the MMO's concerns that to take such an approach would risk creating a two-tier system of marine licensing and create inconsistencies between the regulation of licensable activities through marine licences and DMLs.

- 11.3.29. As such, the matter is discussed further below in relation to the ExA's Recommended DCO.

Time limits for response

- 11.3.30. The Applicant has included time limits in the draft DCO for post-consent approvals and decisions in relation to the DML. It says this is to ensure that the authorised development can be implemented 'in a timely manner' [REP8-034]. Should MMO fail to determine an application for approval within the stated time limit, the draft DCO Schedule 16 appeal process, discussed above, may be triggered.
- 11.3.31. The MMO maintained an objection throughout the Examination to being bound to a time limit in this way (for example, [REP8-034]). It pointed out that the time taken to make a determination depends on the quality of the application made, the complexity of the issues and the amount of consultation the MMO is required to undertake with other organisations. It suggests that this would lead to inconsistencies with the process in place under statute for the determination of directly made marine licence post-consent applications.
- 11.3.32. The MMO clarified that its objection relates to being time limited on any DML conditions, including 3, 5 and 13 (which time limits the MMO in relation to conditions 10 and 11).
- 11.3.33. The ExA took careful note of the arguments put forward by the parties, and considered other recent made Orders, most notably those with DMLs for cabling connections for offshore wind farms, such as The East Anglia Three Offshore Wind Farm Order 2017. Whilst appreciating the Applicant's view that the regulators responsible for post-consent approvals relating to the onshore elements of the Proposed Development are typically time limited in an Order, the ExA also recognised the tension between reflecting this in the offshore consents and the desirability of maintaining parity between the implementation of marine licences and DMLs.
- 11.3.34. As such, the ExA found no compelling evidence as to why the Applicant and the Proposed Development should be an exception to established practice or be treated differently to any holder of a marine licence directly issued by the MMO that consented similar marine activities.
- 11.3.35. The matter is discussed below in relation to the ExA's Recommended DCO.

Dredging at the HDD pit

- 11.3.36. Section 7.5 of this Report details the disagreement [REP8-034] between the Applicant and the MMO in relation to the need for further sampling and analysis of contaminants in dredged sediments at the marine HDD site should works not commence within 3 years of the earlier sampling, for the reasons noted there.
- 11.3.37. The MMO maintained at the close of Examination that a condition requiring a sample plan must be included in the DML to ensure that the dredged material remains suitable for disposal at sea.
- 11.3.38. The Applicant maintained that this was unnecessary, but confirmed in the final Statement of Common Ground with MMO [REP8-034] that, should the Secretary of State consider it necessary, it would be willing to accept the inclusion of the condition that it sets out there, provided it includes clear and enforceable timescales for the MMO to undertake the required actions for approval.
- 11.3.39. The ExA sets out a detailed rationale in section 7.5, but in summary it concluded that, in light of relevant legislation and policy, had this been an application directly to the MMO for a marine licence, it seems most likely that such a condition would have been applied, with justification, and it is important to reflect that in the DML by the addition of a suitable condition for consistency between the two regimes.
- 11.3.40. The final Statement of Common Ground between the Applicant and the MMO ([REP8-034] Table 4.1, first line entry) includes a suggestion to be inserted as Condition 15 into the DML from each party. These are not repeated in full here, but they differ principally in relation to the last date for commencement of the dredge at the HDD work area, and the inclusion or otherwise of time limits for MMO to make a determination, as mentioned above.
- 11.3.41. Given the ExA's recommendation that the MMO should not be the subject of the proposed appeals procedure, and that the DML should not include conditions that time limit MMO's post-consent decisions, it follows that the ExA cannot recommend the inclusion of the Applicant's proposed Condition 15, as this would invoke the proposed Schedule 16 appeals procedure and introduce such a time limit.
- 11.3.42. The matter is discussed below in relation to the ExA's Recommended DCO.

Article 50, Development Consent Obligations

- 11.3.43. At Issue Specific Hearing 4 ([EV-066] to [EV-072]), some IPs, including Portsmouth City Council, questioned the ability of the Applicant to enter into Development Consent Obligations prior to the grant of the DCO without having a genuine interest in land. The Applicant's response [REP8-057] was to amend Article 8 of the draft DCO to provide the necessary modification to the Town and Country Planning Act 1990 (TCPA 1990).

- 11.3.44. At the same time, Article 50 was inserted into the draft DCO to describe the intended Development Consent Obligations and to ensure that the authorised development does not begin for the purposes of section 155(1) of the PA2008 unless and until the undertaker completes those Development Consent Obligations pursuant to section 106 of the TCPA 1990.
- 11.3.45. The ExA is satisfied with the approach of the Applicant and considers that the amendments overcome any concerns about the timing and implementation of any Development Consent Obligations related to the DCO process. The weight given to the obligations is discussed in Chapters 6 and 7 of this Report.

Schedule 1, Work No. 1(a)

- 11.3.46. Following discussions outside the Examination between the Applicant and National Grid Electricity Transmission (NGET), the description of Work No. 1 was amended by the Applicant at Deadline 6 to clarify that the application was intended to include the extension of the existing Lovedean Substation to accommodate the connection of the Proposed Development to the grid. The inserted amendment says:
- 'extension of the existing substation, including site establishment, earthworks, civil and building works'*
- 11.3.47. A further amendment was made by the Applicant at Deadline 8 to include Requirement 5(1) in respect of maximum parameters for Work No. 1. It added:
- 'Any building or equipment comprised in Work No. 1 must not exceed a height of 15 metres above existing ground level and for the purposes of this sub-paragraph (1) of this requirement 'existing ground level' means 86 metres above ordnance datum.'*
- 11.3.48. Affected Persons (APs) Peter and Geoffrey Carpenter ([REP7-117] and [REP8-105]) referred to an earlier planning permission granted to NGET for the extension of the substation (13/01025/F). They contended that the extension to Lovedean Substation in the draft DCO was not lawful on the basis that:
- if the original planning permission had been 'saved' through lawful implementation, it was not identified in the Onshore Short List of Developments ([APP-347] Sheet 1, and [APP-347(a)] Sheet 1) against which environmental effects were assessed;
 - that if planning permission had lapsed then it would be a new element to the application and should be a formal change request.
- 11.3.49. The Applicant responded [REP9-019] that the extension constituted the provision of the eastern and western connection bays to facilitate the cable connection and the earthworks, civil and building works required for those. These works were clearly set out and assessed in Chapter 3 of the ES. The edit to the draft DCO to include explicit reference to the

extension works had been requested by NGET to clarify that such works had been taken into account.

- 11.3.50. With reference to plate 3.5 and section 3.6.2 of the ES [APP-118], where the required works to upgrade and connect the Proposed Development to the Lovedean Substation are detailed, the ExA's view is that the works are clearly specified and assessed, and that their explicit referencing in Schedule 1, Work No. 1 does not provide for anything further than that applied for in the application and assessed in the ES.

Two siting options for the converter station

- 11.3.51. Pending the conclusion of negotiations between the Applicant and NGET over a piece of land, the draft DCO retains two options for the siting of the converter station (B(i) and B(ii)), Work No. 2, as discussed in section 5.4 of this Report. As set out there, Winchester City Council [REP8-077] and the South Downs National Park Authority [REP8-076] raised concerns over this flexibility remaining at the close of Examination.
- 11.3.52. The retention of the two options is covered in the draft DCO by Requirement 5(2) and Schedule 7, in combination with the Parameter Plans [REP7-009] in terms of controlling the location and assessment parameters. The two options would have different impacts on hedgerow removal, with Option B(i) resulting in a greater loss, and this is detailed in Schedule 12. Chapter 7 of this Report accepts that the worst-case environmental effects have been assessed by the Applicant in each case.
- 11.3.53. The ExA is content that the Recommended DCO and the associated control documents properly address the optionality and cannot see any reason why the two options cannot be retained in the made Order if necessary.

Commercial use of surplus capacity of fibre-optic cables

- 11.3.54. As reported in Chapter 5, several parties, including Portsmouth City Council, Winchester City Council and Peter and Geoffrey Carpenter, objected to the inclusion of use of the surplus capacity in the fibre-optic cables and related development for commercial telecommunications. There was no submission from any IP to question the inclusion in the draft DCO of the fibre-optic cable for its primary cable monitoring role.
- 11.3.55. At Issue Specific Hearing 1 ([EV-020] to [EV-025]), the Applicant contended that the commercial use of the surplus fibre-optic cable capacity could be included in the draft DCO provisions but, if the ExA or Secretary of State considered otherwise, it would be a simple matter to strike out references to commercial telecommunications use without affecting the integrity of the Proposed Development, or the draft DCO, or causing any environmental effects beyond those assessed in the ES.
- 11.3.56. The ExA also considered the proposed commercial telecommunications use in relation to any DML. In response to the ExA's first written

questions (ExQ1) [REP1-211], the MMO confirmed that it did not view the capacity itself as a licensable matter.

- 11.3.57. The ExA's reasoning and recommendations on the matter of the commercial use of the surplus fibre-optic cable capacity are set out in Chapter 5 of this Report and are not repeated here. It notes that the commercial use of the surplus fibre-optic cable capacity does not entail any additional licensable works in the marine environment.
- 11.3.58. The ExA does not believe that the draft DCO needs to be amended in this regard, and that provisions related to the commercial use of the surplus fibre-optic cable capacity and its related operational development can remain.

Grampian style Requirement relating to French consents

- 11.3.59. Some IPs, including Winchester City Council and Portsmouth City Council, requested the addition of a Requirement that would prevent the commencement of the consented works until all necessary approvals, including those for the French element of the project, as set out in the Statement of Reasons ([REP8-008] section 9, and [REP9-009]), had been obtained. The two councils maintained their positions until the end of the Examination, as shown in their respective Statements of Common Ground with the Applicant ([REP8-045] and [REP8-044] respectively).
- 11.3.60. Winchester City Council [REP8-081] proposed a Grampian style Requirement:
- 'No phase of the development within the UK boundary above MHSW (sic) shall commence (including any onshore site preparation work) before the applicant has provided the relevant local authority for that phase, written confirmation that the whole of the scheme (including the French side) has obtained the approvals listed in section 9 of the Statement of Reasons. The submitted details will list the approvals, the authorising body, the date they were obtained and any relevant reference number.'*
- 11.3.61. In the draft DCO Issue Specific Hearings, the Applicant considered that such a provision was neither necessary nor appropriate in planning terms ([EV-020] to [EV-025], and [EV-066] to [EV-072]). Its Other Consents and Licences document (REP6-024) confirmed the situation in relation to the necessary French consents, and the Applicant also explained its view that such a Requirement could cause confusion and potentially lead to unintended consequences, taking into account French law and regulatory processes. The Applicant provided a detailed rationale in its response to Winchester City Council's comments on the draft DCO [REP7c-013].
- 11.3.62. The ExA notes the Applicant's consenting framework for the Proposed Development in the Other Consents and Licences document [REP6-024], which encompasses UK and French authorisations. The consents would need to be obtained to enable the construction, operation and maintenance of the Proposed Development. In the ExA's view, a

developer would be most unlikely to commit substantial funds or otherwise commence the construction of such a project without having the surety provided by having the full range of consents in place. The ExA also understands the Applicant's concern that it could potentially cause confusion and lead to unintended consequences. Taking all relevant considerations into account, the ExA does not consider that there is a need to include the proposed Grampian style Requirement.

Guarantees in respect of the payment of compensation

- 11.3.63. Some parties, most notably AP Peter and Geoffrey Carpenter ([REP8-094] and [REP8-097]), raised funding as a potential impediment to the delivery of the project and, having examined recent and current company accounts, suggested the Applicant was insolvent.
- 11.3.64. The Applicant added Article 51 to the draft DCO to require the provision of security in respect of potential CA and Temporary Possession (TP) costs ([REP9-008] reference 348).
- 11.3.65. Concerns were raised by APs whose freeholds would be subject to CA [REP8-094] that the cost estimate on which the level of security was determined was too low. The ExA notes that only a small proportion of the Order land would be acquired in this manner but that this would account for a large proportion of the overall estimate ([REP7-038] reference CA2.3.4).
- 11.3.66. As discussed in Chapter 10 of this Report, the ExA is content that the response from the Applicant is satisfactory, and that it complies with the relevant CA guidance. While the Article was added relatively late in the Examination at Deadline 8, its wording reflects a Requirement to the same effect that had been added to the draft DCO earlier in the Examination, but which this new Article would replace ([PD-031] reference CA2.3.13, and [PD-034]). The ExA is content that IPs had an opportunity to comment on the now deleted Requirement that would have substantially the same effect as the new Article.

Requirement 24 and decommissioning

- 11.3.67. The original draft DCO [APP-019] did not contain a Requirement in relation to decommissioning. The Applicant contended that decommissioning would be subject to a separate consenting process at the appropriate stage and was not being sought through this application ([APP-118] paragraph 3.3.1.3).
- 11.3.68. The Applicant added Requirement 24 in relation to a decommissioning scheme for the onshore elements of the Proposed Development in response to concerns from IPs, notably Winchester City Council. This was later amended by the Applicant to include a trigger for notification of the relevant local authority of intended decommissioning.

- 11.3.69. Winchester City Council went on to propose an additional Requirement to secure a decommissioning bond of some £60m in case the owners went into receivership or liquidation and could not fund the decommissioning requirement [REP8-081]. The Applicant [REP9-014] rejected this, noting that comparable DCOs did not contain such provisions.
- 11.3.70. The ExA heard no compelling evidence in the Examination for a need for a decommissioning bond, nor did it recognise any substantive difference between this Proposed Development and other similar projects where no such bond had been required in the made Order. The ExA is thus satisfied with the Applicant's approach to decommissioning and the drafting of Requirement 24.

11.4. THE ExA's SCHEDULE OF CHANGES TO THE DRAFT ORDER

- 11.4.1. The ExA issued a proposed schedule of changes [PD-034] prior to Issue Specific Hearing 4 into the draft DCO [EV1-016]. IPs were invited to comment on the ExA's proposals during the Hearing. The Applicant answered questions at the Hearing and provided a summary of its position in writing in relation to each of the proposed changes [REP8-028].
- 11.4.2. Some of the changes related to outstanding drafting errors or inconsistencies. These were accepted by the Applicant and incorporated into the next version of the draft DCO. They are not repeated here but can be seen in tabulated form in the Applicant's summary [REP8-028].
- 11.4.3. The Schedule included the following substantive proposals that were agreed by the Applicant and incorporated into the draft DCO:
- Article 7 - deletion of time limit imposed on the Secretary of State;
 - Article 43 - certification of documents in addition to plans;
 - Article 45 and new Schedule 17 - reference Arbitration Rules and add to draft DCO as Schedule 17, clarify non-applicability to the MMO;
 - (Was Requirement 26, now) Article 51 – change the guarantee and security of funding Requirement to an Article, clarify applicability.
- 11.4.4. The Applicant disagreed with two proposed changes, and these were examined further. They are discussed below, and were:
- Article 19(5) – damage to land and compensation;
 - Article 46 and Schedule 3 – amend to address timescales for post-consent approvals.
- 11.4.5. The ExA sought clarity on Part 3, Article 10(2) [PD-034] and reassurance that it would ensure any restoration works to streets would be to satisfactory standards. The Applicant [REP8-028] provided this, and the ExA is content that this matter has been properly addressed.

11.5. OTHER PARTIES' PROPOSED CHANGES TO THE DRAFT ORDER

- 11.5.1. During the Examination, the Applicant considered and sought to address matters in relation to the draft DCO that were raised by several parties. In addition to responding to the ExA's proposed schedule of changes (discussed above), the Applicant provided a collation of all of the remaining requests for amendments to the draft DCO at Deadline 8 from Portsmouth City Council, Winchester City Council, East Hampshire District Council, Hampshire County Council, the MMO, and Peter and Geoffrey Carpenter, together with its response to each request [REP8-028].
- 11.5.2. The ExA took careful note of the respective positions in relation to each entry on this schedule. Many of the suggested changes related to minor clarifications, typographical issues and to reflect updated best practice in the drafting of Orders. Other suggested modifications were made to clarify the relationship between, or better align the draft DCO with the suite of control documents such as the Construction Environmental Management Plans. None of these was contentious and they are not described here, though they can be seen in the Applicant's summary [REP8-028].
- 11.5.3. The ExA is content with the Applicant's position set out in its collation [REP8-028] in relation to the following issues raised by Portsmouth City Council that are not addressed elsewhere in this Chapter and that remained not agreed (see the Applicant's submitted document, Schedule of Requested Changes to the Draft Development Consent Order and Applicant's Position [REP8-028] for details):
- Article 2, definition of 'authorised development';
 - Article 2, definition of 'operational period';
 - Article 2, definition of 'provisional advance authorisation';
 - Article 2, definition of 'Statutory Undertaker';
 - Article 2(2);
 - Article 7(1), Article 7(6)(e) and Article 7(8)(a)(v);
 - Article 7(6)(a);
 - Article 10(1);
 - Article 11(1);
 - Article 12;
 - Article 16;
 - Article 18(1);
 - Article 19(4)(c), (d), and (6);
 - Article 29;

- Article 39;
- Articles 41 and 42;
- Article 41(6);
- Requirement 5;
- Requirement 6(3)(c) and (7);
- Requirement 8(3);
- Requirement 9(4);
- Requirement 13;
- Requirement 18(3);
- Requirement 18(4)(b);
- Requirement 26.

11.5.4. The ExA is content with the Applicant's position set out in its collation [REP8-028] in relation to the following issues raised by Winchester City Council that are not addressed elsewhere in this Chapter and that remained not agreed:

- Articles 41 and 42;
- Requirement 3;
- Requirement 6, request for flexibility and sub-headings;
- Requirement 7;
- Requirement 8;
- Requirement 9;
- Requirement 15;
- Requirement 22;
- Requirement 24;
- Requirement 27.

11.5.5. The ExA is content with the Applicant's position set out in its collation [REP8-028] in relation to the following issues raised by Hampshire County Council that are not addressed elsewhere in this Chapter and that remained not agreed:

- Article 16;
- Requirement 3;
- Schedule 3.

11.5.6. The proposed changes of substance accepted by the Applicant are summarised as part of the following section.

11.6. FURTHER CHANGES MADE BY THE APPLICANT DURING EXAMINATION

- 11.6.1. The Applicant's final draft DCO [REP9-003] incorporated a number of changes as a result of due diligence, compatibility with recently made Orders, the ExA's questions and representations from IPs. Some of the changes arose at Issue Specific Hearings (for example, Issue Specific Hearing 5 Environmental Matters [EV1-017]), or in response to IPs submitting preferred versions of the DCO ([AS-061] and [REP7-093]).

Part 1, General provisions

Article 2, Interpretation

- 11.6.2. Article 2 [REP9-003] was amended to include '*Work No. 2 (bb) (access junction and associated gated highway link)*' in the definition and scope of onshore site preparation works, which the Applicant contends need to be excluded from the definition of commence. Reference to Work No. 2 (bb) was made to reflect that it would be subject to a s278 consenting process in liaison with Hampshire County Council, as provided for in section 3.10 of the Development Consent Obligation [REP8-040].

Part 2, Principal powers

Article 7, Consent to transfer the benefit of Order

- 11.6.3. Article 7(5) was amended to delete reference to the Secretary of State being subject to arbitration, for compatibility with other made Orders ([REP1-091] reference DCO 1.5.85, and [REP9-008] reference 9).
- 11.6.4. Article 7(4) was deleted at the request of the ExA to remove the time limit on the Secretary of State to determine an application for transfer ([PD-034], and [REP9-008] reference 324). The deletion brings the draft Order in line with other recently made Orders.

Article 8, Application, exclusion and modification of legislative provisions

- 11.6.5. Article 8(5) was added to disapply the provisions of the Town and Country Planning (Border Facilities and Infrastructure) (EU Exit) (England) Special Development Order 2020 to avoid any impediment to the Proposed Development. There were no objections from any IPs to this.

Article 13, Temporary closure, alteration, diversion or restriction of streets, public rights of way and permissive paths

- 11.6.6. Article 13, in conjunction with Schedule 8, was amended following Issue Specific Hearing 1 [EV-010] to remove the term 'stopping up' and replace it with 'closure' to accord with the relevant legislative meanings of the terms and apply them appropriately to the Proposed Development.

Part 4, Supplemental powers

Article 19, Authority to survey and investigate the land

- 11.6.7. Article 19(5) was added for the removal of apparatus and the restoration of land following any surveys, to minimise any impacts ([REP9-008] reference 335).
- 11.6.8. Article 19(6) was amended at the request of the ExA to ensure that owners and occupiers would be compensated for all loss and damage following any surveys, to align with other provisions in the draft DCO ([REP9-008], reference 336).

Part 5, Powers of acquisition

- 11.6.9. Articles 22, 25(6) and 31 were amended at the request of the ExA to decrease the time limit for the exercise of CA and TP powers from seven to five years in the absence of any justification for a longer than usual time limit ([REP3-004], and [REP9-008] references 185, 187 and 339).

Article 23

- 11.6.10. Article 23 was amended to expressly restrict CA powers to those required for the Proposed Development, following concerns over the extent of the Order land ([REP1-022] and [REP-008] references 33 and 231).

Article 24, Private rights of way

- 11.6.11. Article 24(2) was amended at the request of the ExA to restrict private right of way extinguishment on the commencement of activities which would interfere with that right, again following concerns over the extent of the Order land ([PD-034], and [REP9-008] reference 337).

Article 30, Temporary use of land for the construction of the authorised development

- 11.6.12. Prior to Issue Specific Hearing 1, Article 30 was amended to reflect the TP of parts of the Eastney and Milton Piece Allotments required for any clean-up of HDD drilling lubricant breakout (bentonite), following clarifications requested by the ExA ([REP5-009], and [REP9-008], reference 186). Consequential amendments were made to Article 11.
- 11.6.13. Article 30(9) was amended to delete the provision for subsoil acquisition where TP only is sought following queries raised by APs ([REP7-014], and [REP9-008] reference 268).

Part 7 Miscellaneous and general

Article 46 and Schedule 3, Time limits for post-consent decisions

- 11.6.14. The ExA's Schedule of Proposed Changes to the draft DCO sought amendments to Article 46 and Schedule 3 to address the Applicant's proposed time limits for post-consent approvals. The Applicant did not

agree with wholesale changes to the Article and Schedule but made some amendments to the wording of Schedule 3 and clarified the relationship of the provisions to the DML and MMO. It also disagreed that the proposed changes had precedent in recently made Orders and quoted a number of examples where provisions of the type suggested were absent [REP8-028].

- 11.6.15. Given the changes made and that the principal concern over the application of time limits to the MMO is addressed elsewhere, on balance, the ExA was satisfied with the Applicant's position in other respects and does not pursue its earlier proposal for the wholesale replacement of Article 46 and Schedule 3.

Article 49, Saving provisions for Trinity House

- 11.6.16. Article 49 was added to the draft DCO at Deadline 3 to secure a saving provision for Trinity House [REP3-003], at the request of Trinity House [REP2-026].

Schedule 2 Requirements

Requirement 5, Converter station and optical regeneration station parameters

- 11.6.17. Following concern from Winchester City Council over the height of the converter station, the Applicant inserted paragraph 5(3) into the draft DCO to restrict buildings in Work No. 2 to +111.1m above ordnance datum (excluding the lightning masts which are restricted to +115.1m above ordnance datum), in accordance with the information on the converter station and telecommunications building Parameter Plans.

Requirement 6, Detailed design approval

- 11.6.18. Amendments were made in response to requests from Winchester City Council in respect of:
- the design of building foundations (6(1)(e));
 - the design of Work No. 2 (bb), the access junction with the converter station access road (6(2));
 - restriction of lighting to that approved (6(11)).

- 11.6.19. A new subparagraph (5) was also added providing for the relevant highway authority to be the discharging authority for the detailed design of the onshore cable installation in a public highway.

Requirement 10, Highway accesses

- 11.6.20. The draft Requirement was amended to clarify that the approval of detailed designs of new temporary and permanent accesses to the highway would be the responsibility of the relevant planning authority in consultation with the relevant highway authority.

Requirement 12, Surface and foul water drainage

- 11.6.21. In response to a request from Portsmouth City Council, the following clause was added:

(4) The construction of the optical regeneration stations within Works No. 5 must not commence until a sustainable drainage system operation and maintenance strategy relevant to those works has been submitted to and approved by the relevant local planning authority (in consultation with the lead local flood authority) and the sustainable drainage system for the optical regeneration stations must be maintained in accordance with the approved sustainable drainage system operation and maintenance strategy during the operational period.

Requirement 15, Construction Environmental Management Plan

- 11.6.22. The following was added to the end of Requirement 15(1) to confirm the need for the relevant planning authority to consult with the relevant highway authority as appropriate:

... (in consultation with the relevant highway authority in so far as such phase of the authorised development is located on the public highway)

Requirement 17, Construction traffic management

- 11.6.23. Following a request from Hampshire County Council for clarification about the proposed use of the existing Broadway Farm access track and its junction with the highway, the Applicant amended the Framework Construction Traffic Management Plan and Requirement 17 to ensure the need for a Construction Traffic Management Plan to be submitted and approved before the works commenced.

Requirement 22, Restoration of land used temporarily for construction

- 11.6.24. A reference to phasing was included in response to concerns from Winchester City Council and Portsmouth City Council.

Requirement 25, Traffic management

- 11.6.25. Draft Requirement 25 was amended to confirm the need for approval by the relevant highway authority of travel demand plans for phases of Work No. 4, and that these needed to accord with the corresponding travel demand strategy. A further amendment was made to secure proper access to residences, businesses and community facilities during the works.

Requirement 26, Employment and skills plan

- 11.6.26. At its request, East Hampshire District Council was added to the list of authorities to be consulted by Winchester City Council prior to its approval of the employment and skills plan.

Schedule 9, Modification of compensation and compulsory purchase enactments etc.

- 11.6.27. Schedule 9 was amended to reflect ExA requests ([REP8-005], and [REP9-008] reference 385). Paragraphs 3 and 8 were deleted because they were unnecessary.

Schedule 13, Protective Provisions

- 11.6.28. Schedule 13 was amended to reflect agreements with Statutory Undertakers and recently made Orders ([AS-065] question 16.4, and [REP9-008] references 386 to 389).

Schedule 15, the DML

- 11.6.29. The MMO was concerned [REP1-211] that the inclusion of the modifier 'likely' in Part 1(10) of the DML, Details of Licensed Marine Activities, added a subjective test and room for ambiguity. The Applicant was content that the wording was in general accordance with the EIA Regulations. Following various exchanges at Hearings and in submissions, the Applicant agreed to replace the section with the corresponding wording from the Norfolk Vanguard Order 2020. The final, signed Statement of Common Ground between the parties [REP8-034] notes that the MMO considers the matter resolved.

11.7. OUTSTANDING CONCERNS AT THE CLOSE OF THE EXAMINATION

Compulsory Acquisition of Crown land

- 11.7.1. As explained in Chapter 10, at the end of the Examination the Applicant had still not received Crown consent for the provisions relating to Crown land in the draft DCO, although it had obtained Ministry of Defence consent in this regard. The Applicant may be in a position to forward the necessary Crown consent to the Secretary of State before any decision on the Recommended DCO is taken. If this is the case, then no amendments to the Recommended DCO would be necessary.
- 11.7.2. However, if the Order is to be made without the benefit of such Crown consent, the Recommended DCO would require amendment as follows ([AS-065], questions 3.18 and 3.19):
- Article 47(1)(a)(i) delete '*without the consent in writing of the Crown Estate Commissioners*';
 - Article 47(1)(a)(ii) delete '*without the consent in writing of the Government Department having the management of that land*';
 - Article 47(1)(a)(iii) replace '*without the consent in writing of that Government Department*' with '*other than land belonging to the Ministry of Defence with the consent in writing of the Ministry of Defence*';

- Article 47(1)(b) replace '*without the consent in writing of the appropriate Crown authority (as defined in the 2008 Act)*' with '*other than land belonging to the Ministry of Defence with the consent in writing of the Ministry of Defence*'.

11.7.3. These modifications, which the Applicant has suggested, would limit the powers in the Recommended DCO, such that they would not apply in relation to parcels of Crown land other than those in which the Ministry of Defence holds an interest. This would result in the exclusion of any provisions in the Recommended DCO relating to Crown land as above. This is therefore a matter that the Applicant would need to address before the implementation of the parts of the Proposed Development that would affect Crown land.

11.7.4. Such Crown land is mines and minerals below the A27 highway, Langstone Harbour and the foreshore at Southsea. The absence of rights over these areas of land would prevent the construction of the Proposed Development through the parcels in question and thus the full completion of the Proposed Development as envisaged.

Schedule 13 Protective Provisions

11.7.5. Portsmouth Water Ltd had not withdrawn its objection to the CA provisions in Schedule 13 Part 1 of the draft DCO by the end of the Examination [RR-005]. The Applicant advised that heads of terms for a private agreement have been agreed ([REP8-008] Appendix B) and that these would vary the Protective Provision in relation to Portsmouth Water ([REP8-039] Table 5.1).

11.7.6. Portsmouth Water Ltd's concern relates to the possibility of a lower level of NRSWA compensation than would be available under the draft DCO Protective Provisions ([AS-065] question 16.2). The Applicant considers that the draft DCO compensation would apply but offered a private agreement to clarify matters. The relevant Protective Provisions are based on recently made Orders, and the ExA is satisfied that the draft DCO compensation would apply and that the draft DCO Protective Provisions in relation to Portsmouth Water are appropriate.

11.7.7. Southern Water Services Ltd had not withdrawn its objection to the CA provisions in Schedule 13 Part 1 of the draft DCO by the end of the Examination ([RR-192], [REP6-100], and [REP7-038] reference CA2.3.17). The Applicant advises that meaningful engagement with Southern Water on the Protective Provisions has not been forthcoming. In view of all of the above points, the ExA is satisfied that the draft DCO Protective Provisions in relation to Southern Water Services are appropriate.

11.7.8. Vodafone Limited had not withdrawn its objection to the CA provisions in Schedule 13 Part 2 of draft DCO by the end of the Examination ([REP6-102], and [REP7-038] reference CA2.3.16). The Applicant advises that it is discussing a Protective Provisions agreement with Vodafone although there are no matters in dispute between the parties. Again, in view of all

of the above points, the ExA is satisfied that the draft DCO Protective Provisions in relation to Vodafone are appropriate.

11.7.9. APs Peter and Geoffrey Carpenter requested [REP7-119] the addition of a Protective Provision for the protection of Little Denmead Farm. The ExA considered that, while there is no reason in principle why a Protective Provision could not be introduced for a landowner, they are normally introduced for Statutory Undertakers because of the importance of the infrastructure they operate and the need to avoid interference with it. In addition, the APs are already protected by the CA and TP considerations. The ExA considers that the proposed Protective Provision would make many of the powers that would be granted to the Applicant by the DCO impracticable to exercise efficiently or, indeed, at all. As such the ExA sees no reason for the inclusion of the proposed Protective Provision in the Recommended DCO.

11.7.10. The ExA is therefore content that Applicant has entered into appropriate discussions with relevant parties in relation to the Protective Provisions in Schedule 13 and cannot see any reason to amend the Applicant's draft DCO in this regard.

MMO concerns

11.7.11. Matters of substance remained as not agreed between the Applicant and the MMO at the close of the Examination, despite extensive coverage in ExA written questions, various Hearings and other submissions. These relate to the proposed appeal procedure, time limits for the MMO to determine post-consent applications, and a need for a sediment sampling plan at the marine HDD pit. A summary of the Applicant's and MMO's respective positions is set out in the final, signed Statement of Common Ground between the parties [REP8-034].

11.7.12. These are all discussed above and taken into account in the ExA's Recommended DCO section below.

11.8. THE DCO AT THE CLOSE OF THE EXAMINATION

11.8.1. The Applicant's final draft DCO was its seventh revision [REP9-003], with the Deadline 8 version of the Explanatory Memorandum [REP8-006] being the final version of that document.

11.9. ExA's RECOMMENDED CHANGES

11.9.1. With the following exceptions, the ExA is satisfied that the aggregated changes made up to the Deadline 9 version of the Applicant's draft DCO (REP9-003) appropriately address the issues that arose in the Examination.

11.9.2. In terms of those exceptions, and for the reasons already set out, the ExA recommends the changes tabulated in Table 11.1. Subject to these considerations, the ExA is satisfied that the provisions in the Recommended DCO are within legal powers.

- 11.9.3. The ExA draws the Secretary of State's attention to the inclusion of 'Article 9A' in the final draft DCO [REP9-003], meaning that it cannot be validated. To avoid any confusion in reporting that would have been caused by renumbering the Articles, the ExA has retained Article 9A in the Recommended DCO. If necessary, the Secretary of State may need to deal with the renumbering and cross-referencing of the Articles in any made Order.

Table 11.1: the ExA's recommendations for changes to the draft DCO

Draft provision	Issue	Recommendations
Public open space		
Recommended DCO, introductory note (page 4, paragraph 5)	Effects on Farlington Playing Fields and other public open spaces.	Amend to read: <i>'...and that accordingly, sections 132(3), (4A) and (4B) of the 2008 Act apply.'</i>
Recommended DCO, introductory note (page 4, paragraph 5)	Unnecessary reference.	Amend <i>'parcels of common, open space or fuel or field allotment land'</i> to <i>'parcels of common or open space land'</i> .
Article 9A		
Article 9(A)	Layout error.	Delete the line return between '9A -' and the following line.
Article 12		
Article 12(2)(t)	Typographical error.	Add a full stop at the end to read, <i>'... (a) to (q).'</i>
Article 25		
Article 25(4)	Layout error.	Delete the line return after Article 25(4).
Article 31		
Article 31(2)	Typographical error.	Delete superfluous bracket (`)').
Article 43		
Article 43(b)	Typographical error.	Amend <i>'identified in the Order as made; and'</i> to <i>'identified in the Order as made,'</i>
Article 45		
Article 45(2)	OPC drafting guidelines.	Amend <i>'shall not be subject to'</i> to <i>'is not to be subject to'</i> .
Schedule 3		
Schedule 3	Referencing error.	Amend cross-reference from <i>'Article 3'</i> to <i>'Article 46'</i> .
Schedule 13		
Part 3 12 (1)	Typographical error.	Amend <i>'the execution of the works'</i> to <i>'the execution of the works-'</i>
Part 4 1	Typographical error.	Delete duplicated full stop.
Part 4 11 (3)	Typographical error.	Add terminal full stop.

Part 4 22	Typographical error.	Add terminal full stop.
Part 5 1(2)(b)	Typographical error.	Add terminal full stop.
Part 6 4(1)(d)	Typographical error.	Add terminal semi colon.
Part 6 8(c)	Layout error.	Remove '(c)' and align left.
Schedule 15		
Part 1 1(1)	Typographical error.	Amend ' <i>Working day... public holidays;</i> ' to ' <i>Working day... public holidays.</i> '
Part 1 1(4)	Typographical errors.	Add terminal semi colons to entries for MMO, Trinity House, Natural England and Historic Buildings and Monuments Commission for England; and amend semi colon following entry for CEFAS to a full stop.
Part 2 2(7)(b)	Typographical error.	Replace terminal inverted comma with a comma.
Part 2 4(c)(iii)	Typographical error.	Replace terminal comma with a semi colon.
Part 2 8(7)	Typographical error.	Replace terminal semi colon with a full stop.
Part 2 11(2)	Typographical error.	Replace terminal semi colon with a full stop.
Part 2 12(1)	Typographical error.	Replace terminal semi colon with a full stop.
DML appeals process		
DML Condition 3 DML Condition 5 DML Condition 12 DML Condition 13 DCO Schedule 16	MMO objection to its post-consent decision making being subject to an appeals process.	Delete DML Condition 3(4); Amend DML Condition 3(5) by the deletion of ' <i>or approved following an appeal under subparagraph (4)</i> '; Delete DML Condition 5(4); Amend DML Condition 5(5) by the deletion of ' <i>or approved following an appeal under subparagraph (4)</i> '; Delete DML Condition 12(13); Delete DML Condition 13; Delete Schedule 16.
DML time limits for determination		
DML Condition 3 DML Condition 5 DML Condition 13	MMO objection to being time limited responding to post-consent decisions.	Delete DML Condition 3(3); Delete DML Condition 5(3); Delete DML Condition 13.
DML sediment plan		
DML new Condition 15	MMO request for a DML condition requiring a sediment sampling plan for the offshore HDD dredge.	Insert Condition 15*: '(1) <i>Should dredging at the offshore horizontal directional drilling work area not have commenced by 31 December 2022, a sediment sampling plan request must be submitted to the MMO to determine whether new sediment sampling and analysis is required in relation to dredging at the horizontal directional drilling work area before any such works commence.</i>

	<p>(2) Where it is confirmed pursuant to condition 15(1) that new sediment sampling and analysis is required for dredging at the offshore horizontal directional drilling work area, the sediment analysis must be completed by a laboratory validated by the MMO. The results must be submitted to the MMO at least 6 weeks prior to the date that dredging at the offshore horizontal directional drilling work area is planned to commence. Dredging at the offshore horizontal directional drilling work area must not be commenced until approval has been provided by the MMO.'</p>
<p>* Note on Condition 15</p> <p>The ExA notes [APP-374] that the samples for the analysis of contamination in the ES were collected during the benthic ecology grab sampling on 25 March 2018 [APP-377]. It also notes that the suggested Condition 15 drafting from the Applicant uses 31 December 2022 as the cut-off date for invoking the condition, whereas that from the MMO uses 1 February 2023. Both are well beyond the envisaged three years, and the ExA has used the earlier of the two dates in its Recommended DCO.</p>	
<p>General notes</p> <p>i) The implementation of the recommendations in Table 11.1 would require consequential renumbering of succeeding provisions and some revisions to cross-referencing in the DML and Recommended DCO. These have not been attempted here.</p> <p>ii) Should the Crown land consent matter set out earlier in this Chapter not be resolved, the ExA recommends that further changes are made to the draft DCO as set out in paragraph 11.7.2 of this Chapter.</p> <p>iii) The draft DCO is inconsistent in its reference to 'Work No...' or 'Works No...' and in the inclusion or not of a space between the word and the number. No attempt has been made to rationalise these references.</p>	

11.10. SUMMARY AND CONCLUSIONS ON THE DEVELOPMENT CONSENT ORDER

- 11.10.1. The ExA confirms that it took all relevant legislation, guidance, submissions and evidence into consideration when examining the draft DCO and determining its recommendations. The Secretary of State can be satisfied that the ExA has considered all iterations of the draft DCO and that it has addressed outstanding matters.
- 11.10.2. The Secretary of State should take the ExA's Recommended DCO to be the Applicant's final draft DCO [REP9-003], included at Appendix C to this Report, as amended by the 34 recommended changes set out in Table 11.1, and subject to Table 11.1's general notes.
- 11.10.3. If the Secretary of State is satisfied that the Proposed Development should be consented, the ExA recommends that the Secretary of State should make this Order, with the recommended changes and subject to the resolution of the Crown land consent matter set out above.

12. OVERALL SUMMARY OF FINDINGS AND RECOMMENDATION

12.1. INTRODUCTION

12.1.1. This Chapter summarises the Examining Authority's (ExA's) conclusions arising from the Report as a whole and sets out its recommendation to the Secretary of State.

12.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

12.2.1. The ExA's principal findings and conclusions are:

- the Secretary of State's Section (s) 35 Direction dated 30 July 2018 [APP-111], and s104(1) of the Planning Act 2008 (the PA2008) have effect for this application;
- the Overarching National Policy Statement for Energy (NPS EN-1) is the relevant NPS for the purposes of s104(2)(a) of the PA2008;
- the Marine and Coastal Access Act 2009, the Marine Policy Statement and the South Marine Plan are important and relevant to the consideration of the marine aspects of the Proposed Development;
- some limited parts of the supporting technology specific energy National Policy Statements are important and relevant to the decision, where indicated in the Report;
- the Climate Change Act and the Energy White Paper, *Powering our Net Zero Future*, are important and relevant;
- the National Planning Policy Framework and relevant policies from the development plan are important and relevant in some respects, as noted in the Report;
- full regard has been given to the submitted Local Impact Reports, international obligations, relevant enactments and other important and relevant matters;
- the ExA had regard to its duties under the Natural Environment and Rural Communities Act 2006 (as amended) and Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010;
- the information and analysis provided in the ES documentation satisfies the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended);
- reasonable alternatives have been considered and reported, and the Applicant's final selection for the cable routing and of sites for the converter station and landfall are justified;
- the Proposed Development is consistent with, supportive of, and would make a significant contribution to Government policy to ensure a secure, diverse and affordable energy supply, greater levels of

electricity systems interconnection, and further accommodation of decarbonised electricity generation;

- with the mitigation secured through the Recommended Development Consent Order (DCO), the Proposed Development would have some adverse traffic, construction noise, socio-economic, cultural heritage, and landscape and visual amenity disbenefits that weigh against the Proposed Development both individually and in combination;
- on balance, other matters considered in the Examination do not weigh significantly for or against the Order;
- overall, the need case for the Proposed Development strongly outweighs the identified disbenefits;
- considering all representations received, there are no other important and relevant matters that would individually or collectively outweigh the identified benefits and lead to a different recommendation from that below;
- whilst the Secretary of State is the competent authority under the Habitats Regulations and would make the definitive assessment, the Proposed Development would have no adverse effect on the integrity of any European site either alone or in-combination with other plans or projects;
- the Compulsory Acquisition (CA) and Temporary Possession (TP) powers requested by the Applicant are necessary to implement the Proposed Development, there is a compelling case in the public interest, the Applicant has a clear idea of how it intends to use the land, and funds are likely to be available to meet the compensation liabilities that might flow from the exercise of CA powers;
- subject to the matters relating to Crown land previously reported (paragraph 11.7.1), the CA powers requested satisfy the relevant tests of the PA2008;
- there would be no interference with human rights that would contravene the Human Rights Act 1998;
- the Proposed Development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic, so there would be no breach of the Public Sector Equality Duty.

12.3. RECOMMENDATION

- 12.3.1. For all of the above reasons and in light of its conclusions on all important and relevant matters set out in this Report, the ExA recommends that the Secretary of State should make the Order in the form attached at Appendix C to this Report, subject to the recommendations in section 10.10 and modified in accordance with the recommended changes at section 11.9 of this Report

APPENDICES

APPENDIX A: EXAMINATION LIBRARY	A1
APPENDIX B: LIST OF ABBREVIATIONS	B1
APPENDIX C: THE RECOMMENDED DCO.....	C1

APPENDIX A: EXAMINATION LIBRARY

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Examination Library

Updated – 10/05/2021

(Please note that changes were made on 10/05/2021 to correct inadvertent duplication. In addition, minor cosmetic changes were made to document numbering and the layout of the Library. No new documents were added.)

The Examination Library lists each document that was submitted to the Examination by any party and documents that were issued by the Planning Inspectorate and Examining Authority. All listed documents have been published on the project page of the Planning Inspectorate's National Infrastructure's website, and a hyperlink is provided for each document. A unique reference is given to each document: these references are used in the Report on the Implications for European Sites and the Examining Authority's Recommendation Report. The documents in the library are categorised either by document type or by the deadline for which they were submitted.

Please note the following:

- The Library was updated periodically as the Examination progressed.
- This document contains references to documents from the point the application was submitted.
- The order of documents in each sub-section is chronological, numerical, or alphabetical and no priority or higher status is conferred on those listed first.
- Advice issued by the Planning Inspectorate under Section 51 of the Planning Act 2008 was published on the Planning Inspectorate's National Infrastructure's website but is not included in the Library as such advice is not an Examination document.

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Examination Library - Index

Category	Reference
Application Documents As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
Adequacy of Consultation responses	AoC-xxx
Relevant Representations	RR-xxx
Procedural Decisions and Notifications from the Examining Authority Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
Additional Submissions Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information relating to the examination	AS-xxx
Events and Hearings Includes agendas for hearings and site inspections, audio recordings, responses to notifications, Applicant's hearing notices, and responses to Rule 6 and Rule 8 letters	EV-xxx
Representations – by Deadline	
Procedural Deadline A	PDA-xxx
Procedural Deadline B	PDB-xxx
Deadline 1: Deadline for receipt by the ExA of: <ul style="list-style-type: none"> • Responses to ExQ1 • Local Impact Reports (LIR) from Local Authorities • Written Representations (WRs) including summaries of all WRs exceeding 1500 words • Responses to Relevant Representations • Statements of Common Ground (SoCG) requested by the ExA • Statement of Commonality for SoCG • The Compulsory Acquisition Schedule • Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA • Notification of wish to participate in Open Floor Hearings (OFH1 or OFH2) • Notification of wish to participate in Compulsory Acquisitions Hearings (CAH1 or CAH2) • Notification of wish to participate in the Issue Specific Hearing into the draft Development Consent Order (ISH1) 	REP1-xxx

<ul style="list-style-type: none"> • Submission by the Applicant, IPs and APs of suggested locations for the ExA to include in any Accompanied Site Inspection, including the reason for nomination and issues to be observed, information about whether the location can be accessed using public rights of way or what access arrangements would need to be made and the likely time requirement for the visit to that location 	
<p>Deadline 2:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses for Deadline 1 • Comments on Written Representations • Comments on responses to ExQ1 • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • Comments on LIR(s) • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Any further information requested by the ExA 	REP2-xxx
<p>Deadline 3:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses submitted for Deadline 2 • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • An updated Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • Any further information requested by the ExA under Rule 17 of the Examination Rules 	REP3-xxx
<p>Deadline 4:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses submitted for Deadline 3 • The Applicant’s draft ASI arrangements and itinerary • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • An updated Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • Any further information requested by the ExA under Rule 17 of the Examination Rules 	REP4-xxx

<p>Deadline 5:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Any information requested by the ExA under Rule 17 of the Examination Rules to assist the Hearings scheduled for weeks commencing 7 and 14 December 2020, including full transcripts of all oral submissions to be given at OFH1, OFH2, ISH1, CAH1, CAH2, ISH2 and ISH3; • the Applicant’s and other parties’ summaries of their current positions in relation to any s106 agreements. 	<p>REP5-xxx</p>
<p>Deadline 6:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses submitted for Deadlines 4 and 5; • Written summaries of oral submissions to Hearings held during the week commencing 7 and any held during the week commencing 14 December 2020; • Comments on the Applicant’s draft ASI arrangements and itinerary³; • Any post-Hearing notes requested at the Hearings; • An updated Guide to the Application; • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions; • An updated Schedule of changes to the dDCO; • An updated Compulsory Acquisition Schedule in clean and tracked versions; • Progressed Statements of Common Ground; • Progressed Statement of Commonality for SoCG; • Any further information requested by the ExA under Rule 17 of the Examination Rules. 	<p>REP6-xxx</p>
<p>Deadline 6a:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Representations in relation to the Additional Land sought by the Applicant (REP3-019). 	<p>REP6a-xxx</p>
<p>Deadline 7</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Responses to ExQ2; • Comments on responses submitted for Deadline 6 and 6a; • Any information requested by the ExA under Rule 17 of the Examination Rules to assist Hearings scheduled for weeks commencing 8 and 15 February 2021 including full transcripts of all oral submissions to be given at the OFHs and CAHs; • Updated Statements of Common Ground; • Updated Statement of Commonality for SoCG; • An updated Guide to the Application; • Updated Book of Reference; • Updated Statement of Reasons; • Signed and dated s106 Agreements (if required); • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions; • An updated Schedule of changes to the dDCO; • Any further information requested by the ExA under Rule 17 of the Examination Rules (if required). 	<p>REP7-xxx</p>

<p>Deadline 7a</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Representations in relation to the Applicant’s Change Request 2 	<p>REP7a-xxx</p>
<p>Deadline 7b</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Notification of wish to participate in Open Floor Hearing (OFH3) • Notification of wish to participate in Compulsory Acquisition Hearing (CAH3) • Notification of wish to participate in the Issue Specific Hearing into the draft Development Consent Order (ISH4) (see Annex B) • Notification of wish to participate in the Issue Specific Hearing into Environmental Matters and Highways (ISH5) <p>This deadline was for administrative purposes only relating to attendance at events, and responses do not include reference to the merits of the Proposed Development. Consequently, responses have not been published.</p>	<p>REP7b-xxx</p>
<p>Deadline 7c</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses submitted for Deadlines 7 and 7a. 	<p>REP7c-xxx</p>
<p>Deadline 8</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses submitted for Deadline 7 • Written summaries of oral submissions put at any Hearings held during the weeks commencing 8 and 15 February 2021 • Any post-Hearing notes requested at the previous Hearings • Comments on the RIES • Comments on the ExA’s proposed schedule of changes to the dDCO • Finalised Statements of Common Ground • Finalised Statement of Commonality for SoCG • Finalised Compulsory Acquisition Schedule in clean and tracked versions • A finalised Guide to the Application • A finalised version of the draft Development Consent Order (dDCO) in clean and tracked versions • A finalised Schedule of changes to the dDCO • Any Additional Submissions relating to oral submissions made at any Hearings held during weeks commencing 8 and 15 February • Any further information requested by the ExA under Rule 17 of the Examination Rules (if required) 	<p>REP8-xxx</p>
<p>Deadline 9</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Any further information requested by the ExA after Deadline 8, under Rule 17 of the Examination Rules 	<p>REP9-xxx</p>

[Other Documents](#)

Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents

OD-xxx

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Examination Library

Application Documents

APP-001	AQUIND Limited 1.1 Application Cover Letter
APP-002	AQUIND Limited 1.2 Application Guide
APP-003	AQUIND Limited 1.3 Application Document Tracker
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APP-008(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 2.2 Land Plans (Low Resolution)
APP-009	AQUIND Limited 2.3 Crown Land Plans
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APP-010	AQUIND Limited 2.4 Works Plans
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APP-011	AQUIND Limited 2.5 Access and Rights of Way Plans

APP-011(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 2.5 Access and Rights of Way Plans (Low Resolution)
APP-012	AQUIND Limited 2.6 Converter Station and Telecommunications Buildings Parameter Plans
APP-013	AQUIND Limited 2.7 Indicative Converter Station Area Layout Plans
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APP-027	AQUIND Limited 5.1.1B Consultation Report – Appendix 1.1B Non-Statutory Consultation – Information Leaflet
APP-028	AQUIND Limited 5.1.1C Consultation Report – Appendix 1.1C Non-Statutory Consultation – Exhibition Boards
APP-029	AQUIND Limited 5.1.1D Consultation Report - Appendix 1.1D Non-Statutory Consultation - Feedback Forms
APP-030	AQUIND Limited 5.1.1E Consultation Report - Appendix 1.1E Non-Statutory Consultation - Non-technical Summary Document

APP-031	AQUIND Limited 5.1.1F Consultation Report - Appendix 1.1F Non-Statutory Consultation - Invitation Newsletter
APP-032	AQUIND Limited 5.1.1G Consultation Report - Appendix 1.1G Non-Statutory Consultation - List of Stakeholders Contacted in November 2017
APP-033	AQUIND Limited 5.1.1H Consultation Report - Appendix 1.1H Non-Statutory Consultation - Letter Sent to Stakeholders Contacted in November 2017
APP-034	AQUIND Limited 5.1.1I Consultation Report - Appendix 1.1I Non-Statutory Consultation - Maps Illustrating the Distribution Area for Invitation Newsletter
APP-035	AQUIND Limited 5.1.1J Consultation Report - Appendix 1.1J Non-Statutory Consultation - Photograph of Invitation Newsletter in Consultation Event Venue
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APP-050	AQUIND Limited 5.1.3B Consultation Report - Appendix 1.3B Letter to Properties and Distribution List Regarding Ground Investigation Works
APP-051	AQUIND Limited 5.1.3C Consultation Report - Appendix 1.3C Press Release on Ground Investigation Works (August 2018)
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APP-417(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.16.9 Environmental Statement – Volume 3 – Appendix 16.9 – Great Crested Newt Survey Report (Low Resolution)
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APP-419	AQUIND Limited 6.3.16.11 Environmental Statement - Volume 3 - Appendix 16.11 - Hazel Dormouse Survey Report
APP-419(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.16.11 Environmental Statement – Volume 3 – Appendix 16.11 - Hazel Dormouse Survey Report (Low Resolution)
APP-420	AQUIND Limited 6.3.16.12 Environmental Statement - Volume 3 - Appendix 16.12 - Breeding Bird Survey Report
APP-421	AQUIND Limited 6.3.16.13 Environmental Statement - Volume 3 - Appendix 16.13 - Wintering Bird Survey Report

APP-421(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.16.13 Environmental Statement – Volume 3 – Appendix 16.13 - Wintering Bird Survey Report (Low Resolution Part 1)
APP-421(b)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.16.13 Environmental Statement – Volume 3 – Appendix 16.13 - Wintering Bird Survey Report (Low Resolution Part 2)
APP-422	AQUIND Limited 6.3.16.14 Environmental Statement - Volume 3 - Appendix 16.14 - Winter Working Restriction for Features of Chichester & Langstone Harbours SPA
APP-422(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.16.14 Environmental Statement - Volume 3 - Appendix 16.14 -Winter Working Restriction for Features of Chichester & Langstone Harbours SPA (Low Resolution Part 1)
APP-422(b)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.16.14 Environmental Statement – Volume 3 – Appendix 16.14 Winter Working Restriction for Features of Chichester & Langstone Harbours SPA - Low Resolution (Low Resolution Part 2)
APP-422(c)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.16.14 Environmental Statement – Volume 3 – Appendix 16.14 - Winter Working Restriction for Features of Chichester & Langstone Harbours SPA - Low Resolution (Low Resolution Part 3)
APP-423	AQUIND Limited 6.3.16.15 Environmental Statement - Volume 3 - Appendix 16.15 - Onshore Ecology Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-424	AQUIND Limited 6.3.16.16 Environmental Statement - Volume 3 - Appendix 16.16 - Onshore Ecology Cumulative Effects Assessment Matrix (Stage 3 & 4)
APP-425	AQUIND Limited 6.3.17.1 Environmental Statement - Volume 3 - Appendix 17.1 - Consultation Responses
APP-426	AQUIND Limited 6.3.17.2 Environmental Statement - Volume 3 - Appendix 17.2 - Agricultural Land Classification and Soil Resources
APP-426(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.17.2 Environmental Statement – Volume 3 – Appendix 17.2 - Agricultural Land Classification and Soil Resources (Low Resolution)
APP-427	AQUIND Limited 6.3.17.3 Environmental Statement - Volume 3 - Appendix 17.3 -Soils and Agricultural Land Use Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-428	AQUIND Limited 6.3.17.4 Environmental Statement - Volume 3 - Appendix 17.4 -Soils and Agricultural Land Use Cumulative Effect Assessment Matrix (Stage 3 & 4)

APP-429	AQUIND Limited 6.3.18.1 Environmental Statement - Volume 3 - Appendix 18.1 - Preliminary Risk Assessment and Generic Quantitative Risk Assessment
APP-430	AQUIND Limited 6.3.18.2 Environmental Statement - Volume 3 - Appendix 18.2 - Consultation Responses
APP-431	AQUIND Limited 6.3.18.3 Environmental Statement - Volume 3 - Appendix 18.3 -Ground Conditions Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-432	AQUIND Limited 6.3.19.1 Environmental Statement - Volume 3 - Appendix 19.1 - Consultation Responses
APP-433	AQUIND Limited 6.3.19.2 Environmental Statement - Volume 3 - Appendix 19.2 - Groundwater Resources Baseline
APP-434	AQUIND Limited 6.3.19.3 Environmental Statement - Volume 3 - Appendix 19.3 -The Hydrogeology of Kings Pond and Denmead Meadows
APP-435	AQUIND Limited 6.3.19.4 Environmental Statement - Volume 3 - Appendix 19.4 - Groundwater Cumulative Effect Assessment Matrix (Stage 1 & 2)
APP-436	AQUIND Limited 6.3.20.1 Environmental Statement - Volume 3 - Appendix 20.1 - Consultation Responses
APP-437	AQUIND Limited 6.3.20.2 Environmental Statement - Volume 3 - Appendix 20.2 -Onshore Water Framework Directive Assessment
APP-437(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.20.2 Environmental Statement – Volume 3 – Appendix 20.2 -Onshore Water Framework Directive Assessment (Low Resolution)
APP-438	AQUIND Limited 6.3.20.3 Environmental Statement - Volume 3 - Appendix 20.3 - Watercourses Summary
APP-439	AQUIND Limited 6.3.20.4 Environmental Statement - Volume 3 - Appendix 20.4 -Flood Risk Assessment
APP-440	AQUIND Limited 6.3.20.5 Environmental Statement - Volume 3 - Appendix 20.5 -Surface Water Resources and Flood Risk Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-441	AQUIND Limited 6.3.21.1 Environmental Statement - Volume 3 - Appendix 21.1 - Consultation Responses
APP-442	AQUIND Limited 6.3.21.2 Environmental Statement - Volume 3 - Appendix 21.2 -Historic Environment Desk Based Assessment
APP-443	AQUIND Limited 6.3.21.3 Environmental Statement - Volume 3 - Appendix 21.3 - Geophysical Survey Report
APP-443(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.21.3 Environmental Statement – Volume 3 – Appendix 21.3 - Geophysical Survey Report (Low Resolution)

APP-444	AQUIND Limited 6.3.21.4 Environmental Statement - Volume 3 - Appendix 21.4 -Heritage and Archaeology Impact Tables
APP-445	AQUIND Limited 6.3.21.5 Environmental Statement - Volume 3 - Appendix 21.5 -Heritage and Archaeology Residual Effects Tables
APP-446	AQUIND Limited 6.3.21.6 Environmental Statement - Volume 3 - Appendix 21.6 - Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-447	AQUIND Limited 6.3.21.7 Environmental Statement - Volume 3 - Appendix 21.7 - Cumulative Effects Assessment Matrix (Stage 3 & 4)
APP-448	AQUIND Limited 6.3.22.1 Environmental Statement - Volume 3 - Appendix 22.1 -Transport Assessment
APP-448(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.1 Environmental Statement – Volume 3 – Appendix 22.1 -Transport Assessment (Low Resolution Part 1)
APP-448(b)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.1 Environmental Statement – Volume 3 – Appendix 22.1 -Transport Assessment (Low Resolution Part 2)
APP-448(c)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.1 Environmental Statement – Volume 3 – Appendix 22.1 -Transport Assessment (Low Resolution Part 3)
APP-448(d)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.1 Environmental Statement – Volume 3 – Appendix 22.1 -Transport Assessment (Low Resolution Part 4)
APP-448(e)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.1 Environmental Statement – Volume 3 – Appendix 22.1 -Transport Assessment (Low Resolution Part 5)
APP-449	AQUIND Limited 6.3.22.1A Environmental Statement - Volume 3 - Appendix 22.1A - Framework Traffic Management Strategy
APP-449(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.1A Environmental Statement – Volume 3 - Appendix 22.1A - Framework Traffic Management Strategy (Low Resolution)
APP-450	AQUIND Limited 6.3.22.2 Environmental Statement - Volume 3 - Appendix 22.2 - Framework Construction Traffic Management Plan
APP-450(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority.

	6.3.22.2 Environmental Statement – Volume 3 – Appendix 22.2 - Framework Construction Traffic Management Plan (Low Resolution Part 1)
APP-450(b)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.2 Environmental Statement – Volume 3 – Appendix 22.2 - Framework Construction Traffic Management Plan (Low Resolution Part 2)
APP-451	AQUIND Limited 6.3.22.3 Environmental Statement - Volume 3 - Appendix 22.3 -Baseline and Methodology Tables
APP-452	AQUIND Limited 6.3.22.4 Environmental Statement - Volume 3 - Appendix 22.4 -Impact Tables
APP-453	AQUIND Limited 6.3.22.5 Environmental Statement - Volume 3 - Appendix 22.5 -Traffic and Transport CEA (Stage 1 & 2)
APP-454	AQUIND Limited 6.3.23.1 Environmental Statement - Volume 3 - Appendix 23.1 - Consultation Responses
APP-455	AQUIND Limited 6.3.23.2 Environmental Statement - Volume 3 - Appendix 23.2 -IAQM Construction Assessment
APP-456	AQUIND Limited 6.3.23.3 Environmental Statement - Volume 3 - Appendix 23.3 -Air Quality Traffic Modelling
APP-457	AQUIND Limited 6.3.23.4 Environmental Statement - Volume 3 - Appendix 23.4 -Air Quality Generator Emissions Modelling
APP-458	AQUIND Limited 6.3.23.5 Environmental Statement - Volume 3 - Appendix 23.5 -Air Quality Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-459	AQUIND Limited 6.3.23.6 Environmental Statement - Volume 3 - Appendix 23.6 -Air Quality Cumulative Effects Assessment Matrix (Stage 3 & 4)
APP-460	AQUIND Limited 6.3.24.1 Environmental Statement - Volume 3 - Appendix 24.1 - Consultation Responses
APP-461	AQUIND Limited 6.3.24.2 Environmental Statement - Volume 3 - Appendix 24.2 -Best Practicable Measures to be Employed during Construction
APP-462	AQUIND Limited 6.3.24.3 Environmental Statement - Volume 3 - Appendix 24.3 -Lists of Sensitive Receptors for Noise and Vibration Assessment of Converter Station and Telecommunications Infrastructure
APP-463	AQUIND Limited 6.3.24.4 Environmental Statement - Volume 3 - Appendix 24.4 - Legislation, Policy and Guidance
APP-464	AQUIND Limited 6.3.24.5 Environmental Statement - Volume 3 - Appendix 24.5 -Noise and Vibration Assessment Assumptions
APP-465	AQUIND Limited 6.3.24.6 Environmental Statement - Volume 3 - Appendix 24.6 -Noise Survey Equipment, Meteorological Conditions and Noise Survey Results

APP-466	AQUIND Limited 6.3.24.7 Environmental Statement - Volume 3 - Appendix 24.7 -Noise Modelling Results - Operational Converter Station and Landfall Telecommunications Infrastructure
APP-467	AQUIND Limited 6.3.24.8 Environmental Statement - Volume 3 - Appendix 24.8 -Noise and Vibration Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-468	AQUIND Limited 6.3.24.9 Environmental Statement - Volume 3 - Appendix 24.9 -Noise and Vibration Cumulative Effects Assessment Matrix (Stage 3 & 4)
APP-469	AQUIND Limited 6.3.25.1 Environmental Statement - Volume 3 - Appendix 25.1 - Consultation Responses
APP-470	AQUIND Limited 6.3.25.2 Environmental Statement - Volume 3 - Appendix 25.2 -Socio-economic Receptors within 500 m
APP-471	AQUIND Limited 6.3.25.3 Environmental Statement - Volume 3 - Appendix 25.3 -Socio-economic Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-472	AQUIND Limited 6.3.25.4 Environmental Statement - Volume 3 - Appendix 25.4 -Socio-economic Cumulative Effects Assessment Matrix (Stage 3 & 4)
APP-473	AQUIND Limited 6.3.25.5 Environmental Statement - Volume 3 - Appendix 25.5 -Illustrative Phasing of Works at Example Public Open Spaces
APP-474	AQUIND Limited 6.3.26.1 Environmental Statement - Volume 3 - Appendix 26.1 - Consultation Responses
APP-475	AQUIND Limited 6.3.26.2 Environmental Statement - Volume 3 - Appendix 26.2 -Human Health Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-476	AQUIND Limited 6.3.26.3 Environmental Statement - Volume 3 - Appendix 26.3 -Human Health Cumulative Effects Assessment Matrix (Stage 3 & 4)
APP-477	AQUIND Limited 6.3.27.1 Environmental Statement - Volume 3 - Appendix 27.1 - Consultation Responses
APP-478	AQUIND Limited 6.3.27.2 Environmental Statement - Volume 3 - Appendix 27.2 -Waste and Material Resources Assumptions and Limitations
APP-479	AQUIND Limited 6.3.27.3 Environmental Statement - Volume 3 - Appendix 27.3 -Waste and Material Resources Cumulative Effects Assessment Matrix (Stage 1 & 2)
APP-480	AQUIND Limited 6.3.27.4 Environmental Statement - Volume 3 - Appendix 27.4 -Waste and Material Resources Cumulative Effects Assessment Matrix (Stage 3 & 4)
APP-481	AQUIND Limited 6.3.28.1 Environmental Statement - Volume 3 - Appendix 28.1 - Consultation Responses
APP-482	AQUIND Limited 6.3.28.2 Environmental Statement - Volume 3 - Appendix 28.2 -Climate Vulnerability Assessment
APP-483	AQUIND Limited 6.3.28.3 Environmental Statement - Volume 3 - Appendix 28.3 -Climate Resilience Baseline

APP-484	AQUIND Limited 6.3.29.1 Environmental Statement - Volume 3 - Appendix 29.1 - Cumulative Effects Assessment Consultation Responses
APP-485	AQUIND Limited 6.3.29.2 Environmental Statement - Volume 3 - Appendix 29.2 - Collated Onshore Long and Short List of Developments
APP-486	AQUIND Limited 6.3.29.3 Environmental Statement - Volume 3 - Appendix 29.3 - Marine Intra-Project Effects
APP-487	AQUIND Limited 6.4 Environmental Statement - Volume 4 - Non-Technical Summary
APP-488	AQUIND Limited 6.5 Marine Outline Construction Environmental Management Plan
APP-489	AQUIND Limited 6.6 Mitigation Schedule
APP-490	AQUIND Limited 6.7 Letter of No Impediment
APP-491	AQUIND Limited 6.8.1 Habitats Regulations Assessment Report - Volume 1 - Main Text
APP-492	AQUIND Limited 6.8.2.4.1 Habitat Regulations Assessment Report - Volume 2 - Figure 4.1 - Annex I Habitats: Sites in the UK Marine Area
APP-493	AQUIND Limited 6.8.2.4.2 Habitat Regulations Assessment Report - Volume 2 - Figure 4.2 - Annex I Habitats: Transboundary Sites
APP-494	AQUIND Limited 6.8.2.4.3 Habitat Regulations Assessment Report - Volume 2 - Figure 4.3 - Migratory Fish: Sites in the UK Marine Area
APP-495	AQUIND Limited 6.8.2.4.4 Habitat Regulations Assessment Report - Volume 2 - Figure 4.4 - Migratory Fish: Transboundary Sites
APP-496	AQUIND Limited 6.8.2.4.5 Habitat Regulations Assessment Report - Volume 2 - Figure 4.5 - Marine Mammals: Sites in the UK Marine Area
APP-497	AQUIND Limited 6.8.2.4.6 Habitat Regulations Assessment Report - Volume 2 - Figure 4.6 - Marine Mammals: Transboundary Sites
APP-498	AQUIND Limited 6.8.2.4.7 Habitat Regulations Assessment Report - Volume 2 - Figure 4.7 - Marine Ornithology: Sites in the UK Marine Area
APP-499	AQUIND Limited 6.8.2.4.8 Habitat Regulations Assessment Report - Volume 2 - Figure 4.8 - Marine Ornithology: Transboundary Sites
APP-500	AQUIND Limited 6.8.2.8.1 Habitat Regulations Assessment Report - Volume 2 - Figure 8.1 - Location of In Combination Projects
APP-501	AQUIND Limited 6.8.3.1 Habitats Regulations Assessment Report - Volume 3 - Appendix 1 - PINS Screening and Integrity Matrices
APP-502	AQUIND Limited 6.8.3.2 Habitats Regulations Assessment Report - Volume 3 - Appendix 2 - Pre-Screening for Marine Mammals
APP-503	AQUIND Limited 6.8.3.3 Habitats Regulations Assessment Report - Volume 3 - Appendix 3 - In Combination Projects

APP-504	AQUIND Limited 6.8.3.4 Habitats Regulations Assessment Report - Volume 3 - Appendix 4 - HRA Marine Consultation Responses
APP-505	AQUIND Limited 6.9 Onshore Outline Construction Environmental Management Plan
APP-506	AQUIND Limited 6.10 Outline Landscape and Biodiversity Strategy
APP-506(a)	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.10 Outline Landscape and Biodiversity Strategy (Low Resolution)
Adequacy of Consultation Responses	
AoC-001	Bournemouth, Christchurch and Poole Council
AoC-002	Eastleigh Borough Council
AoC-003	East Hampshire District Council
AoC-004	Fareham Borough Council
AoC-005	Gosport Borough Council
AoC-006	Havant Borough Council
AoC-007	Hampshire County Council
AoC-008	New Forest National Park Authority
AoC-009	Portsmouth City Council
AoC-010	South Downs National Park Authority
AoC-011	Southampton City Council
AoC-012	Surrey County Council
AoC-013	Test Valley Borough Council
AoC-014	Waverley Borough Council
AoC-015	Wiltshire Council
AoC-016	Winchester City Council
Relevant Representations	
RR-001	Irene Jay
RR-002	Peter Evans
RR-003	Corporation of Trinity House
RR-004	Hambledon Parish Council
RR-005	Portsmouth Water Ltd
RR-006	James Veryard
RR-007	John Cross
RR-008	Jackie Stevens
RR-009	Sport England
RR-010	Elaine Husselby
RR-011	Associated British Ports
RR-012	Addleshaw Goddard LLP on behalf of Southern Gas Network Plc **This representation has now been withdrawn. See REP7-113**.
RR-013	Martin Farrelly
RR-014	Andy Parks
RR-015	Barry Scott
RR-016	Michael Johnson
RR-017	Brenda Lock
RR-018	RWE Renewables UK Limited
RR-019	Brian Hill
RR-020	Eastleigh Borough Council
RR-021	National Federation of Fishermen

RR-022	Louise Baker
RR-023	The Parish Council of Newlands
RR-024	Susan Cox
RR-025	Guy Shepherd
RR-026	Joint Nature Conservation Committee
RR-027	Karen Holden-Craufurd
RR-028	CPRE Hampshire
RR-029	David Jeffery
RR-030	Eversheds Sutherland (International) LLP on behalf of National Grid Electricity Transmission Plc **RELEVANT REPRESENTATION WITHDRAWN - see reference REP8-110**
RR-031	Eversheds Sutherland (International) LLP (Clare Shaw-Carter) on behalf of National Grid Gas Plc **RELEVANT REPRESENTATION WITHDRAWN - see reference REP1-213**
RR-032	Jane Carter
RR-033	Peter Crockett
RR-034	Alistair Thompson
RR-035	Horndean Parish Council
RR-036	N Craise
RR-037	The Crown Estate
RR-038	Susan Crossley
RR-039	Jeremy Warren
RR-040	Anne Atkinson
RR-041	J R Sykes Farms
RR-042	Veronica Knight
RR-043	APLEAL Action Group
RR-044	Cllr Caroline Brook on behalf of Denmead and Newlands Residents
RR-045	Patricia Conran
RR-046	Polly Beard
RR-047	University of Portsmouth
RR-048	Judith Ann Clementson
RR-049	South Downs National Park Authority
RR-050	Patrick Whittle
RR-051	Cynthia Whittle
RR-052	Denmead Parish Council
RR-053	Hannah West
RR-054	Peter Carpenter and Dawn Carpenter
RR-055	Blake Morgan LLP on behalf of The Owners of Little Denmead Farm
RR-056	Andrew Rowley
RR-057	Havant Friends of the Earth
RR-058	Tracey Bottrell
RR-059	Alison Bee
RR-060	Clara Allansson
RR-061	Ingie Porteous
RR-062	Kimberly Barrett
RR-063	Matthew Wright
RR-064	Portsmouth Divisional Football Association
RR-065	Public Health England
RR-066	Richard Salt
RR-067	Blake Morgan LLP on behalf of Robin Jefferies
RR-068	Simone Taylor-Gray
RR-069	Sue Gosham
RR-070	Blake Morgan LLP on behalf of The Owners of Hillcrest
RR-071	The Southsea Brewing Co.
RR-072	Vienna Crimes

RR-073	Allison Udy
RR-074	Ann Farrelly
RR-075	Annette Sartori
RR-076	Charlotte Smith
RR-077	Charlotte Wright
RR-078	Christopher Jones
RR-079	Clare Ash
RR-080	Dan Brookes
RR-081	Danielle Preston
RR-082	David Jordan
RR-083	Dawn Gilbert
RR-084	Deborah Cutler
RR-085	Debra Wallace
RR-086	Diane Roberts
RR-087	Ed Waller
RR-088	Elizabeth Doyle
RR-089	First Hampshire Dorset and Berkshire
RR-090	Georgina Butt
RR-091	Gp Capt S A Hickey OBE
RR-092	Graham O'Neil
RR-093	Hampshire County Council
RR-094	Havant Borough Council
RR-095	Helen Shortall
RR-096	Highways England **RELEVANT REPRESENTATION WITHDRAWN – see reference AS-079**
RR-097	Ian Daye
RR-098	Stantec on behalf of Investin Portsmouth Ltd
RR-099	James Baker
RR-100	Jim Roberts
RR-101	Katrina Corby
RR-102	Keith Baker
RR-103	Keith Dean
RR-104	Kelly Martin
RR-105	Kelvin Pyne
RR-106	Kirstin Knowlson-clark
RR-107	Linda Williams
RR-108	Lois Marshall
RR-109	Lorraine Willis
RR-110	Louisa Newport
RR-111	Lynn Mills
RR-112	Lynne Lush
RR-113	Lynsey Christopher
RR-114	Maritime and Coastguard Agency
RR-115	Mark Lacey
RR-116	Michelle Juchau
RR-117	Ke Sikora
RR-118	Judith Webberley
RR-119	Julie Grove
RR-120	S Bagnall
RR-121	Neil Hawkins
RR-122	P J Martin
RR-123	Pam Wilkie
RR-124	Patrick O'Gorman
RR-125	Paul Wright
RR-126	Peter Handley

RR-127	Peter James
RR-128	Rachel James
RR-129	Rachel Norris
RR-130	Richard Rogers
RR-131	Robert Walden
RR-132	Scott Toman
RR-133	Shaun Nightingale
RR-134	Sheila Roy
RR-135	Sylvia Holdforth
RR-136	Tracy Barker
RR-137	Tracy Smith
RR-138	Trevor Clifton
RR-139	Trudy Farley
RR-140	Victoria Campbell
RR-141	Savillis on behalf of West Waterlooville Development Ltd/Grainger Plc
RR-142	Alida Clifton
RR-143	Alison Gregory
RR-144	Amanda Whiteland-Smith
RR-145	Andrea Fay Smith
RR-146	Angela Herring
RR-147	Anna Carter
RR-148	David Lock Associates on behalf of Atlas Hotels
RR-149	Bernard Johnson
RR-150	Bruce Graham
RR-151	Carol Tarr
RR-152	Chris Seaton
RR-153	Christian Hannam
RR-154	Christopher Burrowes
RR-155	Claire Brookes
RR-156	Councillor Matthew Winnington
RR-157	Councillor Jacqueline Porter
RR-158	Dana Bubenickova
RR-159	Darren Sanders
RR-160	David Bailey
RR-161	Defence Infrastructure Organisation
RR-162	East Hampshire District Council
RR-163	Eastney Area Community Association
RR-164	Eastney Community Centre
RR-165	Environment Agency
RR-166	Hannah-Payne-Cook
RR-167	Ian Cleugh
RR-168	Ian Judd and Partners on behalf of landowners
RR-169	Ian Perryman
RR-170	Jan Leonard
RR-171	John Townsend
RR-172	Judith Jewitt
RR-173	Keith Coles
RR-174	Leonard Sirett
RR-175	Linda Hewett
RR-176	Lorna Wilkinson
RR-177	Councillor Luke Stubbs
RR-178	Malcolm Smith
RR-179	Marine Management Organisation
RR-180	Milton Neighbourhood Planning Forum
RR-181	Natural England

RR-182	Dentons UK and Middle East LLP on behalf of Network Rail Infrastructure Limited **RELEVANT REPRESENTATION WITHDRAWN – see reference AS-078**
RR-183	Nick Bertenshaw
RR-184	Peter Hicks
RR-185	Portsmouth City Council
RR-186	Rachel Dawson
RR-187	Rosemary Sirett
RR-188	Ruth Taylor
RR-189	Sally Englefield
RR-190	Shelagh Simmons
RR-191	Simon Bosher
RR-192	Marta Karpezo on behalf of Southern Water Services Ltd
RR-193	Terence Garnett
RR-194	Ian Judd and Partners on behalf of The Landowners of land at []
RR-195	Ian Judd and Partners on behalf of The Owners of Land at [] Joseph Tee, Kathryn Moor
RR-196	Timothy Brown
RR-197	Viola Langley
RR-198	Winchester City Council
RR-199	Historic England
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Notification of Decision to Accept Application
PD-002	Section 55 Checklist
PD-003	Section 51 advice to the Applicant
PD-004	Appointment of the Examining Authority Notice of appointment of the Examining Authority
PD-005	Rule 6 letter - notification of the preliminary meeting and matters to be discussed (Superseded by the replacement Rule 6 letter of 3 July 2020)
PD-006	Procedural Decision to Postpone Preliminary Meeting
PD-007	Section 102A – Rachel Bentley
PD-008	Request for Further Information - Rule 17 - Progress Note
PD-009	Questionnaire requesting further information from all Interested Parties, which accompanies the Progress Note
PD-010	Rule 6 letter - notification of the preliminary meeting and matters to be discussed (Replaces the previous letter dated 5 March 2020)
PD-011	First Written Questions (ExQ1)
PD-012	Rule 8 Letter - notification of timetable for the Examination
PD-013	Request for Further Information from AQUIND Limited - Rule 17
PD-014	Request for Further Information from AQUIND Limited and Portsmouth City Council - Rule 17
PD-015	Request for Further Information from AQUIND Limited and National Grid Electricity System Operator Ltd - Rule 17
PD-016	Rules 9 and 13 - Notification of Hearings
PD-017	Number not in use , reference number allocated in error. The document previously allocated this reference is now EV-012(a)
PD-018	Number not in use , reference number allocated in error. The document previously allocated this reference is now EV-012(b)
PD-019	Procedural Decision to accept Change Request 1(Applicant)

PD-020	Procedural Decision to accept Change Request 1 (all Interested Parties)
PD-021	Confirmation of s102 Parties and request for further information
PD-022	Proposed Provision Checklist (Change Request 1)
PD-023	Variation to Timetable - Rule 8(3)
PD-024	Section 102A – Robert Simpson
PD-025	Procedural Decision following a request from Portsmouth City Council to amend the Examination Timetable
PD-026	Procedural Decision to accept Change Request 2 (Applicant)
PD-027	Procedural Decision to accept Change Request 2 (Interested Parties)
PD-028	Proposed Provision Checklist (Change Request 2)
PD-029	Section 102A - James Bunbury
PD-030	Section 102A - David Hancock (Rocking Horse Day Nursery)
PD-031	Further Written Questions (ExQ2)
PD-032	Examining Authority's Rule 8(3), 9 and 13 letter (Variation to the timetable, Procedural Decisions and notification of Hearings)
PD-033	Procedural Decision to accept Change Request 3 and request for further information from Winchester City Council
PD-034	Examining Authority's schedule of changes to the draft Development Consent Order
PD-035	Report on the Implications for European Sites (RIES) Issued by the Examining Authority - 3 February 2021
PD-036	Procedural Decision in response to the Applicant's request to amend the Examination Timetable, and request for further information from the Applicant
PD-037	Request for Further Information from AQUIND Limited - Rule 17 (March 2021)
PD-038	Notification of completion of Examination
Additional Submissions	
AS-001	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Letter to PINS dated 15 November 2019.
AS-002	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Applicant E-mail - Further Updates to Application Documents (Appendix).
AS-003	AQUIND Limited Additional Submissions accepted at the discretion of the Examining Authority. Applicant E-mail - Further updates to Application Documents.
AS-004	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Consultation Report Appendices: Errata sheet.
AS-005	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Consultation Report: Errata sheet.
AS-006	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 5.1 Consultation Report.

AS-007	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 5.1.1M Consultation Report - Appendix 1.1M - Non-Statutory Consultation Letter sent to Stakeholders on 12 January 2018 Prior to Consultation Events and List of Stakeholders Received Letter (Rev 2).
AS-008	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 5.1.2A Consultation Report - Appendix 1.2A - Press Release Post S35 Direction from SoS (Rev 2).
AS-009	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority 5.1.2B Consultation Report – Appendix 1.2B - Section 35 Direction from SoS - Letter and Briefing Note to Onshore Stakeholders 17 August 2018.
AS-010	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 5.1.3G Consultation Report – Appendix 1.3G - Proposed Scheme Overview Update and Cover Letter October 2018 (Rev 2) .
AS-011	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority 5.1.4K Consultation Report – Appendix 1.4K - Statutory Consultation - Written Responses received by Applicant during the Informal Consultation on the SoCC.
AS-012	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 5.1.4N Consultation Report – Appendix 1.4N - Statutory Consultation – Responses from local authorities to formal consultation on SoCC (Rev 2).
AS-013	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 5.1.4P Consultation Report – Appendix 1.4P - Statutory Consultation – Overview of how Applicant carried out Section 47 PA 2008 consultation in accordance with SoCC.
AS-014	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 5.1.5G Consultation Report – Appendix 1.5G - Statutory Consultation – Site Notice Locations and Photos.
AS-015	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 5.1.7I Consultation Report – Appendix 1.7I - Marine Specific – Briefing Note for Ongoing Consultation with British Marine Aggregates Producers Association September 2019.
AS-016	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.3 Environmental Statement – Volume 3 – Appendix 22.3 - Consultation Responses.

AS-017	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.4 Environmental Statement – Volume 3 - Appendix 22.4 -Baseline and Methodology Tables.
AS-018	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.5 Environmental Statement Appendix 22.5 - Impact Tables (Rev 3).
AS-019	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. 6.3.22.6 Environmental Statement – Appendix 22.6 - Traffic and Transport Cumulative Effects Assessment Matrix (Stage 1 & 2).
AS-020	Sally Carter Additional Submission accepted at the discretion of the Examining Authority.
AS-021	Karen Griffiths Additional Submission accepted at the discretion of the Examining Authority.
AS-022	Martin Lock Additional Submission accepted at the discretion of the Examining Authority.
AS-023	Ray Willis Additional Submission accepted at the discretion of the Examining Authority.
AS-024	Marine Management Organisation Additional Submission accepted at the discretion of the Examining Authority. Response to Rule 6 letter.
AS-025	Winchester City Council Additional Submission accepted at the discretion of the Examining Authority. Response to Rule 6 letter.
AS-026	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 1 - Plan showing indicative location of the AQUIND Interconnector.
AS-027	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 2 - Plan of the Indicative Location of the Development Onshore in England.
AS-028	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 3 - Plan of the indicative location of the Development offshore within the UK seaward limits.
AS-029	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 4 - Non-Technical Summary.

AS-030	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 5 - Scoping opinion request - UK Onshore.
AS-031	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 6 - Scoping opinion request - UK Offshore.
AS-032	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 7 - Scoping opinion of East Hampshire District Council.
AS-033	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 8 - Scoping opinion of Winchester City Council.
AS-034	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 9 - Scoping opinion of Havant Borough Council.
AS-035	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Appendix 10 - Interim joint scoping opinion of Portsmouth City Council and the Marine Management Organisation.
AS-036	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Letter to the Rt Hon Greg Clark MP – 19 June 2018 (Request for s35 Direction).
AS-037	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Marine Scoping Opinion response schedule received 25 June 2018.
AS-038	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Letter to Denise Libretto (BEIS) – 3 July 2018.
AS-039	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Section 35 Direction notice AQUIND Interconnector 30 July 2018.
AS-040	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Statement in support of an application for a Direction pursuant to Section 35 of the Planning Act 2008
AS-041	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Letter to HSF - SoS decision on AQUIND Limited s s35 Direction request.

AS-042	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Letter to HSF - request for further clarification 7.4-7.7 AQUIND
AS-043	Portsmouth City Council Additional Submission accepted at the discretion of the Examining Authority. Response to the Postponement of the Preliminary Meeting.
AS-044	Winchester City Council Additional Submission accepted at the discretion of the Examining Authority. Response to the Progress Note.
AS-045	J Musson Additional Submission accepted at the discretion of the Examining Authority.
AS-046	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority. Cover Letter - Low Resolution Documents.
AS-047	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority Applicant responses to Portsmouth CC, Penny Mordaunt MP and Eastney and Milton Allotment Holders Association Committee
AS-048	Aggregate Industries UK Ltd Additional Submission accepted at the discretion of the Examining Authority Withdrawal from Compulsory Acquisition Hearing
AS-049	Portsmouth City Council Additional Submission accepted at the discretion of the Examining Authority - Request for Hearing Summaries Submission at Deadline 7
AS-050	Winchester City Council Additional Submission accepted at the discretion of the Examining Authority - Notification of Imposition of Tree Preservation Order
AS-051	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - Cover email (Change Request 2)
AS-052	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - Letter to the Examining Authority (Change Request 2)
AS-053	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - 7.6.4 - Supplement to the Book of Reference (Change Request 2)
AS-054	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - 7.7.17 - Request for Changes to the Order Limits (Change Request 2)
AS-055	AQUIND Limited Additional Submissions – Accepted at the discretion of the Examining Authority - Information in support of Change Request 2

AS-056	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority - February Hearing Notice in The Chronicle
AS-057	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority - February Hearing Notice in the Petersfield Post
AS-058	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority - February Hearing Notice in the Portsmouth News
AS-059	Winchester City Council Additional Submission - Accepted at the discretion of the Examining Authority Authority's views on additional site inspections.
AS-060	Portsmouth City Council Additional Submission from Portsmouth City Council, accepted at the discretion of the Examining Authority, relating to letters to Affected Persons, and the Planning Inspectorate's response
AS-061	Portsmouth City Council Additional Submission Accepted at the discretion of the Examining Authority - Comments on the draft DCO ahead of Issue Specific Hearing 4
AS-062	AQUIND Limited Additional Submission accepted at the discretion of the Examining Authority, relating to the Environmental Statement Appendix 13 - Framework Management Plan for Recreational Impacts
AS-063	AQUIND Limited Additional Submission by the Applicant, accepted at the discretion of the Examining Authority - 3.1 Draft Development Consent Order - Composite Comparite (Application Submission v Deadline 7 Draft)
AS-064	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - Applicant's Letter to the Examining Authority (Examination Timetable)
AS-065	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - Applicant's Written Summary of the Oral Case at Issue Specific Hearing 4 (ISH4)
AS-066	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - Appendix 1 - National Grid ESO Network Options Assessment (January 2021)
AS-067	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - Applicant's Written Summary of the Oral Case at Issue Specific Hearing 5 (ISH5)
AS-068	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - Applicant's Written Summary of the Oral Case at ISH5 - Appendix 1- Additional Information Requested at ISH5 Q5.1
AS-069	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - Post hearing note to Compulsory Acquisition Hearing 3 in respect of the non-UK Planning Consents and Approvals required

AS-070	Marine Management Organisation Additional Submission - Accepted at the discretion of the Examining Authority - Post Hearing Note to the Issue Specific Hearing 4 in relation to Article 45
AS-071	Marine Management Organisation Additional Submission - Accepted at the discretion of the Examining Authority - Oral Transcript of the Issue Specific Hearing 4
AS-072	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - 6.3.22.1A Framework Traffic Management Strategy Rev-004 (Clean)
AS-073	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - 6.3.22.1A Framework Traffic Management Strategy Rev-004 (Tracked)
AS-074	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - 6.3.22.2 Framework Construction Traffic Management Plan Rev-004 (Clean)
AS-075	AQUIND Limited Additional Submission - Accepted at the discretion of the Examining Authority - 6.3.22.2 Framework Construction Traffic Management Plan Rev-004 (Tracked)
AS-076	Hampshire County Council Additional Submission - Accepted at the discretion of the Examining Authority - Oral Transcript of the Issue Specific Hearing 4
AS-077	Hampshire County Council Additional Submission - Accepted at the discretion of the Examining Authority - Oral Transcript of the Issue Specific Hearing 5
AS-078	Network Rail Additional Submission - Accepted at the discretion of the Examining Authority - Withdrawal of objection
AS-079	Highways England Additional Submission - Accepted at the discretion of the Examining Authority - Withdrawal of objection
AS-080	First Hampshire & Dorset Limited (FirstBus) Additional Submission - Accepted at the discretion of the Examining Authority - Bus mitigation measures and associated funding
Events and Hearings	
Unaccompanied Site Inspections	
EV-001	Note of Unaccompanied Site Inspection - 25 February 2020 (USI1)
EV-002	Note of Unaccompanied Site Inspection - 26 February 2020 (USI2)
EV-003	Note of Unaccompanied Site Inspection - 24 June 2020 (USI3)
EV-004	Note of Unaccompanied Site Inspection - 24 June 2020 (USI4)
EV-005	Note of Unaccompanied Site Inspection - 24 June 2020 (USI5)
EV-006	Note of Unaccompanied Site Inspection - 22 July 2020 (USI6)
EV-007	Note of Unaccompanied Site Inspection - 22 July 2020 (USI7)
EV-013	Note of Unaccompanied Site Inspection - 4 November 2020 (USI8)

EV1-018	Note of Unaccompanied Site Inspection - 1 March 2021 (USI9) This item was previously allocated reference EV-018. However, following a detailed review of the Examination Library, EV-018 was found to be already in use. Therefore, this reference was changed to EV1-018.
Preliminary Meeting	
EV1-008	Recording of Preliminary Meeting Part 1- 18 August 2020
EV1-009	Recording of Preliminary Meeting Part 2- 8 September 2020
EV1-010	Preliminary Meeting Note
Open Floor Hearings	
EV-008	Agenda for Open Floor Hearing 1 (OFH1)
EV-014	Recording of OFH1 - Session 1 - 07 December 2020
EV-015	Recording of OFH1 - Session 2 - 07 December 2020
EV-016	OFH1 (Session 1) - Transcript - 07 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-017	OFH1 (Session 2) - Transcript - 07 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-009	Agenda for Open Floor Hearing 2 (OFH2)
EV-018	Recording of OFH2 - 07 December 2020
EV-019	OFH2 - Transcript - 07 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV1-014	Agenda for Open Floor Hearing 3 (OFH3) This item was previously allocated reference EV-014. However, following a detailed review of the Examination Library, EV-014 was found to be already in use. Therefore, this reference was changed to EV1-014.
EV-090	Recording of OFH3 - 19 February 2021
EV-091	OFH3 - Transcript - 19 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearings	
EV-010	Agenda for Issue Specific Hearing 1 (ISH1)
EV-020	Recording of ISH1 - Session 1 - 09 December 2020
EV-021	Recording of ISH1 - Session 2 - 09 December 2020
EV-022	Recording of ISH1 - Session 3 - 09 December 2020
EV-023	Recording of ISH1 - Session 4 - 09 December 2020
EV-024	Recording of ISH1 - Session 5 - 09 December 2020
EV-025	Recording of ISH1 - Session 6 - 09 December 2020
EV-026	ISH1 - Session 1 - Transcript - 09 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-027	ISH1 - Session 2 - Transcript - 09 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

EV-028	ISH1 - Session 3 - Transcript - 09 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-029	ISH1 - Session 4 - Transcript - 09 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-030	SH1 - Session 5 - Transcript - 09 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-031	ISH1 - Session 6 - Transcript - 09 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-012(a)	Agenda for Issue Specific Hearing 2 (ISH2)
EV-032	Recording of ISH2 (Session 1) - 14 December 2020
EV-033	Recording of ISH2 (Session 2) - 14 December 2020
EV-034	Recording of ISH2 (Session 3) - 14 December 2020
EV-035	Recording of ISH2 (Session 4) - 14 December 2020
EV-036	ISH2 - Session 1 - Transcript - 14 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-037	ISH2 - Session 2 - Transcript - 14 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-038	ISH2 - Session 3 - Transcript - 14 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-039	ISH2 - Session 4 - Transcript - 14 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-012(b)	Agenda for Issue Specific Hearing 3 (ISH3)
EV-040	Recording of ISH3 (Session 1) - 15 December 2020
EV-041	Recording of ISH3 (Session 2) - 15 December 2020
EV-042	Recording of ISH3 (Session 3) - 15 December 2020
EV-043	Recording of ISH3 (Session 4) - 15 December 2020
EV-044	ISH3 - Session 1 - Transcript - 15 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-045	ISH3 - Session 2 - Transcript - 15 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-046	ISH3 - Session 3 - Transcript - 15 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

EV-047	ISH3 - Session 4 - Transcript - 15 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV1-016	Agenda for Issue Specific Hearing 4 (ISH4) This item was previously allocated reference EV-016. However, following a detailed review of the Examination Library, EV-016 was found to be already in use. Therefore, this reference was changed to EV1-016.
EV-066	Recording of ISH4 (Session 1) - 17 February 2021
EV-067	Recording of ISH4 (Session 2) - 17 February 2021
EV-068	Recording of ISH4 (Session 3) - 17 February 2021
EV-069	Recording of ISH4 (Session 4) - 17 February 2021
EV-070	Recording of ISH4 (Session 5) - 17 February 2021
EV-071	Recording of ISH4 (Session 6) - 17 February 2021
EV-072	Recording of ISH4 (Session 7) - 17 February 2021
EV-073	ISH4 - Session 1 - Transcript - 17 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-074	ISH4 - Session 2 - Transcript - 17 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-075	ISH4 - Session 3 - Transcript - 17 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-076	ISH4 - Session 4 - Transcript - 17 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-077	ISH4 - Session 5 - Transcript - 17 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-078	ISH4 - Session 6 - Transcript - 17 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-079	ISH4 - Session 7 - Transcript - 17 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV1-017	Agenda for Issue Specific Hearing 5 (ISH5) This item was previously allocated reference EV-017. However, following a detailed review of the Examination Library, EV-017 was found to be already in use. Therefore, this reference was changed to EV1-017.
EV-080	Recording of ISH5 (Session 1) - 18 February 2021
EV-081	Recording of ISH5 (Session 2) - 18 February 2021
EV-082	Recording of ISH5 (Session 3) - 18 February 2021
EV-083	Recording of ISH5 (Session 4) - 18 February 2021
EV-084	Recording of ISH5 (Session 5) - 18 February 2021

EV-085	ISH5 - Session 1 - Transcript - 18 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-086	ISH5 - Session 2 - Transcript - 18 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-087	ISH5 - Session 3 - Transcript - 18 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-088	ISH5 - Session 4 - Transcript - 18 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-089	ISH5 - Session 5 - Transcript - 18 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Compulsory Acquisitions Hearings	
EV-011	Agenda for Compulsory Acquisition Hearing 1 (CAH1)
EV-048	Recording of CAH1 - Session 1 - 10 December 2020
EV-049	Recording of CAH1 - Session 2 - 10 December 2020
EV-050	Recording of CAH1 - Session 3 - 10 December 2020
EV-051	Recording of CAH1 - Session 4 - 10 December 2020
EV-052	Recording of CAH1 - Session 5 - 10 December 2020
EV-053	CAH1 Session 1 - Transcript - 10 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-054	CAH1 Session 2 - Transcript - 10 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-055	CAH1 Session 3 - Transcript - 10 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-056	CAH1 Session 4 - Transcript - 10 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-057	CAH1 Session 5 - Transcript - 10 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-012	Agenda for Compulsory Acquisition Hearing 2 (CAH2)
EV-058	Recording of CAH2 - Session 1 - 11 December 2020
EV-059	Recording of CAH2 - Session 2 - 11 December 2020
EV-060	Recording of CAH2 - Session 3 - 11 December 2020
EV-061	Recording of CAH2 - Session 4 - 11 December 2020

EV-062	CAH2 - Session 1 - Transcript - 11 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-063	CAH2 - Session 2 - Transcript - 11 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-064	CAH2 - Session 3 - Transcript - 11 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-065	CAH2 - Session 4 - Transcript - 11 December 2020 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV1-015	Agenda for Compulsory Acquisition Hearing 3 (CAH3) This item was previously allocated reference EV-015. However, following a detailed review of the Examination Library, EV-015 was found to be already in use. Therefore, this reference was changed to EV1-015.
EV-092	Recording of CAH3 (Session 1) - 19 February 2021
EV-093	Recording of CAH3 (Session 2) - 19 February 2021
EV-094	Recording of CAH3 (Session 3) - 19 February 2021
EV-095	CAH3 - Session 1 - Transcript - 19 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-096	CAH3 - Session 2 - Transcript - 19 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-097	CAH3 - Session 2 - Transcript - 19 February 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Representations	
Procedural Deadline A – 28 July 2020 Deadline for receipt by the ExA of: <ul style="list-style-type: none"> Written submissions, if required, from the Applicant and any Interested Party or Affected Persons on any changes that are considered necessary to the draft Examination Timetable, together with which agenda items you wish to speak on, points you wish to make, and why these need to be made orally rather than in writing. 	
PDA-001	AQUIND Limited Submission for Procedural Deadline A
PDA-002	Havant Borough Council Submission for Procedural Deadline A
PDA-003	Portsmouth City Council Submission for procedural Deadline A
PDA-004	Sainsbury's Supermarkets Limited Submission for Procedural Deadline A
PDA-005	Winchester City Council Submission for Procedural Deadline A
PDA-006	Alistair Thompson Submission for Procedural Deadline A

PDA-007	Hampshire County Council Submission for Procedural Decision A
<p>Procedural Deadline B – 01 September 2020</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Written submissions, if required, from the Applicant and any Interested Party or Affected Persons on procedural matters relating to the purpose or proceedings of the Preliminary Meeting. 	
PDB-001	AQUIND Limited Submission for Procedural Deadline B
PDB-002	South Downs National Park Authority Submission for Procedural Deadline B
PDB-003	Havant Borough Council Submission for Procedural Deadline B
PDB-004	Hampshire County Council Submission for Procedural Deadline B
PDB-005	Hampshire County Council Submission for Procedural Deadline B
PDB-006	Winchester City Council Submission for Procedural Deadline B
<p>Deadline 1 – 06 October 2020</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Responses to ExQ1 • Local Impact Reports (LIR) from Local Authorities • Written Representations (WRs) including summaries of all WRs exceeding 1500 words • Responses to Relevant Representations • Statements of Common Ground (SoCG) requested by the ExA • Statement of Commonality for SoCG • The Compulsory Acquisition Schedule • Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA • Notification of wish to participate in Open Floor Hearings (OFH1 or OFH2) • Notification of wish to participate in Compulsory Acquisitions Hearings (CAH1 or CAH2) • Notification of wish to participate in the Issue Specific Hearing into the draft Development Consent Order (ISH1) • Submission by the Applicant, IPs and APs of suggested locations for the ExA to include in any Accompanied Site Inspection, including the reason for nomination and issues to be observed, information about whether the location can be accessed using public rights of way or what access arrangements would need to be made and the likely time requirement for the visit to that location 	
REP1-001	AQUIND Limited Deadline 1 Submission - Cover email regarding request for a change pursuant to Infrastructure Planning (Compulsory Acquisition) Regulations 2010 - Regulation 5
REP1-002	AQUIND Limited Deadline 1 Submission - Letter to the Secretary of State regarding request for a change pursuant to Infrastructure Planning (Compulsory Acquisition) Regulations 2010 - Regulation 5
REP1-003	AQUIND Limited Deadline 1 Submission - 7.1.3 - Cover Letter
REP1-004	AQUIND Limited Deadline 1 Submission - 1.3 Application Document Tracker - Rev 02
REP1-005	AQUIND Limited Deadline 1 Submission - 1.7 Glossary (Clean) -Rev 02

REP1-006	AQUIND Limited Deadline 1 Submission - 1.7 Glossary (Tracked Change) - Rev 02
REP1-007	AQUIND Limited Deadline 1 Submission - 2.1 Site Location Plan - Rev 02
REP1-008	AQUIND Limited Deadline 1 Submission - 2.10 Indicative Optical Regeneration Station(s) Elevations and Floor Plans - Rev 02
REP1-009	AQUIND Limited Deadline 1 Submission - 2.11 Optical Regeneration Station(s) Parameter Plan - Rev 02
REP1-010	AQUIND Limited Deadline 1 Submission - 2.12 Hedgerow and Tree Preservation Order Plans - Rev 02
REP1-011	AQUIND Limited Deadline 1 Submission - 2.2 Land Plans - Rev 02 Low Resolution - Late Submission - Accepted at the discretion of the Examining Authority
REP1-011a	AQUIND Limited Deadline 1 Submission - 2.2 Land Plans - Rev 02
REP1-012	AQUIND Limited Deadline 1 Submission - 2.3 Crown Land Plans - Rev 02
REP1-013	AQUIND Limited Deadline 1 Submission - 2.3 Crown Land Plans Rev 02 Low Resolution - Late Submission - Accepted at the discretion of the Examining Authority
REP1-014	AQUIND Limited Deadline 1 Submission - 2.4 Works Plans - Rev 02
REP1-015	AQUIND Limited Deadline 1 Submission - 2.4 Works Plans - Rev 02 Low Resolution - Late Submission - Accepted at the discretion of the Examining Authority
REP1-016	AQUIND Limited Deadline 1 Submission - 2.5 Access and Rights of Way Plans - Rev 02
REP1-017	AQUIND Limited Deadline 1 Submission - 2.6 Converter Station and Telecommunications Buildings Parameter Plans - Rev 02
REP1-018	AQUIND Limited Deadline 1 Submission - 2.7 Indicative Converter Station Area Layout Plans - Rev 02
REP1-019	AQUIND Limited Deadline 1 Submission - 2.8 Indicative Converter Station Elevations - Rev 02
REP1-020	AQUIND Limited Deadline 1 Submission - 2.9 Indicative Telecommunications Buildings Elevations and Floor Plans - Rev 02
REP1-021	AQUIND Limited Deadline 1 Submission - 3.1 Updated Draft DCO - Clean Rev 002
REP1-022	AQUIND Limited Deadline 1 Submission - 3.1 Updated Draft DCO - Tracked Rev 002
REP1-023	AQUIND Limited Deadline 1 Submission - 3.2 Explanatory Memorandum - Tracked Rev 002
REP1-024	AQUIND Limited Deadline 1 Submission - 3.2 Explanatory Memorandum - Clean Rev 002
REP1-025	AQUIND Limited Deadline 1 Submission - 4.1 Statement of Reasons - Clean Rev 002
REP1-026	AQUIND Limited Deadline 1 Submission - 4.1 Statement of Reasons - Tracked Rev 002

REP1-027	AQUIND Limited Deadline 1 Submission - 4.3 Book of Reference - Clean Rev 002
REP1-028	AQUIND Limited Deadline 1 Submission - 4.3 Book of Reference - Tracked Rev 002
REP1-029	AQUIND Limited Deadline 1 Submission - 5.2 Other Consents and Licences - Clean Rev 002
REP1-030	AQUIND Limited Deadline 1 Submission - 5.2 Other Consents and Licences - Tracked Rev 002
REP1-031	AQUIND Limited Deadline 1 Submission - 5.5 Design and Access Statement - Clean Rev 002
REP1-032	AQUIND Limited Deadline 1 Submission - 5.5 Design and Access Statement - Tracked Rev 002
REP1-033	AQUIND Limited Deadline 1 Submission - 6.1.23 Environmental Statement - Volume 1 - Chapter 23 Air Quality - Rev 002
REP1-034	AQUIND Limited Deadline 1 Submission - 6.10 Outline Landscape and Biodiversity Strategy - Clean Rev 002
REP1-035	AQUIND Limited Deadline 1 Submission - 6.10 Outline Landscape and Biodiversity Strategy - Tracked Rev 002
REP1-036	AQUIND Limited Deadline 1 Submission - 6.2.15.48 Environmental Statement - Vol 2 - Figure 15.48 Option B(i) (north) - Rev 02
REP1-037	AQUIND Limited Deadline 1 Submission - 6.2.15.49 Environmental Statement - Vol 2 - Figure 15.49 Option B(i) (south) - Rev 02
REP1-038	AQUIND Limited Deadline 1 Submission - 6.2.15.52 Environmental Statement - Vol 2 - Figure 15.52 Viewpoint 18
REP1-039	AQUIND Limited Deadline 1 Submission - 6.2.15.53 Environmental Statement - Vol 2 - Figure 15.53 Viewpoint 19
REP1-040	AQUIND Limited Deadline 1 Submission - 6.2.15.54 Environmental Statement - Vol 2 - Figure 15.54 Viewpoint 20
REP1-041	AQUIND Limited Deadline 1 Submission - 6.2.15.55 Environmental Statement - Vol 2 - Figure 15.55 Viewpoint 21
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REP1-043	AQUIND Limited Deadline 1 Submission - 6.2.20.1 Environmental Statement - Vol 2 - Figure 20.1 Flood Risk Constraints - Rev 02
REP1-044	AQUIND Limited Deadline 1 Submission - 6.2.20.4 Environmental Statement - Vol 2 - Figure 20.4 Flood Zone Map - Rev 02
REP1-045	AQUIND Limited Deadline 1 Submission - 6.2.22.7 Environmental Statement - Vol 2 - Figure 22.7 Links Taken Forward for Further Assessment - Rev02
REP1-046	AQUIND Limited Deadline 1 Submission - 6.2.23.1 Environmental Statement - Vol 2 - Figure 23.1 Air Quality Constraints - Rev 02

REP1-047	AQUIND Limited Deadline 1 Submission - 6.2.23.10 Environmental Statement - Vol 2 - Figure 23.10 Traffic Diversion DS1 Scenario NO ₂ Concentration Changes Portsmouth AQMAs - Rev 02
REP1-048	AQUIND Limited Deadline 1 Submission - 6.2.23.11 Environmental Statement - Vol 2 - Figure 23.11 Traffic Diversion DS2 Scenario NO ₂ Concentration Changes Portsmouth AQMAs- Rev02
REP1-049	AQUIND Limited Deadline 1 Submission - 6.2.23.12 Environmental Statement - Vol 2 - Figure 23.12 Verification Zones - Rev 02
REP1-050	AQUIND Limited Deadline 1 Submission - 6.2.23.13 Environmental Statement - Vol 2 - Figure 23.13 Converter Station Backup Generator Positions
REP1-051	AQUIND Limited Deadline 1 Submission - 6.2.23.14 Environmental Statement - Vol 2 - Figure 23.14 Intra-Project Do-Min Scenario NO ₂ Concentrations Verification
REP1-052	AQUIND Limited Deadline 1 Submission - 6.2.23.15 Environmental Statement - Vol 2 - Figure 23.15 Intra-Project DS1 Scenario Change in NO ₂ Concentrations Verification
REP1-053	AQUIND Limited Deadline 1 Submission - 6.2.23.16 Environmental Statement - Vol 2 - Figure 23.16 Intra-Project DS2 Scenario Change in NO ₂ Concentrations Verification
REP1-054	AQUIND Limited Deadline 1 Submission - 6.2.23.17 Environmental Statement - Vol 2 - Figure 23.17 Trenchless Technique Indicative Locations
REP1-055	AQUIND Limited Deadline 1 Submission - 6.2.23.18 Environmental Statement - Vol 2 - Figure 23.18 Amalgamated Results Do-Minimum Scenario NO ₂ Concentrations Portsmouth AQMAs
REP1-056	AQUIND Limited Deadline 1 Submission - 6.2.23.19 ES - Vol 2 - Figure 23.19 Amalgamated Results DS1 Scenario NO ₂ Concentration Changes Portsmouth AQMAs
REP1-057	AQUIND Limited Deadline 1 Submission - 6.2.23.20 ES - Vol 2 - Figure 23.20 Amalgamated Results DS2 Scenario NO ₂ Concentration Changes Portsmouth AQMAs
REP1-058	AQUIND Limited Deadline 1 Submission - 6.2.23.5 ES - Vol 2 - Figure 23.5 Backup Generator Positions Revision 02
REP1-059	AQUIND Limited Deadline 1 Submission - 6.2.23.6 ES - Vol 2 - Figure 23.6 Traffic Diversion Do-Minimum Scenario NO ₂ Concentrations Revision 02
REP1-060	AQUIND Limited Deadline 1 Submission - 6.2.23.7 ES - Vol 2 - Figure 23.7 Traffic Diversion DS1 Scenario NO ₂ Concentration Changes Revision 02
REP1-061	AQUIND Limited Deadline 1 Submission - 6.2.23.8 ES - Vol 2 - Figure 23.8 Traffic Diversion DS2 Scenario NO ₂ Concentration Changes Revision 02
REP1-062	AQUIND Limited Deadline 1 Submission - 6.2.23.9 ES - Vol 2 - Figure 23.9 Traffic Diversion Do-Minimum Scenario NO ₂ Concentrations Portsmouth AQMAs Revision 02
REP1-063	AQUIND Limited Deadline 1 Submission - 6.2.25.1 ES - Vol 2 - Figure 25.1 Socio-Economic Receptors Revision 02

REP1-064	AQUIND Limited Deadline 1 Submission - 6.2.29.6 ES - Vol 2 - Figure 29.6 Onshore Short List of Developments Revision 02
REP1-065	AQUIND Limited Deadline 1 Submission - 6.2.3.13 ES - Vol 2 - Figure 3.13 Environmental Constraints Map Revision 02
REP1-066	AQUIND Limited Deadline 1 Submission - 6.2.8.2 ES - Vol 2 - Figure 8.2 Protected Areas (MCZ, Ramsar & SAC) Revision 02
REP1-067	AQUIND Limited Deadline 1 Submission - 6.2.8.5 ES - Vol 2 - Figure 8.5 High Level Benthic Habitats in the Vicinity of the Proposed Development Revision 03
REP1-068	AQUIND Limited Deadline 1 Submission - 6.3.22.1A ES - Vol 3 - Appendix 22.1A Framework Traffic Management Strategy Revision 002 - Clean
REP1-069	AQUIND Limited Deadline 1 Submission - 6.3.22.1A ES - Vol 3 - Appendix 22.1A Framework Traffic Management Strategy Revision 002 - Tracked Changes
REP1-070	AQUIND Limited Deadline 1 Submission - 6.3.22.2 ES - Vol 3 - Appendix 22.2 Framework Construction Traffic Management Plan Revision 002 - Clean
REP1-071	AQUIND Limited Deadline 1 Submission - 6.3.22.2 ES - Vol 3 - Appendix 22.2 Framework Construction Traffic Management Plan Revision 002 - Tracked Changes
REP1-072	AQUIND Limited Deadline 1 Submission - 6.3.22.4 ES - Vol 3 - Appendix 22.4 Baseline and Methodology Tables Revision 003
REP1-073	AQUIND Limited Deadline 1 Submission - 6.3.22.5 - Vol 3 - Appendix 22.5 Impact Tables Revision 003
REP1-074	AQUIND Limited Deadline 1 Submission - 6.3.23.2 ES - Vol 3 - Appendix 23.2 IAQM Construction Assessment Revision 002
REP1-075	AQUIND Limited Deadline 1 Submission - 6.3.23.3 ES - Vol 3 - Appendix 23.3 Air Quality Traffic Modelling Revision 002
REP1-076	AQUIND Limited Deadline 1 Submission - 6.3.23.4 ES - Vol 3 - Appendix 23.4 Air Quality Generator Emissions Modelling Revision 002
REP1-077	AQUIND Limited Deadline 1 Submission - 6.3.23.7 ES - Vol 3 - Appendix 23.7 Air Quality Ecological Impacts
REP1-078	AQUIND Limited Deadline 1 Submission - 6.3.23.8 ES - Vol 3 - Appendix 23.8 A2030 Eastern Road Traffic Sensitivity Testing - Air Quality
REP1-079	AQUIND Limited Deadline 1 Submission - 6.4 ES - Vol 4 - Non-Technical Summary Revision 002 - Clean
REP1-080	AQUIND Limited Deadline 1 Submission - 6.4 ES - Vol 4 - Non-Technical Summary Revision 002 - Tracked Changes
REP1-081	AQUIND Limited Deadline 1 Submission - 6.8.1 HRA - Vol 1 - Habitats Regulations Assessment Report Revision 002 - Clean

REP1-082	AQUIND Limited Deadline 1 Submission - 6.8.1 HRA - Vol 1 - Habitats Regulations Assessment Report Revision 002 - Tracked Changes
REP1-083	AQUIND Limited Deadline 1 Submission - 6.8.2.4.4 HRA - Vol 2 - Figure 4.4 Migratory Fish Transboundary Sites Revision 03
REP1-084	AQUIND Limited Deadline 1 Submission - 6.8.2.4.7 HRA - Vol 2 - Figure 4.7 Marine Ornithology Sites in UK Marine Area Revision 02
REP1-085	AQUIND Limited Deadline 1 Submission - 6.8.3.1 HRA - Vol 3 - Appendix 1 European Marine Sites Screening and Integrity Matrices Revision 002
REP1-086	AQUIND Limited Deadline 1 Submission - 6.8.3.3 HRA - Vol 3 - Appendix 3 In Combination Projects Revision 002
REP1-087	AQUIND Limited Deadline 1 Submission - 6.9 Onshore Outline Construction Environmental Management Plan Revision 002 - Clean
REP1-088	AQUIND Limited Deadline 1 Submission - 6.9 Onshore Outline Construction Environmental Management Plan Revision 002 - Tracked Changes
REP1-089	AQUIND Limited Deadline 1 Submission - 7.2.2 Schedule of Changes Submitted for Deadline 1
REP1-090	AQUIND Limited Deadline 1 Submission - 7.3.1 - Schedule of changes to the Draft DCO
REP1-091	AQUIND Limited Deadline 1 Submission - 7.4.1 – Applicant’s Response to ExQ1
REP1-092	AQUIND Limited Deadline 1 Submission - 7.4.1.1 – Responses to ExQ1 – Appendix 1 Converter Station Design Approach (MG1.1.3)
REP1-093	AQUIND Limited Deadline 1 Submission - 7.4.1.2 - Responses to ExQ1– Appendix 2 Optical Regeneration Station Design Approach (MG1.1.4)
REP1-094	AQUIND Limited Deadline 1 Submission - 7.4.1.3 - Responses to ExQ1- Appendix 3 - Proposed Site Level and Earthworks Design Approach (MG1.1.6)
REP1-095	AQUIND Limited Deadline 1 Submission - 7.4.1.4 - Responses to ExQ1 - Appendix 4 Financial Statements for the year ended 30 June 2019 (CA1.3.9)
REP1-096	AQUIND Limited Deadline 1 Submission - 7.4.1.5 - Responses to ExQ1 - Appendix 5 Aquind Mitigation and Control Chart (DCO1.5.43)
REP1-097	AQUIND Limited Deadline 1 Submission - 7.4.1.6 - Responses to ExQ1 - Appendix 6 Access and Rights of Way: Explanatory Document (DCO1.5.68)
REP1-098	AQUIND Limited Deadline 1 Submission - 7.4.1.7 - Responses to ExQ1 - Appendix 7 - Dated Baseline Sources (EIA1.6.17)
REP1-099	AQUIND Limited Deadline 1 Submission - 7.4.1.8 - Responses to ExQ1- Appendix 8 Landscape and Visual Correspondence
REP1-100	AQUIND Limited Deadline 1 Submission - 7.4.1.9 - Responses to ExQ1 - Appendix 9 Minutes of Meeting with Hampshire Police and Fire Service (9th June 2020) (TT1.16.2)

REP1-101	AQUIND Limited Deadline 1 Submission - 7.4.1.10 - Responses to ExQ1 – Appendix 10 Tree Survey Schedule and Constraint Plans
REP1-102	AQUIND Limited Deadline 1 Submission - 7.4.1.11 - Responses to ExQ1 - Appendix 11 Euro Figures Converted to Pounds Sterling (CA1.3.58)
REP1-103	AQUIND Limited Deadline 1 Submission - 7.5.1 Statement of Commonality for Statements of Common Ground
REP1-104	AQUIND Limited Deadline 1 Submission - 7.5.10 Statement of Common Ground Between AQUIND Limited and Highways England - Agreed Draft
REP1-105	AQUIND Limited Deadline 1 Submission - 7.5.11 Statement of Common Ground with Natural England - Agreed Draft
REP1-106	AQUIND Limited Deadline 1 Submission - 7.5.12 - Statement of Common Ground Between AQUIND Limited and Natural England/Joint Nature Conservation Committee - Rev 001
REP1-107	AQUIND Limited Deadline 1 Submission - 7.5.13 - Statement of Common Ground Between AQUIND Limited and Historic England - Rev 001
REP1-108	AQUIND Limited Deadline 1 Submission - 7.5.14 - Draft Statement of Common Ground (Onshore) Between AQUIND Limited and Environment Agency Agreed Draft - Rev 001
REP1-109	AQUIND Limited Deadline 1 Submission - 7.5.15 - Statement of Common Ground (Marine) between AQUIND Limited and Environment Agency - Rev 01
REP1-110	AQUIND Limited Deadline 1 Submission - 7.5.16 - Statement of Common Ground Between AQUIND Limited and the Marine Management Organisation - Rev 001
REP1-111	AQUIND Limited Deadline 1 Submission - 7.5.17 - Statement of Common Ground Between AQUIND Limited and the Maritime and Coastguard Agency - Rev 001
REP1-112	AQUIND Limited Deadline 1 Submission - 7.5.18 - Statement of Common Ground Between AQUIND Limited and Sport England Agreed Draft - Rev 001
REP1-113	AQUIND Limited Deadline 1 Submission - 7.5.19 - Statement of Common Ground Between AQUIND Limited and National Grid Electricity Transmission Plc Agreed Draft - Rev 001
REP1-114	AQUIND Limited Deadline 1 Submission - 7.5.20 - Statement of Common Ground Between AQUIND Limited and Portsmouth Water Agreed Draft - Rev 002
REP1-115	AQUIND Limited Deadline 1 Submission - 7.5.21 - Statement of Common Ground Between AQUIND Limited and Grainger Plc. Agreed Draft - Rev 001
REP1-116	AQUIND Limited Deadline 1 Submission - 7.5.22 - Statement of Common Ground between AQUIND Limited and Southern Gas Networks PLC Agreed Draft - Rev 003
REP1-117	AQUIND Limited Deadline 1 Submission - 7.5.3 - Statement of Common Ground Between AQUIND Limited and Portsmouth City Council Agreed Draft - Rev 001

REP1-118	AQUIND Limited Deadline 1 Submission - 7.5.4 - Statement of Common Ground Between AQUIND Limited and Winchester City Council Agreed Draft - Rev 001
REP1-119	AQUIND Limited Deadline 1 Submission - 7.5.5 - Statement of Common Ground Between AQUIND Limited and Hampshire County Council Agreed Draft - Rev 001
REP1-120	AQUIND Limited Deadline 1 Submission - 7.5.6 - Statement of Common Ground Between AQUIND Limited and East Hampshire District Council Agreed Draft - Rev 001
REP1-121	AQUIND Limited Deadline 1 Submission - 7.5.7 - Statement of Common Ground Between AQUIND Limited and the South Downs National Park Authority Agreed Draft - Rev 001
REP1-122	AQUIND Limited Deadline 1 Submission - 7.5.8 - Statement of Common Ground Between AQUIND Limited and Havant Borough Council Agreed Draft - Rev 001
REP1-123	AQUIND Limited Deadline 1 Submission - 7.5.9 - Statement of Common Ground Between AQUIND Limited and Eastleigh Borough Council Final Version – Signed - Rev 001
REP1-124	AQUIND Limited Deadline 1 Submission - 7.6.1 - Compulsory Acquisition Schedule - Rev 001
REP1-125	AQUIND Limited Deadline 1 Submission - 7.6.2 - Supplement to the Book of Reference to accompany the request for a change pursuant to Infrastructure Planning (Compulsory Acquisition) Regulations 2010
REP1-126	AQUIND Limited Deadline 1 Submission - 7.6.3 - Compulsory Acquisition and Temporary Possession Objection Schedule - Rev 001
REP1-127	AQUIND Limited Deadline 1 Submission - 7.7.1 - Statement in Relation to FOC - Rev 001
REP1-128	AQUIND Limited Deadline 1 Submission - 7.7.10 - HRA – Vol3 – Appendix 5 Ramsar Screening And Integrity Matrices - Rev 001
REP1-129	AQUIND Limited Deadline 1 Submission - 7.7.11 - Operational Broadband and Octave Band Noise Criteria Document - Rev 001
REP1-130	AQUIND Limited Deadline 1 Submission - 7.7.12 - Position Statement on EN-5 EXA WQ PP1.13.3 - Rev 001
REP1-131	AQUIND Limited Deadline 1 Submission - 7.7.2 - Highway Subsoil Acquisition Position Statement - Rev 001
REP1-132	AQUIND Limited Deadline 1 Submission - 7.7.3 - HDD Position Statement Note - Rev A03
REP1-133	AQUIND Limited Deadline 1 Submission - 7.7.4 - Position Statement in relation to the refinement of the Order Limits (Rev 001) to accompany the request for a change pursuant to Infrastructure Planning (Compulsory Acquisition) Regulations 2010
REP1-134	AQUIND Limited Deadline 1 Submission - 7.7.5 - DCO Parameters Index Document - Rev 001

REP1-135	AQUIND Limited Deadline 1 Submission - 7.7.6 - Position Statement on Planning Obligations in connection with the Proposed Development - Rev 001
REP1-136	AQUIND Limited Deadline 1 Submission - 7.7.7 - Needs and Benefits Addendum - Rev 001
REP1-137	AQUIND Limited Deadline 1 Submission - 7.7.8 - Indicative Landscape Mitigation Plans Option B(ii) WQ CA1.3.7 - Rev 01
REP1-138	AQUIND Limited Deadline 1 Submission - 7.7.9 - Biodiversity Position Paper - Rev 001
REP1-139	AQUIND Limited Deadline 1 Submission - 7.8.1 - Environmental Statement Addendum - Rev 001
REP1-140	AQUIND Limited Deadline 1 Submission - 7.8.1.1 - Environmental Statement Addendum - Appendix 1 Environmental Statement Errata Sheet - Rev 001
REP1-141	AQUIND Limited Deadline 1 Submission - 7.8.1.10 - Environmental Statement Addendum - Appendix 10 - Figure 5 Historic England Visualisations - Rev 001
REP1-142	AQUIND Limited Deadline 1 Submission - 7.8.1.11 - Environmental Statement Addendum - Appendix 11 Supplementary Transport Assessment - Rev 001
REP1-143	AQUIND Limited Deadline 1 Submission - 7.8.1.12 - Environmental Statement Addendum - Appendix 12 Supplementary Meteorological Data and Analysis and Revised Operational Noise Results - Rev 001
REP1-144	AQUIND Limited Deadline 1 Submission - 7.8.1.13 - Environmental Statement Addendum - Appendix 13 Framework Management Plan for Recreational Impacts - Rev 001
REP1-145	AQUIND Limited Deadline 1 Submission - 7.8.1.14 - Environmental Statement Addendum - Appendix 14 Note on PRow, Long Distance Walking Paths and Cycle Route Diversions - Rev 001
REP1-146	AQUIND Limited Deadline 1 Submission - 7.8.1.15 - Environmental Statement Addendum - Appendix 15 Cumulative Effects Assessment Matrix (Stage 1 & 2) - Rev 001
REP1-147	AQUIND Limited Deadline 1 Submission - 7.8.1.16 - Environmental Statement Addendum - Appendix 16 Cumulative Effects Assessment Matrix (Stage 3 & 4) - Rev 001
REP1-148	AQUIND Limited Deadline 1 Submission - 7.8.1.17 - Environmental Statement Addendum - Appendix 17 - Historic Environment Desk Based Assessment Figures and Appendices - Rev 001
REP1-149	AQUIND Limited Deadline 1 Submission - 7.8.1.18 - Environmental Statement Addendum - Appendix 18 Construction Noise Impacts on SWBGS Sites - Rev 001
REP1-150	AQUIND Limited Deadline 1 Submission - 7.8.1.19 - Environmental Statement Addendum - Appendix 19 Landscape Assessment Assumption Clarification - Rev 001
REP1-151	AQUIND Limited Deadline 1 Submission - 7.8.1.2 Environmental Statement Addendum - Appendix 2 - Figure 1 Assumed Cable Installation Rates - Rev 001

REP1-152	AQUIND Limited Deadline 1 Submission - 7.8.1.3 Environmental Statement Addendum – Appendix 3 – Supplementary Alternatives Chapter - Rev 001
REP1-153	AQUIND Limited Deadline 1 Submission - 7.8.1.4 Environmental Statement Addendum – Appendix 4 - Figure 2 Additional Information on Herring Spawning - Rev 001
REP1-154	AQUIND Limited Deadline 1 Submission - 7.8.1.5 Environmental Statement Addendum – Appendix 5 - Figure 3 Habitat Mapping - Rev 001
REP1-155	AQUIND Limited Deadline 1 Submission - 7.8.1.6 Environmental Statement Addendum – Appendix 6 - Figure 4 Karst dissolution features and other key information - Rev 001
REP1-156	AQUIND Limited Deadline 1 Submission - 7.8.1.7 Environmental Statement Addendum – Appendix 7 Supplementary Karst Report - Rev 001
REP1-157	AQUIND Limited Deadline 1 Submission - 7.8.1.8 Environmental Statement Addendum – Appendix 8 - Flood Risk Assessment Addendum - Rev 001
REP1-158	AQUIND Limited Deadline 1 Submission - 7.8.1.9 Environmental Statement Addendum – Appendix 9 - Sequential and Exception Test Addendum - Rev 001
REP1-159	AQUIND Limited Deadline 1 Submission - 7.9.3 Applicant's Draft Itinerary for the Accompanied Site Inspection - Rev 001
REP1-160	AQUIND Limited Deadline 1 Submission - 7.9.4 Applicant's Response to Relevant Representations - Rev 001
REP1-161	East Hampshire District Council Deadline 1 Submission - Local Impact Report
REP1-162	East Hampshire District Council Deadline 1 Submission - Responses to ExQ1
REP1-163	Eastleigh Borough Council Deadline 1 Submission
REP1-164	Hampshire County Council Deadline 1 Submission - Compulsory Acquisition Objection
REP1-165	Hampshire County Council Deadline 1 Submission - Cover email
REP1-166	Hampshire County Council Deadline 1 Submission - Responses to ExQ1
REP1-167	Hampshire County Council Deadline 1 Submission - Local Impact Report
REP1-168	Havant Borough Council Deadline 1 Submission - Cover Email
REP1-169	Havant Borough Council Deadline 1 Submission - Local Impact Report
REP1-170	Havant Borough Council Deadline 1 Submission - Responses to ExQ1
REP1-171	Portsmouth City Council Deadline 1 Submission - Cover letter
REP1-172	Portsmouth City Council Deadline 1 Submission - Appendix A - Task A - Responses to ExQ1
REP1-173	Portsmouth City Council Deadline 1 Submission - Appendix B - Task B - Local Impact Report

REP1-174	Portsmouth City Council Deadline 1 Submission - Appendix C - Task C - Written Representation
REP1-175	Portsmouth City Council Deadline 1 Submission - Appendix D - Task D - Statement of Common Ground
REP1-176	Portsmouth City Council Deadline 1 Submission - Maps to support Appendix B - Late Submission accepted at the discretion of the Examining Authority
REP1-177	South Downs National Park Authority Deadline 1 Submission - Cover letter
REP1-178	South Downs National Park Authority Deadline 1 Submission - Local Impact Report
REP1-179	South Downs National Park Authority Deadline 1 Submission - Responses to ExQ1
REP1-180	South Downs National Park Authority Deadline 1 Submission - Written Representation - Late Representation accepted at the discretion of the Examining Authority
REP1-181	Winchester City Council Deadline 1 Submission - Cover Email
REP1-182	Winchester City Council Deadline 1 Submission - Local Impact Statement submitted by Winchester City Council Executive Summary
REP1-183	Winchester City Council Deadline 1 Submission - Local Impact Statement submitted by Winchester City Council
REP1-184	Winchester City Council Deadline 1 Submission - Responses to ExQ1
REP1-185	Winchester City Council Deadline 1 Submission - LIR Appendix A District boundaries at Lovedean
REP1-186	Winchester City Council Deadline 1 Submission - LIR Appendix B District boundaries Maurepas RB
REP1-187	Winchester City Council Deadline 1 Submission - LIR Appendix C District boundaries Hambledon Road
REP1-188	Winchester City Council Deadline 1 Submission - LIR Appendix D SINC plans
REP1-189	Winchester City Council Deadline 1 Submission - LIR Appendix E Photo through field entrance towards site
REP1-190	Winchester City Council Deadline 1 Submission - LIR Appendix F Aquind policy list
REP1-191	Winchester City Council Deadline 1 Submission - LIR Appendix G Extract from Denmead Neighbourhood Plan Annex A
REP1-192	Winchester City Council Deadline 1 Submission - LIR Appendix H Extract from LPP1 on WWDA
REP1-193	Winchester City Council Deadline 1 Submission - LIR Appendix I Archaeology comments
REP1-194	Winchester City Council Deadline 1 Submission - LIR Appendix J Historic En comment
REP1-195	Winchester City Council Deadline 1 Submission - LIR Appendix K EHO Comment
REP1-196	Winchester City Council Deadline 1 Submission - LIR Appendix L countryside route options plan
REP1-197	Winchester City Council Deadline 1 Submission - LIR Appendix M PIER consultation letter response

REP1-198	Winchester City Council Deadline 1 Submission - LIR Appendix N Landscape Comments
REP1-199	Winchester City Council Deadline 1 Submission - LIR Appendix O Urban Design Comment
REP1-200	Winchester City Council Deadline 1 Submission - LIR Appendix P Ecology comment
REP1-201	Dorset Council Deadline 1 Submission
REP1-202	Defence Infrastructure Organisation Deadline 1 Submission
REP1-203	Environment Agency Deadline 1 Submission – Responses to ExQ1
REP1-204	Highways England Deadline 1 Submission - Written Statement
REP1-205	Highways England Deadline 1 Submission - Annex A
REP1-206	Highways England Deadline 1 Submission - Annex B
REP1-207	Highways England Deadline 1 Submission - Annex C
REP1-208	Highways England Deadline 1 Submission - Annex D
REP1-209	Historic England Deadline 1 Submission - Written Representation and Responses to ExQ1
REP1-210	Marine Management Organisation Deadline 1 Submission - Cover email
REP1-211	Marine Management Organisation Deadline 1 Submission - Responses to ExQ1
REP1-212	Marine Management Organisation Deadline 1 Submission - Notification of participation at the Hearing
REP1-213	National Grid Deadline 1 Submission - Cover Email and withdrawal of National Grid Gas Relevant Representation (RR-031)
REP1-214	National Grid Deadline 1 Submission - Responses to ExQ1
REP1-215	National Grid Deadline 1 Submission - Written Representation
REP1-216	Natural England Deadline 1 Submission - Responses to ExQ1
REP1-217	Portsmouth Water Deadline 1 Submission - Responses to ExQ1
REP1-218	Public Health England Deadline 1 Submission
REP1-219	Southern Gas Networks PLC Deadline 1 Submission - Cover Email
REP1-220	Southern Gas Networks PLC Deadline 1 Submission - Cover letter
REP1-221	Southern Gas Networks PLC Deadline 1 Submission - Written Representation **This representation has now been withdrawn. See REP7-113**
REP1-222	Southern Gas Networks PLC Deadline 1 Submission - Response to Examining Authority's first written questions
REP1-223	Aggregate Industries UK Limited Deadline 1 Submission

REP1-224	Ali Gregory Deadline 1 Submission
REP1-225	Alistair Thompson Deadline 1 Submission
REP1-226	Andrew Cooper Deadline 1 Submission
REP1-227	APLEAL Community Action Group Deadline 1 Submission
REP1-228	Cllr Judith Clementson on behalf of Ward Member for Winchester City Council Deadline 1 Submission - Notification of wish to speak at hearing
REP1-229	Blake Morgan LLP Deadline 1 Submission - Responses to ExQ1
REP1-230	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 1 Submission - Notification of participation at the Hearings
REP1-231	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 1 Submission - Cover email
REP1-232	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 1 Submissions - Written Representation
REP1-233	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 1 Submission - Summary of Written Representation
REP1-234	Blake Morgan LLP on behalf of Mr Michael Jefferies and Mrs Sandra Jefferies Deadline 1 Submission - Cover email
REP1-235	Blake Morgan LLP on behalf of Mr Michael Jefferies and Mrs Sandra Jefferies Deadline 1 Submissions - Summary of Written Representation
REP1-236	Blake Morgan LLP on behalf of Mr Michael Jefferies and Mrs Sandra Jefferies Deadline 1 Submissions - Written Representation
REP1-237	Blake Morgan LLP on behalf of Mr Michael Jefferies and Mrs Sandra Jefferies Deadline 1 Submission - Notification of participation at the Hearings
REP1-238	Blake Morgan LLP on behalf of Robin Jefferies Deadline 1 Submission - Cover Email
REP1-239	Blake Morgan LLP on behalf of Robin Jefferies Deadline 1 Submission - Written Representation
REP1-240	Blake Morgan LLP on behalf of Robin Jefferies Deadline 1 Submission - Summary of Written Representation
REP1-241	Blake Morgan LLP on behalf of Robin Jefferies Deadline 1 Submission - Notification of participation at the Hearings
REP1-242	Brenda Lock Deadline 1 Submission
REP1-243	Carol Tarr Deadline 1 Submission
REP1-244	Cathy Kew Deadline 1 Submission
REP1-245	Charlotte Wright Deadline 1 Submission
REP1-246	Christian Hannam Deadline 1 Submission

REP1-247	Christopher Burrowes Deadline 1 Submission
REP1-248	Claire Tear Deadline 1 Submission
REP1-249	Cllr Darren Sanders Deadline 1 Submission
REP1-250	Cllr Matthew Winnington Deadline 1 Submission
REP1-251	Cllr Simon Boshier on behalf of Drayton and Farlington Ward Deadline 1 Submission
REP1-252	CPRE Hampshire Deadline 1 Submission - Summary of Written Representation
REP1-253	CPRE Hampshire Deadline 1 Submission - Written Representation
REP1-254	Cynthia Whittle Drayton Deadline 1 Submission - Late submission accepted at the discretion of the Examining Authority
REP1-255	Denise and Victor Vine Deadline 1 Submission
REP1-256	Dentons UK and Middle East LLP on behalf of Network Rail Deadline 1 Submission - Written Representation
REP1-257	Dentons UK and Middle East LLP on behalf of Network Rail Deadline 1 Submission - Responses to ExQ1
REP1-258	Dentons UK and Middle East LLP on behalf of Network Rail Deadline 1 Submission - Further email to deadline 1 submission
REP1-259	Diane Roberts Deadline 1 Submission
REP1-260	Donna Ware Deadline 1 Submission
REP1-261	Dr Jonathan Pool Deadline 1 Submission
REP1-262	E J Willoughby and Ian Cleugh Deadline 1 Submission
REP1-263	Eddie Stray Deadline 1 Submission
REP1-264	Elaine Hussey Deadline 1 Submission
REP1-265	Elizabeth Doyle Deadline 1 Submission
REP1-266	Fay and Malcom Smith Deadline 1 Submission
REP1-267	Ian Daye Deadline 1 Submission
REP1-268	Ian Judd and Partners LLP Deadline 1 Submission - Responses to ExQ1
REP1-269	James Veryard Deadline 1 Submission
REP1-270	James Veryard Deadline 1 Submission - 1.0 Representation - Socio-Economic Effects
REP1-271	James Veryard Deadline 1 Submission - 1.1 Letter to Aquind dated 21 March 2019
REP1-272	James Veryard Deadline 1 Submission - 1.2 - Response to EMF Query dated 31 May 2019
REP1-273	James Veryard Deadline 1 Submission - 2.0 Representation - Scope of the Environment Impact Assessment

REP1-274	Jim Roberts Deadline 1 Submission
REP1-275	John E Doyle Deadline 1 Submission
REP1-276	Jon Squires Deadline 1 Submission
REP1-277	Karen Pool Deadline 1 Submission
REP1-278	Keith Baker Deadline 1 Submission
REP1-279	Kelly Martin Deadline 1 Submission
REP1-280	Kelvin and Vanessa Pyne Deadline 1 Submission
REP1-281	Kimberly Barrett Deadline 1 Submission
REP1-282	L R Mills Deadline 1 Submission
REP1-283	Linda Williams Deadline 1 Submission
REP1-284	Lois Marshall Deadline 1 Submission
REP1-285	Louisa and James Newport Deadline 1 Submission
REP1-286	Luke Stubbs Deadline 1 Submission
REP1-287	M P Doyle Deadline 1 Submission
REP1-288	Mark Lacey Deadline 1 Submission
REP1-289	Michael Johnson Deadline 1 Submission
REP1-290	Michael Ware Deadline 1 Submission
REP1-291	Mildred Middlemiss Deadline 1 Submission
REP1-292	Mrs E Stevens Deadline 1 Submission
REP1-293	Naomi Craise Deadline 1 Submission
REP1-294	Neil Hawkins Deadline 1 Submission
REP1-295	Patrick and Annie O'Gorman Deadline 1 Submission
REP1-296	Patrick Whittle Deadline 1 Submission
REP1-297	Peter James Deadline 1 Submission
REP1-298	Phil Brown Deadline 1 Submission
REP1-299	Polly Beard Deadline 1 Submission
REP1-300	Rachel James Deadline 1 Submission
REP1-301	Richard Salt Deadline 1 Submission

REP1-302	Robert Walden Deadline 1 Submission
REP1-303	Sainsbury's Supermarket Limited Deadline 1 Submission - Written Representation and request to participate in the Compulsory Acquisition Hearing
REP1-304	Samir Al-Mahrouq Deadline 1 Submission
REP1-305	Shelagh Simmons Deadline 1 Submission
REP1-306	Sue Wilkinson Deadline 1 Submission
REP1-307	T Stark on behalf of Eastney and Milton Allotments Association Deadline 1 submission
REP1-308	Tina Courtnell Deadline 1 Submission
REP1-309	Trevor David Clifton Deadline 1 Submission
REP1-310	Trinity House Deadline 1 Submission - Responses to ExQ1
REP1-311	Trudy Farley Deadline 1 Submission
REP1-312	University of Portsmouth Deadline 1 Submission - Cover Email
REP1-313	University of Portsmouth Deadline 1 Submission - Written Representation
REP1-314	University of Portsmouth Deadline 1 Submission - Summary of Written Representation
REP1-315	Veronica Knight Deadline 1 Submission
REP1-316	Vic Haynes Deadline 1 Submission
REP1-317	Viola Langley Deadline 1 Submission
REP1-318	Viola Langley Deadline 1 Submission - Questionnaire
REP1-319	Viola Langley Deadline 1 Submission - Wish to speak at the Open Floor Hearing
REP1-320	Waterlooville Developments/Grainger Plc Deadline 1 Submission
REP1-321	Persons not registered as Interested Parties Deadline 1 Submission - Combined document consisting of representations from persons that have not registered as Interested Parties - Accepted at the discretion of the Examining Authority - Volume 1
REP1-322	Persons not registered as Interested Parties Deadline 1 Submission - Combined document consisting of representations from persons that have not registered as Interested Parties - Accepted at the discretion of the Examining Authority - Volume 2
REP1-323	Persons not registered as Interested Parties Deadline 1 Submission - Combined document consisting of representations from persons that have not registered as Interested Parties - Accepted at the discretion of the Examining Authority - Volume 3
REP1-324	Persons not registered as Interested Parties Deadline 1 Submission - Combined document consisting of representations from persons that have not registered as Interested Parties - Accepted at the discretion of the Examining Authority - Volume 4

REP1-325	Persons not registered as Interested Parties Deadline 1 Submission - Combined document consisting of representations from persons that have not registered as Interested Parties - Accepted at the discretion of the Examining Authority - Volume 5
Deadline 2 – 20 October 2020	
Deadline for receipt by the ExA of:	
<ul style="list-style-type: none"> • Comments on responses for Deadline 1 • Comments on Written Representations • Comments on responses to ExQ1 • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • Comments on LIR(s) • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Any further information requested by the ExA 	
REP2-001	AQUIND Limited Deadline 2 Submission - 7.1.4 - Covering Letter
REP2-002	AQUIND Limited Deadline 2 Submission - 1.3 Application Document Tracker - Rev 003
REP2-003	AQUIND Limited Deadline 2 Submission - 2.4 - Works Plans - Rev 03
REP2-003(a)	AQUIND Limited Deadline 2 Submission - 2.4 - Works Plans - Rev 03 - Low Resolution Part 1
REP2-003(b)	AQUIND Limited Deadline 2 Submission - 2.4 - Works Plans - Rev 03 - Low Resolution Part 2
REP2-004	AQUIND Limited Deadline 2 Submission - 6.3.21.2 Environmental Statement - Volume 3 - Appendix 21.2 Historic Environment Desk Based Assessment - Rev 002
REP2-005	AQUIND Limited Deadline 2 Submission - 6.6 - Mitigation Schedule - Rev 002 (Clean)
REP2-006	AQUIND Limited Deadline 2 Submission - 6.6 - Mitigation Schedule - Rev 002 (Tracked)
REP2-007	AQUIND Limited Deadline 2 Submission - 7.2.2 - Schedule of Changes submitted for Deadline 2
REP2-008	AQUIND Limited Deadline 2 Submission - 7.4.2 - Applicant's Comments on responses to ExQ1
REP2-009	AQUIND Limited Deadline 2 Submission - 7.5.1 - Statement of Commonality for Statements of Common Ground- Rev 002
REP2-010	AQUIND Limited Deadline 2 Submission - 7.5.19 - Statement of Common Ground with National Grid Electricity Transmission plc -Rev 002
REP2-011	AQUIND Limited Deadline 2 Submission - 7.6.1 - Compulsory Acquisition Schedule - Rev 002 (Clean)
REP2-012	AQUIND Limited Deadline 2 Submission - 7.6.1 - Compulsory Acquisition Schedule - Rev 002 (Tracked)

REP2-013	AQUIND Limited Deadline 2 Submission - 7.7.13 - Applicant's Comments on Local Impact Reports
REP2-014	AQUIND Limited Deadline 2 Submission - 7.9.5 - Applicant's Response to Written Representations
REP2-015	East Hampshire District Council Deadline 2 Submission
REP2-016	Hampshire County Council Deadline 2 Submission - Comments on Applicant's responses to ExQ1
REP2-017	Havant Borough Council Deadline 2 Submission - Comments on Applicant's responses to ExQ1, Relevant representations and Responses to Deadline 1
REP2-018	Portsmouth City Council Deadline 2 Submission - Comments on responses to Deadline 1
REP2-019	Portsmouth City Council Deadline 2 Submission - Appendix 1 - Street works permit scheme
REP2-020	South Downs National Park Authority Deadline 2 Submission - Comments on Applicant's responses to Deadline 1
REP2-021	Winchester City Council Deadline 2 Submission - Comments on responses to Deadline 1
REP2-022	Highways England Deadline 2 Submission - Written Representation
REP2-023	Historic England Deadline 2 Submission
REP2-024	Marine Management Organisation Deadline 2 Submission - Further responses to ExQ1
REP2-025	Southern Gas Limited Deadline 2 Submission
REP2-026	Trinity House Deadline 2 Submission - Written Representation
REP2-027	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 2 Submission - Comments on response to Deadline 1 and responses to ExQ1
REP2-028	Blake Morgan LLP on behalf of Mr Michael Jefferies and Mrs Sandra Jefferies Deadline 2 Submission - Comments on response to Deadline 1 and responses to ExQ1
REP2-029	Blake Morgan LLP on behalf of Mr Robin Jefferies Deadline 2 Submission - Comments on response to Deadline 1 and responses to ExQ1
REP2-030	University of Portsmouth Deadline 2 Submission

Deadline 3 - 03 November 2020

Deadline for receipt by the ExA of:

- Comments on responses submitted for Deadline 2
- An updated Guide to the Application
- An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions
- An updated Schedule of changes to the dDCO
- An updated Compulsory Acquisition Schedule in clean and tracked versions
- Progressed Statements of Common Ground
- Progressed Statement of Commonality for SoCG
- Any further information requested by the ExA under Rule 17 of the Examination Rules

REP3-001	AQUIND Limited Deadline 3 Submission - Covering Letter
REP3-002	AQUIND Limited Deadline 3 Submission - 1.3 Application Document Tracker - Rev-004 004
REP3-003	AQUIND Limited Deadline 3 Submission - 3.1 Draft Development Consent Order - Clean - Rev-003
REP3-004	AQUIND Limited Deadline 3 Submission - 3.1 Draft Development Consent Order - Tracked Changes - Rev-003
REP3-005	AQUIND Limited Deadline 3 Submission - 7.2.3 Schedule of Changes - Rev-001
REP3-006	AQUIND Limited Deadline 3 Submission - 7.3.2 Schedule of Changes to the draft Development Consent Order - Rev-001
REP3-007	AQUIND Limited Deadline 3 Submission - 7.4.1.10 Appendix 10 Tree Survey Schedule and Constraint Plans - Rev-002
REP3-008	AQUIND Limited Deadline 3 Submission - 7.5.1 Statement of Commonality for Statements of Common Ground - Rev-003
REP3-009	AQUIND Limited Deadline 3 Submission - 7.5.7 Statement of Common Ground with South Downs National Park Authority - Agreed Draft – Rev-002
REP3-010	AQUIND Limited Deadline 3 Submission - 7.6.1 Compulsory Acquisition Schedule - Clean - Rev-003
REP3-011	AQUIND Limited Deadline 3 Submission - 7.6.1 Compulsory Acquisition Schedule - Tracked Changes - Rev-003
REP3-012	AQUIND Limited Deadline 3 Submission - 7.7.9 Biodiversity Position Paper - Rev-002
REP3-013	AQUIND Limited Deadline 3 Submission - 7.8.1.4 Environment Statement Addendum - Appendix 4 - Figure 2 Additional Information on Herring Spawning - Rev-001
REP3-014	AQUIND Limited Deadline 3 Submission - 7.9.6 Applicant's Response to Deadline 2 Submissions
REP3-015	AQUIND Limited Deadline 3 Submission - 7.9.7 Applicant's Response to Deadline 1 Submission from persons who have not registered as Interested Parties

REP3-016	AQUIND Limited Deadline 3 Submission - 7.7.15 Proposed Non-material Changes to the Order Limits and Rights
REP3-017	AQUIND Limited Deadline 3 Submission - 7.9.9.1 Schedule of documents forming the Environmental Statement
REP3-018	AQUIND Limited Deadline 3 Submission - 7.9.9 Response to request for further information - Environmental Statement Addendum
REP3-019	AQUIND Limited Deadline 3 Submission - 7.7.15 Response to request for further information in relation to Proposed changes to the Order Limits and rights sought
REP3-020	AQUIND Limited Deadline 3 Submission - 7.9.11 Applicant's response to request for further information Rule 17 in relation to Eastney and Milton Allotments
REP3-021	East Hampshire District Council Deadline 3 Submission - Comments on Applicant's responses to Council's Local Impact Report and draft DCO
REP3-022	Hampshire County Council Deadline 3 Submission - Response to the Applicant's notice of a Compulsory Acquisition request letter dated 6 October 2020
REP3-023	Hampshire County Council Deadline 3 Submission - Further submission including highways comments on matters raised at Deadline 2 and other matters
REP3-024	Havant Borough Council Deadline 3 Submission - Comments on responses to Deadline 2
REP3-025	Portsmouth City Council Deadline 3 Submission - Comments on responses to Deadline 2 and draft Development Consent Order
REP3-026	Portsmouth City Council Deadline 3 Submission - Response to Rule 17 in relation to Eastney and Milton Allotments
REP3-027	Portsmouth City Council Deadline 3 Submission - Response to Rule 17: Appendix A - Plan showing allotments affected (not definitive)
REP3-028	Portsmouth City Council Deadline 3 Submission - Response to Rule 17: Appendix B - Allotment Tenancy Agreement Form until 2019
REP3-029	Portsmouth City Council Deadline 3 Submission - Response to Rule 17: Appendix C - Allotment rules, Jan 2019 v5
REP3-030	Portsmouth City Council Deadline 3 Submission - Response to Rule 17: Appendix D - Pro-forma Allotment Invoice
REP3-031	Portsmouth City Council Deadline 3 Submission - Response to Rule 17: Appendix E - Allotment Offer Letter Under simplified letting process, 2019 onwards
REP3-032	South Downs National Park Authority Deadline 3 Submission - Comments on Applicant's response to Local Impact Report (REP2-013) and Written representations (REP2-014)
REP3-033	Winchester City Council Deadline 3 Submission
REP3-034	Winchester City Council Deadline 3 Submission - Comments on Applicant's response to Local Impact Report

REP3-035	Winchester City Council Deadline 3 Submission - Comments on Applicant's responses to ExQ1
REP3-036	Highways England Deadline 3 Submission - Written Statement
REP3-037	Network Rail Infrastructure Limited Deadline 3 Submission
REP3-038	University of Portsmouth Deadline 3 Submission - Statement of Common Ground between Portsmouth City Council and the University of Portsmouth
REP3-039	Blake Morgan LLP and Ian Judd & Partners on behalf of Mr. Michael Jefferies and Mrs. Sandra Jefferies Deadline 3 Submission - Notification from Blake Morgan LLP ceasing to act for Mr & Mrs Jefferies and request from Ian Judd and Partners to submit representations on behalf of Mr & Mrs Jefferies
REP3-040	Blake Morgan LLP and Ian Judd & Partners on behalf of Mr Robin Jefferies Deadline 3 Submission - Notification from Blake Morgan LLP ceasing to act for Mr Robin Jefferies and request from Ian Judd and Partners to submit representations on behalf of Mr Robin Jefferies
REP3-041	Ian Judd & Partners on behalf of Mr Michael Jefferies and Mrs Sandra Jefferies Deadline 3 Submission - Comments on Applicant's responses to Written Representation submitted for Deadline 2
REP3-042	Ian Judd & Partners on behalf of Robin Jefferies Deadline 3 Submission - Comments on Applicant's responses to Written Representation submitted for Deadline 2
REP3-043	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 3 Submission - Comments on the Applicant's Responses (REP2-014) to the Carpenters' Written Representation (REP1-232)
REP3-044	Veronica Knight Deadline 3 Submission
<p>Deadline 4 - 17 November 2020</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses submitted for Deadline 3 • The Applicant's draft ASI arrangements and itinerary • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • An updated Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • Any further information requested by the ExA under Rule 17 of the Examination Rules 	
REP4-001	AQUIND Limited Deadline 4 Submission - 7.1.6 Covering Letter
REP4-002	AQUIND Limited Deadline 4 Submission - 1.3 Application Document Tracker - Rev004
REP4-003	AQUIND Limited Deadline 4 Submission - 4.3 Book of Reference - Clean - Rev-003
REP4-004	AQUIND Limited Deadline 4 Submission - 4.3 Book of Reference - Tracked Changes - Rev-002

REP4-005	AQUIND Limited Deadline 4 Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Clean – Rev-003
REP4-006	AQUIND Limited Deadline 4 Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Tracked Changes – Rev-003
REP4-007	AQUIND Limited Deadline 4 Submission - 7.2.4 Schedule of Changes Submitted for Deadline 4
REP4-008	AQUIND Limited Deadline 4 Submission - 7.5.1. Statement of Commonality
REP4-009	AQUIND Limited Deadline 4 Submission - 7.5.3 Statement of Common Ground with Portsmouth City Council – Rev-001
REP4-010	AQUIND Limited Deadline 4 Submission - 7.5.4 Statement of Common Ground with Winchester City Council – Rev-002
REP4-011	AQUIND Limited Deadline 4 Submission - 7.5.5 Statement of Common Ground with Hampshire County Council – Rev-002
REP4-012	AQUIND Limited Deadline 4 Submission - 7.5.6 Statement of Common Ground with East Hampshire District Council – Rev-002
REP4-013	AQUIND Limited Deadline 4 Submission - 7.5.8 Statement of Common Ground with Havant Borough Council – Rev-002
REP4-014	AQUIND Limited Deadline 4 Submission - 7.5.10 Statement of Common Ground with Highways England – Rev-003
REP4-015	AQUIND Limited Deadline 4 Submission - 7.5.11 Statement of Common Ground with Natural England – Rev-002
REP4-016	AQUIND Limited Deadline 4 Submission - 7.5.12 Statement of Common Ground with Natural England & Joint Nature Conservation Committee – Rev-002
REP4-017	AQUIND Limited Deadline 4 Submission - 7.5.13 Statement of Common Ground with Historic England – Rev-002
REP4-018	AQUIND Limited Deadline 4 Submission - 7.5.14 Statement of Common Ground with Environment Agency (onshore) – Rev-002
REP4-019	AQUIND Limited Deadline 4 Submission - 7.5.16 Statement of Common Ground with Marine Management Organisation – Rev-002
REP4-020	AQUIND Limited Deadline 4 Submission - 7.5.18 Statement of Common Ground with Sport England – Rev-002
REP4-021	AQUIND Limited Deadline 4 Submission - 7.5.19 Statement of Common Ground with National Grid Electricity Transmission Plc - Rev001.2
REP4-022	AQUIND Limited Deadline 4 Submission - 7.5.20 Statement of Common Ground with Portsmouth Water Ltd – Rev-002
REP4-023	AQUIND Limited Deadline 4 Submission - 7.5.21 Statement of Common Ground with West Waterlooville Developments/Grainger Plc – Rev-002

REP4-024	AQUIND Limited Deadline 4 Submission - 7.6.1 Compulsory Acquisition Schedule - Clean - Rev-004
REP4-025	AQUIND Limited Deadline 4 Submission - 7.6.1 Compulsory Acquisition Schedule - Tracked Changes - Rev-004
REP4-026	AQUIND Limited Deadline 4 Submission - 7.8.1.13 Environmental Statement Addendum - Appendix 13 Framework Management Plan for Recreational Impacts - Rev-002
REP4-027	AQUIND Limited Deadline 4 Submission - 7.9.17 Applicant's Responses to Deadline 3 submissions
REP4-028	AQUIND Limited Deadline 4 Submission - Letter to Cllr Vernon-Jackson (9 November 2020)
REP4-029	AQUIND Limited Deadline 4 Submission - Letter to Flick Drummond MP (November 2020)
REP4-030	AQUIND Limited Deadline 4 Submission - Letter to Stephen Morgan MP (16 November 2020)
REP4-031	Eastleigh Borough Council Deadline 4 Submission
REP4-032	Hampshire County Council Deadline 4 Submission - Notification of participation at the Hearings
REP4-033	Havant Borough Council Deadline 4 Submission - Response to Applicant's submission (Ref: 7.9.6)
REP4-034	Portsmouth City Council Deadline 4 Submission
REP4-035	Portsmouth City Council Deadline 4 Submission - Cover email and query relating to GDPR
REP4-036	Portsmouth City Council Deadline 4 Submission - Comments on responses to Deadline 3
REP4-037	Winchester City Council Deadline 4 Submission - Cover email and notification of wish to attend the Hearings
REP4-038	Winchester City Council Deadline 4 Submission - Comments on Applicant's Deadline 3 submission
REP4-039	Maritime and Coastguard Agency Deadline 4 Submission - Comments on draft Development Consent Order
REP4-040	Maritime and Coastguard Agency Deadline 4 Submission - draft Development Consent Order with MCA comments
REP4-041	Highways England Deadline 4 Submission - Written Statement
REP4-042	Highways England Deadline 4 Submission - Annex A
REP4-043	Highways England Deadline 4 Submission - Annex B
REP4-044	Historic England Deadline 4 Submission
REP4-045	University of Portsmouth Deadline 4 Submission
REP4-046	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 4 Submission - Notification of wish to participate in Compulsory Acquisition Hearing

REP4-047	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 4 Submission - Cover email with Schedule 1 to 5
REP4-048	Denise Moore Deadline 4 Submission
REP4-049	Ian Judd & Partners on behalf of Mr Michael Jefferies and Mrs Sandra Jefferies Deadline 4 Submission - Notification of wish to speak at the hearings
REP4-050	Ian Judd & Partners on behalf of Mr Michael Jefferies and Mrs Sandra Jefferies Deadline 4 Submission - Comments on Applicant's Responses to the Written Representation (REP1-236)
REP4-051	Ian Judd & Partners on behalf of Mr Robin Jefferies Deadline 4 Submission - Notification of wish to speak at the Hearings
REP4-052	Ian Judd & Partners on behalf of Mr Robin Jefferies Deadline 4 Submission - Comments on Applicant's Responses to the Written Representation (REP1-239)
REP4-053	James Veryard Deadline 4 Submission
REP4-054	James Veryard Deadline 4 Submission - 1.0 Representation - Socio-Economic Effects
REP4-055	James Veryard Deadline 4 Submission - 1.1 Letter to Aquind dated 21 March 2019
REP4-056	James Veryard Deadline 4 Submission - 1.2 - Response to EMF Query dated 31 May 2019
REP4-057	James Veryard Deadline 4 Submission - 2.0 Representation - Scope of the Environment Impact Assessment
REP4-058	Sarah Hamilton Deadline 4 Submission
<p>Deadline 5 – 30 November 2020</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Any information requested by the ExA under Rule 17 of the Examination Rules to assist the Hearings scheduled for weeks commencing 7 and 14 December 2020, including full transcripts of all oral submissions to be given at OFH1, OFH2, ISH1, CAH1, CAH2, ISH2 and ISH3 • the Applicant's and other parties' summaries of their current positions in relation to any s106 agreements 	
REP5-001	AQUIND Limited Deadline 5 Submission - Late Submission - Cover Letter - Accepted at the discretion of the Examining Authority
REP5-002	AQUIND Limited Deadline 5 Submission - Late Submission - 1.3 Document Tracker – Rev-005 - Accepted at the discretion of the Examining Authority
REP5-003	AQUIND Limited Deadline 5 Submission - Late Submission - 2.2 Land Plans – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-004	AQUIND Limited Deadline 5 Submission - Late Submission - 2.2 Land Plans - Low Resolution – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-005	AQUIND Limited Deadline 5 Submission - Late Submission - 2.4 Works Plans – Rev-004 - Accepted at the discretion of the Examining Authority

REP5-006	AQUIND Limited Deadline 5 Submission - Late Submission - 2.4 Works Plans - Low Resolution - Part 1 – Rev-004 - Accepted at the discretion of the Examining Authority
REP5-007	AQUIND Limited Deadline 5 Submission - Late Submission - 2.4 Works Plans - Low Resolution - Part 2 – Rev-004 - Accepted at the discretion of the Examining Authority
REP5-008	AQUIND Limited Deadline 5 Submission - Late Submission - 3.1 Updated Draft DCO - Clean – Rev-004 - Accepted at the discretion of the Examining Authority
REP5-009	AQUIND Limited Deadline 5 Submission - Late Submission - 3.1 Updated Draft DCO - Tracked – Rev-004 - Accepted at the discretion of the Examining Authority
REP5-010	AQUIND Limited Deadline 5 Submission - Late Submission - 3.2 Explanatory Memorandum - Clean – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-011	AQUIND Limited Deadline 5 Submission - Late Submission - 3.2 Explanatory Memorandum - Tracked – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-012	AQUIND Limited Deadline 5 Submission - Late Submission - 4.1 Statement of Reasons - Clean – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-013	AQUIND Limited Deadline 5 Submission - Late Submission - 4.1 Statement of Reasons - Tracked – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-014	AQUIND Limited Deadline 5 Submission - Late Submission - 4.3 Book of Reference - Clean – Rev-004 - Accepted at the discretion of the Examining Authority
REP5-015	AQUIND Limited Deadline 5 Submission - Late Submission - 4.3 Book of Reference - Tracked – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-016	AQUIND Limited Deadline 5 Submission - Late Submission - 6.8.1 Habitats Regulation Assessment Report - Vol 1 - Clean – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-017	AQUIND Limited Deadline 5 Submission - Late Submission - 6.8.1 Habitats Regulation Assessment Report - Vol 1 - Tracked – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-018	AQUIND Limited Deadline 5 Submission - Late Submission - 6.8.3.1 Habitats Regulation Assessment - Vol 3 - Appendix 1 - European Marine Sites and Integrity Matrices – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-019	AQUIND Limited Deadline 5 Submission - Late Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Clean – Rev-004 - Accepted at the discretion of the Examining Authority
REP5-020	AQUIND Limited Deadline 5 Submission - Late Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Tracked – Rev-004 - Accepted at the discretion of the Examining Authority
REP5-021	AQUIND Limited Deadline 5 Submission - Late Submission - 7.2.5 Schedule of Changes Submitted for Deadline 5 – Rev-001 - Accepted at the discretion of the Examining Authority

REP5-022	AQUIND Limited Deadline 5 Submission - Late Submission - 7.3.1 Schedule of Changes to the Draft DCO – Rev-001 - Accepted at the discretion of the Examining Authority
REP5-023	AQUIND Limited Deadline 5 Submission - Late Submission - 7.5.1 Statement of Commonality – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-024	AQUIND Limited Deadline 5 Submission - Late Submission - 7.5.5 Statement of Common Ground with Hampshire County Council – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-025	AQUIND Limited Deadline 5 Submission - Late Submission - 7.5.6 Statement of Common Ground with East Hampshire District Council – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-026	AQUIND Limited Deadline 5 Submission - Late Submission - 7.5.7 Statement of Common Ground with The South Downs National Park Authority – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-027	AQUIND Limited Deadline 5 Submission - Late Submission - 7.5.11 Statement of Common Ground with Natural England – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-028	AQUIND Limited Deadline 5 Submission - Late Submission - 7.5.13 Statement of Common Ground with Historic England – Rev-003 - Accepted at the discretion of the Examining Authority
REP5-029	AQUIND Limited Deadline 5 Submission - Late Submission - 7.6.1 Compulsory Acquisition Schedule - Clean – Rev-005 - Accepted at the discretion of the Examining Authority
REP5-030	AQUIND Limited Deadline 5 Submission - Late Submission - 7.6.1 Compulsory Acquisition Schedule - Tracked – Rev-005 - Accepted at the discretion of the Examining Authority
REP5-031	AQUIND Limited Deadline 5 Submission - Late Submission - 7.7.6 Position Statement on Planning Obligations in connection with the Proposed Development – Rev-002 - Accepted at the discretion of the Examining Authority
REP5-032	AQUIND Limited Deadline 5 Submission - Late Submission - 7.7.8 Indicative Landscape Mitigation Plan Option B (ii) WQ CA1.3.7 – Rev-002 - Accepted at the discretion of the Examining Authority
REP5-033	AQUIND Limited Deadline 5 Submission - Late Submission - 7.7.10 Habitats Regulation Assessment - Vol 3 - Appendix 5 - Ramsar Screening and Integrity Matrices – Rev-002 - Accepted at the discretion of the Examining Authority
REP5-034	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18 Applicant's Transcript of Oral Submissions for Compulsory Acquisition Hearing 1 - Accepted at the discretion of the Examining Authority
REP5-035	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.1 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 1 - Image Showing Car

	Parking Spaces in Work No.3 Areas - Accepted at the discretion of the Examining Authority
REP5-036	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.2 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 2 - Images showing laydown and works compound required for the construction of the Hornsea 2 Onshore Substation - Accepted at the discretion of the Examining Authority
REP5-037	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.3 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 3 - Drawing showing indicative split between use for storage of subsoil and topsoil separately - Accepted at the discretion of the Examining Authority
REP5-038	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.4 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 4 - Transformer Transport Arrangement - Accepted at the discretion of the Examining Authority
REP5-039	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.5 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 5 - Drawing showing indicative proposed haul road on the opposite side of Day Lane - Accepted at the discretion of the Examining Authority
REP5-040	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.6 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 6 - Cross section showing typical layout of the construction area required for the installation of the HVDC Cable Circuits in agricultural land - Accepted at the discretion of the Examining Authority
REP5-041	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.6A Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 6A - Cross section of the typical construction corridor - Accepted at the discretion of the Examining Authority
REP5-042	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.7 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 7 - Plans showing ten sections of the Onshore Cable Corridor - Accepted at the discretion of the Examining Authority
REP5-043	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.8 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 8 - Plan showing location of karstic or other surface water features - Accepted at the discretion of the Examining Authority
REP5-044	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.9 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 9 - Drawing showing indicative locations for the entry and exit compounds at HDD 5 - Accepted at the discretion of the Examining Authority
REP5-045	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.10 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 10 - Cross-Section Showing Typical approach to Installation within the Highway - Accepted at the discretion of the Examining Authority
REP5-046	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.11 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 11 - Diagram of typical areas

	required to construct joint bays - Accepted at the discretion of the Examining Authority
REP5-047	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.12 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 12 - Drawing showing indicative locations for the entry and exit compounds at Sainsbury's Car Park - Accepted at the discretion of the Examining Authority
REP5-048	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.13 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 13 - Drawing showing HDD 3 - Accepted at the discretion of the Examining Authority
REP5-049	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.14 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 14 - Drawing showing HDD 6 - Accepted at the discretion of the Examining Authority
REP5-050	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.15 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 15 - Cross-section showing the typical arrangement of the construction corridor across Milton Common - Accepted at the discretion of the Examining Authority
REP5-051	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.16 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 16 - Drawing showing HDD 2 - Accepted at the discretion of the Examining Authority
REP5-052	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.18 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 18 - Plan Showing Location of Possible Sites for Converter Station (Options A – D) (Question 9.3) - Accepted at the discretion of the Examining Authority
REP5-053	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.19 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 19 - Plate 2.1 of APP-090 - Shortlisted Converter Station Locations (Question 9.3) - Accepted at the discretion of the Examining Authority
REP5-054	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.20 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 20 - Plan Showing Location of Exploratory Holes (Question 9.4) Part A - Accepted at the discretion of the Examining Authority
REP5-055	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.20 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 20 - Plan Showing Location of Exploratory Holes (Question 9.4) Part B - Accepted at the discretion of the Examining Authority
REP5-056	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.18.21 Compulsory Acquisition Hearing 1 - Appendix 1 - Exhibit 21 - Drawings showing the key stages of construction at Fort Cumberland Road Car Park - Accepted at the discretion of the Examining Authority

REP5-057	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.19 Applicant's Transcript of Oral Submissions for Compulsory Acquisition Hearing 2 - Accepted at the discretion of the Examining Authority
REP5-058	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.20 Applicant's Transcript of Oral Submissions for Issue Specific Hearing 1 on Development Consent Order - Accepted at the discretion of the Examining Authority
REP5-059	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.20.1 Issue Specific Hearing 1 - Draft Development Consent Order - Appendix 1 - Exhibit 1 - Location of HDD entry/exit points - Accepted at the discretion of the Examining Authority
REP5-060	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.20.2 Issue Specific Hearing 1 - Draft Development Consent Order - Appendix 1 - Exhibit 2 - Mitigation and Control Chart - Accepted at the discretion of the Examining Authority
REP5-061	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.21 Applicant's Transcript of Oral Submissions for Issue Specific Hearing 2 on Traffic, Highways and Air Quality - Accepted at the discretion of the Examining Authority
REP5-062	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.21.1 Issue Specific Hearing 2 - Traffic, Highways and Air Quality - Appendix 1 - Exhibit 1 - A27 Traffic Flow Data (Question 3A-1) - Accepted at the discretion of the Examining Authority
REP5-063	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.21.2 Issue Specific Hearing 2 - Traffic, Highways and Air Quality - Appendix 1 - Exhibit 2 - Typical Joint Bay Arrangements (Question 3C) - Accepted at the discretion of the Examining Authority
REP5-064	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.21.3 Issue Specific Hearing 2 - Traffic, Highways and Air Quality - Appendix 1 - Exhibit 3 - Plan Showing the Location of Laybys (Question 3D) - Accepted at the discretion of the Examining Authority
REP5-065	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.21.4 Issue Specific Hearing 2 - Traffic, Highways and Air Quality - Appendix 1 - Exhibit 4 - Minutes of Meetings held with First Group on 8 October 2020 (Question 3F) - Accepted at the discretion of the Examining Authority
REP5-066	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.21.5 Issue Specific Hearing 2 - Traffic, Highways and Air Quality - Appendix 1 - Exhibit 5 - Minutes of Meetings held with Stagecoach on 21 October 2020 (Question 3F) - Accepted at the discretion of the Examining Authority
REP5-067	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.21.6 Issue Specific Hearing 2 - Traffic, Highways and Air Quality - Appendix 1 - Exhibit 6 - Plan Showing Concurrent Working Restrictions (Question 4I) - Accepted at the discretion of the Examining Authority
REP5-068	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.21.17 Compulsory Acquisition Hearing 1 - Appendix 1- Exhibit 17 - Drawing showing HDD 1 - Accepted at the discretion of the Examining Authority

REP5-069	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.22 Applicant's Transcript of Oral Submissions for Issue Specific Hearing 3 on Environmental Matters - Accepted at the discretion of the Examining Authority
REP5-070	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.22.1 Issue Specific Hearing 3 - Environmental Matters - Appendix 1 - Exhibit 1 - Magic Map - WFD Sensitive Habitats and ZOIs (Question 5J) - Accepted at the discretion of the Examining Authority
REP5-071	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.22.2 Issue Specific Hearing 3 - Environmental Matters - Appendix 1 - Exhibit 2 - Illustrative Magnitude of Noise Levels for Onshore HVDC Cable Laying in Section 2 (Question 6K) - Accepted at the discretion of the Examining Authority
REP5-072	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.23 Electronic Bundle of Hearing Exhibits and Index - Rev001 - Accepted at the discretion of the Examining Authority
REP5-073	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.9.1 Schedule of Documents Forming the Environmental Statement - Clean - Rev002 - Accepted at the discretion of the Examining Authority
REP5-074	AQUIND Limited Deadline 5 Submission - Late Submission - 7.9.9.1 Schedule of Documents Forming the Environmental Statement - Tracked - Rev002 - Accepted at the discretion of the Examining Authority
REP5-075	AQUIND Limited Deadline 5 Submission - Late Submission - Rule 13 Newspaper Notices - Accepted at the discretion of the Examining Authority
REP5-076	AQUIND Limited Deadline 5 Submission - Late Submission - Rule 13 Site Notice - Accepted at the discretion of the Examining Authority
REP5-077	AQUIND Limited Deadline 5 Submission - Late Submission - Rule 13 Correspondence - Accepted at the discretion of the Examining Authority
REP5-078	East Hampshire District Council Deadline 5 Submission
REP5-079	Denmead Parish Council Deadline 5 Submission - Outline of Issues for Hearings
REP5-080	Hampshire County Council Deadline 5 Submission - Submission with updates from the Highway Authority and Lead Local Flood Authority
REP5-081	Hampshire County Council Deadline 5 Submission - Overview of Oral Submissions December Hearings
REP5-082	Havant Borough Council Deadline 5 Submission
REP5-083	Portsmouth City Council Deadline 5 Submission - Letter regarding the upcoming Hearings
REP5-084	Portsmouth City Council Deadline 5 Submission - Letter regarding Fibre Optic Cable Development and Project of Common Interest
REP5-085	Portsmouth City Council Deadline 5 Submission
REP5-086	Portsmouth City Council Deadline 5 Submission - Transcript of Oral Evidence to be presented at Compulsory Acquisition Hearing 1

REP5-087	Portsmouth City Council Deadline 5 Submission - Transcript of Oral Evidence to be presented at Issue Specific Hearing 1
REP5-088	Portsmouth City Council Deadline 5 Submission - Transcript of Oral Evidence to be presented at Issue Specific Hearing 2
REP5-089	Portsmouth City Council Deadline 5 Submission - Transcript of Oral Evidence to be presented at Issue Specific Hearing 3
REP5-090	Portsmouth City Council Deadline 5 Submission - Transcript of Oral Evidence to be presented at Open Floor Hearing 1
REP5-091	South Downs National Park Authority Deadline 5 Submission
REP5-092	South Downs National Park Authority Deadline 5 Submission - Participation at Hearings
REP5-093	Winchester City Council Deadline 5 Submission - Comments on draft Development Consent Order
REP5-094	Winchester City Council Deadline 5 Submission - Overview of Oral Submission for Hearings
REP5-095	Environment Agency Deadline 5 Submission - Participation at Hearings
REP5-096	Highways England Deadline 5 Submission - Written Statement
REP5-097	Natural England Deadline 5 Submission - Response to request for further information from the Examining Authority
REP5-098	Natural England Deadline 5 Submission - Deadline 5 Submission - Response to Examining Authority questions set out in the Hearing agenda
REP5-099	Marine Management Organisation Deadline 5 Submission - Statement of Comment Ground
REP5-100	Marine Management Organisation Deadline 5 Submission - Oral transcript in response to the Examining Authority's Issue Specific Hearing 1 Agenda and Issue Specific Hearing 3 Agenda
REP5-101	National Grid ESO Deadline 5 Submission - Response to request for further information from the Examining Authority
REP5-102	Network Rail Infrastructure Limited Deadline 5 Submission
REP5-103	Ali Gregory Deadline 5 Submission
REP5-104	Andrew Leonard Deadline 5 Submission
REP5-105	Bernard George Deadline 5 Submission
REP5-106	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Participation at Hearings
REP5-107	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Written Submission in relation to the Issue Specific Hearing 1

REP5-108	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Oral Submission in relation to Compulsory Acquisition Hearing 2
REP5-109	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Protective Provisions
REP5-110	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Full Transcript of Oral Submission for Open Floor Hearing 2 - Peter Carpenter
REP5-111	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Full Transcript of Oral Submission for Open Floor Hearing 2 - Geoffrey Carpenter
REP5-112	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix Ab
REP5-113	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix D
REP5-114	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix E
REP5-115	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix F Part 1 of 2 - Late Submission accepted at the discretion of the Examining Authority
REP5-116	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix F Part 2 of 2 - Late Submission accepted at the discretion of the Examining Authority
REP5-117	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix G
REP5-118	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix Ga (Confidential)
REP5-119	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix Gb (Confidential)
REP5-120	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix Gc (Confidential)
REP5-121	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix H
REP5-122	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix Ia (Confidential)
REP5-123	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix Ib (Confidential)
REP5-124	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix Ic

REP5-125	Blake Morgan LLP on behalf of Mr Geoffery Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix Id
REP5-126	Blake Morgan LLP on behalf of Mr Geoffery Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix J
REP5-127	Blake Morgan LLP on behalf of Mr Geoffery Carpenter and Mr Peter Carpenter Deadline 5 Submission - Appendix K
REP5-128	Brian Simmons Deadline 5 Submission
REP5-129	Catherine Reddy Deadline 5 Submission
REP5-130	Claire Wilcox Deadline 5 Submission - Summary of Written Representation - Non-IP Submission Accepted at the discretion of the Examining Authority
REP5-131	Claire Wilcox Deadline 5 Submission - Written Representation - Non-Interested Party Submission accepted at the discretion of the Examining Authority
REP5-132	Cllr Judith Clementson on behalf of Ward Member for Winchester City Council Deadline 5 Submission - Late Submission accepted at the discretion of the Examining Authority - Transcript of the Oral Submission at the Open Floor Hearing
REP5-133	Cllr Matthew Winnington Deadline 5 Submission - Outline of Issues for Hearing
REP5-134	Cllr Steve Wemyss Deadline 5 Submission - Written Representation - Non-Interested Party Submission accepted at the discretion of the Examining Authority
REP5-135	David Langley Deadline 5 Submission - Non-Interested Party Submission accepted at the discretion of the Examining Authority
REP5-136	Derek McCullough Deadline 5 Submission
REP5-137	Ian Judd and Partners LLP on behalf of Mr & Mrs Jefferies Deadline 5 Submission - Full Transcript of Oral Submission for Open Floor Hearing 2
REP5-138	Ian Judd and Partners LLP on behalf of Robin Jefferies Deadline 5 Submission - Full Transcript of Oral Submission for Open Floor Hearing 2
REP5-139	Jane Carter Deadline 5 Submission
REP5-140	Julian Lloyd Deadline 5 Submission
REP5-141	Kimberly Barrett Deadline 5 Submission - Overview of Oral Submission
REP5-142	Kirsten Mcfarlane Deadline 5 Submission
REP5-143	Malcolm Williams Deadline 5 Submission
REP5-144	Mark Lemon Deadline 5 Submission
REP5-145	Millie Ansell on behalf of Andrew Leonard Deadline 5 Submission
REP5-146	Philippa Pettitt Deadline 5 Submission

REP5-147	Sarah Hamilton Deadline 5 Submission
REP5-148	Susan Caffrey Deadline 5 Submission
REP5-149	Southern Gas Limited Deadline 5 Submission
REP5-150	Trevor Stark Deadline 5 Submission
REP5-151	University of Portsmouth Deadline 5 Submission - Open Floor Hearing statement and update on discussions with the Applicant
REP5-152	Viola Langley Deadline 5 Submission - Outline of Issues for Hearing
<p>Deadline 6 – 23 December 2020</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses submitted for Deadlines 4 and 5 • Written summaries of oral submissions to Hearings held during the weeks commencing 7 and 14 December 2020 • Comments on the Applicant’s draft ASI arrangements and itinerary • Any post-Hearing notes requested at the Hearings • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • An updated Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • Any further information requested by the ExA under Rule 17 of the Examination Rules 	
REP6-001	AQUIND Limited Deadline 6 Submission - 7.1.8 Covering Letter
REP6-002	AQUIND Limited Deadline 6 Submission - 1.3 Application Document Tracker – Rev-006
REP6-003	AQUIND Limited Deadline 6 Submission - 2.1 Site Location Plan – Rev-003
REP6-004	AQUIND Limited Deadline 6 Submission - 2.2 Land Plans – Rev-004
REP6-005	AQUIND Limited Deadline 6 Submission - 2.2 Land Plans - Low Resolution – Rev-004
REP6-006	AQUIND Limited Deadline 6 Submission - 2.3 Crown Land Plans – Rev-003
REP6-007	AQUIND Limited Deadline 6 Submission - 2.3 Crown Land Plans - Low Resolution – Rev-003
REP6-008	AQUIND Limited Deadline 6 Submission - 2.4 Works Plans – Rev-004
REP6-009	AQUIND Limited Deadline 6 Submission - 2.4 Works Plans - Part 1 - Low Resolution – Rev-004
REP6-010	AQUIND Limited Deadline 6 Submission - 2.4 Works Plans - Part 2 - Low Resolution – Rev-004
REP6-011	AQUIND Limited Deadline 6 Submission - 2.5 Access and Rights of Way Plans – Rev-003

REP6-012	AQUIND Limited Deadline 6 Submission - 2.5 Access and Rights of Way Plans - Low Resolution - Rev-003
REP6-013	AQUIND Limited Deadline 6 Submission - 2.12 Hedgerow and Tree Preservation Order Plans - Rev-003
REP6-014	AQUIND Limited Deadline 6 Submission - 2.12 Hedgerow and Tree Preservation Order Plans - Low Resolution - Rev-003
REP6-015	AQUIND Limited Deadline 6 Submission - 3.1 Draft DCO - Clean - Rev-005
REP6-016	AQUIND Limited Deadline 6 Submission - 3.1 Draft DCO - Tracked - Rev-005
REP6-017	AQUIND Limited Deadline 6 Submission - 3.2 Explanatory Memorandum - Clean - Rev-004
REP6-018	AQUIND Limited Deadline 6 Submission - 3.2 Explanatory Memorandum - Tracked - Rev-004
REP6-019	AQUIND Limited Deadline 6 Submission - 4.1 Statement of Reasons - Clean - Rev-004
REP6-020	AQUIND Limited Deadline 6 Submission - 4.1 Statement of Reasons - Tracked - Rev004
REP6-021	AQUIND Limited Deadline 6 Submission - 4.2 Funding Statement - Rev-002
REP6-022	AQUIND Limited Deadline 6 Submission - 4.3 Book of Reference - Clean - Rev-005
REP6-023	AQUIND Limited Deadline 6 Submission - 4.3 Book of Reference - Tracked - Rev-004
REP6-024	AQUIND Limited Deadline 6 Submission - 5.2 Other Consents and Licenses - Rev-003
REP6-025	AQUIND Limited Deadline 6 Submission - 5.5 Design and Access Statement - Clean - Rev-003
REP6-026	AQUIND Limited Deadline 6 Submission - 5.5 Design and Access Statement - Tracked - Rev-003
REP6-027	AQUIND Limited Deadline 6 Submission - 6.2.15.48 ES - Vol 2 - Figure 15.48 - Indicative Landscape Mitigation Plan Option B(i) (North) - Rev-003
REP6-028	AQUIND Limited Deadline 6 Submission - 6.2.15.49 ES - Vol 2 - Figure 15.49 - Indicative Landscape Mitigation Plan Option B(i) (South) - Rev-03
REP6-029	AQUIND Limited Deadline 6 Submission - 6.3.15.7 ES - Vol 3 - Appendix 15.7 - Landscape Schedules, Planting Heights and Image Board - Rev-002
REP6-030	AQUIND Limited Deadline 6 Submission - 6.3.22.1A Framework Traffic Management Strategy - Clean - Rev-003
REP6-031	AQUIND Limited Deadline 6 Submission - 6.3.22.1A Framework Traffic Management Strategy - Tracked - Rev-003
REP6-032	AQUIND Limited Deadline 6 Submission - 6.3.22.2 Framework Construction Traffic Management Plan - Clean - Rev-003

REP6-033	AQUIND Limited Deadline 6 Submission - 6.3.22.2 Framework Construction Traffic Management Plan - Tracked – Rev-003
REP6-034	AQUIND Limited Deadline 6 Submission - 6.8.1 HRA - Vol 1 - Habitats Regulations Assessment Report Main Text - Clean – Rev-004
REP6-035	AQUIND Limited Deadline 6 Submission - 6.8.1 HRA - Vol 1 - Habitats Regulations Assessment Report Main Text - Tracked – Rev-004
REP6-036	AQUIND Limited Deadline 6 Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Clean – Rev-005
REP6-037	AQUIND Limited Deadline 6 Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Tracked – Rev-005
REP6-038	AQUIND Limited Deadline 6 Submission - 6.10 Outline Landscape and Biodiversity Strategy - Clean – Rev-003
REP6-039	AQUIND Limited Deadline 6 Submission - 6.10 Outline Landscape and Biodiversity Strategy - Tracked – Rev-003
REP6-040	AQUIND Limited Deadline 6 Submission - 7.2.6 Schedule of changes submitted for Deadline 6
REP6-041	AQUIND Limited Deadline 6 Submission - 7.3.5 Schedule of changes to the Draft DCO
REP6-042	AQUIND Limited Deadline 6 Submission - 7.5.1 Statement of Commonality – Rev-004
REP6-043	AQUIND Limited Deadline 6 Submission - 7.5.3 Statement of Common Ground with Portsmouth City Council – Rev-002
REP6-044	AQUIND Limited Deadline 6 Submission - 7.5.5 Statement of Common Ground with Hampshire County Council – Rev-004
REP6-045	AQUIND Limited Deadline 6 Submission - 7.5.11 Statement of Common Ground with Natural England – Rev-004
REP6-046	AQUIND Limited Deadline 6 Submission - 7.5.12 Statement of Common Ground with Natural England / Joint Nature Conservation Committee – Rev-003
REP6-047	AQUIND Limited Deadline 6 Submission - 7.5.13 Statement of Common Ground with Historic England – Rev-004
REP6-048	AQUIND Limited Deadline 6 Submission - 7.5.16 Statement of Common Ground with the Marine Management Organisation – Rev-003
REP6-049	AQUIND Limited Deadline 6 Submission - 7.5.17 Statement of Common Ground with the Maritime and Coastguard Agency – Rev-002
REP6-050	AQUIND Limited Deadline 6 Submission - 7.5.18 Statement of Common Ground with Sport England – Rev-003
REP6-051	AQUIND Limited Deadline 6 Submission - 7.5.19 Statement of Common Ground with National Grid Electricity Transmission Plc – Rev-001.3

REP6-052	AQUIND Limited Deadline 6 Submission - 7.6.1 Compulsory Acquisition Schedule - Clean - Rev-006
REP6-053	AQUIND Limited Deadline 6 Submission - 7.6.1 Compulsory Acquisition Schedule - Tracked - Rev-006
REP6-054	AQUIND Limited Deadline 6 Submission - 7.7.8 Indicative Landscape Mitigation Plan Option B(ii) WQ CA1.3.7 - Rev-003
REP6-055	AQUIND Limited Deadline 6 Submission - 7.7.16 Additional Viewpoints Location Plan and Additional Viewpoints - Part A
REP6-056	AQUIND Limited Deadline 6 Submission - 7.7.16 Additional Viewpoints Location Plan and Additional Viewpoints - Part B
REP6-057	AQUIND Limited Deadline 6 Submission - 7.7.16 Additional Viewpoints Location Plan and Additional Viewpoints - Part C
REP6-058	AQUIND Limited Deadline 6 Submission - 7.7.18 HRA - Vol 3 - Appendix 6 - UK Sites Conservation Objectives and Supplementary Advice Attributes
REP6-059	AQUIND Limited Deadline 6 Submission - 7.9.9.1 Schedule of documents forming the Environmental Statement - Clean - Rev-003
REP6-060	AQUIND Limited Deadline 6 Submission - 7.9.9.1 Schedule of documents forming the Environmental Statement - Tracked - Rev-003
REP6-061	AQUIND Limited Deadline 6 Submission - 7.9.20 Applicant's response to submissions made at Open Floor Hearings
REP6-062	AQUIND Limited Deadline 6 Submission - 7.9.21 Applicant's written summaries of oral submissions at ISH1, 2 and 3, and CAH 1 and 2
REP6-063	AQUIND Limited Deadline 6 Submission - 7.9.22 Applicant's response to action points raised at ISH1, 2 and 3, and CAH 1 and 2
REP6-064	AQUIND Limited Deadline 6 Submission - 7.9.22.1 Applicant's Post Hearing Notes - Appendix 1
REP6-065	AQUIND Limited Deadline 6 Submission - 7.9.22.2 Applicant's Post Hearing Notes - Appendix 2
REP6-066	AQUIND Limited Deadline 6 Submission - 7.9.22.3 Applicant's Post Hearing Notes - Appendix 3
REP6-067	AQUIND Limited Deadline 6 Submission - 7.9.23 Applicant's responses to Deadline 4 submissions
REP6-068	AQUIND Limited Deadline 6 Submission - 7.9.24 Equality Statement
REP6-069	AQUIND Limited Deadline 6 Submission - 7.9.25 Applicant's responses to Deadline 5 submissions
REP6-070	AQUIND Limited Deadline 6 Submission - 7.9.26 Joint Bay Technical Note

REP6-071	AQUIND Limited Deadline 6 Submission - 7.9.27 Road Safety Technical Note
REP6-072	AQUIND Limited Deadline 6 Submission - 7.9.28 Denmead Meadows Position Paper
REP6-073	AQUIND Limited Deadline 6 Submission - 7.9.29 Day Lane Technical Note
REP6-074	AQUIND Limited Deadline 6 Submission - 7.9.30 Temporary Highway Alterations to Facilitate Abnormal Load Deliveries
REP6-075	AQUIND Limited Deadline 6 Submission - 7.9.31 HCC Road Safety Technical Note
REP6-076	AQUIND Limited Deadline 6 Submission - 7.9.32 Portsbridge Roundabout Technical Note
REP6-077	East Hampshire District Council Deadline 6 Submission - Response to ExQ1 N1.11.5
REP6-078	Hampshire County Council Deadline 6 Submission - Written Summary of Oral Submission
REP6-079	Portsmouth City Council Deadline 6 Submission - Cover Letter
REP6-080	Portsmouth City Council Deadline 6 Submission - 2020 Air Quality Annual Status Report (ASR)
REP6-081	Portsmouth City Council Deadline 6 Submission - Appendix 1 - Post Hearing Transcripts and Notes
REP6-082	Portsmouth City Council Deadline 6 Submission - Appendix 2 - Curriculum Vitae of Portsmouth City Council Participants
REP6-083	Portsmouth City Council Deadline 6 Submission - Appendix 3 - Progressed Statement of Common Ground
REP6-084	Winchester City Council Deadline 6 Submission - Cover Email
REP6-085	Winchester City Council Deadline 6 Submission - Examination Hearing record of the comments made by WCC officers
REP6-086	Winchester City Council Deadline 6 Submission - An edited version of the Applicant's response table submitted at Deadline 4
REP6-087	Winchester City Council Deadline 6 Submission - Biodiversity position paper relating to Matters at Lovedean and Denmead Meadows
REP6-088	Winchester City Council Deadline 6 Submission - Response to Ash Dieback Proposals
REP6-089	Winchester City Council Deadline 6 Submission - A comment on the response by NGESO made at Deadline 5
REP6-090	Cllr Judith Clementson on behalf of Ward Member for Winchester City Council Deadline 6 Submission - Transcript for Open Floor Hearing of 7 December 2022
REP6-091	Cllr Judith Clementson on behalf of Ward Member for Winchester City Council Deadline 6 Submission
REP6-092	APLEAL Action Group Deadline 6 Submission - Written Submission

REP6-093	Highways England Deadline 6 Submission - Comments on responses submitted for Deadlines 4 and 5
REP6-094	Kimberly Barrett on behalf of Keep Milton Green Group Deadline 6 Submission - Transcript for Open Floor Hearing of 7 December 2020
REP6-095	Viola Langley on behalf of Let's Stop Aquind Group Deadline 6 Submission - Written Representation - Accepted at the discretion of the Examining Authority
REP6-096	Marine Management Organisation Deadline 6 Submission - Written Summary of Oral Submission and Comments on additional information/submissions received prior to Deadline 6
REP6-097	National Grid Electricity Transmission PLC Deadline 6 Submission - Written Representation
REP6-098	Newsteer Real Estate Advisers on behalf of Sainsbury's Supermarkets Limited Deadline 6 Submission - Written Submission following Compulsory Acquisition Hearing 2
REP6-099	South Downs National Park Authority Deadline 6 Submission
REP6-100	Southern Water Deadline 6 Submission
REP6-101	Freeths LLP on behalf of University of Portsmouth Deadline 6 Submission - Written Representation
REP6-102	ATKINS on behalf of Vodafone Deadline 6 Submission
REP6-103	Kimberly Barrett Deadline 6 Submission - Transcript for Open Floor Hearing of 7 Dec 2020
REP6-104	Julie Brown Deadline 6 Submission
REP6-105	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Cover Letter
REP6-106	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 1 - RR- 055
REP6-107	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 2 - RR - 055
REP6-108	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 3 - RR - 055
REP6-109	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 4 - RR - 055
REP6-110	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 5 - RR - 055
REP6-111	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 6 - RR - 055 - Extract 1 Data Cable
REP6-112	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 7 - RR - 055

REP6-113	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 8 - RR - 055
REP6-114	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 9 - RR - 055
REP6-115	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 10 - RR - 055
REP6-116	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 11 - RR - 055
REP6-117	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 12 - RR - 055
REP6-118	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 13 - RR - 055
REP6-119	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 14 - RR - 055 - formerly Appendix K - Land Extent and CS Volume
REP6-120	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 15 - RR - 055
REP6-121	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 16 - RR - 055
REP6-122	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 17 - RR - 055
REP6-123	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 18 - RR - 055
REP6-124	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 19 - RR - 055 - Extract 2 Inside the Converter Station
REP6-125	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 20 - RR - 055 - Updated Table of Interconnector Projects - 18 December 2020
REP6-126	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NSPAD 21 - Section 35 Direction notice - National Grid Ventures - Nautilus Interconnector
REP6-127	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NFUND-1-RR-055
REP6-128	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NFUND-2-RR-055
REP6-129	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NFUND-3-RR-055

REP6-130	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NFUND-4-RR-055
REP6-131	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NFUND-5-RR-055
REP6-132	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NFUND-6-RR-055
REP6-133	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix NFUND-7-RR-055
REP6-134	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Appendix A - Smith v Secretary of State for the Environment, Transport and the Regions
REP6-135	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Post Hearing Note on Scope of Proposed Authorised Development
REP6-136	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Little Denmead Farm Parking Plan
REP6-137	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Executive Summary Funding Note
REP6-138	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Note on Funding
REP6-139	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Schedule of Resubmitted Documents
REP6-140	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 6 Submission - Submission from Geoffrey and Peter Carpenter - Documents submitted from Deadline 1 to Deadline 5 with references and redactions added
REP6-141	Mr & Mrs Trevor Collingwood Deadline 6 Submission
REP6-142	Ian Daye Deadline 6 Submission
REP6-143	John E Doyle Deadline 6 Submission - Objection
REP6-144	M P Doyle Deadline 6 Submission - Comments on responses at Deadlines 4 and 5
REP6-145	Ali Gregory Deadline 6 Submission
REP6-146	Ian Judd and Partners LLP on behalf of Mr and Mrs Jefferies Deadline 6 Submission
REP6-147	Ian Judd and Partners LLP on behalf of Robin Jefferies Deadline 6 Submission
REP6-148	Michelle Juchau Deadline 6 Submission - Comments on responses submitted for Deadlines 4 and 5
REP6-149	Mr & Mrs Langley Deadline 6 Submission - Written Summary of Oral Submission

REP6-150	Kristen McFarlane Deadline 6 Submission
REP6-151	Louise Passells Deadline 6 Submission
REP6-152	Cllr Steve Wemyss Deadline 6 Submission - Written Summary of Oral Submission and information requested by the ExA - Accepted at the discretion of the Examining Authority
<p>Deadline 6a – 24 December 2020</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Representations in relation to the Additional Land sought by the Applicant (REP3-019). 	
REP6a-001	Portsmouth City Council
REP6a-002	Tudor Sailing Club
<p>Deadline 7 – 25 January 2021</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Responses to ExQ2 • Comments on responses submitted for Deadline 6 and 6a • Any information requested by the ExA under Rule 17 of the Examination Rules to assist Hearings scheduled for weeks commencing 8 and 15 February 2021 including full transcripts of all oral submissions to be given at the OFHs and CAHs • Updated Statements of Common Ground • Updated Statement of Commonality for SoCG • An updated Guide to the Application • Updated Book of Reference • Updated Statement of Reasons • Signed and dated s106 Agreements (if required) • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • An updated Schedule of changes to the dDCO • Any further information requested by the ExA under Rule 17 of the Examination Rules (if required) 	
REP7-001	AQUIND Limited Deadline 7 Submission - Late Submission - 1.3 Application Document Tracker – Rev-007 - Accepted at the discretion of the Examining Authority
REP7-002	AQUIND Limited Deadline 7 Submission - Late Submission - 2.1 Site Location Plan - Rev04 - Accepted at the discretion of the Examining Authority
REP7-003	AQUIND Limited Deadline 7 Submission - Late Submission - 2.2 Land Plans – Rev-05 - Accepted at the discretion of the Examining Authority
REP7-004	AQUIND Limited Deadline 7 Submission - Late Submission - 2.3 Crown Land Plans – Rev-04 - Accepted at the discretion of the Examining Authority
REP7-005	AQUIND Limited Deadline 7 Submission - Late Submission - 2.4 Works Plans – Rev-06 - Accepted at the discretion of the Examining Authority
REP7-006	AQUIND Limited Deadline 7 Submission - Late Submission - 2.4 Works Plans - Part 1 - Low Resolution – Rev-06 - Accepted at the discretion of the Examining Authority

REP7-007	AQUIND Limited Deadline 7 Submission - Late Submission - 2.4 Works Plans - Part 2 - Low Resolution - Rev-06 - Accepted at the discretion of the Examining Authority
REP7-008	AQUIND Limited Deadline 7 Submission - Late Submission - 2.5 Access and Rights of Way Plans - Accepted at the discretion of the Examining Authority
REP7-009	AQUIND Limited Deadline 7 Submission - Late Submission - 2.6 Converter Station and Telecommunications Buildings Parameter Plans - Accepted at the discretion of the Examining Authority
REP7-010	AQUIND Limited Deadline 7 Submission - Late Submission - 2.7 Indicative Converter Station Area Layout Plans - Accepted at the discretion of the Examining Authority
REP7-011	AQUIND Limited Deadline 7 Submission - Late Submission - 2.12 Hedgerow and Tree Preservation Order Plans - Rev-04 - Accepted at the discretion of the Examining Authority
REP7-012	AQUIND Limited Deadline 7 Submission - Late Submission - 2.12 Hedgerow and Tree Preservation Order Plans - Low Resolution - Rev-04 - Accepted at the discretion of the Examining Authority
REP7-013	AQUIND Limited Deadline 7 Submission - Late Submission - 3.1 Draft DCO - Clean - D7 - Accepted at the discretion of the Examining Authority
REP7-014	AQUIND Limited Deadline 7 Submission - Late Submission - 3.1 Draft DCO - Tracked - D7 - Accepted at the discretion of the Examining Authority
REP7-015	AQUIND Limited Deadline 7 Submission - Late Submission - 3.2 Explanatory Memorandum - Clean - D7 - Accepted at the discretion of the Examining Authority
REP7-016	AQUIND Limited Deadline 7 Submission - Late Submission - 3.2 Explanatory Memorandum - Tracked - D7 - Accepted at the discretion of the Examining Authority
REP7-017	AQUIND Limited Deadline 7 Submission - Late Submission -4.1 Statement of Reasons - Clean - Accepted at the discretion of the Examining Authority
REP7-018	AQUIND Limited Deadline 7 Submission - Late Submission -4.1 Statement of Reasons - Tracked - Accepted at the discretion of the Examining Authority
REP7-019	AQUIND Limited Deadline 7 Submission - Late Submission - 4.3 Book of Reference - Clean - Rev-006 - Accepted at the discretion of the Examining Authority
REP7-020	AQUIND Limited Deadline 7 Submission - Late Submission - 4.3 Book of Reference - Tracked - Rev-006 - Accepted at the discretion of the Examining Authority
REP7-021	AQUIND Limited Deadline 7 Submission - Late Submission - 5.5 Design and Access Statement - Rev-004 - Accepted at the discretion of the Examining Authority

REP7-022	AQUIND Limited Deadline 7 Submission - Late Submission - 5.5 Design and Access Statement - Tracked – Rev-004 - Accepted at the discretion of the Examining Authority
REP7-023	AQUIND Limited Deadline 7 Submission - Late Submission - 6.10 Outline Landscape and Biodiversity Strategy - Clean – Rev-005 - Accepted at the discretion of the Examining Authority
REP7-024	AQUIND Limited Deadline 7 Submission - Late Submission - 6.10 Outline Landscape and Biodiversity Strategy - Tracked – Rev-005 - Accepted at the discretion of the Examining Authority
REP7-025	AQUIND Limited Deadline 7 Submission - Late Submission - 6.2.15.48 ES - Vol 2 - Figure 15.48 - Indicative Landscape Mitigation Plan Option B(i) (North) – Rev-04 - Accepted at the discretion of the Examining Authority
REP7-026	AQUIND Limited Deadline 7 Submission - Late Submission - 6.2.15.49 ES - Vol 2 - Figure 15.49 - Indicative Landscape Mitigation Plan Option B(i) (South) – Rev-04 - Accepted at the discretion of the Examining Authority
REP7-027	AQUIND Limited Deadline 7 Submission - Late Submission - 6.4 ES - Vol 4 - Non-Technical Summary - Clean - Rev 003 - Accepted at the discretion of the Examining Authority
REP7-028	AQUIND Limited Deadline 7 Submission - Late Submission - 6.4 ES - Vol 4 - Non-Technical Summary - Tracked – Rev-003 - Accepted at the discretion of the Examining Authority
REP7-029	AQUIND Limited Deadline 7 Submission - Late Submission - 6.8.1 HRA - Vol 1 - Habitats Regulations Assessment Report - Clean – Rev-005 - Accepted at the discretion of the Examining Authority
REP7-030	AQUIND Limited Deadline 7 Submission - Late Submission - 6.8.1 HRA - Vol 1 - Habitats Regulations Assessment Report - Tracked – Rev-005 - Accepted at the discretion of the Examining Authority
REP7-031	AQUIND Limited Deadline 7 Submission - Late Submission - 6.8.2.8.1 HRA - Vol 2 - Figure 8.1 - Location of In Combination Marine Projects – Rev-02 - Accepted at the discretion of the Examining Authority
REP7-032	AQUIND Limited Deadline 7 Submission - Late Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Clean – Rev-006 - Accepted at the discretion of the Examining Authority
REP7-033	AQUIND Limited Deadline 7 Submission - Late Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Tracked – Rev-006 - Accepted at the discretion of the Examining Authority
REP7-034	AQUIND Limited Deadline 7 Submission - Late Submission - 7.1.9 Covering Letter - Accepted at the discretion of the Examining Authority

REP7-035	AQUIND Limited Deadline 7 Submission - Late Submission - 7.2.7 Schedule of Changes - Accepted at the discretion of the Examining Authority
REP7-036	AQUIND Limited Deadline 7 Submission - Late Submission - 7.3.1 Schedule of Changes to the Draft DCO - Accepted at the discretion of the Examining Authority
REP7-037	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.1.10 First Written Question Responses - Appendix 10 - Tree Survey Schedule and Constraint Plans - Rev-003 - Accepted at the discretion of the Examining Authority
REP7-038	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.3 Applicant's Response to ExQ2 - Accepted at the discretion of the Examining Authority
REP7-039	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.3.1 ExQ2 Response - Appendix 1 - Technical Note providing a review of collision data at Strategic Road Network junctions (MG2.1.1) - Accepted at the discretion of the Examining Authority
REP7-040	**DUPLICATE – REFERENCE NOT IN USE**
REP7-041	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.3.2 Applicant's Response to ExQ2 - Appendix 2 - Infiltration Testing Results (MG2.1.1) - Accepted at the discretion of the Examining Authority
REP7-042	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.3.3 Applicant's Response to ExQ2 - Appendix 3 - A27 HDD Crossing Farlington, UK - CD622 Documentation for Highways England (MG2.1.1) - Accepted at the discretion of the Examining Authority
REP7-043	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.3.4 Applicant's Response to ExQ2 - Appendix 4 - Bentonite Breakout Note (MG2.1.3) - Accepted at the discretion of the Examining Authority
REP7-044	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.3.5 Applicant's Response to ExQ2 - Appendix 5 - Material Datasheets for HDD Drilling Fluid (MG2.1.4) - Accepted at the discretion of the Examining Authority
REP7-045	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.3.6 Applicant's Response to ExQ2 - Appendix 6 - Fort Cumberland Road Car Park Drawings (SE2.15.1) - Accepted at the discretion of the Examining Authority
REP7-046	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.3.7 Applicant's Response to ExQ2 - Appendix 7 - Copies of the extent of Highway land maintained at public expense at Day Lane, Lovedean (TT2.16.8) - Accepted at the discretion of the Examining Authority
REP7-046a	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.29 Day Lane Technical Note - Accepted at the discretion of the Examining Authority
REP7-047	AQUIND Limited Deadline 7 Submission - Late Submission - 7.4.3.8 Applicant's Response to ExQ2 - Appendix 8 - AQUIND Energy 2019 Accounts (CA2.3.10) - Accepted at the discretion of the Examining Authority

REP7-048	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.1 Statement of Commonality for Statements of Common Ground - Accepted at the discretion of the Examining Authority
REP7-048a	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.3 Statement of Common Ground between AQUIND Limited and Portsmouth City Council Rev-003 - Accepted at the discretion of the Examining Authority
REP7-049	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.4 Statement of Common Ground between AQUIND Limited and Winchester City Council - Agreed Draft - Accepted at the discretion of the Examining Authority
REP7-050	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.5 Statement of Common Ground between AQUIND Limited and Hampshire County Council - Agreed Draft - Accepted at the discretion of the Examining Authority
REP7-051	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.7 Statement of Common Ground between AQUIND Limited and the South Downs National Park Authority - Agreed Draft - Accepted at the discretion of the Examining Authority
REP7-052	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.8 Statement of Common Ground between AQUIND Limited and Havant Borough Council - Agreed Draft - Accepted at the discretion of the Examining Authority
REP7-053	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.10 Statement of Common Ground between AQUIND Limited and Highways England - Agreed Draft - Accepted at the discretion of the Examining Authority
REP7-054	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.13 Statement of Common Ground between AQUIND Limited and Historic England - Rev005 - Agreed Draft - Accepted at the discretion of the Examining Authority
REP7-055	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.14 Statement of Common Ground (Onshore) between AQUIND Limited and Environment Agency - Signed Version - Rev003 - Accepted at the discretion of the Examining Authority
REP7-056	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.16 Statement of Common Ground between AQUIND Limited & the Marine Management Organisation - Rev004(1) - Accepted at the discretion of the Examining Authority
REP7-057	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.20 Statement of Common Ground between AQUIND Limited and Portsmouth Water - Draft Version - Accepted at the discretion of the Examining Authority
REP7-058	AQUIND Limited Deadline 7 Submission - Late Submission - 7.5.24 Explanatory Memorandum supporting S106 Agreement with Portsmouth City Council - Accepted at the discretion of the Examining Authority
REP7-059	AQUIND Limited Deadline 7 Submission - Late Submission - 7.6.1 Compulsory Acquisition Schedule - Clean - Accepted at the discretion of the Examining Authority

REP7-060	AQUIND Limited Deadline 7 Submission - Late Submission - 7.6.1 Compulsory Acquisition Schedule - Tracked - Accepted at the discretion of the Examining Authority
REP7-061	AQUIND Limited Deadline 7 Submission - Late Submission - 7.7.8 Indicative Landscape Mitigation Plans - Option B(ii) WQ CA1.3.7 - Rev04 - Accepted at the discretion of the Examining Authority
REP7-062	AQUIND Limited Deadline 7 Submission - Late Submission - 7.7.16 Additional Viewpoint Location Plan and Additional Viewpoints Part A - Figures 15.57-15.59 - Accepted at the discretion of the Examining Authority
REP7-063	AQUIND Limited Deadline 7 Submission - Late Submission - 7.7.16 Additional Viewpoint Location Plan and Additional Viewpoints Part B - Figures 15.60-15.61 - Accepted at the discretion of the Examining Authority
REP7-064	AQUIND Limited Deadline 7 Submission - Late Submission - 7.7.19 Needs and Benefits Second Addendum - Rev001 - Accepted at the discretion of the Examining Authority
REP7-065	AQUIND Limited Deadline 7 Submission - Late Submission - 7.7.20 Supplementary Transport Assessment Addendum - Accepted at the discretion of the Examining Authority
REP7-066	AQUIND Limited Deadline 7 Submission - Late Submission - 7.7.21 ES Appendix 16.3 - Arboriculture Report - Appendix F - Generic Arboricultural Method Statement - Accepted at the discretion of the Examining Authority
REP7-067	AQUIND Limited Deadline 7 Submission - Late Submission - 7.8.2 Environmental Statement Addendum 2 - Accepted at the discretion of the Examining Authority
REP7-068	AQUIND Limited Deadline 7 Submission - Late Submission - 7.8.2.1 Environmental Statement Addendum 2 - Appendix 1 - Environmental Statement Errata Sheet 2 - Accepted at the discretion of the Examining Authority
REP7-069	AQUIND Limited Deadline 7 Submission - Late Submission - 7.8.2.2 Environmental Statement Addendum 2 - Appendix 2 - NOAA Tool Inputs and Spreadsheets - Accepted at the discretion of the Examining Authority
REP7-070	AQUIND Limited Deadline 7 Submission - Late Submission - 7.8.2.3 Environmental Statement Addendum 2 - Appendix 3 - Ash Dieback Survey Results - Accepted at the discretion of the Examining Authority
REP7-071	AQUIND Limited Deadline 7 Submission - Late Submission - 7.8.2.4 Environmental Statement Addendum 2 - Appendix 4 - Figure 1 - Denmead Meadows: SINC's, NVC Survey Results and Compounds - Accepted at the discretion of the Examining Authority
REP7-072	AQUIND Limited Deadline 7 Submission - Late Submission - 7.8.2.5 Environmental Statement Addendum 2 - Appendix 5 - Clean Air Zone Sensitivity Testing - Air Quality - Accepted at the discretion of the Examining Authority
REP7-073	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.26 UK Joint Bay Feasibility Report - Accepted at the discretion of the Examining Authority

REP7-074	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.33 Applicant's Responses to Deadline 6 Submissions - Accepted at the discretion of the Examining Authority
REP7-075	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.33.1 Applicant's Responses to Deadline 6 Submissions - Appendices - Accepted at the discretion of the Examining Authority
REP7-076	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.34 Applicant's Responses to Deadline 6 and 6a Submissions - Additional Submissions - Accepted at the discretion of the Examining Authority
REP7-077	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.35 Employment and Skills Strategy - Accepted at the discretion of the Examining Authority
REP7-078	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.36 Request for Changes to the Order Limits - Accepted at the discretion of the Examining Authority
REP7-079	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.37 Traffic Demand Management Strategy - Accepted at the discretion of the Examining Authority
REP7-080	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.9.1 Schedule of documents forming the Environmental Statement - Accepted at the discretion of the Examining Authority
REP7-081	AQUIND Limited Deadline 7 Submission - Late Submission - 7.9.9.1 Schedule of documents forming the Environmental Statement - Tracked - Rev004 - Accepted at the discretion of the Examining Authority
REP7-081a	AQUIND Limited Deadline 7 Submission - Late Submission - Letter to Ian Maguire (Portsmouth City Council) - DCO: Framework Recreational Management Strategy dated 27 January 2021 - Accepted at the discretion of the Examining Authority
REP7-082	East Hampshire District Council Deadline 7 Submission - Responses to ExQ2
REP7-083	Hampshire County Council Deadline 7 Submission - Cover Email
REP7-084	Hampshire County Council Deadline 7 Submission - Responses to ExQ2
REP7-085	Hampshire County Council Deadline 7 Submission - Update and response to Deadline 7
REP7-086	Havant Borough Council Deadline 7 Submission
REP7-087	Portsmouth City Council Deadline 7 Submission
REP7-088	Portsmouth City Council Deadline 7 Submission - Responses to ExQ2 and comments on documents provided by the Applicant at Deadline 6
REP7-089	South Downs National Park Authority Deadline 7 Submission - Responses to ExQ2 and comments on documents provided by the Applicant at Deadline 6
REP7-090	Winchester City Council Deadline 7 Submission - Cover Email

REP7-091	Winchester City Council Deadline 7 Submission – Applicant’s response to Deadline 4 submissions edited to show WCC section only with further comment by WCC
REP7-092	Winchester City Council Deadline 7 Submission – Applicant’s response to Deadline 5 submissions edited to show WCC section only with further comment by WCC
REP7-093	Winchester City Council Deadline 7 Submission - Copy dDCO Rev-005 edited to include WCC comments
REP7-094	Winchester City Council Deadline 7 Submission – Responses to ExQ2
REP7-095	Winchester City Council Deadline 7 Submission - Kings Pond Meadow Habitat Survey
REP7-096	Winchester City Council Deadline 7 Submission - WCC Paper No. 1 General comments on dDCO Rev-005
REP7-097	Winchester City Council Deadline 7 Submission - WCC Paper No. 2 Comments on Ash Dieback Situation
REP7-098	Winchester City Council Deadline 7 Submission - WCC Paper No. 3 Comments on Joint Bays Technical Note
REP7-099	Winchester City Council Deadline 7 Submission - WCC Paper No. 4 Comments on ExA Position to Further Site Inspections
REP7-100	Winchester City Council Deadline 7 Submission - WCC Paper No.5 Comments on Design & Access Statement Rev-003
REP7-101	Winchester City Council Deadline 7 Submission - WCC Paper No.6 Comments on Denmead Meadows Position Paper
REP7-102	Winchester City Council Deadline 7 Submission - WCC Paper No. 7 Matters to be Considered within a 106 Agreement
REP7-103	Environment Agency Deadline 7 Submission - Responses to ExQ2
REP7-104	Highways England Deadline 7 Submission - Written Statement
REP7-105	Historic England Deadline 7 Submission - Responses to ExQ2
REP7-106	Marine Management Organisation (MMO) Deadline 7 Submission - Responses to ExQ2
REP7-107	Natural England Deadline 7 Submission - Responses to ExQ2
REP7-108	Freeths LLP on behalf of University of Portsmouth Deadline 7 Submission - Responses to ExQ2
REP7-109	National Grid Electricity Systems Operator limited (NGESO) Deadline 7 Submission - Responses to ExQ2
REP7-110	National Grid Electricity Transmission Plc Deadline 7 Submission - Responses to ExQ2
REP7-111	Newsteer Real Estate Advisers on behalf of Sainsbury's Supermarkets Limited Deadline 7 Submission - Responses to ExQ2
REP7-112	Portsmouth Water Deadline 7 Submission - Responses to ExQ2

REP7-113	Southern Gas Networks PLC Deadline 7 Submission - Withdrawal of Objection
REP7-114	APLEAL Action Group Deadline 7 Submission - Written Submission
REP7-115	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 7 Submission - Cover Letter
REP7-116	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 7 Submission - Statement on Funding
REP7-117	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 7 Submission - Comments on ExQ2 [PD-031] (question references LV2.9.1 and LV2.9.2) and related appendices
REP7-118	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 7 Submission - Response to ExQ2 - Question ExADCO2.5.1
REP7-119	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 7 Submission - Statement in relation to the Carpenters' Proposal for Alternative Accesses and Protective Provisions in relation to Little Denmead Farm
REP7-120	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 7 Submission - Statement in relation to the Applicant's use of Compulsory Acquisition Powers as a Last Resort
REP7-121	Ian Cleugh Deadline 7 Submission - Objection to electric cable
REP7-122	James Bunbury Deadline 7 Submission - Responses to ExQ2
REP7-123	Kevin Flynn Deadline 7 Submission
REP7-124	Kimberley Barrett Deadline 7 Submission - Requested additional evidence
REP7-124a	Paula Ann Savage Deadline 7 Submission - Non-Interested Party Submission accepted at the discretion of the Examining Authority
REP7-125	Viola Langley Deadline 7 Submission
REP7-126	Viola Langley Deadline 7 Submission - Responses to ExQ2
REP7-127	Viola Langley Deadline 7 Submission - Late Submission - Accepted at the discretion of the Examining Authority
Deadline 7a – 28 January 2021 Deadline for receipt by the ExA of: • Representations in relation to the Applicant's Change Request 2	
REP7a-001	Blake Morgan LLP on behalf of Mr. Geoffrey Carpenter and Mr. Peter Carpenter
REP7a-002	Chris Westcott
REP7a-003	Cynthia Whittle
REP7a-004	Gordon Lowe
REP7a-005	Havant Friends of the Earth
REP7a-006	Historic England

REP7a-007	Kirsten McFarlane
REP7a-008	Patrick A Whittle
REP7a-009	Tracey Jones
REP7a-010	Winchester City Council
<p>Deadline 7b – 01 February 2021 Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Notification of wish to participate in Open Floor Hearing (OFH3) • Notification of wish to participate in Compulsory Acquisition Hearing (CAH3) • Notification of wish to participate in the Issue Specific Hearing into the draft Development Consent Order (ISH4) • Notification of wish to participate in the Issue Specific Hearing into Environmental Matters and Highways (ISH5) <p>This deadline was for administrative purposes only relating to attendance at events, and responses do not include reference to the merits of the Proposed Development. Consequently, responses have not been published.</p>	
<p>Deadline 7c – 15 February 2021 Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses submitted for Deadlines 7 and 7a 	
REP7c-001	AQUIND Limited Deadline 7c Submission - 7.1.10 Covering Letter
REP7c-002	AQUIND Limited Deadline 7c Submission - 1.3 Application Document Tracker – Rev-008
REP7c-003	AQUIND Limited Deadline 7c Submission - 7.5.1 Statement of Commonality and Position Statement – Rev-001
REP7c-004	AQUIND Limited Deadline 7c Submission - 7.5.11 Statement of Common Ground with Natural England – Rev-005
REP7c-005	AQUIND Limited Deadline 7c Submission - 7.5.13 Statement of Common Ground with Historic England – Rev-006
REP7c-006	AQUIND Limited Deadline 7c Submission - 7.5.16 Statement of Common Ground with the Marine Management Organisation – Rev-005
REP7c-007	AQUIND Limited Deadline 7c Submission - 7.5.22 Statement of Common Ground with Southern Gas Networks Plc – Rev-004
REP7c-008	AQUIND Limited Deadline 7c Submission - 7.7.19.1 Needs and Benefits Second Addendum- Appendix 1 Errata Sheet – Rev-001
REP7c-009	AQUIND Limited Deadline 7c Submission - 7.9.29 Day Lane Technical Note – Rev-003
REP7c-010	AQUIND Limited Deadline 7c Submission - 7.9.38 Applicant's Comments on Other Parties' Responses to ExQ2 – Rev-001
REP7c-011	AQUIND Limited Deadline 7c Submission - 7.9.38.1 Appendix A - Applicant's Response to Portsmouth City Council's Submission DCO2.5.1 – Rev-001
REP7c-012	AQUIND Limited Deadline 7c Submission - 7.9.39 Applicant's Response to Deadline 7 and 7a Submissions – Rev-001

REP7c-013	AQUIND Limited Deadline 7c Submission - 7.9.39.1 Appendix A - Response to Deadline 7 and 7a Submissions - Comments on Winchester City Council's response to draft Development Consent Order – Rev-001
REP7c-014	AQUIND Limited Deadline 7c Submission - 7.9.39.2 Appendix B - Response to Submissions on behalf of Mr G Carpenter and Mr P Carpenter at Deadline 7 – Rev-001
REP7c-015	AQUIND Limited Deadline 7c Submission - 7.9.39.3 Appendix C - Response to Deadline 7 and 7a Submissions - Presentation to Local Residents 15.1.20 – Rev-001
REP7c-016	AQUIND Limited Deadline 7c Submission - 7.9.39.4 Appendix D - Response to Deadline 7 and 7a Submissions - AQUIND Interconnector Enquiry – Rev-001
REP7c-017	East Hampshire District Council Deadline 7c Submission - Comments on Day Lane Technical note, Examining Authority's schedule of changes and Applicant's draft Development Consent Order
REP7c-018	Hampshire County Council Deadline 7c Submission - Additional comments on draft Development Consent Order at Deadline 7
REP7c-019	Hampshire County Council Deadline 7c Submission - Response as Highways Authority to Applicant's submissions at Deadline 7
REP7c-020	Portsmouth City Council Deadline 7c Submission - Cover letter
REP7c-021	Portsmouth City Council Deadline 7c Submission - Appendix 1 - Comments on responses to ExQ2
REP7c-022	Portsmouth City Council Deadline 7c Submission - Appendix 2 - Letter to Aquind
REP7c-023	Portsmouth City Council Deadline 7c Submission - Appendix 3 - Prefet de Seine Maritime decision to reject Aquind application
REP7c-024	South Downs National Park Authority Deadline 7c Submission - Comments on responses submitted at Deadline 7
REP7c-025	Winchester City Council Deadline 7c Submission - Cover letter
REP7c-026	Winchester City Council Deadline 7c Submission - Appendix A - Copy email to Applicant regarding draft Development Consent Order
REP7c-027	Winchester City Council Deadline 7c Submission - Appendix B - Skeleton proposals for structure of R7, 8 and 9
REP7c-028	Marine Management Organisation Deadline 7c Submission - Comments on responses submitted at Deadline 7 and 7a
REP7c-029	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 7c Submission - Scope of Planning Act 2008 Statutory Purposes & The Development Compulsory Acquisition of AP Land
REP7c-030	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 7c Submission - Statement on Funding and Compulsory Acquisition Compensation
REP7c-031	CPRE Hampshire Deadline 7c Submission - Late Submission - Accepted at the discretion of the Examining Authority - Comment on responses submitted at Deadline 7

REP7c-032	First Hampshire & Dorset Limited (FirstBus) Deadline 7c Submission
REP7c-033	National Grid ESO Deadline 7c Submission - Late Submission - Accepted at the discretion of the Examining Authority - Response to Issue Specific Hearing 4 - Agenda Item 22.2
REP7c-034	Stagecoach South Deadline 7c Submission - Non-IP Submission, accepted at the discretion of the Examining Authority
<p>Deadline 8 – 01 March 2021</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses submitted for Deadline 7 • Written summaries of oral submissions put at any Hearings held during the weeks commencing 8 and 15 February 2021 • Any post-Hearing notes requested at the previous Hearings • Comments on the RIES • Comments on the ExA's proposed schedule of changes to the dDCO • Finalised Statements of Common Ground • Finalised Statement of Commonality for SoCG • Finalised Compulsory Acquisition Schedule in clean and tracked versions • A finalised Guide to the Application • A finalised version of the draft Development Consent Order (dDCO) in clean and tracked versions • A finalised Schedule of changes to the dDCO • Any Additional Submissions relating to oral submissions made at any Hearings held during weeks commencing 8 and 15 February • Any further information requested by the ExA under Rule 17 of the Examination Rules 	
REP8-001	AQUIND Limited Deadline 8 Submission - 7.1.11 Covering Letter
REP8-002	AQUIND Limited Deadline 8 Submission - 1.2 Updated Guide to the Application – Rev-002
REP8-003	AQUIND Limited Deadline 8 Submission - 2.5 Access and Rights of Way Plans – Rev-005
REP8-004	AQUIND Limited Deadline 8 Submission - 3.1 Draft Development Consent Order - Clean - Rev-007
REP8-005	AQUIND Limited Deadline 8 Submission - 3.1 Draft Development Consent Order - Tracked - Rev-007
REP8-006	AQUIND Limited Deadline 8 Submission - 3.2 Explanatory Memorandum - Clean - Rev-006
REP8-007	AQUIND Limited Deadline 8 Submission - 3.2 Explanatory Memorandum - Tracked - Rev-006
REP8-008	AQUIND Limited Deadline 8 Submission - 4.1 Statement of Reasons - Clean - Rev-006
REP8-009	AQUIND Limited Deadline 8 Submission - 4.1 Statement of Reasons - Tracked - Rev-006
REP8-010	AQUIND Limited Deadline 8 Submission - 4.3 Book of Reference - Clean - Rev-007
REP8-011	AQUIND Limited Deadline 8 Submission - 4.3 Book of Reference - Tracked - Rev-006

REP8-012	AQUIND Limited Deadline 8 Submission - 5.5 Design and Access Statement - Clean - Rev-005
REP8-013	AQUIND Limited Deadline 8 Submission - 5.5 Design and Access Statement - Tracked - Rev-005
REP8-014	AQUIND Limited Deadline 8 Submission - 5.5.1 Design and Access Statement - Appendix 3 - SWDACMS - Appendix 8 Site Investigation - Rev-005
REP8-015	AQUIND Limited Deadline 8 Submission - 6.10 Outline Landscape and Biodiversity Strategy - Clean - Rev-005
REP8-016	AQUIND Limited Deadline 8 Submission - 6.10 Outline Landscape and Biodiversity Strategy - Tracked - Rev-005
REP8-017	AQUIND Limited Deadline 8 Submission - 6.2.15.48 ES - Vol 2 - Figure 15.48 - Indicative Landscape Mitigation Plan Option B (i) (north) - Rev-005
REP8-018	AQUIND Limited Deadline 8 Submission - 6.2.15.49 ES - Vol 2 - Figure 15.49 - Indicative Landscape Mitigation Plan Option B (i) (south) - Rev-005
REP8-019	AQUIND Limited Deadline 8 Submission - 6.6 Updated Mitigation Schedule - Rev-003
REP8-020	AQUIND Limited Deadline 8 Submission - 6.8.1 HRA - Vol 1 - Habitats Regulations Assessment Report - Clean - Rev-006
REP8-021	AQUIND Limited Deadline 8 Submission - 6.8.1 HRA - Vol 1 - Habitats Regulations Assessment Report - Tracked - Rev 006
REP8-022	AQUIND Limited Deadline 8 Submission - 6.8.3.1 HRA - Vol 3 - Appendix 1 European Sites Screening and Integrity Matrices - Clean - Rev-004
REP8-023	AQUIND Limited Deadline 8 Submission - 6.8.3.1 HRA - Vol 3 - Appendix 1 European Sites Screening and Integrity Matrices - Tracked - Rev 004
REP8-024	AQUIND Limited Deadline 8 Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Clean - Rev-006
REP8-025	AQUIND Limited Deadline 8 Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Tracked - Rev-006
REP8-026	AQUIND Limited Deadline 8 Submission - 7.2.8 Schedule of Changes Submitted for Deadlines 7c and 8 - Rev-001
REP8-027	AQUIND Limited Deadline 8 Submission - 7.3.7 Schedule of Changes to the Draft Development Consent Order - Rev-006
REP8-028	AQUIND Limited Deadline 8 Submission - 7.3.8 Schedule of requested changes to the draft Development Consent Order and the Applicant's Position
REP8-029	AQUIND Limited Deadline 8 Submission - 7.5.1 Statement of Commonality for Statements of Common Ground - Final
REP8-030	AQUIND Limited Deadline 8 Submission - 7.5.10 Statement of Common Ground with Highways England - Final

REP8-031	AQUIND Limited Deadline 8 Submission - 7.5.11 Statement of Common Ground with Natural England - Final
REP8-032	AQUIND Limited Deadline 8 Submission - 7.5.12 Statement of Common Ground with Natural England and Joint Nature Conservation Committee - Final
REP8-033	AQUIND Limited Deadline 8 Submission - 7.5.13 Statement of Common Ground with Historic England - Final
REP8-034	AQUIND Limited Deadline 8 Submission - 7.5.16 Statement of Common Ground with Marine Management Organisation - Final
REP8-035	AQUIND Limited Deadline 8 Submission - 7.5.17 Statement of Common Ground with the Maritime and Coastguard Agency - Final
REP8-036	AQUIND Limited Deadline 8 Submission - 7.5.18 Statement of Common Ground with Sport England - Final
REP8-037	AQUIND Limited Deadline 8 Submission - 7.5.19 Statement of Common Ground with National Grid Electricity Transmission Plc - Final
REP8-038	AQUIND Limited Deadline 8 Submission - 7.5.21 Statement of Common Ground with West Waterlooville Developments/Grainger Plc - Final
REP8-039	AQUIND Limited Deadline 8 Submission - 7.5.20 Statement of Common Ground with Portsmouth Water Ltd - Final
REP8-040	AQUIND Limited Deadline 8 Submission - 7.5.25 Hampshire County Council Development Consent Obligation
REP8-041	AQUIND Limited Deadline 8 Submission - 7.5.26 South Downs National Park Authority Development Consent Obligation
REP8-042	AQUIND Limited Deadline 8 Submission - 7.5.27 Portsmouth City Council Development Consent Obligation
REP8-043	AQUIND Limited Deadline 8 Submission - 7.5.28 Development Consent Order Obligations - Explanatory Note
REP8-044	AQUIND Limited Deadline 8 Submission - 7.5.3 Statement of Common Ground with Portsmouth City Council - Final
REP8-045	AQUIND Limited Deadline 8 Submission - 7.5.4 Statement of Common Ground with Winchester City Council - Final
REP8-046	AQUIND Limited Deadline 8 Submission - 7.5.5 Statement of Common Ground with Hampshire County Council - Final
REP8-047	AQUIND Limited Deadline 8 Submission - 7.5.6 Statement of Common Ground with East Hampshire District Council - Final
REP8-048	AQUIND Limited Deadline 8 Submission - 7.5.7 Statement of Common Ground with South Downs National Park Authority - Final

REP8-049	AQUIND Limited Deadline 8 Submission - 7.5.8 Statement of Common Ground with Havant Borough Council - Final
REP8-050	AQUIND Limited Deadline 8 Submission - 7.6.1 Compulsory Acquisition Schedule Clean - Rev-008
REP8-051	AQUIND Limited Deadline 8 Submission - 7.6.1 Compulsory Acquisition Schedule Tracked - Rev-008
REP8-052	AQUIND Limited Deadline 8 Submission - 7.7.8 Indicative Landscape Mitigation Plans - Option B(ii) WQ CA1.3.7 - Rev-005
REP8-053	AQUIND Limited Deadline 8 Submission - 7.8.1.14 Environmental Statement Addendum - Appendix 14 Note on PRoW, Long Distance Walking Paths and Cycle Route Diversions - Rev-001
REP8-054	AQUIND Limited Deadline 8 Submission - 7.9.29 Day Lane Technical Note - Rev-004
REP8-055	AQUIND Limited Deadline 8 Submission - 7.9.37 Travel Demand Management Strategy - Rev-002
REP8-056	AQUIND Limited Deadline 8 Submission - 7.9.42 Applicant's Written Summary of the Oral Case at Open Floor Hearing (OFH3) and Compulsory Acquisition Hearing 3 (CAH3)
REP8-057	AQUIND Limited Deadline 8 Submission - 7.9.44 Applicant's Post Hearing Notes
REP8-058	AQUIND Limited Deadline 8 Submission - 7.9.44.1 Applicant's Post Hearing Notes - Appendix 1 - Correspondence with Allotment Holders
REP8-059	AQUIND Limited Deadline 8 Submission - 7.9.44.2 Applicant's Post Hearing Notes - Appendix 2 - Section 135 Consent from the Ministry of Defence for AQUIND Interconnector
REP8-060	AQUIND Limited Deadline 8 Submission - 7.9.44.4 Applicant's Post Hearing Notes - Appendix 4 - Section 135 Letter from Burges Salmon on behalf of the Crown Estate
REP8-061	AQUIND Limited Deadline 8 Submission - 7.9.44.4 Applicant's Post Hearing Notes - Appendix 4 Air Quality Clean Air Zone Sensitivity Testing Technical Note - Rev-001
REP8-062	AQUIND Limited Deadline 8 Submission - 7.9.44.5 Applicant's Post Hearing Notes - Appendix 5 - Newspaper Advertisements in Connection with Change Requests
REP8-063	AQUIND Limited Deadline 8 Submission - 7.9.44.6 Applicant's Post Hearing Notes - Appendix 6 - Technical Note - Consideration of Alternatives (Connections)
REP8-064	AQUIND Limited Deadline 8 Submission - 7.9.45 Applicant's Response to Deadline 7C Submissions - Rev-001
REP8-065	AQUIND Limited Deadline 8 Submission - 7.9.45.1 Applicant's Response to Deadline 7c Submissions - Appendix A - Applicant's Response to Mr Geoffrey and Mr Peter Carpenter

REP8-066	AQUIND Limited Deadline 8 Submission - 7.9.46 Applicant's Comments on the Report on Implications to European Sites – Rev-001
REP8-067	AQUIND Limited Deadline 8 Submission - 7.9.47 Kings Pond Meadow Position Paper – Rev-001
REP8-068	AQUIND Limited Deadline 8 Submission - 7.9.9.1 Schedule of documents forming the Environmental Statement - Clean – Rev-005
REP8-069	AQUIND Limited Deadline 8 Submission - 7.9.9.1 Schedule of documents forming the Environmental Statement - Tracked – Rev-005
REP8-070	Councillor Langford-Smith on behalf of Denmead Parish Council Deadline 8 Submission
REP8-071	East Hampshire District Council Deadline 8 Submission - Post hearing comments
REP8-072	Hampshire County Council Deadline 8 Submission
REP8-073	Hampshire County Council Deadline 8 Submission - a agreed copy of the Section 106 Agreement between the Applicant and Hampshire County Council
REP8-074	Havant Borough Council Deadline 8 Submission - Post Hearing comments
REP8-075	Portsmouth City Council Deadline 8 Submission
REP8-076	South Downs National Park Authority Deadline 8 Submission
REP8-077	Winchester City Council Deadline 8 Submission - Cover letter
REP8-078	Winchester City Council Deadline 8 Submission - Paper 1 - Summary Transcript of Issue Specific Hearing 4
REP8-079	Winchester City Council Deadline 8 Submission - Paper 2 - Summary Transcript of Issue Specific Hearing 5
REP8-080	Winchester City Council Deadline 8 Submission - Paper 3 - Comments on Applicant's responses to Deadline 7 and 7a
REP8-081	Winchester City Council Deadline 8 Submission - Paper 4 - Submission regarding draft Development Consent Order
REP8-082	Highways England Deadline 8 Submission
REP8-083	Historic England Deadline 8 Submission and cover email
REP8-084	Marine Management Organisation Deadline 8 Submission - Comments on ExA's Proposed Schedule of Changes to the dCO
REP8-085	Marine Management Organisation Deadline 8 Submission - Issue Specific Hearing 4 Post Hearing Note
REP8-086	Natural England Deadline 8 Submission - Comments on the Report on the Implications for European Sites
REP8-087	David Langley Deadline 8 Submission

REP8-088	Ian Daye Deadline 8 Submission
REP8-089	Janet Jenkins Deadline 8 Submission
REP8-090	Janice Burkinshaw Deadline 8 Submission
REP8-091	Kirsten Mcfarlane Deadline 8 Submission
REP8-092	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Cover Letter
REP8-093	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Note on non-compliance with obligation to take account of liability for blight claims
REP8-094	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Revised Applicant's Funding Statement
REP8-095	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Signed DCO Obligation
REP8-096	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Statement on Alternatives & Proportionate CPO Powers
REP8-097	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Note on Financial Status of AQUIND Limited
REP8-098	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Open Floor Hearing 3 Speech by Mr Henry Brice of Ian Judd & Partners
REP8-099	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Costs Application
REP8-100	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Note on Paragraph 19 of the Guidance related to procedures for the compulsory acquisition of land
REP8-101	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Summary of Oral Submissions by Ian Judd & Partners
REP8-102	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Post Hearing Note in Relation to Compulsory Acquisition Hearing 3
REP8-103	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Open Floor Hearing 3 Speech by Geoffrey Carpenter
REP8-104	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Compulsory Acquisition Hearing 3 Note on Planning Obligations 105

REP8-105	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Draft DCO
REP8-106	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Statement on Change Request 2
REP8-107	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Response to Deadline 7c Submissions
REP8-108	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Revised Protective Provisions
REP8-109	Blake Morgan LLP on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter Deadline 8 Submission - Open Floor Hearing 3 Speech by Peter Carpenter
REP8-110	Eversheds Sutherland on behalf of National Grid Electricity Transmission Plc Deadline 8 Submission - Withdrawal of objection
REP8-111	Patrick O'Hara Deadline 8 Submission
REP8-112	Paula Ann Savage Deadline 8 Submission
REP8-113	Paula Ann Savage Deadline 8 Submission - Supporting Video Submission Cover Email
REP8-114	Paula Ann Savage Deadline 8 Submission - Supporting Video Submission
REP8-115	Rachel Lajon Deadline 8 Submission
REP8-116	Tim Hancock Associates on behalf of Shell UK Limited Deadline 8 Submission
REP8-117	Stagecoach Group Deadline 8 Submission - Late Submission - Accepted at the discretion of the Examining Authority
REP8-118	Sydney Dooley Deadline 8 Submission
REP8-119	Freeths LLP on behalf of University of Portsmouth Deadline 8 Submission
REP8-120	Viola Langley Deadline 8 Submission
REP8-121	Christine Elmer Deadline 8 Submission - Non-IP Submission accepted at the discretion of the Examining Authority
REP8-122	Ella Lawson Deadline 8 Submission - Non-IP Submission accepted at the discretion of the Examining Authority
REP8-123	Ludmila Haskins Deadline 8 Submission - Non-IP Submission accepted at the discretion of the Examining Authority
REP8-124	Martin Grice Deadline 8 Submission - Non-IP Submission accepted at the discretion of the Examining Authority

REP8-125	Richard and Julie Hipkiss Deadline 8 Submission - Non-IP Submission accepted at the discretion of the Examining Authority
Late Submission	
REP8-126	Sport England Deadline 8 Submission - Late Submission - Accepted at the discretion of the Examining Authority
Deadline 9 – 05 March 2021 Deadline for receipt by the ExA of: <ul style="list-style-type: none"> Any further information requested by the ExA after Deadline 8, under Rule 17 of the Examination Rules 	
REP9-001	AQUIND Limited Deadline 9 Submission - 7.1.12 Covering Letter
REP9-002	AQUIND Limited Deadline 9 Submission - 1.3 Application Document Tracker - Rev 011
REP9-003	AQUIND Limited Deadline 9 Submission - 3.1 draft Development Consent Order - Clean - Rev 008
REP9-004	AQUIND Limited Deadline 9 Submission - 3.1 draft Development Consent Order - Tracked - Rev 008
REP9-005	AQUIND Limited Deadline 9 Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Clean - Rev 008
REP9-006	AQUIND Limited Deadline 9 Submission - 6.9 Onshore Outline Construction Environmental Management Plan - Tracked - Rev 008
REP9-007	AQUIND Limited Deadline 9 Submission - 7.2.9 Schedule of Changes Submitted for Deadline 9 - Rev 001
REP9-008	AQUIND Limited Deadline 9 Submission - 7.3.1 Schedule of changes to the Draft DCO - Rev 007
REP9-009	AQUIND Limited Deadline 9 Submission - 7.3.10 Deadline 9 Schedule of Changes to the Draft Development Consent Order and the Applicant's Position - Rev 001
REP9-010	AQUIND Limited Deadline 9 Submission - 7.5.25 Signed Legal Agreement with Hampshire County Council in respect of the Development Consent Obligation - Rev 001
REP9-011	AQUIND Limited Deadline 9 Submission - 7.5.26 Signed Legal agreement with South Downs National Park Authority in respect of the Development Consent Obligation
REP9-012	AQUIND Limited Deadline 9 Submission - 7.9.9.1 Schedule of documents forming the Environmental Statement - Clean - Rev006
REP9-013	AQUIND Limited Deadline 9 Submission - 7.9.9.1 Schedule of documents forming the Environmental Statement - Tracked - Rev006
REP9-014	AQUIND Limited Deadline 9 Submission - 7.9.49 Applicant's Response to Deadline 8 Submissions

REP9-015	AQUIND Limited Deadline 9 Submission - 7.9.49.1 Appendix A - Meeting Minutes between the Applicant and PCC on the 8 January 2021
REP9-016	AQUIND Limited Deadline 9 Submission - 7.9.49.2 Appendix B - Email Correspondence between the Applicant and PCC on the 9 February 2021
REP9-017	AQUIND Limited Deadline 9 Submission - 7.9.49.3 Appendix C - On Street Parking Availability - Sensitivity Test Undertaken in response to PCC D8 Submission Ref 2.33 to 2.35
REP9-018	AQUIND Limited Deadline 9 Submission - 7.9.50 Applicant's Response to Non-Interested Parties' Deadline 8 Submissions
REP9-019	AQUIND Limited Deadline 9 Submission - 7.9.51 Response to Submissions made on behalf of Mr Geoffrey Carpenter and Mr Peter Carpenter
REP9-020	AQUIND Limited Deadline 9 Submission - 7.9.52 Letter from the Applicant in response to Rule 17 Request dated 3 March 2021
Other Documents	
OD-001	Regulation 32 Transboundary Screening
OD-002	London Gazette Notice
OD-003	Regulation 32 Notification response from Denmark
OD-004	Regulation 32 Notification response from Germany
OD-005	Regulation 32 Notification response from Spain
OD-006	AQUIND Limited Applicant's s56 notice of accepted application
OD-007	AQUIND Limited Certificates of Compliance
OD-008	AQUIND Limited Certificates of Compliance, under Regulation 9 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010, in relation to Change Request 1.
OD-009	AQUIND Limited Certificates of Compliance, under Regulation 9 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010, in relation to Change Request 2

APPENDIX B: LIST OF ABBREVIATIONS

APPENDIX B: LIST OF ABBREVIATIONS ETC

Abbreviation or usage	Reference
ACER	EU Agency for the Cooperation of Energy Regulators
AIL	Abnormal indivisible loads
ALARP	As low as reasonably practicable
ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
AP	Affected Person
Applicant	AQUIND Limited
AQMA	Air Quality Management Area
AQS Regulations	Air Quality Standards Regulations 2010 (as amended)
BS	British Standard
CA	Compulsory Acquisition
CAH	Compulsory Acquisition Hearing
CAVAT	Capital Asset Value of Amenity Trees
CA Regulations	The Infrastructure Planning (Compulsory Acquisition) Regulations 2010
CEMP	Construction Environmental Management Plan
Cllr	Councillor
CPRE	Campaign for the Protection of Rural England
CTMP	Construction Traffic Management Plan
CO ₂	Carbon dioxide
DAS	Design and Access Statement
dB	Decibel
DCLG	Department for Communities and Local Government
DCO	Development Consent Order
Defra	Department for Environment, Food and Rural Affairs
DfT	Department for Transport
DML	Deemed Marine Licence
ECHR	European Convention on Human Rights
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended)
EEZ	Exclusive Economic Zone
EMF	Electromagnetic field
ES	Environmental statement
EU	European Union
ExA	Examining Authority
ExQ1	Examining Authority's first written questions
ExQ2	Examining Authority's further written questions

FCTMP	Framework Construction Traffic Management Plan
FMPRI	Framework Management Plan for Recreational Impacts
FRA	Flood Risk Assessment
FSA	Formal Safety Assessment
FTMS	Framework Transport Management Strategy
FCTMP	Framework Construction Traffic Management Plan
GB	Great Britain
GLVIA3	The Landscape Institute's Guidelines for Landscape and Visual Impact Assessment, third edition
GW	Gigawatt – one billion watts
ha	Hectare
Habitats Regulations	The Conservation of Habitats and Species Regulations 2017
HDD	Horizontal directional drilling
HGV	Heavy goods vehicle
HRA	Habitats Regulations Assessment
HVAC	High voltage alternating current
HVDC	High voltage direct current
IAPI	Initial Assessment of Principal Issues
ICNIRP	International Commission on Non-Ionizing Radiation Protection
IMO	International Maritime Organisation
INNS	Invasive, non-native species
IP	Interested Party
Km	Kilometre
kV	Kilovolt (one thousand volts)
L _{Aeq}	The sound pressure level in decibels, equivalent to the total sound energy over a given time period.
LIR	Local Impact Report
LOAEL	Lowest observable adverse effect level
LSE	Likely significant effects
LVIA	Landscape and visual impact assessment
m	Metre
m ²	Metre squared
MCZ	Marine Conservation Zone
MHWS	Mean high water at spring tides
MMO	Marine Management Organisation
MP	Member of Parliament
MW	Megawatt (one million watts)
MWhr	Megawatt hour
NATA/ WebTAG	New Approach to Appraisal/ Web Transport Analysis Guidance
NERC Act	The Natural Environment and Rural Communities Act 2006
NGET	National Grid Electricity Transmission Plc

NGESO	National Grid Electricity Systems Operator Plc
NOA	Network options assessment
NO ₂	Nitrogen dioxide
NO _x	Nitrous oxides
NOEL	No observed effect level
NPPF	National Planning Policy Statement
NPS	National Policy Statement
NPSE	The Noise Policy Statement for England
NPS EN-1	Overarching National Policy Statement for Energy
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure
NRSA	New Roads and Street Works Act 1991
NSIP	Nationally Significant Infrastructure Project
Onshore Outline CEMP	Onshore Outline Construction Environmental Management Plan
Outline Marine CEMP	Outline Marine Construction Environmental Management Plan
OPC	Office of the Parliamentary Counsel
PA2008	Planning Act 2008
PM ₁₀ and PM _{2.5}	Size classes of particulate matter
RIES	Report on the Implications for European Sites
RR	Relevant Representation
s106	A legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)
s278	A highways agreement under Section 278 of the Highways Act 1980 (as amended)
<i>s(number)</i>	Section of a statute and when followed by a number, a particular section number from that statute
SAC	Special Area of Conservation
SI	Statutory Instrument
SINC	Site of Important Nature Conservation
SNCF	Société Nationale des Chemins de Fer Français (the French national state-owned railway company)
SO ₂	Sulphur dioxide
SOAEL	Significant observed adverse effect level
SPA	Special Protection Area
SRTM	Sub-Regional Transport Model
SSSI	Site of Special Scientific Interest
STA	Supplementary Transport Assessment
SuDS	Sustainable drainage system
TCA	Trade and Cooperation Agreement between the UK and the EU
TCPA	Town and Country Planning Act 1990 (as amended)
TEN-E Regulation	EU Regulation no. 347/2013 on guidelines for trans-European energy infrastructure

TFS	Targeted feasibility study
The 2009 Act	Marine and Coastal Access Act 2009
TP	Temporary Possession
TPO	Tree Preservation Order
TSS	Dover Straits Traffic Separation System
UK	United Kingdom
USI	Unaccompanied site inspection
UXO	Unexploded ordnance
WebTAG	Web Transport Analysis Guidance (DfT)
WSI	Written Scheme of Investigations (archaeology)
ZTV	Zone of theoretical visibility
[]	References to documents in the Examination Library are enclosed in square brackets

APPENDIX C: THE RECOMMENDED DCO

(Subject to the recommendations in section 10.10 and modified in accordance with the recommended changes at section 11.9 of this Report.)

202X No. 0000

INFRASTRUCTURE PLANNING

The AQUIND Interconnector Order 202[]

Made - - - - ***

Coming into force - - ***

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008 (the “2008 Act” (a)) and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order under sections 114, 115 and 120 of the 2008 Act.

The application was examined by a panel of three members (“the Panel”) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules(c).

The Panel, having considered the application together with the documents that accompanied it and the representations made, in accordance with section 74 of the 2008 Act, has submitted a report to the Secretary of State setting out its findings, conclusions and recommendations in respect of the application.

The Secretary of State, having considered the report and recommendations of the Panel, has decided to make an Order granting development consent for the development described in the application [with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals comprised within the application].

The Secretary of State is also satisfied that the parcels of common, open space or fuel or field allotment land comprised within the Order limits (as identified in the Book of Reference), when burdened with rights and restrictive covenants imposed by this Order, will be no less advantageous than they were before to persons in whom they are vested, other persons, if any, entitled to rights of common or other rights and the public, and that accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State in exercise of the powers conferred by section 114, 115 and 120 of the 2008 Act, makes the following Order:

PART 1

General provisions

Preliminary

Citation and commencement

1. This Order may be cited as the AQUIND Interconnector Order 202[] and comes into force on [] 202[].

Interpretation

- 2.—(1) In this Order, unless the context requires otherwise—
- “the 1961 Act” means the Land Compensation Act 1961(d);
 - “the 1965 Act” means the Compulsory Purchase Act 1965(e);

(a) 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c.20)

(b) S.I. 2009/2264, to which there are amendments not relevant to this Order.

(c) S.I. 2010/103, amended by S.I. 2012/635.

(d) 1961 c. 33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c. 65). There are other amendments to the 1961 Act which are not relevant to this Order.

(e) 1965 c. 56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential

“the 1980 Act” means the Highways Act 1980(a);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(b);

“the 1984 Act” means the Road Traffic Regulations Act 1984(c);

“the 1989 Act” means the Electricity Act 1989(d);

“the 1990 Act” means the Town and Country Planning Act 1990(e);

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

“the 2008 Act” means the Planning Act 2008(g);

“the 2009 Act” means the Marine and Coastal Access Act 2009(h);

“access and rights of way plans” means the plans certified by the Secretary of State as the access and rights of way plans under article 43 (Certification of plans and documents, etc.) for the purposes of this Order and identified in Schedule 6;

“address” includes any number or address used for the purposes of electronic transmission;

“apparatus” unless otherwise provided for, has the same meaning as in Part 3 of the 1991 Act;

“area of seaward construction activity” means the area of the sea within the Order limits seaward of MHWS shown on the works plans;

“authorised development” means the development and associated development described in Schedule 1 (Authorised Development) and any other development authorised by this Order which is development within the meaning of section 32 of the 2008 Act;

“book of reference” means the document certified by the Secretary of State as the book of reference under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

-
- Provisions) Act 1985 (c. 71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c. 34). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c. 23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c. 15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c. 39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.
- (a) 1980 c. 66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c. 22); sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c. 51); section 1(2A) was inserted, and section 1(3) was amended, by section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c. 29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), by section 64(1), (2) and (3) of the Transport and Works Act (c. 42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c. 51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (b) 1981 c.66
- (c) 1984 c.27
- (d) 1989 c.29
- (e) 1990 c. 8. Section 56(4) was amended by section 32 of, and paragraph 10(2) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34). Section 106 was substituted, and section 106A inserted, by section 12(1) of the Planning and Compensation Act 1991. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the 2008 Act. Sections 272 to 274 and section 279 were amended by section 406(1) of, and paragraph 103 of Schedule 17 to, the Communications Act (c. 21), and section 280 was amended by section 406(1) of, and paragraph 104 of Schedule 17 to, that Act. Sections 272 to 274 were also amended by S.I. 2011/741 and S.I. 2012/2590. Section 282 was amended by S.I. 2009/1307. There are other amendments to the 1990 Act which are not relevant to this Order.
- (f) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Part 3 of the 1991 Act was amended by Part 4 of the Traffic Management Act 2004 (c. 18). Section 74 was amended, and sections 74A and 74B inserted, by sections 255 and 256 of the Transport Act 2000 (c. 38). There are other amendments to the 1991 Act but they are not relevant to this Order.
- (g) 2008 c.29
- (h) 2009 c.23

“building” includes any structure or erection or any part of a building, structure or erection;

“cable circuit” means a number of electrical conductors necessary to transmit electricity between two points within the authorised development; this comprises in the case of a HVAC cable circuit, three conductors and in the case of a HVDC cable circuit, two conductors;

“cable protection” means physical measures for the protection of cables including grout bags, concrete or frond mattresses, and/or rock placement and any other physical measures for the protection of cables which are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement;

“carriageway” has the meaning given in section 329 of the 1980 Act (interpretation);

“commence” means (a) in relation to any works seaward of MHWS, the first carrying out of any licensed marine activity authorised by the deemed marine licence save for pre-construction surveys approved by the deemed marine licence and (b) in respect of any other works comprised in the authorised development beginning to carry out any material operation, as defined in section 155 of the 2008 Act (when development begins), forming part, or carried out for the purposes, of the authorised development other than operations consisting of onshore site preparation works and the words “commencement” and “commenced” are to be construed accordingly;

“construction compound” means a site used temporarily in connection with construction of the authorised development which may include central offices, welfare facilities and storage;

“converter station” means the HVDC converter station containing apparatus and equipment required for the operation and maintenance of an electric power HVDC interconnector including (but not limited to) equipment required to transmit, switch, transform and convert electricity, including backups, spares and apparatus with external landscaping and means of access and more particularly described in Schedule 1;

“deemed marine licence” means the marine licence set out at Schedule 15 and any variation properly made to that from time to time;

“design and access statement” or “DAS” means the document certified by the Secretary of State as the design and access statement under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“discharging authority” means the body responsible for giving any agreement or approval required by a requirement;

“disposal” means the deposit of dredged material at disposal sites with reference WI048 and WI049 within the extent of the Order limits seaward of MHWS and “dispose” and cognate expressions are to be construed accordingly;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

“environmental statement” means the document submitted by the undertaker to support its application for development consent and detailed in the schedule of documents forming the environmental statement;

“framework traffic management strategy” means the document certified by the Secretary of State as the framework traffic management strategy under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“hedgerow and tree preservation order plans” means the plans certified by the Secretary of State as the hedgerow and tree preservation order plans under article 43 (Certification of plans and documents, etc.) for the purposes of this Order

“highway” and “highway authority” have the same meaning as is provided for in the 1980 Act;

“horizontal directional drilling” and “HDD” means a trenchless technique for installing an underground duct between two points without the need to excavate vertical shafts;

“horizontal directional drilling compound” and “HDD compound” means a construction compound to be provided in connection with the undertaking of horizontal directional drilling;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“Hampshire County Council development consent obligation” means the document certified by the Secretary of State as the Hampshire County Council development consent obligation under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“intrusive activities” means activities including but not limited to anchoring of vessels, jacking up of vessels, seabed clearance and disposal;

“joint bay” means the underground transition location between sections of cable containing the cable joint and ancillary equipment and parts required to make the joint;

“land” includes land covered by water, any interest in land or right in, to or over land;

“land plans” means the plans certified by the Secretary of State as the land plans under article 43 (Certification of plans and documents, etc.) for the purposes of this Order and identified in Schedule 4;

“link box” means an underground metal box placed within a plastic or concrete pit where cable sections are connected and earthed;

“link pillar” means an above ground building where cable sections are connected and earthed;

“local planning authority” has the same meaning as in the 1990 Act;

“maintain” includes inspect, upkeep, repair, adjust, alter, improve, preserve and further includes remove, reconstruct and replace any part of the authorised development, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement and for the avoidance of doubt must not include the renewal, re-laying, reconstruction or replacement of the entirety of Work No.1, Work No.2, Work No.4, Work No.5, Work No.6 or Work No.7 and “maintenance” must be construed accordingly;

“marine HVDC cables” means two 320 kilovolt HVDC cable circuits for the transmission of electricity which may be bundled as two pairs of cables or take the form of single cables, together with: (i) fibre optic data transmission cables accompanying each HVDC cable circuit, for the purpose of control, monitoring, and protection of the HVDC cable circuits and converter station, and for commercial telecommunications; and (ii) one or more cable crossing;

“marine works” means Works No’s 6 and 7 described in Schedule 1 and any other works seaward of MHWS in connection with those Works authorised by this Order or, as the case may require, any part of those works and “marine work” refers to any one of the marine works;

“Maritime and Coastguard Agency” means the executive agency of the Department for Transport;

“master” in relation to a vessel means any person for the time being having or taking the command, charge or management of the vessel;

“mean high water springs” or “MHWS” means the average throughout the year of two successive high waters during a 24-hour period in each month when the range of the tide is at its greatest;

“mean low water springs” or “MLWS” means the average throughout the year, of two successive low waters, during a 24-hour period in each month when the range of the tide is at its greatest;

“National Grid” means National Grid Electricity Transmission plc. (Company No. 02366977) and their successors in title, assigns and any other person exercising their powers or performing the same functions;

“onshore HVAC cables” means two 400 kilovolt HVAC cable circuits for the transmission of electricity, together with: (i) fibre optic data transmission cable for the purpose of control,

monitoring and protection and an earth continuity conductor with each cable circuit; and (ii) one or more cable crossing;

“onshore HVDC cables” means two 320 kilovolt HVDC cable circuits for the transmission of electricity together with: (i) fibre optic data transmission cables accompanying each HVDC cable circuit for the purpose of control, monitoring and protection of the HVDC cable circuits and the converter station, and for commercial telecommunications; and (ii) one or more cable crossing;

“onshore site preparation works” means:

- (a) pre-construction archaeological investigations;
- (b) environmental surveys and monitoring;
- (c) site clearance;
- (d) removal of hedgerows, trees and shrubs;
- (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 site advertisements;
- (i) erection of temporary buildings, structures or enclosures; and
- (j) Work No. 2 (bb) (access junction and associated gated highway link);

“onshore works” means Works No’s 1 to 5 (inclusive) described in Schedule 1 and any other works landwards of MLWS in connection with those Works authorised by this Order or, as the case may require, any part of those works and “onshore work” refers to any one of the onshore works;

“Order land” means the land which is within the limits of the land to be acquired shown on and identified by plot numbers on the land plans and described in the book of reference;

“Order limits” means the limits shown on the works plans within which the authorised development may be carried out, whose grid co-ordinates seaward of MHWS are set out in paragraph 2 of Schedule 1 of this Order;

“operational period” means the period of time that the relevant part of the authorised development is in operation after construction and commissioning is complete pursuant to the relevant construction contract or contracts and “operation” and “operational” should be construed accordingly;

“optical regeneration station” means signal amplification and control equipment associated with fibre optic data transmission cables required to ensure an adequate signal strength housed within a building;

“owner”, in relation to land, has the same meaning as in section 7 of the 1981 Act (interpretation);

“parameter plans” means the plans certified by the Secretary of State as the parameter plans under article 43 (Certification of plans and documents, etc.) for the purposes of this Order and identified in Schedule 7;

“permanent limits” means the limits of land for the purpose of article 20 (Compulsory acquisition of land) as shown shaded pink, blue, purple and green on the land plans;

“the permit schemes” means the following schemes made under part 3 of the Traffic Management Act 2004(a) as in force at the date on which this Order is made –

- (a) The Traffic Management (Hampshire County Council) Permit Scheme Order 2019; and
- (b) The Portsmouth City Council Permit Scheme Order 2020.

(a) 2004 c.18

“plot 10-14” means plot 10-14 as shown on the land plans and described in the book of reference;

“Portsmouth City Council development consent obligation” means the document certified by the Secretary of State as the Portsmouth City Council development consent obligation under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“provisional advance authorisation” has the same meaning as in regulation 2 of the Traffic Management Permit Scheme Regulations 2007(a);

“relevant highway authority” means, in any given provision of this Order, the highway authority for the highway that the provision relates to i.e. Hampshire County Council or Portsmouth City Council, as the case may be;

“relevant street authority” means, in any given provision of this Order, the street authority for the street that the provision relates to i.e. Hampshire County Council or Portsmouth City Council, as the case may be;

“relevant planning authority” means, in any given provision of this Order, the local planning authority for any area of land that the provision relates to, i.e. Winchester City Council, Havant Borough Council, Portsmouth City Council or East Hampshire District Council, as the case may be, or in respect of the marine works the Marine Management Organisation;

“requirement” means a requirement set out in Schedule 2, and a reference to a numbered requirement is a reference to the requirement set out in the paragraph of the same number in that Schedule;

“SSE” means SSE Electricity Limited (Company No. 04094263) and their successors in title, assigns and any other person exercising their powers or performing the same functions;

“schedule of documents forming the environmental statement” means the document certified by the Secretary of State as the schedule of document forming the environmental statement under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“South Downs National Park Authority development consent obligation” means the document certified by the Secretary of State as the South Downs National Park Authority development consent obligation under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act (statutory undertakers’ land) and includes a public communications provider as defined in section 151(1) of the Communications Act 2003(b);

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the meaning given in Part 3 of the 1991 Act (the street authority and other relevant authorities);

“subsoil” means any part of the substrata which is below the surface of the ground;

“telecommunications building” means telecommunications apparatus and ancillary equipment related to the termination of and for the commercial use of the fibre optic data transmission cables housed within a building;

“traffic authority” has the same meaning as in the 1984 Act;

“traffic management strategy” means a strategy containing details of the traffic management measures to be implemented in connection with the carrying out of works on any street to be approved pursuant to requirement 25;

“traffic signs” has the meaning given in section 64(1) of the 1984 Act (General provisions as to traffic signs);

(a) S.I. 2007/3372
(b) 2003 c.21

“transitional joint bay” means the underground concrete bays forming part of Work No. 5, where the marine HVDC cable in Works No. 6 and 7 is jointed to the onshore HVDC cable in Works No. 4

“tree preservation order” has the meaning given in section 198 of the 1990 Act (power to make tree preservation orders);

“trenchless installation techniques” means techniques for installing an underground duct between two points, without excavating and back-filling a trench;

“trenchless installation technique compound” means a construction compound to be provided in connection with the undertaking of trenchless installation techniques;

“tribunal” means the Upper Tribunal (Lands Chamber);

“undertaker” means AQUIND Limited (company number 06681477) or the person who has the benefit of this Order in accordance with article 6 (Benefit of Order) and 7 (Consent to transfer benefit of Order);

“undertaking” mean the transmission of electricity, ensuring security of supply, the provision of ancillary services to facilitate and support the continuous flow of electricity and the provision of telecommunications services by the undertaker as authorised from time to time;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“Work” means a work identified as part of the authorised development in Schedule 1 (Authorised Development);

“works plans” means the plans certified by the Secretary of State as Works Plans under article 43 (Certification of plans and documents, etc.) for the purposes of this Order and identified in Schedule 5; and

“working day” means Monday to Friday excluding bank holidays and other public holidays.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictions are references to restrictive covenants over land which interfere with the interests or rights of another and are for the benefit of land which is acquired, or rights over which are acquired, under this Order.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a Work comprised in the authorised development and shown on the works plans or access and rights of way plans are to be taken to be measured along that Work.

(4) All areas described in square metres in the book of reference are approximate.

(5) References to any statutory body includes that body’s successor bodies from time to time that have jurisdiction over the authorised development.

(6) References in the Schedules to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the access and rights of way plans or land plans.

(7) Grid references in the Schedules are references to points on the Ordnance Survey National Grid.

(8) In this Order, the expression “includes” or “include” is to be construed without limitation.

PART 2

Principal powers

Development consent etc. granted by Order

3.—(1) Subject to the provisions of this Order including the requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Subject to the requirements Works Nos. 1 to 5 must be constructed within the Order limits landward of MHWS and Work Nos. 6 to 7 must be constructed within the Order limits seaward of MHWS.

Authorisation of use

4.—(1) The undertaker is authorised to operate and use the authorised development for which development consent is granted by this Order.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit, licence or other obligation under any other legislation that may be required from time to time to authorise the operation of any part of the authorised development.

Power to construct and maintain authorised development

5.—(1) The undertaker may at any time construct and maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain any further licence under Part 4 of the 2009 Act (marine licensing) for marine works not covered by the deemed marine licence.

Benefit of the Order

6.—(1) Subject to article 7 (Consent to transfer benefit of Order), the provisions of this Order have effect solely for the benefit of the undertaker.

Consent to transfer the benefit of Order

7.—(1) Subject to paragraph (3) the undertaker may with the written consent of the Secretary of State –

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (including the deemed marine licence, in whole or in part) and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of the Order (including the deemed marine licence, in whole or in part) and such related statutory rights as may be so agreed,

except where paragraph (5) applies in which case no consent of the Secretary of State is required.

(2) Where a transfer or grant has been made in accordance with paragraphs (1) references in this Order to the undertaker, except in paragraphs (4) and (6) include references to the transferee or the lessee.

(3) The Secretary of State must consult the MMO before giving consent to transfer or grant to another person the whole or part of the benefit of the provisions of the deemed marine licence.

(4) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (1) –

- (a) the benefit transferred or granted (“the transferred benefit”) includes any rights that are conferred and any obligations that are imposed, by virtue of the provisions to which the benefit relates; and
 - (b) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.
- (5) This paragraph applies to any provisions of this Order and its related statutory rights where –
- (a) the transferee or lessee is the holder of a licence under section 6(1)(e) of the 1989 Act;
 - (b) in respect of the benefit of the Order in so far as it relates to Work No. 1 the transferee is National Grid;
 - (c) in respect of the benefit of the Order in so far as it relates to the commercial telecommunications use of the fibre optic data transmission cables any person who Ofcom have directed the electronic communications code is to have effect in relation to pursuant to section 106 of the Telecommunications Act 2003;
 - (d) in respect of the benefit of the Order in so far as it relates to Work No. 2 (w) the transferee is SSE; or
 - (e) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and –
 - (i) no such claims have been made;
 - (ii) any such claim has been made and has been compromised or withdrawn;
 - (iii) compensation has been paid in final settlement of any such claim;
 - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or
 - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is repayable.
- (6) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State and if such transfer or grant relates to the exercise of powers in their area to the MMO and the relevant planning authority.
- (7) The notices required under paragraph (6) must –
- (a) state –
 - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
 - (ii) subject to paragraph (8) the date on which the transfer will take effect;
 - (iii) the provisions to be transferred or granted; and
 - (iv) the restrictions, liabilities and obligations that in accordance with paragraphs (4) will apply to the person exercising the powers transferred or granted; and
 - (v) where paragraph (5) does not apply confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.
 - (b) be accompanied by –
 - (i) where relevant a plan showing the works or areas to which the transfer or grant relates; and
 - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.
- (8) The date specified under paragraph (7)(a)(ii) must not be earlier than the expiry of five working days from the date of receipt of the notice.
- (9) The notice given under paragraph (6) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

(10) Section 72(7) and (8) of the 2009 Act do not apply to a transfer or grant of the whole or part of the benefit of the provisions of the deemed marine licence to another person by the undertaker pursuant to an agreement under paragraph (1).

Application, exclusion and modification of legislative provisions

8.—(1) Regulation 6 of the Hedgerows Regulations 1997 is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following –

(a) “or (k) for the carrying out of development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.”.

(2) The provisions of the Neighbourhood Planning Act 2017 insofar as they relate to temporary possession of land under articles 30 (temporary use of land for the construction of the authorised development) and 32 (temporary use of land for maintaining the authorised development) of this Order do not apply in relation to the works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised development.

(3) The Town and Country Planning (Border Facilities and Infrastructure) (EU Exit) (England) Special Development Order 2020 does not apply in relation to any land that is within the Order limits.

(4) For the purposes only of Section 106 (1) of the 1990 Act –

(a) the undertaker shall be deemed to be a person interested in the Order land or any part of it and for the avoidance of doubt Section 106(3)(a) shall include any transferee under Article 7 of this Order; and

(b) the South Downs National Park Authority shall be deemed to be a local planning authority in respect of the Order land for the purposes of the South Downs National Park Authority development consent obligation only.

Defence to proceedings in respect of statutory nuisance

9.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) and (ga) (noise that is prejudicial to health or a nuisance and is emitted or caused by a vehicle, machinery or equipment on a street) of section 79(1) of that Act no order may be made and no fine may be imposed under section 82(2) of that Act if the defendant shows that the nuisance–

(a) relates to premises, vehicles, machinery or equipment used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site) or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(b); or

(b) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with the controls and measures relating to noise as described in a construction environmental management plan approved pursuant to requirement 15;

(c) relates to premises used by the undertaker for the purposes of or in connection with the operation of authorised development and that the nuisance is attributable to the operation of the authorised development in accordance with the noise levels set out in a noise management plan approved pursuant to requirement 20; or

(a) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(b) 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to the Order.

(d) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided.

(2) For the purpose of paragraph (1) above, compliance with the controls and measures relating to noise described in an approved construction environmental management plan will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) and section 61(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to noise referred to in a relevant construction environment management plan approved pursuant to requirement 15.

(4) Section 61(9) (consent for work on construction sites to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of the premises by the undertaker for purposes of or in connection with the construction or maintenance of the authorised development.

(5) In this article “premises” has the same meaning as in section 79 of the Environmental Protection Act 1990(a).

PART 3 STREETS

Application of the permit scheme

9A –

(1) The permit schemes apply to the construction and maintenance of the authorised development and will be used by the undertaker in connection with the exercise of any powers conferred by this Part.

(2) For the purposes of this Order–

- (a) a permit in relation to the construction of the authorised development may not be granted subject to conditions which conflict with the framework traffic management strategy or require the authorised development to be carried out in a manner which conflicts with any approvals granted pursuant to this Order (including any relevant approved traffic management strategy) or where the undertaker would be unable to comply with those conditions through the exercise of the powers conferred by this Order;
- (b) a permit in relation to the construction of the authorised development may not be refused where the proposed reason for refusal is the inability to impose a condition which will not comply with paragraph 2(a);
- (c) a permit in relation to the construction of the authorised development may not be refused or granted subject to conditions which relate to the imposition of a moratoria; and
- (d) where a provisional advance authorisation has been granted to the undertaker in advance of the grant of a permit in relation to the construction of the authorised development the relevant street authority may not grant a permit for any other works in the location during the time period to which that provisional advance authorisation relates save that nothing will restrict the ability of the local highway authority to grant a permit for immediate works.

(3) Irrespective of anything which is stated to the contrary within the permit schemes, where the undertaker submits an application for a permit in relation to the construction of the authorised development subject to proposed conditions and the relevant highway authority wishes for different conditions to be imposed on the permit the relevant highway authority must seek to reach

(a) 1990 c. 43.

agreement with the undertaker on the conditions subject to which the permit is to be granted and provide alternative permit conditions to the undertaker within 10 working days following the date on which the application for the permit is made by the undertaker and must not refuse an application for a permit before the end of the period which is 5 working days following the date on which the alternative permit conditions are provided to the undertaker.

(4) Where the undertaker confirms its agreement to the alternative permit conditions provided by the relevant highway authority pursuant to paragraph (3) before the expiry of 5 working days following the date on which any such alternative permit conditions are provided to the undertaker, the relevant highway authority must grant the permit subject to those conditions.

(5) Any alternative permit conditions provided by a relevant highway authority in accordance with paragraph (3) must comply with paragraph 2(a).

(6) References to moratoria in paragraph (2)(c) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(7) Reference to immediate works in paragraph 2(d) means emergency works as that term is defined in section 52 of the 1991 Act and urgent works as that term is defined in regulation 3(1) of the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.

(8) Without restricting the undertaker's recourse to any alternative appeal mechanism which may be available under the permit schemes or otherwise, the undertaker may appeal any decision to refuse to grant a permit, or to grant a permit subject to conditions, in accordance with the mechanism set out in Schedule 3 of this Order.

Power to alter layout etc. of streets

10.—(1) Subject to paragraph (3), the undertaker may for the purpose of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not within the Order limits and the layout of any street having a junction with such a street and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track, central reservation or verge within a street;
- (b) alter the level or increase the width of any such street, kerb, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the street;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) carry out works necessary to alter or provide facilities for the management and protection of pedestrians; and
- (i) execute any works to provide or improve sight lines required by the relevant street authority.

(2) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered pursuant to this article.

(3) The powers conferred by paragraph (1) must not be exercised without the approval of the relevant street authority and such approval is not to be unreasonably withheld or delayed.

(4) If a street authority which receives an application for approval under paragraph (3) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was made, it is deemed to have granted consent.

Street works

11.—(1) The undertaker may, for the purpose of the authorised development, enter on so much of any of the streets as is within the Order limits and may without the consent of the relevant street authority—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;
- (c) place or keep apparatus in, on or under the street;
- (d) maintain, renew or alter apparatus in, on or under the street or change its position;
- (e) execute and maintain any works to provide hard and soft landscaping;
- (f) carry out re-lining and placement of road markings;
- (g) remove and install temporary and permanent signage;
- (h) remove, replace and relocate any street furniture; and
- (i) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (h).

(2) Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the relevant street authority, which consent must not be unreasonably withheld or delayed, the undertaker may, for the purposes of the authorised development, enter on so much of any other street whether or not within the Order limits, for the purposes of carrying out the works set out at paragraph (1) above.

(3) If a relevant street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 42 days beginning with the date on which the application was made, that authority will be deemed to have granted consent.

(4) The authority given by paragraphs (1) and (2) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(5) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act and also expressly includes Work No. 4 and Work No. 5.

Application of the 1991 Act

12.—(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) carrying out of works under article 11 (Street works);
- (b) the temporary closure, temporary alteration or temporary diversion of a street by the undertaker under article 13 (Temporary closure of streets and public rights of way),

whether or not the carrying out of the works or the closure, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act are –

- (a) subject to paragraph (3), section 55 (notice of starting date of works);
- (b) section 57 (notice of emergency works);
- (c) section 59 (general duty of street authority to co-ordinate works);
- (d) section 60 (general duty of undertakers to co-operate);
- (e) section 65 (safety measures);
- (f) section 67 (qualifications of supervisors and operatives);
- (g) section 68 (facilities to be afforded to street authority);
- (h) section 69 (works likely to affect other apparatus in the street);
- (i) section 70 (duty of undertaker to reinstate);

- (j) section 71 (materials, workmanship and standard of reinstatement);
- (k) section 72 (powers of streets authority in relation to reinstatement);
- (l) section 73 (reinstatement affected by subsequent works);
- (m) section 75 (inspection fees);
- (n) section 76 (liability for cost of temporary traffic regulation);
- (o) section 77 (liability for cost of use of alternative route);
- (p) section 79 (records of location of apparatus);
- (q) section 80 (duty to inform undertakers of location of apparatus);
- (r) section 81 (duty to maintain apparatus);
- (s) section 82 (liability for damage or loss caused);
- (t) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs (a) to (q)

(3) Section 55 of the 1991 Act has effect as if references in section 57 of that Act to emergency works included a reference to a closure, alteration or diversion (as the case may be) required in a case of emergency.

Temporary closure, alteration, diversion or restriction of streets, public rights of way and permissive paths

13.—(1) The undertaker, during and for the purpose of constructing and maintaining the authorised development, may temporarily close, alter, divert or restrict any street, public right of way or permissive path within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street, public right of way or permissive path; and
- (b) subject to paragraph (3), prevent all persons from passing along the street, public right of way or permissive path.

(2) Without limitation on the scope of paragraph (1), the undertaker may use as a temporary working site any street, public right of way or permissive path which has been temporarily closed, altered, diverted or restricted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closure, alteration, diversion or restriction under this article if there would otherwise be no reasonable access.

(4) Without limitation to the generality of paragraph (1), the undertaker may temporarily close, alter, divert or restrict the streets, public rights of way or permissive paths specified in column (1) of Schedule 8 (Streets, public rights of way and permissive paths to be temporarily closed, altered, diverted or restricted) to the extent specified, by reference to the letters and numbers shown on the access and rights of way plans and stated in column (2) of Schedule 8.

(5) The undertaker must not temporarily close, alter, divert or restrict;

- (a) any street, public right of way or permissive path as mentioned in paragraph (4) without first consulting the relevant street authority; and
- (b) any other street, public right of way or permissive path without the consent of the street authority which may attach reasonable conditions to any consent, but such consent may not be unreasonably withheld or delayed.

(6) Where the undertaker provides a temporary diversion under paragraph (3), the temporary alternative route is not required to be of a higher standard than the temporarily closed street, or public right of way.

(7) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in the case of dispute, under Part I (determination of questions of disputed compensation) of the 1961 Act.

(8) If a relevant street authority that receives an application for consent under paragraph (5)(b) fails to notify the undertaker of its decision within 42 days of receiving the application, that relevant street authority will be deemed to have granted consent.

(9) References to temporary stopping up of any street or highway in Schedule 13 (protective provisions) are to be construed as a reference to the closure of that street or highway under this article.

Access to works

14.—(1) The undertaker may, for the purposes of the authorised development and subject to paragraph (2) with the consent of the relevant highway authority (such consent not to be unreasonably withheld or delayed) following consultation by the relevant highway authority with the relevant planning authority, form and lay out such means of access (permanent or temporary) or improve any existing means of access at such locations within the Order limits (including in the locations identified on the access and rights of way plans) as the undertaker reasonably requires for the purposes of the authorised development.

(2) The consent of the relevant highway authority under paragraph (1) is not required in relation to Work No. 2 (bb).

(3) If the relevant highway authority which has received an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was made, it is deemed to have granted consent.

Agreements with street authorities

15.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) any closure, alteration or diversion of a street authorised by this Order; or
- (b) the carrying out in the street of any of the works referred to in article 10 (power to alter layout etc. of streets) and article 11 (street works); and
- (c) such other works as the parties may agree.

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) specify a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and other matters as the parties consider appropriate.

Traffic regulation

16.—(1) Subject to the provisions of this article and the consent of the relevant traffic authority in whose area the street is situated, which consent may not to be unreasonably withheld or delayed, the undertaker may, for the purposes of or in connection with the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under this article;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road;
- (f) place traffic signs on or near a street, subject to and in conformity with the directions issued by the Secretary of State pursuant to powers conferred by section 64, 65 and 85 of the 1984 Act.

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) Before complying with the provisions of paragraph (3) the undertaker must consult the chief officer of police and the relevant highway authority in whose area the street is situated.

(3) The undertaker must not exercise the powers in paragraphs (1) unless it has—

- (a) given not less than 28 days' notice in writing of its intention so to do to the chief officer of police and to the relevant traffic authority in whose area the street is situated; and
- (b) advertised its intention in such manner as the relevant traffic authority may specify in writing within 7 days' of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1)

—
(a) has effect as if duly made by—

- (i) the relevant traffic authority in whose area the street is situated as a traffic regulation order under the 1984 Act; or
- (ii) the local authority in whose area the street is situated as an order under section 32 (Power of local authorities to provide parking spaces) of the 1984 Act(a),

and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

(b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(b)

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (1) at any time.

(6) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(7) If the relevant traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (1) the relevant traffic authority is deemed to have granted consent.

PART 4

Supplemental powers

Discharge of water

17.—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, operation or maintenance of the authorised development and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or use of a public sewer or drain by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 of the Water Industry Act 1991(c) (right to communicate with public sewers).

(a) As amended by section 102 of, and Schedule 7 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(b) 2004 c.18.

(c) 1991 c.56. Section 106 was amended by section 35(8)(a) of the Compensation and Service (Utilities) Act 1992 (c.43) and sections 36(2) and 99 of the water Act 2003 (c.37). There are other amendments to this section which are not relevant to this Order.

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld or delayed.

(4) The undertaker must not make any opening into any public sewer or drain pursuant to paragraph (1) except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld or delayed; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) Where the person receives an application for consent under paragraphs (3) or approval under paragraph (4)(a) and fails to notify the undertaker of its decision within 28 days' of receiving an application, that person will be deemed to have granted consent or given approval, as the case may be.

(6) The undertaker must not, in carrying out or maintaining the authorised development pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(7) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(8) This article does not authorise entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by regulations 12 of the Environmental Permitting (England and Wales) Regulations 2016(a)

(9) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority; and

(b) except as provided in article 2 (Interpretation), other expressions used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

Protective work to buildings

18.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of five years beginning with the day on which that part of the authorised development is first brought into operational use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

(a) enter the building and any land within its curtilage; and

(a) S.I. 2016/1154

- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 10 working days' notice of its intention to exercise that right and in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5) the owner or occupier of the building or land concerned may by serving a counter-notice within the period of 10 working days' beginning with the day on which the notice was served require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 45 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of five years beginning with the day on which the part of the authorised development constructed in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Without affecting article 35 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152 (compensation in a case where no right to claim nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

19.—(1) The undertaker may for the purposes of this Order enter on any land within the Order limits landwards of MLWS or which may be affected by the authorised development within Works Nos. 1 to 5 (inclusive) and—

- (a) survey, monitor or investigate the land (including any watercourses, groundwater, static water bodies or vegetation on the land);

- (b) without limitation to the generality of sub-paragraph (a), make trial holes, boreholes and excavations in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove samples;
- (c) without limitation to the generality of sub-paragraph (a), carry out ecological or archaeological investigations and monitoring on such land, including the digging of trenches; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, boreholes and excavations.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 10 working days' notice has been served on every occupier of the land.

(3) Any person entering on any land under this article on behalf of the undertaker—

- (a) must, if so required entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes, boreholes or excavations are to be made under this article—

- (a) in land forming a railway without the consent of Network Rail^(a)
- (b) in land by or in right of the Crown without the consent of the Crown;
- (c) in land located within the highway boundary without the consent of the relevant highway authority; or
- (d) in a private street without the consent of the relevant street authority

but such consent must not be unreasonably withheld or delayed.

(5) As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove any apparatus and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If either a relevant highway authority or a relevant street authority which receives an application for consent under this article fails to notify the undertaker of its decision within 28 days' of receiving the application, that authority will be deemed to have granted consent.

(8) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

PART 5

Powers of acquisition

Compulsory acquisition of land

20.—(1) The undertaker may—

- (a) acquire compulsorily so much of the Order land within the permanent limits and described in the book of reference and shown on the land plans as is required for the

(a) As defined in Part 4 of Schedule 13 (For Protection of Railway Interests)

construction, operation or maintenance of the authorised development or to facilitate it, or as is incidental to it; and

- (b) use any land so acquired for the purposes authorised by this Order or for any other purposes in connection with or ancillary to the undertaking.

(2) This article is subject to article 22 (Time limit for the exercise of the Order, article 23 (Compulsory acquisition of rights and the imposition of restrictive covenants), article 27 (Acquisition of subsoil and airspace only), article 29 (Rights under or over streets), article 30 (Temporary use of land for carrying out authorised development) and article 47 (Crown rights).

Statutory authority to override easements and other rights

21.—(1) The carrying out or use of the authorised development and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) (nuisance: statutory authority) of the 2008 Act, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
(b) a breach of a restriction as to user of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

- (a) an interference with an interest or right to which this article applies; or
(b) a breach of a restriction as to user of land arising by virtue of contract,

authorised by virtue of this Order and the operation of section 158 of the 2008 Act.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(4) Subsection (2) of section 10 of the 1965 Act applies to paragraph (2) by virtue of section 152(5) of the 2008 Act (compensation in case where no right to claim in nuisance).

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act is to be applied to the construction of paragraph (2) (with any necessary modifications).

Time limit for exercise of authority to acquire land compulsorily

22.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act (which makes provision for compulsory acquisition under the Acquisition of Land Act 1981); and
(b) no declaration is to be executed under section 4 of the 1981 Act as applied by article 25 (Application of the Compulsory Purchase (Vesting Declarations) Act 1981)(a),

in respect of the acquisition by the undertaker of land for the authorised development under this Order.

Compulsory acquisition of rights and the imposition of restrictive covenants

23.—(1) Subject to the provisions of this article, the undertaker may acquire compulsorily the rights, and impose the restrictions, over so much of the Order land within the permanent limits

(a) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Sections 10 and 11 and Schedule 1 were amended by S.I. 2009/137. Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c. 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are other amendments to the 1981 Act which are not relevant to this Order.

described in the book of reference and shown on the land plans as is required for the construction, operation or maintenance of the authorised development or to facilitate it, or as is incidental to it, by creating them as well as by acquiring rights and benefits of restrictions already in existence.

(2) Subject to section 8 of the 1965 Act (provisions as to divided land), as substituted by article 28 (Acquisition of part of certain properties), where the undertaker acquires a right over land or imposes a restriction under paragraph (1), the undertaker is not to be required to acquire a greater interest in that land.

(3) Schedule 9 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(4) In any case where the acquisition of rights or imposition of a restrictive covenant under paragraph (1) is required for the purposes of diverting, replacing or protecting the apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights or impose such restrictive covenants to the statutory undertaker in question.

(5) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (4) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(6) Nothing in this article authorises the acquisition of rights over, or the imposition of restrictions affecting, an interest which is for the time being held by or on behalf of the Crown.

Private rights of way

24.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order will be extinguished—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on to the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights of way over land owned by the undertaker which, being within the Order limits, is required for the purposes of this Order will be extinguished on the commencement of any activity authorised by this Order which interferes with or breaches such rights.

(3) Subject to the provisions of this article, all private rights of way over land of which the undertaker takes temporary possession under this Order will be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 33 (Statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or acquisition of rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry onto it; or

- (iv) the undertaker’s taking temporary possession of it, that any or all of those paragraphs will not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right of way in question is vested or belongs.
- (7) If any such agreement as is referred to in paragraph (6)(b)—
 - (a) is made with a person in or to whom the right is vested or belongs; and
 - (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it will be effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

- 25.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as so applied, has effect with the following modifications.
- (3) In section 1 (Application of Act) for subsection (2) there is substituted—
 - (a) “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”
- (4) In section 5(2) (earliest date for execution of declaration) omit the words from “, and this subsection” to the end.
- (5) Section 5A (Time limit for general vesting declaration) is omitted(a).
- (6) In section 5B (Extension of time limit during challenge)—
 - (a) for “section 23 of the Acquisition of Land Act 1981 (Application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (Legal challenges relating to applications for orders granting development consent)”; and
 - (b) for “the three year period mentioned in section 4” substitute “the 5 year period mentioned in article 22 of the AQUIND Interconnector Order 202[*]”.
- (7) In section 6 (Notices after execution of declaration) for subsection (1)(b) there is substituted—
 - (a) “(1) (b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 of the Planning Act 2008.”
- (8) In section 7 (Constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” are omitted.
- (9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).
- (10) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are to be construed as references to the 1965 Act as applied by section 125 of the 2008 Act (application of compulsory acquisition provisions) to the compulsory acquisition of land under this Order.

Modification of Part 1 of the Compulsory Purchase Act 1965

- 26.—(1) Part 1 of the 1965 Act, as applied to this Order by Section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows:
 - (2) In section 4 (time limit for giving notice to treat) for “after the end of the period of 3 years beginning the day on which the compulsory purchase order becomes operative” substitute “after

(a) Section 5A to the 1981 Act was inserted by Section 182 of the Housing and Planning Act 2016 (c.22).

the end of the period stated in article 22 (Time limit for exercise of authority to acquire compulsorily) of the AQUIND Interconnector Order 202[]”

- (3) In section 4A (1) (extension of time limit during challenge) –
 - (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)”;
 - (b) for “the three year period mentioned in section 4” substitute “the 5 year period mentioned in article 22 (Time limit for exercise of authority to acquire land compulsorily) of the AQUIND Interconnector Order 202[]”.
- (4) In section 11A (powers of entry: further notices of entry) –
 - (a) in subsection (1)(a) after “land” insert “under that provision”; and
 - (b) in subsection (2), after “land” insert “under that provision”.
- (5) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 22 (Time limit for exercise of authority to acquire land compulsorily) of the AQUIND Interconnector Order 202[*]”
- (6) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat) –
 - (a) for paragraphs 1(2) and 14(2) substitute –
 - (b) “(2) But see article 26(3) (acquisition of subsoil only) of the AQUIND Interconnector Order 202[*], which excludes the acquisition of subsoil from this Schedule”; and
 - (c) at the end insert –

“Part 4

Interpretation

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 18 (protective work to buildings), article 30 (temporary use of land for carrying out the authorised development) or article 32 (temporary use of land for maintaining the authorised development) of the AQUIND Interconnector Order 202[].”

Acquisition of subsoil and airspace only

27.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of and the airspace over the land referred to in paragraph (1) of article 20 (compulsory acquisition of land) or article 23 (Compulsory acquisition of rights and the imposition of restrictive covenants) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of or rights in the subsoil of or the airspace over any land under paragraph (1) the undertaker will not be required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only-

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) Section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

Acquisition of part of certain properties

28.—(1) This article applies instead of section 8 of the 1965 Act (other provisions as divided land) (as applied by section 125 of the 2008 Act) where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 28 days’ beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner is required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question of whether the owner is required to sell only the land subject to the notice to treat must, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the Tribunal.

(5) If on such a reference the Tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner must sell the land subject to the notice to treat.

(6) If on such a reference the Tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is to be deemed to be a notice to treat for that part.

(7) If on such a reference the Tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the Tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is to be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where by reason of a determination by the Tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice the

undertaker may within the period of 6 weeks beginning with the day on which the determination is made withdraw the notice to treat; and in that event, pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice to be determined in case of dispute by the Tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Rights under or over streets

29.—(1) The undertaker may enter on and appropriate and use so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, will be entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not be payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for the construction of the authorised development

30.—(1) Subject to paragraph (5), the undertaker may in connection with the construction of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) the land specified in column (2) of Schedule 10 for the purpose specified in relation to that land in column (1) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (powers of entry) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), haul roads, security fencing, buildings and structures on that land;
- (d) use the land for the purposes of a construction compound with access to the construction compound in connection with the authorised development; and
- (e) construct any works specified in relation to that land in column (1) of Schedule 10 (land of which temporary possession may be taken), or any other mitigation works.

(2) Subject to paragraph (5), not less than 14 days' before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land remain in possession under this article—

- (a) in the case of land specified in paragraph 1(a)(i) above (excluding plot 10-14) after the end of the period of 1 year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (1) of Schedule 10 unless and to the extent that it is authorised to do so by the acquisition of rights over land or the creation of new rights over land pursuant to article 23 (Compulsory acquisition of rights and the imposition of restrictive covenants);
- (b) in the case of plot 10-14 and in relation to any and all times temporary possession is taken of that plot, once the purposes for which temporary possession may be taken have been achieved; or
- (c) in the case of land referred to in paragraph 1(a)(ii), after the end of the period of 1 year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must either acquire the land or rights over the land subject to the temporary possession or, unless otherwise agreed with the owners of the land, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 8 (Streets subject to street works);
- (d) restore the land to a condition better than the relevant land was in before temporary possession;
- (e) remove any ground strengthening works which have been placed on the land to facilitate construction and operation of the authorised development;
- (f) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development; or
- (g) remove or reposition any apparatus belonging to statutory undertakers or necessary mitigation works.

(5) In exercising the powers of the article in respect of plot 10-14 the undertaker may not undertake any of the activities listed in paragraph (1) (b), (c), (d) or (e) and must when entering on and taking temporary possession of any part of plot 10-14 provide so much notice to the owners and occupiers of the land (which may include notification following the taking of temporary possession where necessary) as is reasonably practicable in the circumstances.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of any power conferred by this article.

(7) Any dispute as to the persons entitled to compensation under paragraph (6), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the construction of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) nor acquire compulsorily any new rights or impose any restrictive covenants over that land except that the undertaker is not precluded from carrying out a survey of that land under article 19 (Authority to survey and investigate the land).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in paragraph (1).

Time limit for exercise of authority to temporarily use land for the construction of the authorised development

31.—(1) Subject to paragraph (2), the authority to enter onto land pursuant to article 30 (Temporary use of land for the construction of the authorised development) ceases to apply at the end of the period of 5 years beginning on the day on which this Order is made.

(2) Nothing in paragraph (1) prevents the undertaker remaining in possession of land after the end of that period if the land was entered and possession was taken before the end of the period.

Temporary use of land for maintaining the authorised development

32.—(1) Subject to paragraph (2), and without prejudice to any other rights enjoyed by the undertaker from time to time, at any time during the maintenance period relating to any part of the authorised development the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits landwards of MLWS if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) construct such temporary works (including the provision of means of access) and structures and buildings on the land as may be reasonably necessary for that purpose;
- (c) enter onto any land within the Order limits landwards of MLWS for the purpose of gaining access as is reasonably required for the purpose of maintaining the authorised development.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days' before entering on and taking temporary possession of land under this article the undertaker is required to serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practical in the circumstances.

(5) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker is required to remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to the persons entitlement to compensation under this article, or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (Further provisions as to compensation for injurious affection) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where the undertaker takes possession of land under this article the undertaker is not required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) In this article “the maintenance period”, in relation to any part of the authorised development means the period of 5 years beginning with the date on which that part of the authorised development is brought into operational use, except where the authorised development is replacement or landscape planting where “the maintenance period” means the period of 5 years beginning with the date on which that part of the replacement or landscape planting is completed.

Statutory undertakers

33.—(1) Subject to the provisions of Schedule 13 (Protective provisions), the undertaker may—

- (a) acquire compulsorily or acquire new rights or impose restrictive covenants over the land belonging to statutory undertakers within the Order limits landwards of MLWS and described in the book of reference;
- (b) extinguish or suspend the rights of, remove, alter, renew, relocate or reposition the apparatus belonging to statutory undertakers over or within the Order limits landwards of MLWS; and
- (c) construct the authorised development in such a way as to cross underneath or over apparatus belonging to statutory undertakers and other like bodies within the Order limits landwards of MLWS.

(2) Subject to the provisions of Schedule 13 (Protective provisions) the undertaker may for the purposes of article 11 (Street works) remove or reposition apparatus belonging to statutory undertakers which is laid beneath any of the streets within the Order limits.

Recovery of costs of new connections

34.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 33 (Statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 32 (Statutory undertakers), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 of the 1991 Act applies.

(4) In this article—

“public communications provider” has the meaning given in section 151(1) of the Communications Act 2003; and

“public utility undertaker” has the meaning given in section 329 of the 1980 Act.

No double recovery

35.—(1) Compensation will not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more provisions of this Order.

Special category land

36.—(1) So much of the special category land as is required for the purposes of the exercising by the undertaker of the Order rights is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of the Order rights.

(2) So far as the temporary use of land under either article 30 (Temporary use of land for carrying out the authorised development) and article 32 (Temporary use of land for maintaining the authorised development) is concerned, then the discharge in paragraph (1) is only for such time as any land required only temporarily is being used under either of those articles.

(3) In this article—

“Order rights” means rights and powers exercisable over the special category land by the undertaker under article 23 (Compulsory acquisition of rights), article 30 (Temporary use of land for carrying out the authorised development) and article 32 (Temporary use of land for maintaining the authorised development); and

“the special category land” means the land identified as forming part of a common, open space, or fuel or field allotment in the book of reference and on the land plans.

PART 6

Operations

Deemed marine licence under the 2009 Act

37.—(1) The deemed marine licence set out in Schedule 15 (deemed marine licence under the 2009 Act) is deemed to be granted on the date this Order comes into force to the undertaker under Part 4 (marine licensing) of the 2009 Act for the licensed marine activities set out in Part 1, and subject to the conditions set out in Part 2 of that Schedule.

PART 7

Miscellaneous and general

Protective provisions

38.—(1) Schedule 13 (Protective provisions) to this Order has effect.

Application of landlord and tenant law

39.—(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants is to prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

40.—(1) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Felling or lopping of trees and removal of hedgerows

41.—(1) The undertaker may fell, lop, prune, coppice, pollard or reduce in height any tree or shrub within or overhanging the Order limits landwards of MLWS, or may cut back the roots of a tree or shrub where they extend into the Order limits, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

- (a) obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) constituting a danger to persons involved in the construction, maintenance and operation of the authorised development.

(2) In carrying out any activity authorised by paragraph (1) or (3), the undertaker must not do any unnecessary damage to any tree, shrub or hedgerow and must pay compensation to any person for any loss or damage arising from such activity for that loss or damage.

(3) The undertaker may, for the purposes of and in so far as it reasonably believes is necessary in connection with the authorised development—

- (a) subject to paragraph (2), remove any hedgerows within the Order limits landwards of MLWS that may be required for the purposes of carrying out the authorised development; and
- (b) remove important hedgerows as are within the Order limits landwards of MLWS and identified in Schedule 12.

(4) The power conferred by paragraph (3) removes any obligation upon the undertaker to secure any consent under the Hedgerow Regulations 1997(a).

(5) Nothing in this article authorises any works to any tree subject to a Tree Preservation Order.

(6) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) In this article "hedgerow" and "important hedgerow" have the meaning given in the Hedgerow Regulations 1997.

Trees subject to tree preservation orders

42.—(1) The undertaker may fell, lop or prune part of any tree which is within, over or under land within the Order limits and which is described in column (1) of Schedule 11, or cut back its roots if it reasonably believes it to be necessary in order to do so to prevent the tree from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must not cause unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Certification of plans and documents, etc.

43.—(1) The undertaker must, as soon as practicable after the date on which this Order is made, submit to the Secretary of State copies of the documents and plans identified in Schedule 14 (Certified Documents) of this Order for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document identified in Schedule 14 so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies the provision by number or combination of numbers and letters, which is different from the number or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made; and

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

Service of notices

44.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post; or
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (9), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the

(a) 1978 c. 30. There are amendments to this Act which are not relevant to this Order.

service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Paragraphs (6) to (9) apply where a person (“A”) is required or authorised to serve or send a notice or other document for the purposes of this Order on or to another person (“B”).

(6) A may serve or send the notice or other document by electronic transmission if—

- (a) B has sent A notice that B agrees to receive that notice or document (or notices and documents of a description including that notice or document) by electronic transmission;
- (b) B has not subsequently withdrawn that agreement in accordance with paragraph (8); and
- (c) A complies with any conditions as to addressing or mode of transmission that B has specified in agreeing to receive notices or other documents by electronic transmission.

(7) If B notifies A within 7 days’ of receiving a notice or other document by electronic transmission that B requires a paper copy of all or any part of the notice or other document, A must provide B with such a copy as soon as reasonably practicable.

(8) B may withdraw agreement to receive a notice or document (or notices or documents of a specified description) by electronic transmission by sending a notice to that effect to A.

(9) Notice under paragraph (8) is final and takes effect on a date specified by B in the notice but that date must not be less than 7 days’ after the date on which the notice is given.

(10) This article does not exclude the employment of any method of service not expressly provided for by it.

Arbitration

45.—(1) Subject to article 49 (saving provisions for Trinity House), except where otherwise expressly provided for in this Order, any difference under any provision of this Order (other than a difference which falls to be determined by the Tribunal) shall be referred to and settled in arbitration in accordance with the rules at Schedule 17 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.

Procedure in relation to certain approvals etc.

46.—(1) Schedule 3 (Procedure for approvals, consents and appeals) is to have effect in relation to all consents, agreement or approvals granted, refused or withheld in relation to the requirements unless otherwise agreed between the undertaker and the discharging authority.

(2) The procedure set out in paragraph (1) relating to the appeal process of Schedule 3 has effect in relation to any other consent, agreement or approval required under this Order (including the requirements but excluding any matter for which the consent, agreement or approval of the Marine

Management Organisation is required) where such consent, agreement or approval is granted subject to any condition to which the undertaker objects, or is refused or is withheld.

(3) Where an application is made to or a request is made of the relevant planning authority, highway authority, street authority or the owner of a watercourse, sewer or drain for any agreement or approval required or contemplated by any of the provisions of the Order, such agreement or approval must, if given, be given in writing and may not be unreasonably withheld.

Crown rights

47.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the Government Department having the management of that land; or
- (c) belonging to a Government Department or held in trust for Her Majesty for the purposes of a Government Department without the consent in writing of that Government Department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227 of the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined in the 2008 Act). A consent under paragraph (1) may be given unconditionally or subject to terms and conditions and is deemed to have been given in writing where it is sent electronically.

Removal of human remains

48.—(1) In this article “the specified land” means land within the Order limits which the undertaker reasonably considers contains human remains.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it will remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker will give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker will send a copy of the notice to relevant discharging authority for the area in which the land is located.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or

(b) removed to, and cremated in, any crematorium,
and that person will, as soon as reasonably practicable after such re-interment or cremation,
provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the
personal representative or relative as that person claims to be, or that the remains in question can
be identified, the question is to be determined on the application of either party in a summary
manner by the county court, and the court may make an order specifying who will remove the
remains and as to the payment of the costs of the application.

(8) The undertaker will pay the reasonable expenses of removing and re-interring or cremating
the remains of any deceased person under this article 48.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph
has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after
the giving of the notice but the person who gave the notice fails to remove the remains
within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any
person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,
subject to paragraph (10) the undertaker will remove the remains and cause them to be re-
interred in such burial ground or cemetery in which burials may legally take place as the
undertaker thinks suitable for the purpose; and, so far as possible, remains from
individual graves will be re-interred in individual containers which will be identifiable by
a record prepared with reference to the original position of burial of the remains that they
contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the
personal representative or relative as that person claims to be and that the remains in question can
be identified, but that person does not remove the remains, the undertaker will comply with any
reasonable request that person may make in relation to the removal and re-interment or cremation
of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation will be sent by the undertaker to the Registrar
General by the undertaker giving the date of re-interment or cremation and identifying the
place from which the remains were removed and the place in which they were re-interred
or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in
paragraph (9) will be sent by the undertaker to the relevant discharging authority for the
area in which the land is located mentioned in paragraph (4).

(12) No notice is required under paragraph (3) before the removal of any human remains where
the undertaker is satisfied that—

- (a) that the remains were interred more than 100 years ago; and
- (b) that no relative or personal representative of the deceased is likely to object to the remains
being removed in accordance with this article.

(13) In this article—

- (a) references to a relative of the deceased are to a person who—
 - (i) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the
deceased; or
 - (ii) is, or is a child of, a brother, sister, uncle or aunt of the deceased.
- (b) references to personal representative of the deceased are to person who—
 - (i) is the lawful executor or executrix of the estate of the deceased; or

(ii) is the lawful administrator of the estate of the deceased.

(14) The removal of the remains of any deceased person under this article is to be carried out in accordance with any directions which may be given by the Secretary of State.

(15) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(16) Section 25 of the Burial Act 1857^(a) (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) does not apply to a removal carried out in accordance with this article.

(17) Section 239 (use and development of burial grounds) of the 1990 Act applies—

(a) In relation to land, other than a right over land, acquired for the purposes of the authorised development (whether or not by agreement), so as to permit use by the undertaker in accordance with the provisions of the Order; and

(b) In relation to a right over land so acquired (whether or not by agreement), or the temporary use of land pursuant to article 30 (Temporary use of land for carrying out the authorised development) and article 32 (Temporary use of land for maintaining the authorised development), so as to permit the exercise of that right or the temporary use by the undertaker in accordance with the provisions of this Order,

And in section 240(1) (provisions supplemental to ss.238 and 239) of the 1990 Act reference to “regulations made for the purposes of section 283(3) and (4) and 239(2) means, so far as applicable to land or a right over land acquired under this Order, paragraphs (2) to (15) of this article and in section 240(3) of the 1990 Act reference to a “statutory undertaker” includes the undertaker and reference to “any other enactment” includes this Order.

(18) The Town and Country Planning Act (Churches, Places of Worship and Burial Grounds) Regulations 1950^(b) do not apply to the authorised development.

Saving provisions for Trinity House

49.—(1) Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

Development consent obligations

50.—(1) The authorised development must not begin for the purposes of section 155(1) of the 2008 Act unless and until the undertaker completes the following development consent obligations pursuant to section 106 of the 1990 Act—

(a) the Hampshire County Council development consent obligation.

(b) the Portsmouth City Council development consent obligation; and

(c) the South Downs National Park Authority development consent obligation.

Guarantees in respect of the payment of compensation etc.

51.—(1) The authorised development landwards of MHWS must not begin for the purposes of section 155(1) of the 2008 Act and the undertaker must not exercise the powers in articles 20 to 36 until—

(a) subject to paragraph (3), security of £4.97 million has been provided in respect of the liabilities of the undertaker to pay compensation to landowners in connection with the acquisition of their land or of rights over their land or the temporary use of land by the undertaker exercising its powers under Part 5 of this Order; and

(b) the Secretary of State has approved the security in writing.

(a) 1857 c.81.

(b) S.I. 1950/792.

(2) The security referred to in paragraph (1) may include, without limitation, any one or more of the following:

- (a) the deposit of a cash sum;
- (b) a payment into court;
- (c) an escrow account;
- (d) a bond provided by a financial institution;
- (e) an insurance policy;
- (f) a guarantee by a parent company or companies of the undertaker;
- (g) a guarantee by a person of sufficient financial standing (other than the undertaker).

(3) A guarantee given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor by any person to whom such compensation is payable.

(4) The Secretary of State is to have no liability to pay compensation in respect of the compulsory acquisition of land or otherwise under this Order.

Signed by Authority of the Secretary of State for Business, Energy and Industrial Strategy

Head of [x]

Address

Department for Business, Energy and Industrial Strategy

Name

Date

SCHEDULE 1

Article 3

Authorised Development

1. Development which is to be treated as development for which development consent is required as directed by the Secretary of State in the direction issued pursuant to section 35 of the 2008 Act dated 30 July 2018 and associated development within the meaning of section 115(2) of the 2008 Act which is located approximately 13.5 kilometres north of the south coast near Lovedean to the exclusive economic zone boundary between the UK and France, comprising -

Work No. 1 – substation connection works within the area shown on the works plans consisting of -

- (a) extension of the existing substation, including site establishment, earthworks, civil and building works;
- (b) up to 2 400 kilovolt air and or gas insulated switchgears and associated equipment;
- (c) onshore HVAC cables of up to 800 metres in length (each cable circuit);
- (d) up to 5 link boxes per cable circuit with dimensions of up to 0.8 metres in length by 0.8 metres in width by 0.6 metres in height;

Work No. 2 – works to construct the converter station and associated equipment within the area shown on the works plans consisting of -

- (a) site clearance, preparation, establishment and earth works;
- (b) onshore HVDC cables of up to 400 metres in length (each cable circuit);
- (c) 2 converter hall buildings;
- (d) 1 control building associated with the converter hall buildings;
- (e) 6 transformers;
- (f) a spare transformer;
- (g) HVAC cable termination equipment including two 400 kilovolt air and or gas insulated switchgears and busbars;
- (h) HVDC cable termination equipment including two 400 kilovolt air and or gas insulated switchgears and busbars;
- (i) 2 valve cooling systems;
- (j) 1 spares building with an internal perimeter fence;
- (k) up to 2 standby back-up diesel generators with a capacity of up to 800 kilowatt;
- (l) up to 2 distribution transformers (supplied from two individual DNO connections at 11 kilovolt), each 2400 kilowatt
- (m) up to 2 auxiliary transformers (supplied from tertiary winding of main transformer), each 2400 kilowatt
- (n) 6 valve reactors;
- (o) up to 6 AC filter banks. Each filter bank will typically contain reactor, resistor and capacitor banks
- (p) up to 8 lightning masts;
- (q) up to 40 lighting columns;
- (r) HVAC cables of up to 100 metres in length (each cable circuit);
- (s) Up to 5 link boxes per cable circuit with dimensions of up to 0.8 metres in length by 0.8 metres in width by 0.6 metres in height;
- (t) converter station compound outer security perimeter fence and inner electrified fence separated by a sterile zone including up to 2 security gates;

- (u) up to 2 telecommunications buildings with a security perimeter fence including a security gate and in-between sterile zone and parking for up to 2 vehicles at any one time and associated fibre optic data transmission cables; and
- (v) an access road;
- (w) works required to replace an 11 kilovolt overhead electricity line with an 11 kilovolt underground electricity cable to facilitate the safe passage of construction vehicles along the proposed access road;
- (x) up to 2 attenuation ponds and associated landscaping with a combined capacity of up to 2,500m³;
- (y) up to 2 fire protection deluge systems;
- (z) permanent car parking for up to 10 vehicles;
- (aa) soft and hard landscaping including bunds and haul roads to facilitate their construction;
- (bb) access junction and associated gated highway link;

Work No. 3 – a temporary work area of up to five hectares associated with Work No. 1, Work No. 2 and Work No. 4 within the area shown on the works plans consisting of –

- (a) a construction and laydown compound;
- (b) car parking for up to 206 vehicles including associated vegetation removal and groundworks;

Work No. 4 – works to lay the onshore HVDC cables within the area shown on the works plans consisting of –

- (a) onshore HVDC cables of up to 20,000 metres in length (each cable circuit);
- (b) up to 25 joint bays per cable circuit with dimensions of up to 6 metres in length by 3 metres in width by 1.85 metres in depth;
- (c) up to 6 link boxes per cable circuit with dimension of up to 0.8 metres in length by 0.8 metres in width by 0.6 metres in height;
- (d) up to 6 link pillars per cable circuit with dimensions of up to 1 metres in length by 1 metres in width by 0.6 metres in height;
- (e) 4 HDD crossings including entry/exit pits and associated temporary construction compounds;
- (f) 1 trenchless installation technique crossing including an entry/exit pit and associated temporary construction compounds;
- (g) temporary work areas and laydown areas associated with the installation and pulling of the onshore HVDC cables;

Work No. 5 – onshore connection works within the area shown on the works plans consisting of –

- (a) onshore HVDC cables of up to 50 metres in length (each cable circuit) from Work No. 4 to the transitional joint bays;
- (b) 2 transitional joint bays with dimensions of up to 8 metres in length by 3 metres in width by 2 metres in depth with an excavation of up to 15 metres in length by 5 metres in width by 2 metres in depth;
- (c) associated constructions working and pulling area;
- (d) 1 HDD with up to 4 entry/exit pits and associated temporary construction compounds;
- (e) onshore HVDC cables to Work No. 6 of up to 250 metres in length (each cable circuit);
- (f) up to 1 link box per cable circuit with dimension of up to 0.8 metres in length by 0.8 metres in width by 0.6 metres in height;
- (g) up to 1 link pillar per cable circuit with dimensions of up to 1 metres in length by 1 metres in width by 0.6 metres in height;
- (h) 2 optical regeneration stations;

- (i) compound for 2 optical regeneration stations with secure fencing, access and parking for up to two vehicles at any one time;
- (j) auxiliary power supply equipment for the optical regeneration stations and fuel storage in relation to that equipment;

Work No. 6 – marine HVDC cables and ducts within the Order limits seaward of MHWS and landward of MLWS between Work No. 5 and Work No. 7 within the area shown on the works plans including where required works to facilitate HDD.

Work No. 7 – marine HVDC cable works within the area shown on the works plans consisting of –

- (a) marine HVDC cables and ducts of up to 109 kilometres (each cable circuit) between the UK exclusive economic zone with France and Works No. 6 including where required works to facilitate HDD; and
- (b) 1 HDD with up to 4 entry/exit pits; and
- (c) a temporary work area for vessels to carry out intrusive activities.

2. In connection with Work Nos. 1 to 5 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including but not limited to -

- (a) ramps, means of access and footpaths;
- (b) bunds, embankments, swales, landscaping, fencing and boundary treatments;
- (c) cable ducts, cable protection, joint protection, manholes, marker posts, underground cable maker, tiles and tape and lighting and all other works associated with cable laying;
- (d) works for the provision of apparatus, including cabling, water and electricity supply works, foul drainage provision, surface water management systems and culverting;
- (e) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (f) works to alter the course or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (g) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (h) works for the benefit of the protection of land affected by the authorised development;
- (i) working sites in connection with the construction of the authorised development, lay down areas and works compounds, storage compounds and their restoration;
- (j) permanent and temporary works for the benefit or protection of land, structures, apparatus or equipment affected by the authorised development; and
- (k) such other works as may be necessary or expedient for the purpose of or in connection with the construction or use of the authorised development and which do not give rise to any materially new or materially different environmental effects from those assessed as set out in the environmental statement.

and in connection with such Works Nos. 6 to 7 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) of the 2008 Act comprising other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence, including but not limited to –

- (l) temporary cable burial equipment trials;
- (m) cable protection;
- (n) the removal of material from the seabed required for the construction of Work Nos. 6 and 7 and the disposal of up to 1,754,000m³ of inert material of natural origin at the disposal

sites with reference WI048 and WI049 within the extent of the Order limits seaward of MHWS produced during the Works;

- (o) the construction of crossing structures over cables that are crossed by the marine HVDC cable; and
- (p) such other works as may be necessary or expedient for the purpose of or in connection with the construction or use of the authorised development and which do not give rise to any materially new or materially different environmental effects from those assessed as set out in the environmental statement.

3. The grid coordinates for that part of the authorised development which is seaward of MHWS are specified below –

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	50°47'8.146"N	1°2'20.857"W	135	50°42'0.397"N	0°54'1.872"W
2	50°47'8.216"N	1°2'20.480"W	136	50°41'55.699"N	0°53'35.726"W
3	50°47'8.268"N	1°2'20.179"W	137	50°41'33.679"N	0°52'58.934"W
4	50°47'8.339"N	1°2'19.690"W	138	50°40'20.249"N	0°51'13.974"W
5	50°47'8.386"N	1°2'19.364"W	139	50°39'59.881"N	0°50'52.430"W
6	50°47'8.451"N	1°2'18.889"W	140	50°39'42.599"N	0°50'29.607"W
7	50°47'8.508"N	1°2'18.470"W	141	50°39'36.524"N	0°50'11.733"W
8	50°47'8.553"N	1°2'18.104"W	142	50°39'12.728"N	0°48'58.524"W
9	50°47'8.628"N	1°2'17.588"W	143	50°38'30.615"N	0°46'2.020"W
10	50°47'8.690"N	1°2'17.204"W	144	50°37'46.726"N	0°43'23.708"W
11	50°47'8.771"N	1°2'16.708"W	145	50°37'36.508"N	0°42'41.575"W
12	50°47'8.826"N	1°2'16.349"W	146	50°37'15.582"N	0°41'15.354"W
13	50°47'8.931"N	1°2'15.812"W	147	50°37'15.513"N	0°39'46.232"W
14	50°47'8.992"N	1°2'15.489"W	148	50°36'41.713"N	0°34'22.448"W
15	50°47'9.096"N	1°2'14.962"W	149	50°36'14.831"N	0°32'37.009"W
16	50°47'9.166"N	1°2'14.555"W	150	50°36'7.973"N	0°31'7.231"W
17	50°47'9.231"N	1°2'14.186"W	151	50°36'0.215"N	0°30'36.542"W
18	50°47'9.328"N	1°2'13.628"W	152	50°35'54.791"N	0°30'15.095"W
19	50°47'9.426"N	1°2'13.061"W	153	50°35'23.567"N	0°29'13.075"W
20	50°47'9.490"N	1°2'12.710"W	154	50°34'29.494"N	0°26'42.742"W
21	50°47'9.587"N	1°2'12.132"W	155	50°32'41.551"N	0°23'38.096"W
22	50°47'9.639"N	1°2'11.857"W	156	50°30'3.541"N	0°17'33.192"W
23	50°47'9.789"N	1°2'11.023"W	157	50°28'42.521"N	0°15'42.064"W
24	50°47'9.878"N	1°2'10.527"W	158	50°28'4.707"N	0°14'50.247"W
25	50°47'9.983"N	1°2'9.954"W	159	50°27'43.034"N	0°14'20.562"W
26	50°47'10.053"N	1°2'9.496"W	160	50°26'55.786"N	0°13'15.884"W
27	50°47'10.093"N	1°2'9.212"W	161	50°26'56.222"N	0°13'14.495"W
28	50°47'10.142"N	1°2'8.960"W	162	50°26'57.457"N	0°13'4.676"W
29	50°47'10.205"N	1°2'8.572"W	163	50°26'57.027"N	0°12'54.690"W
30	50°47'10.259"N	1°2'8.304"W	164	50°26'54.961"N	0°12'45.218"W
31	50°47'10.327"N	1°2'7.966"W	165	50°26'51.400"N	0°12'36.908"W
32	50°47'10.374"N	1°2'7.740"W	166	50°26'46.587"N	0°12'30.324"W
33	50°47'10.456"N	1°2'7.347"W	167	50°26'40.850"N	0°12'25.916"W
34	50°47'10.514"N	1°2'7.079"W	168	50°26'34.580"N	0°12'23.983"W
35	50°47'10.587"N	1°2'6.756"W	169	50°26'28.204"N	0°12'24.658"W
36	50°47'10.648"N	1°2'6.496"W	170	50°26'22.156"N	0°12'27.894"W
37	50°47'10.741"N	1°2'6.131"W	171	50°26'21.336"N	0°12'28.756"W
38	50°47'10.822"N	1°2'5.803"W	172	50°26'10.359"N	0°12'13.745"W

39	50°47'10.862"N	1°2'5.617"W	173	50°24'8.032"N	0°9'25.526"W
40	50°47'10.921"N	1°2'5.371"W	174	50°24'2.766"N	0°9'16.501"W
41	50°47'10.939"N	1°2'5.284"W	175	50°23'57.213"N	0°9'5.200"W
42	50°47'10.978"N	1°2'5.099"W	176	50°23'51.251"N	0°8'52.570"W
43	50°47'11.045"N	1°2'4.740"W	177	50°23'46.360"N	0°8'39.092"W
44	50°47'11.107"N	1°2'4.474"W	178	50°21'32.398"N	0°2'15.439"W
45	50°47'11.167"N	1°2'4.178"W	179	50°21'29.076"N	0°2'5.945"W
46	50°47'11.222"N	1°2'3.897"W	180	50°21'28.324"N	0°2'3.795"W
47	50°47'11.281"N	1°2'3.598"W	181	50°21'6.855"N	0°1'12.898"W
48	50°47'11.337"N	1°2'3.294"W	182	50°20'46.163"N	0°0'32.608"W
49	50°47'11.366"N	1°2'3.150"W	183	50°20'34.684"N	0°0'15.657"W
50	50°47'11.403"N	1°2'2.966"W	184	50°20'32.670"N	0°0'12.683"W
51	50°47'11.423"N	1°2'2.845"W	185	50°20'16.756"N	0°0'10.817"E
52	50°47'11.460"N	1°2'2.657"W	186	50°17'36.424"N	0°5'11.894"E
53	50°47'11.492"N	1°2'2.498"W	187	50°16'31.253"N	0°9'3.799"E
54	50°47'11.540"N	1°2'2.249"W	188	50°16'10.086"N	0°11'24.856"E
55	50°47'11.573"N	1°2'2.089"W	189	50°16'7.791"N	0°11'36.422"E
56	50°47'11.617"N	1°2'1.860"W	190	50°16'6.240"N	0°11'43.952"E
57	50°47'11.654"N	1°2'1.683"W	191	50°16'2.500"N	0°12'0.714"E
58	50°47'11.704"N	1°2'1.424"W	192	50°15'56.441"N	0°12'17.698"E
59	50°47'11.767"N	1°2'1.116"W	193	50°15'53.389"N	0°12'23.459"E
60	50°47'11.802"N	1°2'0.862"W	194	50°15'53.179"N	0°12'23.855"E
61	50°47'11.807"N	1°2'0.827"W	195	50°15'53.678"N	0°12'24.498"E
62	50°47'11.827"N	1°2'0.809"W	196	50°15'50.634"N	0°12'30.244"E
63	50°47'11.877"N	1°2'0.444"W	197	50°15'50.355"N	0°12'30.769"E
64	50°47'11.901"N	1°2'0.405"W	198	50°15'44.773"N	0°11'56.429"E
65	50°47'11.904"N	1°2'0.370"W	199	50°15'47.089"N	0°11'49.938"E
66	50°47'11.863"N	1°2'0.317"W	200	50°15'50.773"N	0°11'33.424"E
67	50°47'11.847"N	1°2'0.307"W	201	50°15'53.839"N	0°11'17.971"E
68	50°47'11.847"N	1°2'0.307"W	202	50°16'15.223"N	0°8'55.462"E
69	50°47'11.847"N	1°2'0.307"W	203	50°17'21.968"N	0°4'57.948"E
70	50°47'11.895"N	1°1'59.868"W	204	50°20'4.461"N	0°0'7.202"W
71	50°47'11.912"N	1°1'59.866"W	205	50°20'21.112"N	0°0'31.792"W
72	50°47'11.939"N	1°1'59.841"W	206	50°20'23.127"N	0°0'34.767"W
73	50°47'11.965"N	1°1'59.584"W	207	50°20'33.765"N	0°0'50.477"W
74	50°47'11.966"N	1°1'59.512"W	208	50°20'53.239"N	0°1'28.399"W
75	50°47'11.965"N	1°1'59.496"W	209	50°21'13.893"N	0°2'17.366"W
76	50°47'11.964"N	1°1'59.435"W	210	50°23'31.655"N	0°8'51.889"W
77	50°47'11.965"N	1°1'59.415"W	211	50°23'37.115"N	0°9'6.938"W
78	50°47'11.953"N	1°1'59.406"W	212	50°23'43.773"N	0°9'21.043"W
79	50°47'11.953"N	1°1'59.406"W	213	50°23'49.858"N	0°9'33.428"W
80	50°47'11.953"N	1°1'59.406"W	214	50°23'56.230"N	0°9'44.349"W
81	50°47'11.962"N	1°1'59.198"W	215	50°25'59.269"N	0°12'33.560"W
82	50°47'11.971"N	1°1'59.095"W	216	50°26'10.266"N	0°12'48.600"W
83	50°47'11.985"N	1°1'58.947"W	217	50°26'9.831"N	0°12'49.988"W
84	50°47'11.992"N	1°1'58.887"W	218	50°26'8.596"N	0°12'59.805"W
85	50°47'12.008"N	1°1'58.758"W	219	50°26'9.026"N	0°13'9.789"W
86	50°47'12.020"N	1°1'58.658"W	220	50°26'11.091"N	0°13'19.258"W
87	50°47'12.029"N	1°1'58.582"W	221	50°26'14.651"N	0°13'27.567"W
88	50°47'12.031"N	1°1'58.566"W	222	50°26'19.463"N	0°13'34.151"W
89	50°47'12.040"N	1°1'58.493"W	223	50°26'25.200"N	0°13'38.561"W

90	50°47'12.049"N	1°1'58.409"W	224	50°26'31.470"N	0°13'40.497"W
91	50°47'12.060"N	1°1'58.316"W	225	50°26'37.846"N	0°13'39.825"W
92	50°47'12.079"N	1°1'58.149"W	226	50°26'43.894"N	0°13'36.591"W
93	50°47'12.110"N	1°1'57.942"W	227	50°26'44.714"N	0°13'35.729"W
94	50°47'12.123"N	1°1'57.869"W	228	50°28'31.442"N	0°16'1.912"W
95	50°47'12.141"N	1°1'57.733"W	229	50°29'50.837"N	0°17'50.820"W
96	50°47'12.158"N	1°1'57.645"W	230	50°32'28.318"N	0°23'54.527"W
97	50°47'12.175"N	1°1'57.550"W	231	50°34'15.790"N	0°26'58.375"W
98	50°47'12.189"N	1°1'57.467"W	232	50°35'9.556"N	0°29'27.862"W
99	50°47'12.212"N	1°1'57.339"W	233	50°35'40.062"N	0°30'28.457"W
100	50°47'12.228"N	1°1'57.251"W	234	50°35'44.745"N	0°30'46.976"W
101	50°47'12.250"N	1°1'57.145"W	235	50°35'51.526"N	0°31'13.797"W
102	50°47'12.272"N	1°1'57.028"W	236	50°35'58.386"N	0°32'43.614"W
103	50°47'12.291"N	1°1'56.926"W	237	50°36'25.406"N	0°34'29.597"W
104	50°47'12.310"N	1°1'56.838"W	238	50°36'50.593"N	0°38'30.650"W
105	50°47'12.339"N	1°1'56.698"W	239	50°36'54.547"N	0°39'8.625"W
106	50°47'12.356"N	1°1'56.579"W	240	50°36'58.685"N	0°39'48.398"W
107	50°47'12.319"N	1°1'56.560"W	241	50°36'58.756"N	0°41'20.244"W
108	50°47'12.319"N	1°1'56.560"W	242	50°37'31.141"N	0°43'33.714"W
109	50°47'12.319"N	1°1'56.560"W	243	50°38'15.012"N	0°46'11.964"W
110	50°47'12.377"N	1°1'56.330"W	244	50°38'57.306"N	0°49'9.233"W
111	50°47'12.390"N	1°1'56.270"W	245	50°39'21.609"N	0°50'24.001"W
112	50°47'12.406"N	1°1'56.188"W	246	50°39'29.289"N	0°50'46.600"W
113	50°47'12.425"N	1°1'56.105"W	247	50°39'49.747"N	0°51'13.619"W
114	50°47'12.443"N	1°1'56.031"W	248	50°40'9.842"N	0°51'34.878"W
115	50°47'12.460"N	1°1'55.963"W	249	50°41'21.878"N	0°53'17.854"W
116	50°47'11.065"N	1°1'55.703"W	250	50°41'40.626"N	0°53'49.178"W
117	50°45'45.014"N	1°1'39.017"W	251	50°41'45.252"N	0°54'14.928"W
118	50°45'33.952"N	1°1'29.392"W	252	50°43'22.501"N	0°57'7.513"W
119	50°45'23.239"N	1°1'14.438"W	253	50°43'31.132"N	0°57'27.942"W
120	50°45'13.571"N	1°0'56.514"W	254	50°43'29.651"N	0°57'29.496"W
121	50°45'2.494"N	1°0'25.147"W	255	50°43'40.579"N	0°57'55.368"W
122	50°44'50.712"N	0°59'52.953"W	256	50°43'42.061"N	0°57'53.814"W
123	50°44'39.281"N	0°59'22.406"W	257	50°43'43.756"N	0°57'57.828"W
124	50°44'2.379"N	0°57'54.977"W	258	50°43'44.075"N	0°57'57.664"W
125	50°44'0.123"N	0°57'49.635"W	259	50°43'48.906"N	0°58'9.102"W
126	50°44'0.446"N	0°57'49.479"W	260	50°44'25.563"N	0°59'35.955"W
127	50°43'56.072"N	0°57'39.124"W	261	50°44'36.732"N	1°0'5.805"W
128	50°43'54.590"N	0°57'40.678"W	262	50°44'48.414"N	1°0'37.724"W
129	50°43'43.661"N	0°57'14.804"W	263	50°45'0.207"N	1°1'11.121"W
130	50°43'45.143"N	0°57'13.250"W	264	50°45'11.652"N	1°1'32.340"W
131	50°43'35.866"N	0°56'51.292"W	265	50°45'24.564"N	1°1'50.365"W
132	50°42'27.974"N	0°54'50.779"W	266	50°45'39.934"N	1°2'3.740"W
133	50°42'23.228"N	0°54'42.359"W	267	50°47'8.146"N	1°2'20.857"W
134	50°42'18.988"N	0°54'34.839"W			

SCHEDULE 2

Article 3

Requirements

Interpretation

1.—(1) In addition to article 2 (Interpretation), the terms in this Schedule have the following meaning, unless the context provides otherwise —

“construction gang” means a group of up to 8 construction workers;

“converter station access drawing” means the converter station access drawing contained at appendix 2 to the framework construction traffic management plan;

“converter station and telecommunications building parameter plans” means the document certified by the Secretary of State as the converter station and telecommunications building parameter plans under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“design principles” means the design principles located at section 6 of the DAS;

“employment and skills strategy” means the document certified by the Secretary of State as the employment and skills strategy under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“flood risk assessment” means the documents certified by the Secretary of State as the flood risk assessment and the flood risk assessment addendum under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“framework construction traffic management plan” means the document certified by the Secretary of State as the framework construction traffic management plan under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“framework construction worker travel plan” means the framework construction worker travel plan which forms part of the framework construction traffic management plan;

“lead local flood authority” means Hampshire County Council or Portsmouth City Council as the case may be;

“framework signage strategy” means the framework signage strategy contained at appendix 3 to the framework traffic management strategy;

“operational broadband and octave band noise criteria document” means the document certified by the Secretary of State as the operational broadband and octave band noise criteria document under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“onshore cable route construction impacts on access to properties and car parking and communication strategy” means the onshore cable route construction impacts on access to properties and car parking and communication strategy contained at appendix 1 to the framework traffic management strategy;

“onshore outline construction environmental management plan” means the document certified by the Secretary of State as the onshore outline construction environmental management plan under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“optical regeneration stations parameter plan” means the document certified by the Secretary of State as the optical regeneration stations parameter plan under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“outline landscape and biodiversity strategy” means the document certified by the Secretary of State as the outline landscape and biodiversity strategy under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“outline materials management plan” means the outline materials management plan appended to the onshore outline construction environmental management plan;

“outline soil resources plan” means the outline soil resources plan appended to the onshore outline construction environmental management plan;

“outline site waste management plan” means the outline site waste management plan appended to the onshore outline construction environmental management plan;

“phase” means any defined section or part of the authorised development, the extent of which is shown in a scheme submitted to the relevant planning authority pursuant to requirement 3 and which may individually or collectively include the onshore site preparation works (phases of the authorised development onshore);

“Portsmouth Water” means Portsmouth Water Limited of PO Box No8, West Street, Havant, Hampshire, PO9 1LG;

“start-up and shut-down activities” means at the start of the working day the opening up of the site, the arrival of site staff & contractors, changing into appropriate PPE wear, pre-shift briefings, site inductions, tool box talks, and all associated site safety checks and at the end of the working day the cleaning and tidying of work areas, changing out PPE wear, post-shift debrief, the departure of site staff and contractors, and closing and securing the sites only;

“statutory historic body” means the Historic Buildings and Monuments Commission, otherwise known as Historic England or any successor of that function;

“SPZ1” means the source protection zone 1 as shown on the document certified by the Secretary of State as the source protection zones plans under article 43 (Certification of plans and documents, etc.) for the purposes of this Order; and

“surface water drainage and aquifer contamination mitigation strategy” means the document certified by the Secretary of State as the aquifer contamination mitigation strategy under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

“travel demand management strategy” means the document certified by the Secretary of State as the travel demand management strategy under article 43 (Certification of plans and documents, etc.) for the purposes of this Order;

(2) Where any requirement—

- (a) refers to a scheme, drawing, document or plan, that scheme, document or plan will be taken to be the version certified by the Secretary of State under article 43 (Certification of plans and documents, etc.) of this Order or to any subsequent version of that scheme, drawing, document or plan approved by the discharging authority under a requirement; or
- (b) provides that the authorised development is to be carried out in accordance with details, or a scheme, plan or other document approved by the discharging authority, the approved details, scheme, plan or other document must be taken to include any amendments or revisions subsequently approved by the discharging authority.

(3) Where an approval of details or other document is required under the terms of any requirement or where compliance with a document contains the wording “unless otherwise agreed” by the discharging authority, such approval of details or of any other document (including any subsequent amendments or revisions) or agreement by the discharging authority is not to be given except in relation to minor or immaterial changes or deviations where it has been demonstrated to the satisfaction of the discharging authority that the subject matter of the approval or agreement sought does not give rise to any materially new or materially different environmental effects to those assessed in the Environmental Statement.

(4) Where any requirement identifies a parameter for a building or structure, that parameter identifies the envelope for that building or structure and does not include any external projections including telecommunications infrastructure (including aerials and satellites), access structures and safety measures (including ladders and handrails), mechanical plant, utilities infrastructure, minor architectural features (including gutters and lighting), external surface level areas, and associated compounds and storage areas.

(5) Unless otherwise provided in this Order, where a Requirement relates to a specific Work (or a part thereof) and it specifies “commencement of development”, it refers to the commencement of development in relation to those Works only.

(6) For the purposes of requirement 5, the parameters for the buildings and other structures comprised in Work No. 2 and Works No. 5 are to be measured as follows—

- (a) length is to be measured as the external horizontal dimension from abutment to abutment;
- (b) height is to be measured as the vertical dimension from the finished floor level to the top of the highest part of the structure;
- (c) width is to be measured as the external horizontal width from an abutment to a parallel abutment.

(7) For the purposes of discharging requirements in phases, the undertaker may—

- (a) submit a plan or plans to the discharging authority identifying a part or parts of any of the sites to which each phase or design relates; or
- (b) submit notices to the discharging authority in respect of individual or combined work packages.

Time limits

2.—(1) The authorised development must commence (which for the purposes of this requirement includes the undertaking of any works comprised in Work No. 2 (bb)) no later than the expiration of five years beginning with the date on which this Order comes into force.

(2) The undertaker will provide to each local planning authority in whose area the authorised development is located landwards of MLWS written notice of commencement not less than 7 days' prior to the proposed date on which the authorised development is commenced.

(3) The undertaker will provide to each local planning authority in whose area the authorised development is located landwards of MLWS written notice of any onshore site preparation works first being undertaken not less than 7 days' prior to the proposed date on which they are to be first undertaken.

(4) The undertaker must provide to each relevant planning authority written notice of the authorised development becoming operational within not more than 14 days following the date on which the Authorised Development first becomes operational.

Phases of authorised development onshore

3.—(1) No authorised development landwards of MHWS including the onshore site preparation works may commence until a written scheme setting out all the phases of the authorised development has been submitted to the relevant planning authority and highway authority detailing the phases of the onshore works within each planning authority's administrative area.

(2) The authorised development landwards of MHWS must be carried out in accordance with the written scheme submitted pursuant to paragraph 1 (as may be updated from time to time).

Converter station option confirmation

4. Prior to the commencement of Work No. 2 or the carrying out of any onshore site preparation works in respect of the perimeter area where the converter station is to be located the undertaker will confirm to the relevant planning authority which converter station perimeter option shown on the converter station and telecommunications building parameter plans listed in Schedule 7 to the Order with reference EN020022-2.6-PARA-Sheet1 listed in Schedule 7 the converter station will be constructed within.

Converter station and optical regeneration station parameters

5.—(1) Any building or equipment comprised in Work No. 1 must not exceed a height of 15 metres above existing ground level and for the purposes of this sub-paragraph (1) of this requirement 'existing ground level' means 86 metres above ordnance datum.

(2) The buildings and equipment identified in Work No. 2 and listed in table WN2 may only be constructed within the relevant parameter plan zone listed in Table WN2 below and shown on the converter station and telecommunications building parameter plans listed in Schedule 7 to the

Order; with reference EN020022-2.6-PARA-Sheet 2 in the event option b(i) is confirmed to be the location for the converter station in accordance with requirement 4; or with reference EN020022-2.6-PARA-Sheet 3 in the event option b(ii) is confirmed to be the location for the converter station in accordance with requirement 4, and in respect of any building in accordance with the maximum dimensions shown in that table for the building –

Table WN2

<i>Component</i>	<i>Parameter Zone</i>	<i>Maximum Parameter (m)</i>		
		<i>Length</i>	<i>Width</i>	<i>Height</i>
Converter hall buildings	4	90	50	26
Control building	4	26	50	15
Transformers	3	-	-	-
Spare Transformer	3	-	-	-
HVAC cable termination equipment	3	-	-	-
HVDC cable termination equipment	4	-	-	-
Valve Cooling Systems	4	-	-	-
Spares building	4	27	25	15
Spares building internal perimeter fence	4	-	-	2.4
Standby back-up diesel generators	3	-	-	-
Distribution transformers	3	-	-	-
Auxiliary transformers	3	-	-	-
Reactors	3	-	-	-
Filters	3	-	-	-
Lightning masts	3/4	-	-	30
Lighting columns	3	-	-	15
Outer security perimeter fence	2	-	-	2.4
Inner electrified fence	2	-	-	3.4
Telecommunications building	5	8	4	3
Telecommunications building compound	5	30	10	-
Telecommunications building security perimeter fence	5	30	10	2.45
Access road	1	1,200	7.3	-
Fire protection deluge system	3	-	-	-

(3) In accordance with the converter station and telecommunications building parameter plans no building within Work No. 2 may be a height which is above +111.100 metres above ordnance datum (excluding the lightning masts which may not be a height which is above +115.100 meters above ordnance datum).

(4) The optical regeneration stations identified in Works No.5 and listed in table WN5 may only be constructed within the relevant parameter plan zone shown on the optical regeneration stations parameter plan listed in Schedule 7 to the Order with reference EN020022-2.11-PARA-Sheet 1 and in accordance with the maximum dimensions shown in that table for the buildings and compound –

Table WN5

<i>Component</i>	<i>Maximum Parameter (m)</i>		
	<i>Length</i>	<i>Width</i>	<i>Height</i>
Optical Regeneration Station	11	4	4

Compound	35	18	-
Security Perimeter Fence	35	18	2.45

Detailed design approval

6.—(1) The construction of any phase of Works No. 2 or the carrying out of any onshore site preparation works in respect of the area where Works No.2 is to be located (excluding Works No.2 (bb)) must not commence until written details of the –

- (a) layout of buildings;
- (b) scale of buildings;
- (c) existing and proposed site levels;
- (d) proposed finished ground floor slab level;
- (e) design of building foundations;
- (f) proposed piling;
- (g) external appearance and materials of buildings;
- (h) hard surfacing materials;
- (i) location of the attenuation ponds;
- (j) the access road, permanent parking and circulation areas;
- (k) external lighting and lightning protection;
- (l) permanent fencing; and
- (m) proposed services above and below, ground, including surface water drainage, foul water drainage, power and communications cables and pipelines, manholes and supports or any other associated ancillaries,

in so far as relevant to that phase of those works and confirming how those details accord with the design principles for the converter station and the surface water drainage and aquifer contamination mitigation strategy and the flood risk assessment (in so far as relevant to the design of Work No. 2) have been submitted to and approved in writing by the relevant planning authority (in consultation with the South Downs National Park Authority and, in relation to matters relevant to the surface water drainage and aquifer contamination mitigation strategy only, the Environment Agency, Portsmouth Water and the lead local flood authority).

(2) The construction of Work No. 2 (bb) (the general arrangement of which is shown on converter station access drawing) must not begin for the purposes of section 155(1) of the 2008 Act until written details of the–

- (a) siting;
- (b) design;
- (c) layout;
- (d) visibility splays; and
- (e) landscaping

in so far as relevant to those works have been submitted to and approved in writing by the relevant planning authority (in consultation with the South Down National Park Authority and the relevant highway authority).

(3) The construction of any phase of Work No. 3 or the carrying out of any onshore site preparation works in respect of the area where the Works No.3 is to be located must not commence until written details of the –

- (a) layout;
- (b) surfacing materials;
- (c) vehicular access, parking and circulation areas; and
- (d) drainage measures,

relating to that phase of those works and confirming how those details accord with the surface water drainage and aquifer contamination mitigation strategy have been submitted to and approved in writing by the relevant planning authority (in consultation with the Environment Agency, Portsmouth Water and the lead local flood authority in relation to matters relevant to the surface water drainage and aquifer contamination mitigation strategy only).

(4) The construction of any phase of Works No. 4 which is not located on the highway must not commence until written details of the –

- (a) proposed layout of the onshore HVDC cables;
- (b) proposed depth of installation of the onshore HVDC cables;
- (c) indicative location of the joint bays, link boxes and link pillars;
- (d) where included within the relevant phase the spatial extent and layout of any HDD compound (which must be located within the areas identified for HDD compounds on the works plans only); and
- (e) where included within the relevant phase the spatial extent and layout of any trenchless installation techniques compound (which must be located within the areas identified for trenchless installation techniques compounds on the works plans only),

relating to that phase of those works and confirming how those details accord with the design principles for the onshore cable corridor and the flood risk assessment (in so far as is relevant) have been submitted to and approved in writing by the relevant planning authority.

(5) The construction of any phase of Works No.4 which is located on the highway must not commence until written details of –

- (a) proposed horizontal alignment of cable ducts;
- (b) proposed vertical alignment of cable ducts detailing proposed cover from the top of the cable duct to existing ground level;
- (c) cross sections at intervals of not less than 100 metres and at all locations where the cable ducts cross apparatus;
- (d) proposed indicative location of and specification for joint bays;
- (e) proposed location of and specification for link boxes and link pillars;
- (f) existing apparatus, including drainage apparatus and street lighting; and
- (g) where included in the relevant phase any existing bridge structures,

relating to that phase of those works and confirming how those details accord with the design principles for the onshore cable corridor and the flood risk assessment (in so far as is relevant) have been submitted to and approved in writing by the relevant highway authority.

(6) The construction of the optical regeneration stations within Works No. 5 must not commence until written details of the –

- (a) layout;
- (b) scale;
- (c) proposed finished floor levels;
- (d) external appearance and materials;
- (e) hard surfacing materials;
- (f) vehicular access, parking and circulation areas;
- (g) permanent fencing; and
- (h) proposed services above and below, ground, including drainage, power and communications cables and pipelines, manholes and supports, security measures and plant,

relating to the optical regeneration stations and confirming how those details accord with the design principles for the optical regeneration stations and the flood risk assessment have been

submitted to and approved in writing by the relevant planning authority (in consultation with the lead local flood authority and the statutory historic body).

(7) The construction of any phase of Works No.5 (excluding the optical regeneration stations) must not commence until written details of the –

- (a) layout;
- (b) external appearance and materials;
- (c) hard surfacing materials;
- (d) vehicular access, parking and circulation areas;
- (e) proposed services above and below, ground, including drainage, power and communications cables and pipelines, manholes and supports;

relating to that phase of those works and confirming how those details accord with the flood risk assessment have been submitted to and approved in writing by the relevant planning authority (in consultation with the lead local flood authority).

(8) Works No. 2, 3 and 5 must be carried out in accordance with the approved details.

(9) Works No. 4 must be carried out in accordance with the approved details, save for in relation to such details which are indicative which Work No. 4 must be carried out substantially in accordance with.

(10) The external appearance of the buildings within Work No. 2 shall be retained as approved during the operational period unless an amendment or variation is previously agreed in writing by the relevant planning authority save that this shall not prevent the replacement of the approved materials with other materials with the same external appearance.

(11) Unless otherwise agreed with the relevant planning authority there shall be no lighting installed on any elevations of the converter hall buildings during the construction of the converter hall buildings or the operational period other than any such lighting which is approved in accordance with requirement 6(1).

(12) Any approved permanent fencing in relation to the converter station, the telecommunications buildings and the optical regeneration stations must be completed before the converter station, the telecommunications buildings or the optical regeneration stations (respectively) are brought into use, and maintained for the operational lifetime of the converter station, the telecommunications buildings and the optical regeneration stations (respectively).

(13) HDD must be used for the purpose of passing under–

- (a) Denmead Meadows (in the area identified as a trenchless crossing zone on Sheet 3 of the works plans);
- (b) Langstone Harbour (in the area identified for a trenchless crossing zone on Sheets 7 and 8 of the works plans);
- (c) Sea Defences at Milton Common (in the area identified as a trenchless crossing zone on Sheet 9 of the works plans);
- (d) Eastney and Milton Allotments (in the area identified as a trenchless crossing zone on Sheet 10 of the works plans); and
- (e) Eastney Beach (in the area identified as a trenchless crossing zone on Sheet 10 of the works plans)

(14) Trenchless installation techniques must be used for the purpose of passing under the Brighton to Southampton Railway Line (in the area identified for a trenchless crossing zone on Sheets 7 of the works plans).

Provision of landscaping

7.—(1) No phase of Works No. 2, Works No.4 or the construction of the optical regeneration stations within Works No. 5 may commence and no onshore site preparation works in relation to any such phase (for the avoidance of doubt excluding Work No. 2 (bb)) may be carried out until a detailed landscaping scheme in relation to that phase (which accords with the outline landscape

and biodiversity strategy in so far as relevant to it and the design principles relating to landscaping) has been submitted to and approved by the relevant planning authority (and where related to any phase of Works No. 2 in consultation with the South Downs National Park Authority).

(2) A detailed landscaping scheme for any phase must include details of all proposed hard and soft landscaping and enhancement works, including (in so far as relevant) -

- (a) surveys, assessments and method statements as guided by BS 5837;
- (b) location, number, species, size, plant protection measures and planting density of any proposed planting and the location of areas to be seeded;
- (c) cultivation, importing of materials and other operations to ensure plant establishment;
- (d) hard surfacing materials;
- (e) implementation timetables for all landscaping works;
- (f) management, maintenance and monitoring plans and prescriptions; and
- (g) management responsibilities.

Implementation and maintenance of landscaping

8.—(1) All landscaping and enhancement works must be carried out in accordance with any detailed landscaping scheme approved under requirement 7 applicable to them and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards.

(2) Any tree or shrub planted or any area seeded as part of an approved landscaping scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, or in the case of any seed area, reseeded with the same type, unless otherwise approved by the relevant planning authority.

(3) All landscaping provided in connection with Works No.2 and the optical regeneration stations within Works No. 5 must be retained, managed and maintained during the operational period.

Biodiversity management plan

9.—(1) No phase of Works No. 2 or Works No. 5 may commence until a written biodiversity management plan in relation to that phase (which accords with the outline landscape and biodiversity strategy in so far as relevant and the relevant recommendations of appropriate British Standards) has been submitted to and approved by the relevant local planning authority in consultation with the relevant statutory nature conservation bodies and (where works have the potential to have an impact on wetland habitats) the Environment Agency.

(2) No phase of Works No.4 may commence until a written biodiversity management plan in relation to that phase (which accords with the outline landscape and biodiversity strategy in so far as relevant and the relevant recommendations of appropriate British Standards) has been submitted to and approved by the relevant local planning authority in consultation with the relevant statutory nature conservation bodies and (where works have the potential to have an impact on wetland habitats) the Environment Agency.

(3) No part of the onshore site preparation works (excluding Work No. 2 (bb)) may commence until a written biodiversity management plan (which accords with the outline landscape and biodiversity strategy in so far as relevant to those works and the relevant recommendations of appropriate British Standards) relating to those works has been submitted to and approved by the relevant local planning authority in consultation with the relevant statutory nature conservation bodies.

(4) Any approved written biodiversity management plan must include –

- (a) measures to protect existing scrub and trees that are to be retained;

- (b) details of a scheme for the reinstatement of land used as temporary compounds during construction and any replacement planting to replace removed sections of hedgerow or removed trees;
- (c) an implementation timetable;
- (d) biodiversity management and maintenance measures; and
- (e) reptile and stag beetle precautionary method statements of works.

(5) Any works for which a written biodiversity management plan has been approved must be carried out in accordance with the written biodiversity management plan approved in relation to them.

(6) Where any approved written biodiversity management plan includes the undertaking of future management and maintenance measures those future management and maintenance measures must be undertaken as required in accordance with that approved written biodiversity management plan.

Highway accesses

10.—(1) No phase of the authorised development landwards of MHWS may commence until written details of the -

- (a) siting;
- (b) design;
- (c) layout;
- (d) visibility splays;
- (e) access management measures; and
- (f) a maintenance programme,

in respect of any new permanent or temporary means of access to a highway to be used by vehicular traffic (for the avoidance of doubt excluding Work No. 2 (bb)), or any alteration or improvement to an existing means of access to a highway used by vehicular traffic, relevant to that phase, has been submitted to and approved by the relevant planning authority (in consultation with the relevant highway authority).

(2) The highway accesses (including visibility splays) must be constructed and maintained in accordance with the approved details.

Construction fencing and other means of enclosure

11.—(1) All construction sites, must remain securely fenced at all times during construction of the authorised development landwards of MHWS.

(2) Any temporary fencing must be removed on completion of the construction of the phase of the authorised development landwards of MHWS it was erected in connection with.

Surface and foul water drainage

12.—(1) The construction of any phase of Work No. 2 (excluding Works No.2 (a) and for the avoidance of doubt Work No. 2 (bb)) must not commence until a surface water drainage and aquifer contamination management plan (in accordance with the surface water and aquifer contamination mitigation strategy) relevant to that phase has been submitted to and approved by the relevant local planning authority (in consultation with the Environment Agency, Portsmouth Water and the lead local flood authority).

- (2) The surface water drainage and aquifer contamination management plan must include –
- (a) emergency oil containment and water management plan;
 - (b) installation, operation and maintenance manual;
 - (c) sustainable drainage system operation and maintenance strategy; and

(d) civil asset management plan.

(3) The surface and foul water drainage system for each phase must be maintained in accordance with the approved surface water drainage and aquifer contamination management plan for the operational period.

(4) The construction of the optical regeneration stations within Works No. 5 must not commence until a sustainable drainage system operation and maintenance strategy relevant to those works has been submitted to and approved by the relevant local planning authority (in consultation with the lead local flood authority) and the sustainable drainage system for the optical regeneration stations must be maintained in accordance with the approved sustainable drainage system operation and maintenance strategy during the operational period.

Contaminated land and groundwater

13.—(1) No phase of the authorised development landwards of MHWS within the area of a relevant planning authority may commence until a written scheme applicable to that phase in accordance with the onshore outline construction environmental management plan and surface water drainage and aquifer contamination mitigation strategy (in so far as relevant), to deal with the contamination of any land, including groundwater, within the Order limits landwards of MHWS which is likely to cause significant harm to persons or pollution of controlled waters or the environment, has been submitted to and approved by the relevant planning authority in consultation with the Environment Agency and, to the extent it relates to the intertidal area, the MMO.

(2) The term commence as used in requirement 13(1) includes any onshore site preparation works (excluding Work No. 2 (bb)).

(3) If, during the carrying out of the authorised development contamination of any land, including groundwater, within the Order limits landwards of MLWS which is likely to cause significant harm to persons or pollution of controlled waters or the environment not previously identified is found to be present then the developer will halt the continuation of such part of the authorised development as is to be carried out in the area where the contamination has been identified and submit, and obtain approval from the relevant planning authority in consultation with the Environment Agency and, to the extent it relates to the intertidal area, the MMO for, a written scheme detailing how the contamination will be dealt with.

(4) Any scheme submitted to deal with the contamination of any land, including groundwater, within the Order limits landwards of MHWS which is likely to cause significant harm to persons or pollution of controlled waters or the environment will include an investigation and assessment report, prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(5) Remediation must be carried out in accordance with the approved scheme.

(6) Upon completion of the approved scheme, a verification report demonstrating completion of the works set out in the approved scheme and the effectiveness of the remediation will be submitted to and approved, in writing, by the relevant planning authority which must include results of sampling and monitoring carried out to demonstrate that site remediation criteria have been met and a plan for long-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, if appropriate, and for the reporting of this to the relevant planning authority.

(7) Any approved long-term monitoring and maintenance plan will be implemented as approved.

Archaeology

14.—(1) No phase of the authorised development landwards of MHWS may commence until for that phase a written scheme for the investigation of areas of archaeological interest as identified in the environmental statement has been submitted to and approved by the relevant planning

authority or the relevant planning authority has confirmed its agreement that a written scheme for the investigation of areas of archaeological interest is not required in relation to that phase.

(2) The term commence as used in requirement 14(1) includes any onshore site preparation works (excluding Work No. 2 (bb)).

(3) The scheme will identify areas where field work and/or a watching brief are required, and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.

(4) Any archaeological works or watching brief carried out under the scheme must be by a suitably qualified person or body approved by the relevant local planning authority.

(5) Any archaeological works or watching brief must be carried out in accordance with the approved scheme.

Construction environmental management plan

15.—(1) No phase of the authorised development landwards of MHWS may commence and no onshore site preparation works in relation to any such phase may be carried out until a construction environmental management plan relating to that phase has been submitted to and approved by the relevant planning authority (in consultation with the relevant highway authority in so far as such phase of the authorised development is located on the highway).

(2) Any construction environmental management plan must be in accordance with the onshore outline construction environmental management plan and, so far as relevant to that phase, must –

- (a) contain a record of all sensitive environmental features that have the potential to be affected by construction;
- (b) Contain details of a local community liaison responsibilities;
- (c) Include the following management plans and measures (as relevant to and necessary in connection with the relevant phase of the authorised development) –
 - (i) soil resources management plan (in accordance with the outline soil resources plan);
 - (ii) materials management plan (in accordance with the outline materials management plan);
 - (iii) site waste management plan (in accordance with the outline site waste management plan);
 - (iv) arboriculture method statements;
 - (v) dust management plan;
 - (vi) construction surface water management plan;
 - (vii) emergency pollution and spill response plan;
 - (viii) earthworks management plan;
 - (ix) silt management plan;
 - (x) HDD management plan;
 - (xi) environmental risk assessment and method statement;
 - (xii) piling risk assessment; and
 - (xiii) air quality stakeholder communication plan.

(3) When approving any construction environmental management plan relating to a phase of Work No. 2, Work No. 3 and Work No. 4 the relevant planning authority must consult with the Environment Agency, Portsmouth Water and the lead local flood authority in relation to any –

- (a) materials management plan;
- (b) site waste management plan;
- (c) construction surface water management plan;
- (d) earthworks management plan;

- (e) silt management plan;
- (f) HDD management plan;
- (g) environmental risk assessment and method statement; and
- (h) piling risk assessment,

in so far as those plans are relevant to be included within the construction environmental management plan relating to the relevant phase of the works and only in so far as they relate to SPZ1.

(4) The construction of any phase of the authorised development landwards of MHWS must be carried out in accordance with the construction environmental management plan and all supplementary plans approved in relation to it.

External construction lighting

16. No phase of Works No. 2 may commence until written details of external construction lighting to be installed at any of the construction sites within that phase or in relation to that phase in accordance with the onshore outline construction environmental management plan (in so far as relevant) have been submitted to and approved by the relevant local planning authority (in consultation with the South Downs National Park Authority) and any approved means of external construction lighting must be installed only in accordance with the approved details and removed prior to the operational period.

Construction traffic management

17.—(1) The construction of any phase of Work No. 2 (bb) and the undertaking of any onshore site preparation works in connection with Work No.2 prior to construction of Work No.2 (bb) must not begin for the purposes of section 155(1) of the 2008 Act until a construction traffic management plan (in accordance with the framework construction traffic management plan) relating to that those works been submitted to and approved by the relevant highway authority.

(2) No phase of the authorised development landwards of MHWS may commence until a construction traffic management plan (in accordance with the framework construction traffic management plan) relating to that phase has been submitted to and approved by the relevant highway authority (in consultation with Highways England in so far as the relevant construction traffic management plan relates to the strategic road network managed by them).

(3) The construction of any phase of the authorised development landwards of MHWS must be carried out in accordance with the construction traffic management plan approved in relation to it.

(4) Notwithstanding anything contained in any approved construction traffic management plan, Work No. 2 (bb) (access junction and associated gated highway link) shall not be used for more than 71 two-way HGV movements (142 in total) per day in connection with the construction of the authorised development landwards of MHWS.

Construction hours

18.—(1) Subject to requirements 18(3) and 18(4), other than where expressly stated in a construction environmental management plan approved pursuant to requirement 15, construction work landwards of MHWS will not take place other than –

- (a) in relation to Works No.1, Works No.2 and Works No. 5 between 0800 and 1800 hours on weekdays and 0800 and 1300 hours on Saturdays, excluding public holidays, except in the event of emergency unless otherwise agreed by the relevant local planning authority; and
- (b) in relation to Works No.3 between 0700 and 1800 hours on weekdays and 0800 and 1300 hours on Saturdays, excluding public holidays, except in the event of emergency unless otherwise agreed by the relevant local planning authority;

- (c) in relation to Works No.4 between 0700 and 1700 hours on weekdays and 0800 and 1300 hours on Saturdays, excluding public holidays, except in the event of emergency unless otherwise agreed by the relevant local planning authority;

(2) In the event of an emergency, notification of that emergency must be given to the relevant planning authority as soon as is reasonably practicable.

(3) The operations which it is stated in the onshore outline construction environmental management plan may be carried out outside of the core working hours may be carried out outside of the core working hours in accordance with the working hours stated in the onshore outline construction environmental management plan.

(4) Nothing in this requirement 18 precludes –

- (a) start-up and shut-down activities up to an hour either side of the core working hours;
- (b) the receipt of oversized deliveries, the arrival and departure of personnel to and from the site, on-site meetings or briefings, and the use of welfare facilities and non-intrusive activities; and
- (c) works on a traffic sensitive street outside of core working hours where so directed by the relevant highway authority pursuant to a permit granted under the permit schemes in accordance with Article 9A of this Order following consultation by the relevant highway authority with the environmental health officer at the relevant planning authority under the terms of such scheme and where it has been evidenced by the relevant highway authority that the direction proposed will not cause impacts which fall outside the scope of the residual likely significant environmental impacts reported in the environmental statement.

(5) In this requirement –

- (a) “core working hours” means the working hours stated in relation to the relevant operations at paragraphs (1)(a), (1)(b) and 1(c);
- (b) “emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action;
- (c) “non-intrusive activities” means activities which would not create any discernible light, noise or vibration outside the Order limits; and
- (d) “traffic sensitive street” means a street which has been designated as traffic sensitive by the relevant street authority in accordance with section 64 of the 1991 Act and any regulations referred to therein and where any limited designation applies only in so far as such designation applies.

Converter station operational access strategy

19. Prior to the operation of the converter station a strategy for the access and egress of vehicles associated with the operation and maintenance of the converter station shall be submitted to and approved by the relevant highway authority.

Control of noise during the operational period

20.—(1) Prior to the operation of that relevant part of the authorised development landwards of MHWS a noise management plan for –

- (a) Work No. 2; and
- (b) the optical regeneration stations;

must be submitted to and approved by the relevant planning authority.

(2) The noise management plans must set out the particulars of –

- (a) the broadband and octave band noise criteria that must be achieved, which unless otherwise agreed will be those set out in the operational broadband and octave band noise criteria document;
 - (b) the noise attenuation and mitigations required to achieve the broadband and octave band noise criteria; and
 - (c) a noise monitoring scheme for testing the attenuation and mitigation measures provided under subparagraph (b) which must include –
 - (i) the circumstances under which noise will be monitored;
 - (ii) the locations at which noise will be monitored, which unless otherwise agreed will be the locations specified in the operational broadband and octave band noise criteria document;
 - (iii) the method for noise measurement (which must be in accordance with BS 4142:2014+A1:2019, an equivalent successor standard or other agreed noise measurement methodology appropriate to the circumstances); and
 - (iv) a complaints procedure
- (3) The noise management plans must be implemented as approved and maintained for the operational period of those parts of the authorised development.

Travel plan

21.—(1) No phase of the authorised development landwards of MHWS will be commenced until, after consultation with the relevant planning authority and the relevant highway authority, a travel plan for the contractor’s workforce in accordance with the framework construction worker travel plan (in so far as relevant), which must include details of the expected means of travel to and from Works No. 2 (including in connection with Works No.4) and Works No.5 and any parking to be provided, has been submitted to and approved by the relevant highway authority(s).

(2) The plan approved under paragraph (1) must be implemented during the construction of the authorised development.

Restoration of land used temporarily for construction

22. The undertaker must confirm to the relevant planning authorities the date of the completion of the construction of any phase of the authorised development and any land within the Order limits landwards of MLWS which is used temporarily for construction of a relevant phase of the authorised development and which is not required for such use in connection with any other phase of the authorised development must be reinstated to its former condition, or such condition as the relevant local planning authority may approve but which may not be to a standard which is higher than its former condition, within not more than twelve months of the date of the completion of the construction of the relevant phase of the authorised development.

Control of lighting during the operational period

23. During the operational period there will be no external lighting of Works No.2 or the optical regeneration stations within Works No. 5 during the hours of darkness save for in exceptional circumstances, including in the case of emergency and where urgent maintenance is required.

Decommissioning

24.—(1) Within –

- (a) twenty four months of the parts of the authorised development landwards of MHWS used for the purposes of electricity transmission, ensuring security of supply and the provision of ancillary services to facilitate and support the continuous flows of electricity permanently ceasing operation for all of those purposes (either actively or on a standby basis); or

- (b) twelve months of the date that the undertaker decides to decommission any part of the authorised development landwards of MHWS,

the undertaker must submit a written scheme of decommissioning for the relevant part of the authorised development to the relevant planning authority for approval.

(2) No decommissioning works must be undertaken until the relevant planning authority has approved the written scheme of decommissioning submitted in sub-paragraph (1) in relation to such works.

(3) The written scheme of decommissioning submitted and approved must include details of—

- (a) the buildings to be demolished;
- (b) the means or removal of the materials resulting from the decommissioning works;
- (c) the phasing of the demolition and removal works;
- (d) any restoration works to restore the land to a condition agreed with the relevant planning authority;
- (e) the phasing of any restoration works; and
- (f) a timetable for the implementation of the scheme.

(4) Any approved written scheme of decommissioning must be implemented as approved, unless otherwise approved by the relevant planning authority.

(5) This requirement is without prejudice to any other consents or permissions which may be required to decommission any part of the authorised development landwards of MHWS.

Traffic management

25.—(1) No phase of Works No.4 to be undertaken on the highway may commence until a travel demand management plan (in accordance with the travel demand management strategy) has been submitted to and approved by the relevant highway authority's.

(2) The travel demand management plan must identify the measures which are to be undertaken to ensure persons are aware of the construction of Work No.4 on the highway and the travel options available to them to reduce potential impacts through changes to travel behaviour and how the effectiveness of the travel demand management plan will be monitored and evaluated during its implementation.

(3) The approved travel demand management plan must be implemented as approved for the period of the construction of Work No.4 on the highway.

(4) No phase of Works No. 4 to be undertaken on the highway may commence until a strategic signage strategy (in accordance with the framework signage strategy) has been submitted to and approved by the relevant highway authority's (in consultation with Highways England);

(5) The strategic signage strategy must identify the locations for and approach to the provision of strategic highway signage to provide suitable warning to drivers to allow for them to reassign onto appropriate alternative routes and the approach to providing information on a project website regarding the construction of Work No.4 on the highway;

(6) The approved strategic signage strategy must be implemented as approved for the period of the construction of Work No.4 on the highway.

(7) No phase of Works No.4 to be undertaken on the highway may commence until a traffic management strategy (substantially in accordance with the framework traffic management strategy) relating to that phase has been submitted to and approved by the relevant highway authority detailing –

- (a) plans detailing the extent of the works;
- (b) the construction methodology in relation to the works including details of the hours of the day within which the works are to be carried out;
- (c) a schedule of timings for the works, including the dates and durations for any closures of any part of the highway;

- (d) the traffic management strategy to be implemented in relation to those works, including details of any local traffic signals and signs and any traffic regulation measures proposed in connection with those works;
- (e) the measures to be taken in relation to access to residences, businesses and community facilities (in accordance with the onshore cable route construction impacts on access to properties and car parking and communication strategy);
- (f) a schedule of condition of any part of the highway to be affected by the works;
- (g) a specification of the condition of the parts of the highway where the works are to be undertaken;
- (h) details of any lighting to be used in connection with the works for the duration that the works are being undertaken;
- (i) contact details for the client and contractor carrying out the works;
- (j) details of the advanced publicity to be carried out in connection with those works; and
- (k) details of the proposed approach to the reinstatement of the highway in connection with those works, including (where applicable) details of both temporary and permanent reinstatement.

(8) The construction of any phase of Works No.4 to be undertaken on the highway must be carried out in accordance with the traffic management strategy approved in relation to it.

(9) No more than six construction gangs may carry out works comprised in Work No.4 on the highway at any one time.

Employment and skills plan

26.—(1) No phase of the authorised development landwards of MHWS may commence until an employment and skills plan in relation to the construction of the authorised development landwards of MHWS (which accords with the employment and skills strategy) has been submitted to and approved by Winchester City Council (in consultation with Portsmouth City Council, East Hampshire District Council and Havant Borough Council).

(2) The employment and skills plan must identify opportunities for access to employment, apprenticeships, supply chain opportunities, engagement with educational institutions and community support and engagement in connection with the construction of the authorised development, and the means for publicising such opportunities.

(3) The approved employment and skills plan must be implemented as approved during the construction of the authorised development.

Requirement for written approval

27. Where under any of the above requirements the approval or agreement of the relevant planning authority or another person is required, that approval or agreement must be given in writing.

Amendments to approved details

28.—(1) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority or the relevant highway authority or any other person, the approved details must be carried out as approved unless an amendment or variation is previously agreed in writing by the relevant planning authority or the relevant highway authority or that person in accordance with subparagraph (2).

(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to changes which are not material where it has been demonstrated to the satisfaction of the relevant planning authority or the relevant highway authority or that person that

the subject matter of the agreement sought is not likely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) The approved details must be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or that other person.

SCHEDULE 3

Article 3

Procedure for approvals, consents and appeals

Applications made under a Requirement

1.—(1) Where an application has been made to a discharging authority for any consent, agreement or approval under a requirement included in this Order –

- (a) the undertaker must give the discharging authority sufficient information to identify the requirement(s) to which the application relates;
- (b) the undertaker must provide such particulars, and the request must be accompanied by such plans and drawings, as are reasonably considered necessary to deal with the application; and
- (c) the discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.

(2) For the purposes of sub-paragraph (1) and (3), the decision period is –

- (a) where no further information is requested under paragraph 2, 42 days from the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under paragraph 2, 42 days from the day immediately following that on which further information has been supplied by the undertaker under paragraph 2; or
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (a) or (b).

(3) In the event the discharging authority does not determine an application within the decision period the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period unless otherwise agreed in writing.

Further Information

2.—(1) In relation to any application to which this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.

(2) If the discharging authority considers such further information to be necessary and the requirement does not specify that consultation with a requirement consultee is required, it must, as soon as is reasonably practicable and within 5 working days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue a copy of materials in support of the application to the requirement consultee within 5 working days of receipt of the application, and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 5 working days of receipt of such a request and in any event within 21 days of receipt of the application.

(4) If the discharging authority does not give such notification as specified in sub-paragraph (2) or (3) or otherwise fails to request any further information within the timescales provided for in this paragraph, it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without agreement of the undertaker.

Fees

3.—(1) Unless otherwise agreed between the undertaker and the relevant discharging authority, where an application or a request for comments is made to a relevant discharging authority for any

consent, agreement or approval required by a Requirement, a fee must be paid to the relevant discharging authority as follows –

- (a) such fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or
- (b) a fee of £97 per application or request.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of –

- (a) the application or request being rejected as invalidly made; or
- (b) the relevant discharging authority failing to determine the application or to provide written comments within 42 days from the date on which the application is received, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant discharging authority and credited in respect of a future application or a future request for comments.

Appeals

4.—(1) The undertaker may appeal to the Secretary of state in the event that –

- (a) the discharging authority refuses an application for any agreement or approval required by a requirement included in this Order;
- (b) on receipt of a request for further information pursuant to paragraph 2 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (c) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The procedure for appeals is as follows –

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where paragraph 3(b) or (c) applies) within 42 days of the receipt of a request for further information pursuant to paragraph 2 or notification that the information provided is inadequate;
- (b) the undertaker must submit to the Secretary of State a copy of the application submitted to the discharging authority and any supporting documentation which the undertaker may wish to provide (“the appeal documentation”);
- (c) the undertaker must on the same day provide copies of the appeal documentation to the discharging authority and requirement consultee (if applicable);
- (d) as soon as is practicable after receiving the appeal documentation and within not more than 28 days, the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
- (e) the discharging authority and the requirement consultee (if applicable) must submit any written representations to the appointed person in respect of the appeal within 10 working days of the date on which the appeal parties are notified of the appointment of a person under sub-paragraph (d) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (f) the appeal parties may make any counter-submissions to the appointed person within 10 working days beginning with the first day immediately following the date of receipt of written representations pursuant to sub-paragraph (e); and
- (g) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 20 working days of the

receipt of written representations pursuant to sub-paragraph (e) or if submitted the receipt of any counter-submissions pursuant to sub-paragraph (f).

(3) The appointment of the person pursuant to sub-paragraph (2)(d) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) If the appointed person considers that further information is necessary to enable the appointed person to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required pursuant to sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person.

(6) Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 working days of the date mentioned in sub-paragraph (4) and the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 20 working days of the receipt of any such written representations.

Outcome of appeals

5.—(1) On an appeal under paragraph 3 of this Schedule, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under paragraph 3 of this Schedule.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the appointed person's decision beginning with the date of that decision.

(5) If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval for the purpose of Schedule 2 (Requirements) of this Order as if it had been given by the discharging authority.

(6) The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) must not be taken to affect or invalidate the effect of the appointed person's determination.

(7) Save where a direction is given pursuant to sub-paragraph (8) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(8) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it must be made, the appointed person must have regard to the Planning Practice Guidance: Appeals (March 2014) published by the Ministry of Housing, Communities & Local Government, or any circular or guidance which may from time to time replace it.

Interpretation of this Schedule

6. In this Schedule –

“the appeal parties means” the discharging authority, the requirement consultee and the undertaker; and

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the discharging authority in discharging that requirement.

SCHEDULE 4

Article 2

Land plans

<i>Drawing number</i>	<i>Rev</i>	<i>Drawing Title</i>	<i>Scale</i>	<i>Paper size</i>
EN020022-2.2-LP-Sheet0	005	Land Plans - Sheet 0 of 10	1:22,500	A1
EN020022-2.2-LP-Sheet1	005	Land Plans - Sheet 1 of 10	1:2,500	A1
EN020022-2.2-LP-Sheet2	005	Land Plans - Sheet 2 of 10	1:2,500	A1
EN020022-2.2-LP-Sheet3	005	Land Plans - Sheet 3 of 10	1:2,500	A1
EN020022-2.2-LP-Sheet4	005	Land Plans - Sheet 4 of 10	1:2,500	A1
EN020022-2.2-LP-Sheet5	005	Land Plans - Sheet 5 of 10	1:2,500	A1
EN020022-2.2-LP-Sheet6	005	Land Plans - Sheet 6 of 10	1:2,500	A1
EN020022-2.2-LP-Sheet7	005	Land Plans - Sheet 7 of 10	1:2,500	A1
EN020022-2.2-LP-Sheet8	005	Land Plans - Sheet 8 of 10	1:2,500	A1
EN020022-2.2-LP-Sheet9	005	Land Plans - Sheet 9 of 10	1:2,500	A1
EN020022-2.2-LP-Sheet10	005	Land Plans - Sheet 10 of 10	1:2,500	A1

SCHEDULE 5

Article 2

Works plans

<i>Drawing number</i>	<i>Rev</i>	<i>Drawing Title</i>	<i>Scale</i>	<i>Paper size</i>
EN020022-2.4-WP-Sheet0	006	Works Plans - Sheet 0 of 12	1:150,000	A1
EN020022-2.4-WP-Sheet1	006	Works Plans - Sheet 1 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet2	006	Works Plans - Sheet 2 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet3	006	Works Plans - Sheet 3 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet4	006	Works Plans - Sheet 4 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet5	006	Works Plans - Sheet 5 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet6	006	Works Plans - Sheet 6 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet7	006	Works Plans - Sheet 7 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet8	006	Works Plans - Sheet 8 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet9	006	Works Plans - Sheet 9 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet10	006	Works Plans - Sheet 10 of 12	1:2,500	A1
EN020022-2.4-WP-Sheet11	006	Works Plans - Sheet 11 of 12	1:75,000	A1
EN020022-2.4-WP-Sheet12	006	Works Plans - Sheet 12 of 12	1:75,000	A1

SCHEDULE 6

Article 2

Access and rights of way plans

<i>Drawing number</i>	<i>Rev</i>	<i>Drawing Title</i>	<i>Scale</i>	<i>Paper size</i>
EN020022-2.5-AROW-Sheet0	004	Access and Right of Way Plan - Sheet 0 of 10	1:22,500	A1
EN020022-2.5-AROW-Sheet1	004	Access and Right of Way Plan - Sheet 1 of 10	1:2,500	A1
EN020022-2.5-AROW-Sheet2	004	Access and Right of Way Plan - Sheet 2 of 10	1:2,500	A1
EN020022-2.5-AROW-Sheet3	004	Access and Right of Way Plan - Sheet 3 of 10	1:2,500	A1
EN020022-2.5-AROW-Sheet4	004	Access and Right of Way Plan - Sheet 4 of 10	1:2,500	A1
EN020022-2.5-AROW-Sheet5	004	Access and Right of Way Plan - Sheet 5 of 10	1:2,500	A1
EN020022-2.5-AROW-Sheet6	004	Access and Right of Way Plan - Sheet 6 of 10	1:2,500	A1
EN020022-2.5-AROW-Sheet7	004	Access and Right of Way Plan - Sheet 7 of 10	1:2,500	A1
EN020022-2.5-AROW-Sheet8	004	Access and Right of Way Plan - Sheet 8 of 10	1:2,500	A1
EN020022-2.5-AROW-Sheet9	004	Access and Right of Way Plan - Sheet 9 of 10	1:2,500	A1
EN020022-2.5-AROW-Sheet10	004	Access and Right of Way Plan - Sheet 10 of 10	1:2,500	A1

SCHEDULE 7

Article 2

Parameter plans

<i>Drawing number</i>	<i>Rev</i>	<i>Drawing Title</i>	<i>Scale</i>	<i>Paper size</i>
EN020022-2.6- PARA- Sheet1	02	Converter Station and Telecommunications Buildings Parameter Plans Combined Options - Sheet 1 of 3	1:1,250	A1
EN020022-2.6- PARA-Sheet2	02	Converter Station and Telecommunications Buildings Parameter Plans Option B(i) - Sheet 2 of 3	1:1,250	A1
EN020022-2.6- PARA-Sheet3	02	Converter Station and Telecommunications Buildings Parameter Plans Option B(ii) - Sheet 3 of 3	1:1,250	A1
EN020022-2.11- PARA-Sheet1	02	Optical Regeneration Parameter Plan - Sheet 1 of 1	1:500	A1

SCHEDULE 8

Article 13

Streets, public rights of way and permissive paths to be temporarily closed, altered, diverted or restricted

<i>(1) Street, public right of way or permissive paths to be temporarily closed, altered, diverted or restricted</i>	<i>(2) Extent of temporary closure, alteration, diversion or restriction</i>	<i>(3) Access and rights of way plans sheet number</i>
Highways (footway and roadway)		
Broadway Lane and Day Road	Between points TSH/1/b and TSH/1/c	Sheet 1
Broadway Lane	Between points TSH/1/d and TSH/1/e	Sheet 1
Anmore Road	Between points TSH/2/a and TSH/2/b	Sheet 2
London Road	TSH/5/a and TSH/5/b	Sheet 5
Farlington Avenue, Havant Road and Eveleigh Road	Between points TSH/6/a, TSH/6/b and TSH/6/c	Sheet 6
Havant Road	Between points TSH/6/d and TSH/6/e	Sheet 6
Eastern Avenue	Between points TSH/9/a and TSH/9/b	Sheet 9
Moorings Way	Between points TSH/9/c and TSH/9/d	Sheets 9 and 10
Bransbury Road and Ironbridge Lane	Between points TSH/10/a and TSH/10/b	Sheet 10
Ironbridge Lane	Between points TSH/10/c and TSH/10/d	Sheet 10
Unnamed road	Between points TSH/10/e and TSH/10/f	Sheet 10
Footpaths		
Footpath 4	Between points TSF/1/b and TSF/1/c	Sheet 1
Footpath 13	Between points TSF/2/a and TSF/2/b	Sheet 2
Footpath 24	Between points TSF/6/a and TSF/6/b	Sheet 6
Footpath 33	Between point TSF/7/a and TSF/7/b	Sheet 7
Permissive paths		
Permissive paths in and around Milton Common	Between points TSPP/9/a, TSPP/9/b and TSPP/9/c	Sheet 9
	Between points TSPP/9/d and TSPP/9/e	Sheet 9
	Between points TSPP/9/f and TSPP/9/g	Sheet 9
	Between points TSPP/9/h and TSPP/9/i	Sheet 9
	Between points TSPP/9/j and TSPP/9/k	Sheet 9
	Between points TSPP/9/l and	Sheet 9

	TSPP/9/m	
	Between points TSPP/9/n and TSPP/9/o	Sheet 9
	Between points TSPP/9/r, TSPP/9/p and TSPP/9/q	Sheet 9

Modification of compensation and compulsory purchase enactments for the creation of new rights and restrictive covenants

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply in respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limiting paragraph 1, the Land Compensation Act 1973(a)(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4 —

- (a) for “land is acquired or taken” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is or the restrictive covenant enforceable”.

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1961 has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) of the 1961 Act, after ‘if’ substitute—

- “(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act;
- (b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 10 of Schedule 9 to the AQUIND Interconnector Order [*]) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,
the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”

Application of the 1965 Act

4.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land must be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or,

(a) 1973 c.26.

in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.

5. For section 7 of the 1965 Act (measure of compensation) substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

6.—(1) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restriction, [as well as notice of entry as required by subsection (1)], it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on a specified date), 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 (interests omitted from purchase) of the 1965 Act is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

10. For Schedule 2A of the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. – (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of

the 1981 Act as applied by article 25 (Application of the Compulsory Purchase (Vesting Declarations) Act 1981) of the AQUIND Interconnector Order [*] in respect of the land to which the notice to treat relates.

(2) But see article 27(3) (acquisition of subsoil or airspace only) of the AQUIND Interconnector Order 202[*] which excludes acquisition of subsoil only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat;
- (b) accept the counter-notice; or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory; or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant;
- (b) the use to be made of the right or covenant proposed to be acquired or imposed; and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 10

Article 30

Land of which temporary possession may be taken

<i>(1) Purpose for which temporary possession may be taken</i>	<i>(2) Plot reference (as shown on land plans)</i>	<i>(3) Land plans sheet number</i>
Activities in connection with the construction of Work No. 2	1-34, 1-45, 1-46, 1-49a, 1-50, 1-54, 1-57, 1-60, 1-65, 1-71, 1-73	Sheet 1
Temporary work area (Work No. 3) in connection with Work No.s 1, 2 and 4	1-39, 1-60	Sheet 1
Activities in connection with Work No. 4	3-11, 7-10a, 7-14, 7-15, 8-09, 10-02, 10-03, 10-08, 10-09	Sheets 3, 7, 8 and 10
For the purpose of and for the duration required to clear any breakout of bentonite drilling lubricant in connection with the undertaking of a HDD beneath the Eastney and Milton Allotments	10-14	Sheet 10

SCHEDULE 11

Article 42

Trees subject to tree preservation orders

<i>Type survey reference</i>	<i>Indicative works to be carried out</i>	<i>TPO reference</i>	<i>TPO name</i>
T2016, T2018	Potential removal	43/1977	No.2, 2A & 4 Down End Road, Farlington, Portsmouth
T925	Potential removal	201/1997	Scoutlands, 261 Havant Road, Farlington, Portsmouth
T59	Potential removal	195/1997	Great Salterns, Mansion, Eastern Road, Copnor, Portsmouth
G593, G602, G739	Potential removal	230/2004	Halliday Crescent, Southsea
T168, T169, T172	Potential removal	1002	150-152, London Road, Waterlooville
G651	Potential removal	1303	Land south of the Vicarage, London Road, Purbrook
W2001	Potential removal	1472	The Vicarage, London Road, Purbrook
T2006	Potential removal	1560	Elettra Avenue, Waterlooville
T154	Potential removal	1619	1 and 2 Silverthorne Way, Waterlooville
G652	Potential removal	1842	Land South of Marrelswood Estate
T160	Potential removal	1899	134 London Road, Waterlooville
G688	Potential removal	1945	138 London Road, Waterlooville
T161	Potential removal	2007	Land to the west of Maurepas Way, Waterlooville
T2016, T2018	Potential removal	43/1977	No.2, 2A & 4 Down End Road, Farlington, Portsmouth

SCHEDULE 12

Article 41

Removal of important hedgerows

<i>Area</i>	<i>Hedgerow ID</i>	<i>Sheet Reference</i>	<i>Plan</i>	
			<i>Removal, partial removal or retained</i>	
			<i>Option B(i)</i>	<i>Option B(ii)</i>
Winchester	HR05	EN020022-2.12-HTPO-Sheet1	Partial removal	Retained
Winchester	HR06	EN020022-2.12-HTPO-Sheet1	Partial removal	Retained
Winchester	HR07	EN020022-2.12-HTPO-Sheet1	Partial removal	Partial removal
Winchester	HR08	EN020022-2.12-HTPO-Sheet1	Removal	Retained
Winchester	HR10	EN020022-2.12-HTPO-Sheet1	Partial removal	Retained
Winchester	HR13	EN020022-2.12-HTPO-Sheet1	Partial removal	Partial removal
Winchester	HR15	EN020022-2.12-HTPO-Sheet1	Partial removal	Partial removal
Winchester	HR16	EN020022-2.12-HTPO-Sheet1	Removal	Removal
East Hampshire	HR17	EN020022-2.12-HTPO-Sheet1	Partial removal	Partial removal
Winchester	HR19	EN020022-2.12-HTPO-Sheet1	Partial removal	Partial removal
East Hampshire	HR20	EN020022-2.12-HTPO-Sheet1	Partial removal	Partial removal
East Hampshire	HR23	EN020022-2.12-HTPO-Sheet1	Removal	Removal
Winchester	HR28	EN020022-2.12-HTPO-Sheet1	Partial removal	Partial removal
Winchester	HR31	EN020022-2.12-HTPO-Sheet3	Partial removal	Partial removal
Winchester	HR57	EN020022-2.12-HTPO-Sheet3	Partial removal	Partial removal
Havant	HR66	EN020022-2.12-HTPO-Sheet4	Partial removal	Partial removal

Protective provisions

Part 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE
UNDERTAKERS**Application**

1.—(1) The provisions of this Part have effect for the protection of the statutory undertakers referred to in this Part, unless otherwise agreed in writing between the undertaker and the statutory undertaker concerned.

Interpretation

2.—(1) In this part —

“alternative apparatus” means alternative apparatus adequate to enable the statutory undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of a statutory undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant (as defined in the Electricity Act 1989), belonging to or maintained by the statutory undertaker for the purposes of electricity supply;
- (b) in the case of a statutory undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a statutory undertaker within paragraph (c) of the definition of that term, mains, pipes or other water apparatus belonging to or maintained by the statutory undertaker for the purposes of water supply and any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991 at the time of the works mentioned in this Part; and
- (d) in the case of a statutory undertaker within paragraph (d) of the definition of that term —
 - (i) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991; and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act, and

includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

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

“statutory undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

- (b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986(a);
- (c) a water undertaker within the meaning of the Water Industry Act 1991(b);
- (d) a sewerage undertaker within the meaning of part 1 (preliminary) of the Water Industry Act 1991; and

for the area of the authorised development, and in relation to any apparatus, means the statutory undertaker to whom it belongs or by whom it is maintained.

On-street apparatus

3. This Part does not apply to apparatus in respect of which the relations between the undertaker and the statutory undertaker are regulated by Part 3 of the 1991 Act.

Apparatus in stopped up streets

4. Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 13 (temporary stopping up of streets and public rights of way), a statutory undertaker 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

5. The undertaker, in the case of the powers conferred by article 19 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of apparatus

6. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the statutory undertakers apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of a statutory undertaker to maintain that apparatus in that land and to gain access to it will not be extinguished until, if so required by the statutory undertaker, alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the statutory undertaker in question in accordance with paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker in question 28 days' written notice of that requirement, together with a plan and section of the work proposed and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a statutory undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the statutory undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(a) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c.27).

(b) 1991 c.56.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in subparagraph (2) in land in which the alternative apparatus or part of such apparatus is to be constructed the statutory undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in other land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of 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 the statutory undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 45 (arbitration).

(5) The statutory undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 45 (Arbitration), and after the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (2) and (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 this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the statutory undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus, that work, instead of being executed by the statutory undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the statutory undertaker.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a statutory undertaker facilities and rights for the construction and maintenance in land of the undertaker for alternative apparatus in substitution for apparatus to be removed, those facilities and rights will be granted upon such terms and conditions as may be agreed between the undertaker and the statutory undertaker in question or in default of agreement settled by arbitration in accordance with article 45 (Arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the statutory undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator may make such provision for the payment of compensation by the undertaker to that statutory undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the statutory undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the statutory undertaker for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a statutory undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a statutory undertaker in accordance with sub-paragraph (3) 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, paragraph 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).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the statutory undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Compensation

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraphs 5 or 7(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a statutory undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any statutory undertaker, the undertaker must—

- (a) bear and pay on demand the cost reasonably incurred by that statutory undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that statutory undertaker for any other expenses, loss, demands or proceedings, damages, claims, penalty or costs incurred by the statutory undertaker,

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

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

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

(4) A statutory undertaker must give the undertaker reasonable prior written notice of any claim or demand, and no settlement or compromise may be made without the consent of the undertaker who, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand..

Expenses

11.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to the statutory undertaker in question the reasonable expenses incurred by that statutory undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2)..

(2) The value of any apparatus removed under this Part is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with 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 45 (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 the statutory undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory undertaker in question 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.

Co-operation

12. Where in consequence of the proposed construction of any of the authorised development, the undertaker or a statutory undertaker requires the removal of apparatus under paragraph 7(2) or a statutory undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the statutory undertaker's undertaking and each statutory undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

Disputes

13. Any difference or dispute arising between the undertaker and a statutory undertaker under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and the statutory undertaker in question, be determined by arbitration in accordance with article 45 (arbitration).

Enactments and agreements

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

Part 2

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS NETWORKS

Application

1.—(1) The provisions of this Part have effect for the protection of operators unless otherwise agreed in writing between the undertaker and the operator in question.

(2) This Part does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

Interpretation

2. In this part —

“2003 Act” means the Communications Act 2003;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

“electronic communications code network” means—

- (a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) of that code; and

“operator” means the operator of an electronic communications code network.

Electronic communications apparatus installed on, under or over any land

3. The exercise of the powers in article 33 (statutory undertakers) is subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

Compensation

4.—(1) Subject to sub-paragraphs (2) to (3), if as the result of the authorised development or its construction, any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or the property of an operator, the undertaker must—

- (a) bear and pay on demand the cost reasonably incurred by that statutory undertaker in making good such damage or restoring the supply;

- (b) make reasonable compensation to that statutory undertaker for any other expenses, loss, demands or proceedings, damages, claims, penalty or costs incurred by the statutory undertaker,

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

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

(3) Any difference arising between the undertaker and the operator under this paragraph must, unless otherwise agreed in writing between the operator and the undertaker, be referred to and settled by arbitration under article 45 (Arbitration).

(4) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Co-operation

5. In respect of any specified work or the acquisition of rights under or over or use of the statutory undertaker's property, the statutory undertaker must co-operate with the undertaker with a view to avoiding undue delay.

Enactments and agreements

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

Part 3

FOR THE PROTECTION OF SOUTHERN GAS NETWORKS PLC AS GAS UNDERTAKER

Application

1. For the protection of SGN the following provisions will, unless otherwise agreed in writing between the undertaker and SGN, have effect.

Interpretation

2. In this part —

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

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

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by SGN for the purposes of gas distribution together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of SGN 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;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 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;

“commence” has the same meaning as in article 2 and commencement shall be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement include all matters comprised in the Onshore Site Preparation Works save for the temporary display of site notices and advertisement;

“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 and/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 SGN (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 SGN’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;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SGN including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“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;

“rights” shall include rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“SGN” means Southern Gas Networks plc or its successors in title or successor bodies and/or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986.

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which will or may be:

- (a) situated over, or within 15m measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 6(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 sub-paragraph 7(2) or otherwise;

“undertaker” means the undertaker as defined in article 2 of this Order.

On street apparatus

3.—(1) Except for paragraphs 4 (Apparatus of SGN in stopped up streets), 7 (Removal of apparatus) in so far as sub-paragraph 3(2) applies, 8 (Facilities and rights for alternative apparatus) in so far as sub-paragraph 3(2) below applies, 9 (Retained apparatus: protection of SGN) and 10 (Expenses and costs) of this Part 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 SGN, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and SGN are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraph 7 and 8 of this Part of this Schedule shall apply to diversions even where carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

(3) Notwithstanding articles 11, 12, 30 and 35 or any other powers in the Order generally, s85 of the 1991 Act in relation to cost sharing and the regulations made thereunder shall not apply in relation to any diversion of apparatus of SGN under the 1991 Act.

Apparatus of SGN in stopped up streets

4.—(1) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 13 (temporary stopping up of streets and public rights of way), SGN will be at liberty at all times to take all necessary access across any such stopped up highway and/or 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 temporary stopping up or diversion was in that highway.

Protective works to buildings

5.—(1) The undertaker, in the case of the powers conferred by article 18 (*protective works to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of SGN and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of SGN or any interruption in the supply of gas by SGN, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by SGN in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall:

- (a) pay compensation to SGN for any loss sustained by it by reason or in consequence of any such damage or interruption; and
- (b) indemnify SGN against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by SGN, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of SGN or its contractors or workmen.

(3) SGN will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by SGN, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Acquisition of land

6.—(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 appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of SGN otherwise than by agreement.

(2) As a condition of 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 SGN and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of SGN and/or affects the provisions of any enactment or agreement regulating the relations between SGN and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as SGN reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between SGN and the

undertaker acting reasonably and which must be no less favourable on the whole to SGN unless otherwise agreed by SGN.

(3) The undertaker and SGN 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 SGN and/or other enactments relied upon by SGN as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by SGN under paragraph 9 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph 6(1).

(5) As a condition of an agreement between the parties in sub-paragraph 6(1) that involves de-commissioned apparatus being left in situ in any land of the undertaker, the undertaker must accept a surrender of any existing easement and/or other interest of SGN in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release SGN from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any SGN right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 7 do not apply, the undertaker must:

- (a) retain any notice of SGN's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of SGN's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of SGN's easement, right or other interest in relation to such acquired land; and
- (c) provide up to date official entry copies to SGN within 20 working days of receipt of such up to date official entry copies.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order or under any agreement reached in accordance with paragraph 6 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed or requires that SGN's apparatus is relocated or diverted, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of SGN to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation and the rights and facilities referred to in sub-paragraph (2) have been provided to the reasonable satisfaction of SGN and in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works 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 SGN not less than 28 days' written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SGN reasonably needs to move or remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to SGN to its satisfaction (taking into account sub-paragraph 8(1) below) the necessary facilities and rights:

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus).

(3) If the undertaker is unable to afford the alternative apparatus such necessary 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, SGN must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligations shall not extend to the requirement for SGN to use its compulsory purchase powers to this end unless it (in its absolute discretion) 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 SGN and the undertaker.

(5) SGN must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to SGN of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to SGN to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SGN facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and SGN and must be no less favourable on the whole to SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by SGN.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SGN under sub-paragraph 8(1) above 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 SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in SGN's reasonable opinion) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 14 of this Part of this Schedule (arbitration) and the arbitrator shall make such provision for the payment of compensation by the undertaker to SGN as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of SGN

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to SGN a plan and, if reasonably required by SGN, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to SGN 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 etc.;
- (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; and
- (f) any intended maintenance regimes.

(3) SGN shall use its reasonable endeavours to provide its approval to or any comments on any plan submitted pursuant to sub-paragraph (2) and detail any reasonable requirements as may be made in accordance with sub-paragraph (6)(a) within not more than 28 days of the date on which a plan under sub-paragraph (1) is submitted to it.

(4) Where SGN provides comments on any plan submitted pursuant to sub-paragraph (1) the undertaker shall provide a response to those comments and where necessary provide any updates to that plan to address the comments made by SGN and SGN shall use reasonable endeavours to confirm whether the plan is approved or whether it has any further comments within 14 days following the date of the response from the undertaker.

(5) Where SGN has provided comments on any plan submitted to sub-paragraph (1) or in response to any response received from the undertaker the undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until SGN has given written approval of the plan so submitted.

(6) Any approval of SGN provided under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub paragraphs (5) or (7); and
- (b) must not be unreasonably withheld or delayed.

(7) In relation to any work to which sub-paragraphs (1) and/or (2) apply, SGN may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(8) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (4), as approved and in accordance with such reasonable conditions given in accordance with sub-paragraph (6)(a) or as amended from time to time by agreement between the undertaker and SGN, and SGN will be entitled to watch and inspect the execution of those works.

(9) Where SGN 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 SGN's reasonable satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required.

(10) Any requirements made by SGN under sub-paragraph (8) must be made within a period of 42 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it

(11) If SGN, 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 sub-paragraph 7(2).

(12) 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 works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(13) The undertaker is not required to comply with sub-paragraphs (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to SGN notice as soon as is reasonably practicable and a plan of those works and must comply with—

- (a) the conditions imposed under sub-paragraph (6)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (14) at all times.

(14) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works the undertaker shall implement an appropriate ground mitigation scheme save that SGN retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 10.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to SGN following receipt of an invoiced demand (including where necessary anticipated disbursements) all charges, costs and expenses reasonably anticipated or incurred by SGN in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or rights or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by SGN in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by SGN as a consequence of SGN;
 - (i) if it elects to do so using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 7(3); and/or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting SGN;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (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;
- (g) any watching brief pursuant to sub-paragraph 9(7).

(2) There shall be deducted from any sum payable under sub-paragraph (1) 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 paragraph 14 of this Part of this Schedule (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 SGN by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) 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.

Enactments and agreements

11. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between SGN and the undertaker, nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and SGN 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

12.—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or SGN requires the removal of apparatus under sub-paragraph 7(2) or SGN makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use its best endeavours to co-ordinate the execution of the works

- (a) in the interests of safety;
- (b) taking into account the efficient and economic execution of the authorised works; and
- (c) taking into account the need to ensure the safe and efficient operation of SGN's undertaking;

and SGN must co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SGN'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

13. If in consequence of the agreement reached in accordance with sub paragraph 6(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable SGN to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

14. Save for differences or disputes arising under sub-paragraphs paragraph 9 any difference or dispute arising between the undertaker and SGN under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and SGN, be determined by arbitration in accordance with article 45 (arbitration).

Notices

15. The plans submitted to SGN by the undertaker pursuant to sub-paragraph 9(1) must be sent to SGN at easements@sgn.co.uk or such other address as SGN may from time to time appoint instead for that purpose and notify to the undertaker.

Part 4

FOR THE PROTECTION OF RAILWAY INTERESTS

Application

1. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 15 of this Part of this Schedule, any other person on whom rights or obligations are conferred by that paragraph..

Interpretation

2. In this part —

“construction” includes execution, placing, alteration and reconstruction, and “construct” and “constructed” are to be construed accordingly;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of his powers under section 8 of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited (registered company number 2904587) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 (meaning of “subsidiary” etc.) of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail Infrastructure Limited and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail Infrastructure Limited or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail Infrastructure Limited for the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised works as is situated upon, across, under, over or within 15m of, or may in any way adversely affect, railway property.

Railway operational procedures

3.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

(a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised works pursuant to this Order.

Acquisition of land

- 4.—(1) The undertaker must not exercise the powers conferred by—
- (a) article 3 (development consent etc. granted by the Order);
 - (b) article 4 (authorisation of use);
 - (c) article 5 (power to maintain authorised development);
 - (d) article 14 (access to works);
 - (e) article 17 (discharge of water);
 - (f) article 18 (protective works to buildings);
 - (g) article 19 (authority to survey and investigate the land);
 - (h) article 20 (compulsory acquisition of land);
 - (i) article 21 (statutory authority to override easements and other rights);
 - (j) article 23 (compulsory acquisition of rights and the imposition of restrictive covenants);
 - (k) article 24 (private rights of way);
 - (l) article 27 (acquisition of subsoil and airspace only);
 - (m) article 30 (temporary use of land for carrying out the authorised development);
 - (n) article 32 (temporary use of land for maintaining the authorised development);
 - (o) article 33 (statutory undertakers);
 - (p) article 41 (felling or lopping of trees and removal of hedgerows);
 - (q) article 42 (trees subject to tree preservation orders)

or the powers conferred by section 11(3) of the 1965 Act in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 21 (statutory authority to override easements and other rights), article 24 (private rights of way) or article 33 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over any railway property except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

Approval of plans etc.

5.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration in accordance with paragraph 22 of this Part of this Schedule.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated his or her disapproval of those plans and

the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying his or her approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to his or her reasonable satisfaction.

Carrying out of works

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

Facilities

7.—(1) The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and

- (b) supply the engineer with all such information as he may reasonably require with regard to a specified work or the method of constructing it.

8. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

Network Rail Apparatus

9.—(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 5(3) of this Part of this Schedule, pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 10(a) of this Part of this Schedule provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

Expenses

10.—(1) The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 5(3) of this Part of this Schedule or in constructing any protective works under the provisions of paragraph 5(4) of this Part of this Schedule including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by him of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may, in the opinion of the engineer, require to be imposed by reason or in consequence of the

construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

Electromagnetic interference

11.—(1) In this paragraph-

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) of this Part of this Schedule for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)-

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) of this Part of this Schedule in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) of this Part of this Schedule have effect subject to this sub-paragraph.

(6) If at any time prior to the commencement of regular revenue-earning operations comprised in the authorised development and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised development causes EMI, then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker’s apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail’s apparatus.

(7) In the event of EMI having occurred –

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6) –

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) such modifications must be carried out and completed by the undertaker in accordance with paragraph 6 of this Part of this Schedule.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) of this Part of this Schedule applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a) of this Part of this Schedule any modifications to Network Rail's apparatus under this paragraph are deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in paragraph 22 of this Part of this Schedule to the President of the Institution of Civil Engineers shall be read as a reference to the President of the Institution of Engineering and Technology.

Maintenance of the authorised development

12. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not to adversely affect railway property.

Illuminated signs etc.

13. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

Additional expenses

14. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be paid by the undertaker to Network Rail.

Indemnity

15.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to the provisions of this paragraph and article 35 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision does not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) shall include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

Cost estimates

16. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 15 of this Part of this Schedule) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

17. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

Agreements relating to the transfer of land etc.

18. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (1) any railway property shown on the works and land plans and described in the book of reference;
- (2) any lands, works or other property held in connection with any such railway property; and
- (3) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

Enactments

19. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

Notice in relation to transfer

20. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 7 (Consent to transfer benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (1) the nature of the application to be made;
- (2) the extent of the geographical area to which the application relates; and
- (3) the name and address of the person acting for the Secretary of State to whom the application is to be made.

Provision of plans

21. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 43 (certification of plans and documents, etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in an electronic format to be agreed between Network Rail and the undertaker.

Arbitration

22. Any dispute arising under this Part of this Schedule (except for those disputes referred to in paragraph 11(11) of this Part), unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers

Part 5

FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY UNDERTAKER

Application

1.—(1) For the protection of National Grid 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.

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

- (a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid.

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 a third party liability insurance effected and maintained by the undertaker with a limit of indemnity of not less than £25,000,000.00 (twenty five million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained for the construction period of the authorised works which constitute specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an “acceptable credit provider”, such policy shall include (but without limitation):

- (a) National Grid as a Co-Insured;
- (b) a cross liabilities clause; and
- (c) contractors’ pollution liability for third party property damage and third party bodily damage arising from a pollution/contamination event with cover of £10,000,000.00 (ten million pounds) per 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 £25,000,000.00 (twenty five million pounds) (in a form reasonably satisfactory to National Grid and where required by National Grid, 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 £25,000,000.00 (twenty five million pounds) (in a form reasonably satisfactory to the National Grid);

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

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

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) 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;

“commence” has the same meaning as provided for at article 2(1) save that for the purposes of this Part of this Schedule it shall include any below ground surveys, monitoring, operations or the receipt and erection of construction plant and equipment and the words “commencement” and “commenced” are to be construed accordingly;

“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 (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’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;

“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 including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” 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;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by National Grid acting reasonably

“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;

“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”

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

On Street Apparatus

3. Except for paragraphs 4 (apparatus in stopped up streets), 9 (retained apparatus: protection) 10 (expenses) and 11 (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, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid in stopped up streets

4. Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 13 (temporary closure, alteration, diversion or restriction of streets, public rights of way and permissive paths), National Grid is at liberty at all times to take all necessary access across any such stopped up highway and/or 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

5.—(1) 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 without the written consent of National Grid (such consent not to be unreasonably withheld) and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of National Grid or any interruption in the supply of electricity by National Grid is caused, the undertaker must bear and pay on demand the cost reasonably incurred by National Grid in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

- (a) pay compensation to National Grid for any loss sustained by it; and
- (b) indemnify National Grid against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by National Grid, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of National Grid or its contractors or workmen; and National Grid will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by National Grid, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Acquisition of land

6.—(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 otherwise than by agreement (such agreement not to be unreasonably withheld).

(2) 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 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 or affect the provisions of any enactment or agreement regulating the relations between National Grid 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 reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable

on the whole to National Grid unless otherwise agreed by National Grid, 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.

(3) The undertaker and National Grid 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 and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Grid under paragraph 9 (retained apparatus: protection of electricity undertaker) or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

7.—(1)— If, in the exercise of the powers conferred by the Order or under an agreement reached in accordance with paragraph 6 (acquisition of land) or in any other authorised manner, 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 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 in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works comprised in the authorised works 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 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 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 to its reasonable 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 must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour 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 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 and the undertaker.

(5) National Grid 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 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

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

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid 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 as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of electricity undertaker

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

(2) In relation to works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to National Grid 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; and
- (g) an assessment of risks of rise of earth issues.

(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 of trenches;
- (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's engineers; and

- (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of at least 26 tonnes in weight.
- (4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.
- (5) Any approval of National Grid 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) must not be unreasonably withheld.
- (6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid 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 and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.
- (8) Where under sub-paragraph (6) National Grid 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 Grids' satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).
- (9) If National Grid 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 works, 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 notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar 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's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

10.—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably and properly anticipated within the following three months or reasonably and properly incurred by National Grid 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 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 as a consequence of National Grid;
 - (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;
- (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 (1) 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 paragraph 15 (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 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 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 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

11.—(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, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party as aforesaid other than arising from any default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid 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 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, 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 as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 (benefit of order granting development consent) of the 2008 Act or article 7 (consent to transfer benefit of 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-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11.

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, 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 must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph 11 applies where it is within National Grid’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’s control and if reasonably requested to do so by the undertaker National Grid shall provide an explanation of how the claim has been minimised, where relevant.

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

- (a) unless and until National Grid 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 has confirmed the same to the undertaker in writing; and

- (b) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid that it will 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 has confirmed the same in writing to the undertaker.

(7) In the event that the undertaker fails to comply with 11(6) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

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 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 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

13.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 7(2) or National Grid 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's undertaking and National Grid shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid's consent, agreement approval or expression of satisfaction 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

14. If in consequence of the agreement reached in accordance with paragraph 6 and/or the exercise of 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 to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Save for differences or disputes arising under paragraph 7(2), 7(4) 8(1), and 9 any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 45 (arbitration).

Notices

16. Any plans submitted to National Grid by the undertaker pursuant to paragraph 9 of this Part of this Schedule must be sent to National Grid Plant Protection at plantprotection@nationalgrid.com or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

Part 6

FOR THE PROTECTION OF HIGHWAYS ENGLAND

Application

1. The provisions of this Part of this Schedule apply for the protection of Highways England and have effect unless otherwise agreed in writing between the undertaker and Highways England.

Interpretation

2.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph 2 the latter shall prevail.

(2) In this part of this Schedule—

“as built information” means one digital copy of the following information—

- (a) as constructed drawings in both PDF and Auto CAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document;
- (b) list of suppliers and materials used and test results;
- (c) method statements for the works carried out;
- (d) product data sheets and technical specifications for all products used;
- (e) as constructed information for any utilities discovered or moved during the works;
- (f) in relation to any road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works or any replacement or modification of it;
- (g) as constructed programme;
- (h) any test results and records required in accordance with the detailed design information and during the construction phase of the authorised development; and
- (i) the health and safety file.

“condition survey” means a survey of the condition of Highways England structures and assets (including, but not limited to, any existing drainage and cabling) within the Order limits that in the reasonable opinion of Highways England may be affected by a specified work;

“contractor” means any contractor or sub-contractor appointed by the undertaker to carry out a specified work;

“detailed design information” means drawings specifications and calculations as is appropriate to the specified work for the following—

- (a) earthworks including supporting geotechnical assessments required by CD622 (Managing geotechnical risk) of the DMRB or any successor document and any required strengthened earthworks appraisal form certification;
- (b) any proposed departures from applicable DMRB standards;
- (c) any utilities diversions;
- (d) topographical survey;
- (e) health and safety information including any asbestos survey required by GD05/16 (asbestos management in trunk road assets) or any successor document; and
- (f) other such information that may be reasonably required by Highways England to inform the detailed design of a specified work.

“DMRB” means the Design Manual for Roads and Bridges or any replacement, revision or modification of it;

“highway structure” means structures or installations within the scope of the DMRB and that are situated under, over or adjacent to a motorway or other trunk road;

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of a specified work as notified to Highways England from time to time;

“programme of works” means a document setting out the sequence and timetabling of a specified work;

“specified work” means so much of any work authorised by this Order, including any maintenance of that work, as is in or under the trunk road network for which Highways England is the highway authority; and

“trunk road network” for these protective provisions means the crossing under the A27 in the location shown on the Works Plans Sheet No.7.

General

3. Notwithstanding the powers granted to the undertaker pursuant to this Order, the undertaker must not carry out any specified work in or on any highway for which Highways England is the highway authority, or under any highway for which Highways England is the highway authority, at a distance of less than 4 metres from the lowest point of the ground (including, but not limited to, works set out in articles 10(1) and 11(1) of the Order), unless it has first entered into an agreement with Highways England prior to commencing the relevant works.

Prior approvals

4.—(1) No specified works may commence until—

- (a) the programme of works has been submitted to and approved by Highways England, such approval not to be unreasonably withheld or delayed;
- (b) the following details relating to the specified work have been submitted to and approved by Highways England, such approval not to be unreasonably withheld or delayed—
 - (i) the detailed design information;
 - (ii) the identity of the contractor and nominated persons;
 - (iii) details of any proposed road space bookings; and
 - (iv) (if details have been supplied pursuant to paragraph 4(b)(iii) above) a scheme of traffic management.
- (c) (if the carrying out of a specified work requires the booking of any road space with Highways England) a scheme of traffic management and a process for stakeholder liaison has been submitted to and approved by Highways England, such scheme to be capable of amendment by agreement between the undertaker and Highways England from time to time.
- (d) any stakeholder liaison that may be required has taken place in accordance with the process for such liaison agreed between the undertaker and Highways England under subparagraph 4(1)(c) above
- (e) any further information that Highways England may reasonably request within 28 days of the submission of the detailed design information in respect of a specified work has been supplied to Highways England; and
- (f) a condition survey and a reasonable regime of monitoring the highways structures and assets that were surveyed under the condition survey has been submitted to and approved, acting reasonably, by Highways England.

(2) Highways England must provide the undertaker with a list, which is to be agreed between the parties acting reasonably, of all the highways structures and assets to be subject to both a

condition survey and reasonable regime of monitoring pursuant to sub-paragraph (1)(f) and paragraph 7(1) of this Part of this Schedule before the first condition survey is conducted and the reasonable regime of monitoring is implemented.

(3) Highways England must prior to the commencement of a specified work inform the undertaker of the identity of the person who will act as a point of contact on behalf of Highways England to consider the information required under sub-paragraph (1) and of the identity of the person or persons who are authorised to give consent or approval on behalf of Highways England for any matter requiring approval or consent in these provisions.

(4) Any approval of Highways England required by this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) in the case of a refusal must be accompanied by a statement of grounds of refusal;
- (c) is deemed to have been refused if it is neither given or refused within 56 days of the submission of the relevant information (if further information is requested by Highways England any such request must be submitted to the undertaker within 28 days of submission of the relevant information under sub-paragraph 4(1)(e) and the provision of such further information by the undertaker will not be deemed to constitute a new application for approval pursuant to this paragraph); and
- (d) may be given subject to any reasonable conditions as Highways England considers necessary.

(5) If the undertaker requires entry onto land which forms part of the trunk road network to exercise the powers over that land set out in article 19 (authority to survey and investigate the land) of this Order, the undertaker must supply details of any proposed road space bookings (in accordance with Highways England's Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy) and submit to Highways England and obtain the approval of Highways England of a scheme of traffic management prior to the exercise of the power.

Construction of the specified work

5.—(1) The undertaker must, prior to commencement of a specified work, give to Highways England 28 days' notice in writing of the date on which the specified work will start unless otherwise agreed by Highways England.

(2) If the carrying out of any part of the authorised development requires the booking of road space with Highways England, the undertaker must comply with Highways England's usual road space booking procedures prior to and during the carrying out of the specified work and no specified work for which a road space booking with Highways England is required must commence without a road space booking having first been secured from Highways England.

(3) Any specified work must be carried out to the reasonable satisfaction of Highways England (acting reasonably) in accordance with—

- (a) the relevant detailed design information and programme of works approved pursuant to paragraph 4(1)(a) and 4(1)(b)(i) or as subsequently varied by agreement between the undertaker and Highways England;
- (b) DMRB document CD622 (Managing geotechnical risk) (or any revised version or successor of CD622 as may be issued);
- (c) any conditions of Highways England notified by Highways England to the undertaker pursuant to paragraph 4(4)(d) of this Part of this Schedule.

(4) The undertaker must ensure that (where possible) without entering the highway the specified work is carried out without disturbance to the highway and so that the highway remains open for traffic at all times unless otherwise agreed with Highways England.

(5) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by Highways England (whose identity must have been previously notified to the undertaker by Highways England) to gain access to a specified work for the purposes of inspection and supervision of a specified work or method of construction of such work.

(6) If any specified work is constructed—

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the highway, any highway structure or asset or any other land of Highways England,

(7) Highways England may by notice in writing require the undertaker, at the undertaker's own expense, to comply with the requirements of this Part of this Schedule or put right any damage notified to the undertaker under this Part of this Schedule.

(8) If within 56 days of the date on which a notice under sub-paragraph (6) is served on the undertaker, the undertaker has failed to take steps to comply with the notice, Highways England may carry out the steps required of the undertaker and may recover from the undertaker any expenditure reasonably incurred by Highways England in so doing, such sum to be payable within 30 days of demand. Where the steps required to be taken pursuant to any notice require the submission of any information for the prior approval of Highways England, the submission of that information will evidence that the undertaker has taken steps to comply with a notice served by Highways England under sub-paragraph (6).

(9) Highways England may, at its discretion, in its notice in writing to the undertaker given pursuant to sub-paragraph (6) state that Highways England intend to put right the damage notified to the undertaker, and if it intends to do so it must give the undertaker not less than 28 days' notice of its intention to do so and Highways England may recover from the undertaker any reasonable expenditure incurred by Highways England in so doing.

(10) Nothing in this Part of this Schedule prevents Highways England from, in the event of an emergency or to prevent the occurrence of danger to the public, carrying out any work or taking any such action as it reasonably believes to be necessary as a result or in connection with of the carrying out of the specified work without prior notice to the undertaker and Highways England may recover from the undertaker any reasonable expenditure incurred by Highways England in so doing.

Payments

6.—(1) The undertaker must pay to Highways England a sum equal to the whole of any costs and expenses which Highways England incurs (including costs and expenses for using internal or external staff) in relation to any specified work including—

- (a) the checking and approval of the information required under paragraph 4(1) of this Part of this Schedule;
- (b) the supervision of a specified work;
- (c) reasonable legal and administrative costs, reasonably and properly incurred, in relation to sub-paragraphs (a) and (b); and
- (d) any value added tax which is payable by Highways England only in respect of such costs and expenses arising under this paragraph 6(1) and for which it cannot obtain reinstatement from HM Revenue and Customs,

(2) together comprising “the HE costs”.

(3) The undertaker must pay to Highways England upon demand and prior to such costs being incurred the total costs that Highways England believe will be properly and necessarily incurred by Highways England in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing any specified work or that are incurred in connection with a specified work.

(4) Highways England must provide the undertaker with a fully itemised invoice showing its estimate of the HE costs prior to the commencement of a specified work and the undertaker must pay to Highways England the estimate of the HE costs prior to commencing a specified work and in any event prior to Highways England incurring any cost.

(5) If at any time after the payment referred to in sub-paragraph (3) has become payable, Highways England reasonably believes that the HE costs will exceed the estimated HE costs in respect of a specified work it may give notice to the undertaker of the amount that it believes the

HE costs will exceed the estimate of the HE costs (excess) and the undertaker must pay to Highways England within 28 days of the date of the notice a sum equal to the excess.

(6) Highways England must give the undertaker a final account of the costs, as a fully itemised invoice, referred to in sub-paragraph (1) within 30 days of the undertaker notifying to Highways England that a specified work has been completed.

(7) Within 30 days of the issue of the final account—

- (a) if the final account shows a further sum as due to Highways England the undertaker must pay to Highways England the sum shown due to it; or
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by Highways England, Highways England must refund the difference to the undertaker.

(8) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 1 per cent above the rate payable in respect of compensation under Section 32 of the 1961 Act for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

Completion of a specified work

7.—(1) Within 56 days of the completion of a specified work, the undertaker must arrange for the highway structures and assets that were the subject of the condition survey carried out in respect of the specified work to be re-surveyed and must submit the re-survey to Highways England for its approval.

(2) If the re-survey carried out pursuant to sub-paragraph (1) indicates that any damage has been caused to any highways structure or asset, the undertaker must submit a scheme for remedial works in writing to Highways England for its approval in writing, which must not be unreasonably withheld or delayed, and must carry out the remedial works at its own cost and in accordance with the approved scheme.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, Highways England may carry out the steps required of the undertaker and may recover from the undertaker any expenditure reasonably incurred by Highways England in so doing, such sum to be payable within 30 days of demand.

(4) Highways England may, at its discretion, at the same time as giving its approval to the condition survey carried out pursuant to sub-paragraph (1), give notice in writing to the undertaker stating that Highways England will remedy the damage identified by the condition survey and Highways England may recover from the undertaker any reasonable expenditure incurred by Highways England in so doing.

(5) Within 10 weeks of the completion of a specified work, the undertaker must submit to Highways England the as built information.

(6) The undertaker must make available to Highways England upon reasonable request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

Indemnification

8.—(1) The undertaker must indemnify Highways England from and against all costs, expenses, damages, losses and liabilities suffered by Highways England arising from or in connection with any claim, demand, action or proceedings resulting from:

- (a) the construction or maintenance of a specified work; and
- (b) the placing or presence in or under the highways of the specified work,

(c) provided that Highways England notifies the undertaker upon receipt of any claim; and following the acceptance of any claim notifies the quantum of the claim to the undertaker in writing.

(2) Within 30 days of the receipt of the notification referred to in sub-paragraph (1) the undertaker must pay to Highways England the amount specified as the quantum of such claim.

(3) Sub-paragraphs (1) and (2) do not apply if the costs, expenses, liabilities and damages were caused by or arose out of the neglect or default of Highways England or its officers, servants agents or contractors or any person or body for whom it is responsible.

Expert determination

9.—(1) Article 45 (arbitration) of this Order does not apply to this Part of this Schedule;

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;
- (c) issue a decision within 42 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(5) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 45 (arbitration).

(6) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

SCHEDULE 14

Article 43

Certified documents

<i>Document title</i>	<i>Document reference</i>	<i>Revision</i>
Book of reference – regulation 5(2)(d)	Application Document 4.3	007
Schedule of documents forming the environmental statement – Regulation 5(2)(q)	Application Document 7.9.9.1	005
Onshore outline construction environmental management plan – Regulation 5(2)(o)	Application Document 6.9	007
Habitats regulations assessment – Regulation 5(2)(g)	Application Document 6.8.1	006
Land plans – Regulation 5(2)(i)	Application Document 2.2	005
Crown land plans – Regulation 5(2)(n)	Application Document 2.3	004
Works plans – Regulation 5(2)(j)	Application Document 2.4	006
Access and rights of way plans – Regulation 5(2)(k)	Application Document 2.5	005
Converter station and telecommunications building parameter plan – Regulation 5(2)(o)	Application Document 2.6	003
Optical regeneration stations parameter plans – Regulation 5(2)(o)	Application Document 2.11	002
Outline marine construction environmental management plan – Regulation 5(2)(o)	Application Document 6.5	001
Hedgerow and Tree Preservation Order Plans	Application Document 2.12	004
Outline landscape and biodiversity strategy – regulation 5(2)(o)	Application Document 6.10	005
Design and access statement – Regulation 5(2)(q)	Application Document 5.5	005
Surface water drainage and aquifer contamination mitigation strategy – Regulation 5(2)(o)	Application Document 6.3.3.6	005
Marine archaeology	Application Document	001

outline written scheme of investigation	6.3.14.3	
Framework traffic management strategy - Regulation 5(2)(o)	Application Document 6.3.22.1A	004
Framework construction traffic management plan – Regulation 5(2)(o)	Application Document 6.3.22.2	004
Flood risk assessment – Regulation 5(2)(o)	Application Document 6.3.20.4	001
Flood risk assessment addendum – Regulation 5(2)(o)	Application Document 7.8.18	001
Operational broadband and octave band noise criteria document – Regulation 5(2)(o)	Application Document 7.7.11	001
Employment and skills strategy -- Regulation 5(2)(q)	Application document 7.9.35	001
Source protection zones plans - Regulation 5(2)(o)	Application document 6.2.19.4	001
Travel demand management strategy	Application Document 7.9.37	002
Hampshire County Council development consent obligation	Application Document 7.5.25	001
South Down National Park Authority development consent obligation	Application Document 7.5.26	001
Portsmouth City Council development consent obligation	Application Document 7.5.27	001

Deemed marine licence under the 2009 Act

PART 1

Licensed marine activities

1.—(1) In this licence —

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“the 2011 Regulations” means the Marine Licensing (Licence Application Appeals) Regulations 2011;

“authorised deposits” means the substances and particles specified in paragraph 5 of Part 1 of this licence;

“authorised development” means Works No. 6 and 7 described in paragraph 3 of Part 1 of this licence or any part of that work and further associated development within the meaning of section 115(2) of the 2008 Act comprising other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement;

“cable circuit” means a number of electrical conductors necessary to transmit electricity between two points within the authorised development; this comprises in the case of a HVDC cable, two conductors;

“cable protection” means physical measures for the protection of cables including rock, rock bags and gravel placement, concrete or frond mattresses, tubular protection and grout bags;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction surveys approved under this licence and “commenced” and “commencement” is to be construed accordingly;

“condition” means a condition under Part 2 of this licence;

“disposal” means the deposit of dredged material at the disposal sites with reference WI048 and WI049 within the extent of the Order limits seaward of MHWS and “dispose” and cognate expression is to be construed accordingly;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order in accordance with article 43 (Certification of plans and documents, etc.);

“Health and Safety Executive” means the independent national regulator that aims to prevent work-related death, injury and ill-health and “HSE” is to be construed accordingly;

“horizontal directional drilling work area” means the area within which the temporary horizontal directional drilling entry/exit pits are to be located as identified within the outline marine construction environmental management plan;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, alter, improve, preserve and further includes remove, reconstruct and replace any part of the authorised development, provided such works do not give rise to any materially new or materially different environmental effects

to those identified in the environmental statement and “maintenance” must be construed accordingly;

“Marine Management Organisation” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence or any successor of that function and “MMO” is to be construed accordingly;

“MCA” means the Maritime and Coastguard Agency;

“MCA safety guidance” means those aspects of MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes that are relevant to the authorised development;

“marine emergency action card” means the MCA bespoke emergency action card template that will be completed to inform emergency response actions during the construction of the authorised development;

“mean high water springs” or “MHWS” means the average throughout the year of two successive high waters during a 24-hour period in each month when the range of the tide is at its greatest;

“marine HVDC cables” means two 320 kilovolt HVDC cable circuits for the transmission of electricity which may be bundled as two pairs of cables or take the form of single cables, together with: (i) fibre optic data transmission cables accompanying each HVDC cable circuit, for the purpose of control, monitoring, and protection of the HVDC cable circuits and converter station, and for commercial telecommunications; and (ii) one or more cable crossing;

“Order” means the AQUIND Interconnector Order 202[];

“Order limits” means the limits shown on the works plans within which the authorised development may be carried out, whose grid co-ordinates seaward of MHWS are set out in paragraph 6 of Part 1 of this licence;

“outline marine construction environmental management plan” means the document certified by the Secretary of State under article 43 (Certification of plans and documents, etc.) of this Order as the outline marine construction environmental management plan;

“marine archaeology outline written scheme of investigation” means the document certified by the Secretary of State under article 43 (Certification of plans and documents, etc.) of this Order as the marine archaeology outline written scheme of investigation;

“screened out” means to pass through grid screens no larger than 30cm;

“standard marking schedule” means UK Standard Marking Schedule for Offshore Installation (DECC 04/11);

“statutory historic body” means the Historic Buildings and Monuments Commission, otherwise known as Historic England or any successor of that function;

“statutory nature conservation body” means an organisation charged by the government with advising on nature conservation matters;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset TA1 2DN;

“undertaker” means AQUIND Limited (company number 06681477) or the person who has the benefit of this Order in accordance with article 6 (Benefit of Order) and 7 (Consent to transfer benefit of Order);

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“works plans” means the plans certified by the Secretary of State as Works Plans under article 43 (Certification of plans and documents, etc.) for the purposes of the Order and identified in Part 2 of Schedule 5 of the Order (Works Plans); and

“working day” means Monday to Friday excluding bank holidays and other public holidays;

(2) A reference to any statute, order, regulation or similar instrument is to be construed as reference to a statute, order, regulation or similar instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated –

- (a) all time are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees minutes and seconds to three decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and address for returns of correspondence are –

(a) Marine Management Organisation (head office)

Offshore Marine Licensing
Lancaster House, Hampshire Court
Newcastle Business Park
Newcastle Upon Tyne
NE4 7YH
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Offshore Marine Licensing
Lynx House
1 Northern Road
Portsmouth
PO6 3XB
Tel: 02392 373435

(c) Trinity House

Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way
Somerset
TA1 2DN
Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Technical Services Navigation
Bay 2/20, Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2000;

(f) Natural England

4th floor, Eastleigh House
Upper Market Street
Eastleigh
Hampshire
SO50 9YN
Tel: 0300 060 39000

(g) Historic Buildings and Monuments Commission for England

Cannon Bridge House
25 Dowgate Hill
London
EC4R 2YA
Tel: 020 7973 370

(h) Centre for Environment, Fisheries and Aquaculture Science

Parkfield Road
Suffolk
NR33 0HT
Tel: 01502 562 244;

Details of Licensed Marine Activities

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act –

(1) the deposit at sea of the authorised deposits from any vessel, any container floating in the sea or any structure on land constructed or adapted wholly or mainly for the purpose of depositing substances and articles in the sea;

(2) the construction of works in or over the sea and/or on the seabed;

(3) dredging including (but not limited to) mass flow excavation for the purposes of seabed preparation for the works;

(4) the removal of out of service cables, seabed debris and static fishing equipment;

(5) boulder clearance works either by displacement ploughing or subsea grab technique or another equivalent method;

(6) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;

(7) the disposal of up to 1,754,000m³ of inert material of natural origin produced during the Works comprised within Works Nos 6 and 7; and

(8) any other works comprised in the preparation of the seabed for the Works.

3. Such activities are authorised in relation to the construction, maintenance and operation of –

Work No. 6 – marine HVDC cable circuits and ducts within the Order limits seaward of MHWS and landward of MLWS between Work No. 5 and Work No. 7 within the area shown on the works plans including where required works to facilitate HDD.

Work No. 7 – marine HVDC cable works within the area shown on the works plans consisting of –

(a) marine HVDC cable circuits and ducts between the UK exclusive economic zone with France and Works No. 6;

(b) up to 4 temporary HDD entry/exit pits; and

(c) a temporary work area for vessels to carry out intrusive activities.

4. In connection with Works Nos. 6 and 7 and to the extent that they do not otherwise form part of any such work, subject to the licence conditions this licence authorises further associated development within the meaning of section 115(2) of the 2008 Act comprising other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence, including but not limited to –

(1) cable protection, including cable protection at the Atlantic Cable and proposed CrossChannel Fibre Cable crossings (pre-lay berm, 100 m x 30 m and post-lay berms of approximately 600 m x 30 m for each crossing) covering a maximum footprint of 37,800 m² for each crossing;

(2) temporary cable burial equipment trials;

(3) the removal of material from the seabed required for the construction of Work Nos. 6 and 7 and the disposal of up to 1,754,000m³ of inert material of natural origin produced during the Works; and

(4) the construction of crossing structures over in-service cables that are crossed by the marine HVDC cable.

5. The substances or articles authorised for deposit includes –

(1) Iron, steel, copper and aluminium;

(2) Stone, rock, and concrete;

(3) sand and gravel;

(4) plastic and synthetics;

(5) drilling liquids;

(6) material extracted from within the Order limits seawards of MHWS during construction, drilling and seabed preparation for the Works; and

(7) marine coatings and other chemicals:

(8) any other material of substance to the extent its effects have been considered within the environmental statement.

6. The grid coordinates for that part of the authorised development comprising Works Nos.6 and 7 are specified below and more particularly on the works plans –

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	50°47'8.146"N	1°2'20.857"W	135	50°42'0.397"N	0°54'1.872"W
2	50°47'8.216"N	1°2'20.480"W	136	50°41'55.699"N	0°53'35.726"W
3	50°47'8.268"N	1°2'20.179"W	137	50°41'33.679"N	0°52'58.934"W
4	50°47'8.339"N	1°2'19.690"W	138	50°40'20.249"N	0°51'13.974"W
5	50°47'8.386"N	1°2'19.364"W	139	50°39'59.881"N	0°50'52.430"W
6	50°47'8.451"N	1°2'18.889"W	140	50°39'42.599"N	0°50'29.607"W
7	50°47'8.508"N	1°2'18.470"W	141	50°39'36.524"N	0°50'11.733"W
8	50°47'8.553"N	1°2'18.104"W	142	50°39'12.728"N	0°48'58.524"W
9	50°47'8.628"N	1°2'17.588"W	143	50°38'30.615"N	0°46'2.020"W
10	50°47'8.690"N	1°2'17.204"W	144	50°37'46.726"N	0°43'23.708"W
11	50°47'8.771"N	1°2'16.708"W	145	50°37'36.508"N	0°42'41.575"W
12	50°47'8.826"N	1°2'16.349"W	146	50°37'15.582"N	0°41'15.354"W
13	50°47'8.931"N	1°2'15.812"W	147	50°37'15.513"N	0°39'46.232"W
14	50°47'8.992"N	1°2'15.489"W	148	50°36'41.713"N	0°34'22.448"W
15	50°47'9.096"N	1°2'14.962"W	149	50°36'14.831"N	0°32'37.009"W
16	50°47'9.166"N	1°2'14.555"W	150	50°36'7.973"N	0°31'7.231"W
17	50°47'9.231"N	1°2'14.186"W	151	50°36'0.215"N	0°30'36.542"W
18	50°47'9.328"N	1°2'13.628"W	152	50°35'54.791"N	0°30'15.095"W

19	50°47'9.426"N	1°2'13.061"W	153	50°35'23.567"N	0°29'13.075"W
20	50°47'9.490"N	1°2'12.710"W	154	50°34'29.494"N	0°26'42.742"W
21	50°47'9.587"N	1°2'12.132"W	155	50°32'41.551"N	0°23'38.096"W
22	50°47'9.639"N	1°2'11.857"W	156	50°30'3.541"N	0°17'33.192"W
23	50°47'9.789"N	1°2'11.023"W	157	50°28'42.521"N	0°15'42.064"W
24	50°47'9.878"N	1°2'10.527"W	158	50°28'4.707"N	0°14'50.247"W
25	50°47'9.983"N	1°2'9.954"W	159	50°27'43.034"N	0°14'20.562"W
26	50°47'10.053"N	1°2'9.496"W	160	50°26'55.786"N	0°13'15.884"W
27	50°47'10.093"N	1°2'9.212"W	161	50°26'56.222"N	0°13'14.495"W
28	50°47'10.142"N	1°2'8.960"W	162	50°26'57.457"N	0°13'4.676"W
29	50°47'10.205"N	1°2'8.572"W	163	50°26'57.027"N	0°12'54.690"W
30	50°47'10.259"N	1°2'8.304"W	164	50°26'54.961"N	0°12'45.218"W
31	50°47'10.327"N	1°2'7.966"W	165	50°26'51.400"N	0°12'36.908"W
32	50°47'10.374"N	1°2'7.740"W	166	50°26'46.587"N	0°12'30.324"W
33	50°47'10.456"N	1°2'7.347"W	167	50°26'40.850"N	0°12'25.916"W
34	50°47'10.514"N	1°2'7.079"W	168	50°26'34.580"N	0°12'23.983"W
35	50°47'10.587"N	1°2'6.756"W	169	50°26'28.204"N	0°12'24.658"W
36	50°47'10.648"N	1°2'6.496"W	170	50°26'22.156"N	0°12'27.894"W
37	50°47'10.741"N	1°2'6.131"W	171	50°26'21.336"N	0°12'28.756"W
38	50°47'10.822"N	1°2'5.803"W	172	50°26'10.359"N	0°12'13.745"W
39	50°47'10.862"N	1°2'5.617"W	173	50°24'8.032"N	0°9'25.526"W
40	50°47'10.921"N	1°2'5.371"W	174	50°24'2.766"N	0°9'16.501"W
41	50°47'10.939"N	1°2'5.284"W	175	50°23'57.213"N	0°9'5.200"W
42	50°47'10.978"N	1°2'5.099"W	176	50°23'51.251"N	0°8'52.570"W
43	50°47'11.045"N	1°2'4.740"W	177	50°23'46.360"N	0°8'39.092"W
44	50°47'11.107"N	1°2'4.474"W	178	50°21'32.398"N	0°2'15.439"W
45	50°47'11.167"N	1°2'4.178"W	179	50°21'29.076"N	0°2'5.945"W
46	50°47'11.222"N	1°2'3.897"W	180	50°21'28.324"N	0°2'3.795"W
47	50°47'11.281"N	1°2'3.598"W	181	50°21'6.855"N	0°1'12.898"W
48	50°47'11.337"N	1°2'3.294"W	182	50°20'46.163"N	0°0'32.608"W
49	50°47'11.366"N	1°2'3.150"W	183	50°20'34.684"N	0°0'15.657"W
50	50°47'11.403"N	1°2'2.966"W	184	50°20'32.670"N	0°0'12.683"W
51	50°47'11.423"N	1°2'2.845"W	185	50°20'16.756"N	0°0'10.817"E
52	50°47'11.460"N	1°2'2.657"W	186	50°17'36.424"N	0°5'11.894"E
53	50°47'11.492"N	1°2'2.498"W	187	50°16'31.253"N	0°9'3.799"E
54	50°47'11.540"N	1°2'2.249"W	188	50°16'10.086"N	0°11'24.856"E
55	50°47'11.573"N	1°2'2.089"W	189	50°16'7.791"N	0°11'36.422"E
56	50°47'11.617"N	1°2'1.860"W	190	50°16'6.240"N	0°11'43.952"E
57	50°47'11.654"N	1°2'1.683"W	191	50°16'2.500"N	0°12'0.714"E
58	50°47'11.704"N	1°2'1.424"W	192	50°15'56.441"N	0°12'17.698"E
59	50°47'11.767"N	1°2'1.116"W	193	50°15'53.389"N	0°12'23.459"E
60	50°47'11.802"N	1°2'0.862"W	194	50°15'53.179"N	0°12'23.855"E
61	50°47'11.807"N	1°2'0.827"W	195	50°15'53.678"N	0°12'24.498"E
62	50°47'11.827"N	1°2'0.809"W	196	50°15'50.634"N	0°12'30.244"E
63	50°47'11.877"N	1°2'0.444"W	197	50°15'50.355"N	0°12'30.769"E
64	50°47'11.901"N	1°2'0.405"W	198	50°15'44.773"N	0°11'56.429"E
65	50°47'11.904"N	1°2'0.370"W	199	50°15'47.089"N	0°11'49.938"E
66	50°47'11.863"N	1°2'0.317"W	200	50°15'50.773"N	0°11'33.424"E
67	50°47'11.847"N	1°2'0.307"W	201	50°15'53.839"N	0°11'17.971"E
68	50°47'11.847"N	1°2'0.307"W	202	50°16'15.223"N	0°8'55.462"E
69	50°47'11.847"N	1°2'0.307"W	203	50°17'21.968"N	0°4'57.948"E

70	50°47'11.895"N	1°1'59.868"W	204	50°20'4.461"N	0°0'7.202"W
71	50°47'11.912"N	1°1'59.866"W	205	50°20'21.112"N	0°0'31.792"W
72	50°47'11.939"N	1°1'59.841"W	206	50°20'23.127"N	0°0'34.767"W
73	50°47'11.965"N	1°1'59.584"W	207	50°20'33.765"N	0°0'50.477"W
74	50°47'11.966"N	1°1'59.512"W	208	50°20'53.239"N	0°1'28.399"W
75	50°47'11.965"N	1°1'59.496"W	209	50°21'13.893"N	0°2'17.366"W
76	50°47'11.964"N	1°1'59.435"W	210	50°23'31.655"N	0°8'51.889"W
77	50°47'11.965"N	1°1'59.415"W	211	50°23'37.115"N	0°9'6.938"W
78	50°47'11.953"N	1°1'59.406"W	212	50°23'43.773"N	0°9'21.043"W
79	50°47'11.953"N	1°1'59.406"W	213	50°23'49.858"N	0°9'33.428"W
80	50°47'11.953"N	1°1'59.406"W	214	50°23'56.230"N	0°9'44.349"W
81	50°47'11.962"N	1°1'59.198"W	215	50°25'59.269"N	0°12'33.560"W
82	50°47'11.971"N	1°1'59.095"W	216	50°26'10.266"N	0°12'48.600"W
83	50°47'11.985"N	1°1'58.947"W	217	50°26'9.831"N	0°12'49.988"W
84	50°47'11.992"N	1°1'58.887"W	218	50°26'8.596"N	0°12'59.805"W
85	50°47'12.008"N	1°1'58.758"W	219	50°26'9.026"N	0°13'9.789"W
86	50°47'12.020"N	1°1'58.658"W	220	50°26'11.091"N	0°13'19.258"W
87	50°47'12.029"N	1°1'58.582"W	221	50°26'14.651"N	0°13'27.567"W
88	50°47'12.031"N	1°1'58.566"W	222	50°26'19.463"N	0°13'34.151"W
89	50°47'12.040"N	1°1'58.493"W	223	50°26'25.200"N	0°13'38.561"W
90	50°47'12.049"N	1°1'58.409"W	224	50°26'31.470"N	0°13'40.497"W
91	50°47'12.060"N	1°1'58.316"W	225	50°26'37.846"N	0°13'39.825"W
92	50°47'12.079"N	1°1'58.149"W	226	50°26'43.894"N	0°13'36.591"W
93	50°47'12.110"N	1°1'57.942"W	227	50°26'44.714"N	0°13'35.729"W
94	50°47'12.123"N	1°1'57.869"W	228	50°28'31.442"N	0°16'1.912"W
95	50°47'12.141"N	1°1'57.733"W	229	50°29'50.837"N	0°17'50.820"W
96	50°47'12.158"N	1°1'57.645"W	230	50°32'28.318"N	0°23'54.527"W
97	50°47'12.175"N	1°1'57.550"W	231	50°34'15.790"N	0°26'58.375"W
98	50°47'12.189"N	1°1'57.467"W	232	50°35'9.556"N	0°29'27.862"W
99	50°47'12.212"N	1°1'57.339"W	233	50°35'40.062"N	0°30'28.457"W
100	50°47'12.228"N	1°1'57.251"W	234	50°35'44.745"N	0°30'46.976"W
101	50°47'12.250"N	1°1'57.145"W	235	50°35'51.526"N	0°31'13.797"W
102	50°47'12.272"N	1°1'57.028"W	236	50°35'58.386"N	0°32'43.614"W
103	50°47'12.291"N	1°1'56.926"W	237	50°36'25.406"N	0°34'29.597"W
104	50°47'12.310"N	1°1'56.838"W	238	50°36'50.593"N	0°38'30.650"W
105	50°47'12.339"N	1°1'56.698"W	239	50°36'54.547"N	0°39'8.625"W
106	50°47'12.356"N	1°1'56.579"W	240	50°36'58.685"N	0°39'48.398"W
107	50°47'12.319"N	1°1'56.560"W	241	50°36'58.756"N	0°41'20.244"W
108	50°47'12.319"N	1°1'56.560"W	242	50°37'31.141"N	0°43'33.714"W
109	50°47'12.319"N	1°1'56.560"W	243	50°38'15.012"N	0°46'11.964"W
110	50°47'12.377"N	1°1'56.330"W	244	50°38'57.306"N	0°49'9.233"W
111	50°47'12.390"N	1°1'56.270"W	245	50°39'21.609"N	0°50'24.001"W
112	50°47'12.406"N	1°1'56.188"W	246	50°39'29.289"N	0°50'46.600"W
113	50°47'12.425"N	1°1'56.105"W	247	50°39'49.747"N	0°51'13.619"W
114	50°47'12.443"N	1°1'56.031"W	248	50°40'9.842"N	0°51'34.878"W
115	50°47'12.460"N	1°1'55.963"W	249	50°41'21.878"N	0°53'17.854"W
116	50°47'11.065"N	1°1'55.703"W	250	50°41'40.626"N	0°53'49.178"W
117	50°45'45.014"N	1°1'39.017"W	251	50°41'45.252"N	0°54'14.928"W
118	50°45'33.952"N	1°1'29.392"W	252	50°43'22.501"N	0°57'7.513"W
119	50°45'23.239"N	1°1'14.438"W	253	50°43'31.132"N	0°57'27.942"W
120	50°45'13.571"N	1°0'56.514"W	254	50°43'29.651"N	0°57'29.496"W

121	50°45'2.494"N	1°0'25.147"W	255	50°43'40.579"N	0°57'55.368"W
122	50°44'50.712"N	0°59'52.953"W	256	50°43'42.061"N	0°57'53.814"W
123	50°44'39.281"N	0°59'22.406"W	257	50°43'43.756"N	0°57'57.828"W
124	50°44'2.379"N	0°57'54.977"W	258	50°43'44.075"N	0°57'57.664"W
125	50°44'0.123"N	0°57'49.635"W	259	50°43'48.906"N	0°58'9.102"W
126	50°44'0.446"N	0°57'49.479"W	260	50°44'25.563"N	0°59'35.955"W
127	50°43'56.072"N	0°57'39.124"W	261	50°44'36.732"N	1°0'5.805"W
128	50°43'54.590"N	0°57'40.678"W	262	50°44'48.414"N	1°0'37.724"W
129	50°43'43.661"N	0°57'14.804"W	263	50°45'0.207"N	1°1'11.121"W
130	50°43'45.143"N	0°57'13.250"W	264	50°45'11.652"N	1°1'32.340"W
131	50°43'35.866"N	0°56'51.292"W	265	50°45'24.564"N	1°1'50.365"W
132	50°42'27.974"N	0°54'50.779"W	266	50°45'39.934"N	1°2'3.740"W
133	50°42'23.228"N	0°54'42.359"W	267	50°47'8.146"N	1°2'20.857"W
134	50°42'18.988"N	0°54'34.839"W			

7. This licence remains in force until the authorised development has been decommissioned in accordance with a programme to be approved by the MMO and the completion of such programme has been confirmed by the MMO in writing.

8. The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within article 6 (Benefit of the Order).

9. With respect to any condition which requires the licensed activities to be carried out in accordance with the plans, protocols or statements approved under this Schedule, the plans, protocols or statements so approved are taken to include amendments that may be approved in writing by the MMO subsequent to the first approval of those plans, protocols or statements.

10. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial and it must be demonstrated to the satisfaction of the MMO that they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

PART 2

Conditions

Design Parameters

1. The total length of the marine HVDC cables from MHWS to the EEZ and cable protection and the cable protection area must not exceed the following –

<i>Work</i>	<i>Cable length</i>	<i>Cable protection length</i>	<i>Cable protection area</i>
Works No. 6 and 7	109km	23.5km	0.74km ²

Notifications and Inspections

2.—(1) The undertaker must ensure that –

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to –
 - (i) all agents and contractors notified to the MMO in accordance with condition 4(c)(vi); and

- (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 4(c)(vi).
 - (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.
- (2) Only those persons and vessels notified to the MMO pursuant to condition 4(1)(c)(vi) are permitted to carry out the licensed activities.
- (3) Copies of this licence must also be available for inspection at the following locations –
- (a) the undertakers registered address;
 - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or disposal of the authorised deposits; and
 - (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraphs (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the marine construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised development.
- (6) The undertaker must inform the MMO Local Office in writing at least five days prior to the commencement of the licensed activities or any part of them.
- (7) The undertaker must inform the Kingfisher Information Service of Seafish by e-mail to kingfisher@seafish.co.uk of details regarding the vessel routes, timings and locations relating to the construction of the authorised development or relevant part –
- (a) at least 14 days prior to the commencement of marine activities for inclusion in the Kingfisher Fortnightly Bulletin and marine hazard awareness data; and
 - (b) as soon as reasonably practicable and not later than 24 hours on completion of construction of all licensed marine activities’
- and confirmation of notification in accordance with this paragraph (7) must be provided MMO within 5 days.
- (8) A local notification to mariners must be issued at least 14 days prior to the commencement of the licensed activities or any part of them advising of the start date of Works No. 6 and Works No. 7 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, the MCA and the UK Hydrographic Office within 5 days.
- (9) The local notification to mariners must be updated and reissued at weekly intervals during construction activities and at least 5 days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 7(1)(b). Copies of all notices must be provided to the MMO and the UK Hydrographic Office within 5 days.
- (10) The undertaker must notify the UK Hydrographic Office both of the commencement (within 14 days), progress and completion of construction (within 14 days) of the licensed activities in order that all necessary amendments to the nautical charts are made and the undertaker must send a copy of such notifications to the MMO within 5 days.
- (11) The undertaker must notify HM Coastguard at least 14 days prior to commencement of the licence activities or any part of them advising of the start date of Works No. 6 and Works No. 7 by e-mail to the relevant zone contacts (zone15@hmcg.gov.uk or zone16@hmcg.gov.uk) and a copy of that notice must be provided to the MMO within 5 days.

(12) The undertaker must notify the Environment Agency at least 14 days prior to the commencement of Works No. 6 and the temporary HDD entry/exit pits forming part of Work No. 7.

(13) In case of damage to, or destruction or decay of, the authorised development or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.

(14) In case of exposure of the marine HVDC cables on or above the seabed, the undertaker must within 3 days following identification of any exposure of the marine HVDC cables, issue a local notice to mariners and by informing Kingfisher Information Service of Seafish of the location and extent of the exposure. Copies of all notices must be provided to the MMO, the MCA, Trinity House and the UK Hydrographic Office within 5 days.

Pre-construction surveys

3.—(1) Surveys in relation to the pre-construction phase of the authorised development will include –

- (a) a swath-bathymetry survey within the Order limits seaward of MHWS to:
 - (i) inform future navigation risk assessments as part of the cable specification and installation plan; and
 - (ii) determine the location, extent and composition of any biogenic and geogenic reef habitat within the Order limits seaward of MHWS identified in the environmental statement.

(2) The pre-construction surveys must not be carried out until details of the proposed pre-construction surveys, including methodologies and timings, and a proposed form and content for a pre-construction baseline report have been submitted to and approved by the MMO in consultation with the relevant statutory bodies.

(3) The MMO must determine an application for approval made under sub-paragraph (2) within a period of 8 weeks commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(4) Where the MMO is minded to refuse an application for consent made under this condition 3 and notifies the undertaker accordingly, or fails to determine the application for approval under this condition 3 within the period prescribed in sub-paragraph (3), the undertaker may appeal to the Secretary of State in accordance with the procedure at Schedule 16 to the Order.

(5) The undertaker must carry out the pre-construction surveys agreed under sub-paragraph (2) or approved following an appeal under sub-paragraph (4) and as may be updated from time to time and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed with the MMO in consultation with the relevant statutory nature conservation bodies.

Pre-construction plans and documentation

4.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO –

- (a) A design plan at a scale of 1:25,000 and 1:50,000, including detailed representation of the most suitably scaled admiralty chart, to be agreed in writing with the MMO which shows –
 - (i) the length and arrangement of all cables comprised in Works No. 6 and 7;
 - (ii) the indicative location of the temporary horizontal directional drilling entry/exit pits within the horizontal direction drilling work area;
 - (iii) indicative location of cable crossings; and

to ensure compliance with the description of Works No. 6 and 7 and compliance with condition 1 above.

- (b) a construction programme to include details of –
 - (i) the proposed construction start date; and
 - (ii) the proposed timings for mobilisation of plant, delivery of materials and installation works; and
 - (iii) an indicative construction programme for the carrying out of the works comprised in Works No. 6 and 7;
 which may be amended from time to time subject to the approval in writing of the MMO.
- (c) a cable burial and installation plan in accordance with the construction methods assessed in the environmental statement and including details of –
 - (i) marine HVDC cable installation methodology, including the methods for disposal;
 - (ii) technical specification of marine HVDC cables below MHWS and cable burial depths in accordance with industry good practice;
 - (iii) a detailed cable laying plan for the Order limits seaward of MHWS, incorporating a burial assessment which includes the identification of any part of the marine HVDC cables that exceeds 5% of navigable depth referenced to chart datum and, in the event of the identification of any area of cable protection that exceeds 5% of navigable depth, details of any steps (to be determined following consultation with Trinity House and the MCA) to be taken to ensure existing and future safe navigation is not compromised or such similar assessment to ascertain suitable burial depths and cable laying techniques, including cable protection,
 - (iv) proposals for monitoring the marine HVDC cables including cable protection during the operation of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;
 - (v) advisory safe passing distances for vessels around construction sites;
 - (vi) the name and function of any agent or contractor appointed to engage in the licensed activities vessels and vessel transit corridors and a completed Hydrographic Note H102 listing the vessels to be used in relation to the licensed activities;
 - (vii) codes of conduct for vessel operators;
 - (viii) details of any required micro-siting in relation to biogenic and geogenic reef habitat or archaeological construction exclusion zones within the Order limits seaward of MHWS; and
 - (ix) associated ancillary works.
- (d) an environmental management plan (in accordance with the outline marine construction environmental management plan) covering the period of construction to include details of –
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised development in relation to all activities to be carried out;
 - (ii) a biosecurity plan detailing how risk of the introduction and spread of invasive non-native species will be minimised;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer; and
 - (v) a fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of the licensed activities and to address the interaction of the licensed activities with fishing activities.

(2) The licensed activities or any part of the activities must not commence unless a written scheme of archaeological investigation has been submitted to and approved by the MMO, in accordance with the marine archaeology outline written scheme of investigation, and in accordance with industry good practice and in consultation with the statutory historic body to include –

- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (b) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO;
- (c) delivery of any mitigation including the use of archaeological construction exclusion zones in agreement with the MMO;
- (d) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS ('Online Access to the Index of archaeological Investigations') form with a digital copy of the relevant report within six months of completion of construction of the authorised development, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission; and
- (e) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised development.

(3) No part of the licensed activities may commence until a statement confirming how the undertaker has taken into account the MCA safety guidance in so far as is applicable to that part of the licensed activities has been submitted to and approved by the MMO, in consultation with the MCA.

5.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 4 must be submitted for approval at least four months prior to the intended commencement of the licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) Save in respect of any plan which secures mitigation to avoid adversely affecting the integrity of a European Site, where the MMO fails to determine that application for approval under condition 4 within the period referred to in sub-paragraph (1), the programme, statement, plan, protocol or scheme is deemed to be approved by the MMO.

(3) The MMO must determine an application for approval made under condition 4 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(4) Where the MMO is minded to refuse an application for approval made under condition 4 and notifies the undertaker accordingly, or the MMO fails to determine the application for consent under condition 4 within the period prescribed in sub-paragraph (3), the undertaker may appeal to the Secretary of State in accordance with the procedure at Schedule 16 to the Order.

(5) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 4 or approved following an appeal under sub-paragraph (4) and as may be updated from time to time, unless otherwise agreed in writing by the MMO.

(6) Prior to the commencement of Work No. 6 and the temporary HDD entry/exit pits forming part of Work No. 7, the undertaker must provide the Environment Agency with a copy of any construction programme approved by the MMO pursuant to condition 4(1)(b) and any method statement relating to sediment mobilising activities relevant to the temporary HDD entry/exit pits forming part of Work No. 7.

Reporting of engaged agents, contractors and vessels

6. Any change to the details supplied pursuant to condition 4(1)(c)(vi) must be notified to the MMO in writing prior to the agent, contractor, or vessel engaging in the licensed activities.

Aids to Navigation

7.—(1) Any vessels utilised during the licensed activities, when jacked up, must exhibit signals in accordance with the standard marking schedule;

(2) The undertaker must during the whole period from the commencement of the licensed activities to completion of decommissioning of the authorised development exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct;

(3) The undertaker must during the period from the start of construction of the authorised development to completion of decommissioning of the authorised development keep Trinity House and the MMO informed of progress of the authorised development including the following

- (a) notice of commencement of construction of the authorised development within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established or relocated by the undertaker; and
- (c) notice within 5 days of completion of construction of the authorised development.

(4) In the event the provisions of condition 2(13) or 2(14) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

Chemicals, drilling and debris

8.—(1) The Undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive and guidance for pollution prevention issued by the government.

(2) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(3) The undertaker must ensure that only inert material of natural origin produced during dredging in connection with the carrying out of the Works is disposed of at the disposal sites with reference WI048 and WI049 within the extent of the Order limits seaward of MHWS and all other materials must be screened out before the disposal of inert material and disposed of to land.

(4) The undertaker must inform the MMO of the location of and quantities of material disposed of each month under the Order, by submission of a disposal return by 14 February each year for the months August to January inclusive, and by 15 August for the months February to July inclusive.

(5) The undertaker must ensure any rock material used in the construction of the authorised development is from a recognised source, free from contaminants and containing minimal fines.

(6) In the event that any rock material is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(7) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 4(1)(d)(i);

(8) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertakers expense if reasonable to do so.

Force majeure

9.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits outside of the Order limits seaward of MHWS or to

dispose of dredged material within the Order limits seaward of MHWS but outside of the disposal sites with reference WI048 and WI049 because the safety of human life and/or the vessel is threatened, within 48 hours full details of the circumstances of the disposal must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Post-construction surveys

10.—(1) Within 6 months of the completion of the construction of the authorised development the undertaker is to submit to the MMO for approval a swath-bathymetry survey within the Order limits seaward of MHWS in order to:

- (a) inform of any dropped objects or residual navigational risk; and
- (b) to determine any change in the location, extent and composition of any biogenic or geogenic reef features identified in the pre-construction survey in the parts of the Order limits seaward of MHWS in which construction works were carried out.

(2) Where requested by the MMO following the completion of construction of the authorised development the undertaker will produce an electromagnetic deviation survey to confirm that there must be no more than a 3 degree electromagnetic variation for 95% of the marine HVDC cables and no more than a 5 degree electromagnetic variation for the remaining 5% of the marine HVDC cables in water depths of 5m and deeper as a result of the operation of the authorised development.

(3) Within 3 months of completion of construction of the authorised development the undertaker must submit International Hydrographic Office (IHO Order 1A) approved Multi Beam Echo Sounder survey data and report to the MMO, the MCA, Trinity House and UK Hydrographic Office, meeting MGN 543 hydrographic survey guidelines and confirming the final clearance depths over the marine HVDC cables and the associated cable protection. If the MMO, the MCA, Trinity House or the UKHO identify any area as a possible danger to navigation to exhibit such lights, marks, sounds, signals and other aids to navigation as are reasonably required by the MMO, the MCA, Trinity House and/or UK Hydrographic Office unless otherwise agreed.

Cable burial management plan

11.—(1) Following the completion of construction of the authorised development the undertaker will submit a cable burial management plan including results of the post installation surveys to the MMO for its approval (in consultation with the statutory nature conservation body) which is to include:

- (a) as built plans showing location of the marine HVDC cables and cable protection;
- (b) details of the proposed frequency and extent of future cable burial surveys;
- (c) details of scour/erosion around the Atlantic Cable and proposed CrossChannel Fibre Cable crossings described in paragraph 4(1) of Part 1; and
- (d) proposals for maintaining marine cables including cable protection during the operational lifetime of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;

and which may be amended from time to time subject to the approval in writing of the MMO.

(2) Following the laying of any new cable protection following the completion of the construction in accordance with condition 12 the undertaker will submit an updated cable burial management plan including results of the post installation surveys to the MMO for its approval (in consultation with the statutory nature conservation body) which is to include as built plans showing location of the marine HVDC cables and the new cable protection;

(3) The cable burial management plan approved by the MMO as may be updated from time to time must be implemented during the operational lifetime of the project and reviewed as specified

within the plan, following cable burial surveys, installation of cable protection, or periodically as required.

Maintenance of the authorised development

12.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provides otherwise;

(2) No works of maintenance whose likely effect is not assessed in the environmental statement or which are likely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Works of maintenance include but are not limited to –

- (a) cable repairs, including but not limited to the removal of defective cable and sediment to undertake those repairs, and addition of sections of cable to replace defective cable and the removal and replacement of cable protection;
- (b) remedial cable burial

(4) Where the MMO's approval is required under paragraph (2), such approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(5) The laying of new cable protection following the completion of construction must not extend for longer than 15 years from the date of the issue of the notification of the completion of construction to be issued pursuant to condition 2(10) unless otherwise agreed with the MMO.

(6) Prior to the laying of any new cable protection following the completion of the construction the undertaker must provide details of and justification for the deployment of new cable protection including a description of seabed habitat which is to be informed by survey data less than 5 years old, unless otherwise agreed with the MMO, in the location/s where the laying of additional cable protection is proposed for the approval of the MMO and must not lay any new cable protection until the MMO has approved its deployment.

(7) The undertaker must inform the MMO Local Office in writing at least 5 days prior to the commencement of the laying of any new cable protection following the completion of construction.

(8) The undertaker must issue a local notification to mariners at least 5 days prior to the laying of any new cable protection following the completion of construction and that notice must be forwarded to the MMO within 5 days of issue.

(9) The undertaker must issue a notice to the UK Hydrographic Office at least 5 days prior to the laying of any new cable protection following the completion of construction to permit the promulgation of maritime safety information and updating of nautical charts and publications

(10) The undertaker must notify the MMO Local Office of the completion of the laying of any new cable protection following the completion of construction no later than 14 days after the completion of the laying of the new cable protection.

(11) Within 4 weeks of the completion of laying of any new cable protection following the completion of construction, unless otherwise agreed with the MMO, the undertaker must submit International Hydrographic Office (IHO Order 1A) approved Multi Beam Echo Sounder survey data and report to the MMO, the MCA and UKHO, meeting MGN 543 hydrographic survey guidelines and confirming the final clearance depths over the protected cables where the new cable protection has been laid. Once this data has been assessed, if any area is identified as a possible danger to navigation it may require marking with aids to navigation at the undertakers expense.

(12) The MMO must determine any application for approval made under this condition 12 within a period of 8 weeks commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(13) Where the MMO is minded to refuse an application for consent made under this condition 12 and notifies the undertaker accordingly, or fails to determine the application for approval under this condition 12 within the period prescribed in sub-paragraph (12), the undertaker may appeal to the Secretary of State in accordance with the procedure at Schedule 16 to the Order.

Post-construction approvals

13.—(1) The MMO must determine any application for approval made under condition 10 or 11 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(2) Where the MMO is minded to refuse an application for approval made under condition 10 or 11 and notifies the undertaker accordingly, or the MMO fails to determine the application for approval within the period prescribed in sub-paragraph (1), the undertaker may appeal to the Secretary of State in accordance with the procedure at Schedule 16 to the Order.

Herring mitigation

14. Unless otherwise agreed in writing with the MMO, the licensed activities or any part of those activities are not to be undertaken between Kilometre Points 90 to 109 during the period of 15th December to 15th January inclusive.

Deemed marine licence procedure for appeals

1. Where the MMO refuses an application for approval under conditions 3, 4, 10, 11 and 12 of the deemed marine licence and notifies the undertaker accordingly, or fails to determine the application for approval in accordance with any of those conditions the undertaker may by notice appeal against such a refusal or non-determination and the 2011 Regulations apply subject to the modifications set out in paragraph 2 below.

2. The 2011 Regulations are modified so as to read for the purposes of this Order only as follows –

(1) For regulation 4(1) (Appeal against marine licensing decisions) substitute –

“A person who has applied for approval under condition [x] of Part 2 of Schedule 15 to the AQUIND Interconnector Order 202[x] may by notice appeal against a decision to refuse such an application or a failure to determine such an application.”

(2) For regulation 6(1) (Time limit for the notice of appeal) substitute –

“Notice of an appeal must be received by the Secretary of State within the period of four months beginning with the date of the decision to which the application relates or, in the case of non-determination, the date by which the application should have been determined.”

(3) For regulation 7(2)(a) (Contents of the notice of appeal) substitute –

“a copy of the decision to which the appeal relates or, in the case of non-determination, the date by which the application should have been determined; and”

(4) In regulation 8(1) (Decision as to appeal procedure and start date) the words “as soon as practicable after” are substituted with the words “within the period of 2 weeks beginning on the date of”.

(5) In regulation 10(3) (Representations and further comments) the word “At” is substituted with the words “By no later than”.

(6) In regulation 10(5) (Representations and further comments) the words “as soon as is reasonably practicable after” are substituted with the words “by no later than the end of”.

(7) In regulation 12(1) (Establishing the hearing or inquiry) after the words “(“the relevant date”)” the words “which must be within 14 weeks of the start date” are inserted.

(8) In regulation 13(2) (Pre-inquiry meeting) the words “4 weeks” are substituted with the words “2 weeks”.

(9) In regulation 22(1) (Determining the appeal – general) after the words “against a decision” the words “or a non-determination” are inserted and for regulation 22(1)(b) and (c) substitute –

“(a) allow the appeal, and where the appeal is against a decision, quash the decision in whole or in part;

(b) where the appointed person allows the appeal, and in the case of an appeal against a decision quashes that decision in whole or in part, direct the Authority to approve the application for approval to which the appeal relates”

(10) In regulation 22(2) (Determining the appeal – general) after the words “in writing of the determination” insert the words “within the period of 12 weeks beginning with the start date where the appeal is to be determined by written representations or within the period of 12 weeks beginning on the day of the close of the hearing or inquiry where the appeal is to be determined by way of a hearing or inquiry.”

Arbitration Rules

Primary Objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the Arbitrator is appointed pursuant to article 45 (arbitration) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the Parties, shall be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration shall be deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

Time periods

2.—(1) All time periods in these Arbitration Rules will be measured in business days and this will exclude weekends, bank and public holidays.

(2) Time periods will be calculated from the day after the Arbitrator is appointed which shall be either—

- (a) the date the Arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the Arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the Arbitrator being appointed, the Claimant shall provide both the Respondent and the Arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant’s contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the Claimant’s statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent shall provide the Claimant and the Arbitrator with—

- (a) a written Statement of Defence responding to the Claimant’s Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant’s claim, its acceptance of any element(s) of the Claimant’s claim, its contentions as to those elements of the Claimant’s claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the Claimant’s statements, comments on the Claimant’s expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 5 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with—

- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
- (c) any expert report in response to the Respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The Arbitrator shall make an award on the substantive difference based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the Arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within 10 days of the Arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the Arbitrator shall direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing shall not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the Arbitrator shall invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the Arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 10 days of the issues being provided; and
- (c) the form and content of a joint report shall be as directed by the Arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator shall take these submissions into account in the Award.

(8) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The Arbitrator's award shall include reasons. The parties shall accept that the extent to which reasons are given shall be proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The Arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these Rules.

(2) There shall be no discovery or disclosure, except that the Arbitrator shall have the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure—

- (a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

Costs

6.—(1) The costs of the Arbitration shall include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the Arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The Arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation shall be open to and accessible by the public.

(2) The Arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph shall prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises AQUIND Limited (referred to in this Order as the undertaker) to construct, operate and maintain an electricity interconnector near Lovedean, Hampshire out to the EEZ boundary between UK and France waters, to be known as AQUIND Interconnector, as well associated development. The Order imposes requirements in connection with the electricity interconnector and the associated development, together the authorised development.

The Order permits the undertaker to acquire, compulsorily or by agreement, lands and rights in land and to use land for the purposes of the authorised development.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 43 (Certification of plans and documents, etc.) of this Order may be inspected free of charge at [xx].