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Version History										
Document	Version	Status	Description / Changes							
26/04/2023	А	Final	Current position of all Protective Provisions as of Deadline 2							
06/06/2023	В	Final	Updated for Deadline 4							
11/07/2023	<u>C</u>	<u>Final</u>	<u>Updated for Deadline 5</u>							

## 1. About this document

### 1.1 Introduction

- 1.1.1 At Written Question 4.0.3, the Examining Authority (ExA) requested an updated table on progress of Protective Provisions.
- This document summarises the current position of Protective Provisions currently being negotiated with each statutory undertaker, along with details of their undertaking, their land/rights affected by the DCO, and an estimate of likely timescales to reach agreement.

# 2. Protective Provisions – Progress Schedule

### 2.1 Table update on progress

- 2.1.1 Where bespoke protective provisions have not yet been included on the face of the draft DCO, and bespoke provisions have been requested by a statutory undertaker, these are being progressed with a view to including the most up to date draft of each bespoke provision within the draft DCO at Deadline 5 by the end of examination. Should Where agreement has not be reached in respect of the specific bespoke wording to be applied for a statutory undertaker's protective provisions by the current Deadline 5, a section 127 and 138 statement has will been submitted to the examination. These statements cross refer to statements of common ground with each statutory undertaker, which have been updated for Deadline 5 to reflecting each party's position—and justification for the wording National Grid proposes to include on the face of the draft DCO.
- 2.1.2 Taking each undertaker in turn, the below table sets out the current position regarding protective provisions:

Table 2.1 – Protective Provisions – Progress Schedule

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
Northern Powergrid (Yorkshire) PLC	Electricity Transmission	Compulsory Acquisition of Rights: B1-23, B1-30, B2-37, B4-02, C4-01, C4-08, C8-12, C8-15,	Deemed to be a statutory undertaker for the purposes of the Acquisition of Land Act 1981 by	Yes – Relevant Representatio n received 9 February 2023.	Protective provisions for the benefit of Northern Powergrid (Yorkshire) PLC have been added as a new Part 5	Before Deadline 5Agreement reached.	None

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
		C8-16, C8-18, C8-24, C8-27, C8-29, C8-30, C8-31, C8-33, C8-34, C9-06, C9-23, C9-27, C9-30, C9-33, C9-35, C9-42, C9-44, C9-45, C9-46, C9-48, C9-50, C9-51, C9-52, D1-01, D1-02, D1-04, D1-05, D1-06, D1-07, D1-13, D1-15, D1-16, D1-30, D1-61, D1-65, D1-66, D1-67, D1-68, D1-67, D1-68, D1-76, D1-82, E2-05, E2-13, E2-14, E2-15, E2-16, E2-17, E3-17, E3-19, E3-23, E3-31, E3-33, E3-34,	virtue of Schedule 16, paragraph 2(2)(g) of the Electricity Act 1989 Section 138 – By virtue of Section 226(6) Town and Country Planning Act 1990	Section 138 engaged Section 127 engaged.	to Schedule 15 of the draft DCO (Document 3.1(D)). The form of these protective provisions is agreed. Protective provisions for the benefit of electricity undertakers (part 1) (which also includes gas, water and sewerage undertakers) have been included within the DCO.  These are not agreed by Northern Power Grid and so bespoke		

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
		E3-35, E3-36, E3-37, E3-38, E3-40, E3-41, E3-41a, E3- 45, E3-46, E3- 48, E3-49, E5- 05, E5-11, E5- 14, E5-15, E5- 16, E5-21, E5- 23, E6-06, E6- 09, E6-12, E6- 16, E6-28, E6- 33, E6-36, E6- 41, E6-43, E6- 44, E6-46, E7- 05, E7-18, E7- 22, E7-23, E7- 25, E7-29, E7- 30, E7-32, E7- 36, E7-38, E7- 38a, E7-39, E7-41, E7-44, E7-44a, E7- 45, E7-48, E7- 49, E7-50, E7- 53, F1-07, F1- 13, F1-17, F1-			protective provisions are currently being negotiated for this statutory undertaker and will be included within the draft DCO once in agreed form.  This will protect both the Yorkshire and Northeast entity.  The issues between the parties have narrowed considerably and agreement is anticipated in advance of Deadline 5.		

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
		18, F1-20, F1- 23, F1-25, F1- 28 Temporary					
		Use:					
		B1-21, C9-28, D1-18, D1-21, D1-80, D1-81, E6-13					
Northern Powergrid (Northeast) PLC	Electricity Transmission	Compulsory Acquisition of Rights: B1-61, B1-63, B1-65, B1-66, B2-41, B2-42, B2-46, B2-53, B2-74, B2-75, B2-79, B3-02, B3-07, B3-08, B3-09, B3-13, B3-14, B3-21, B3-22, B3-23, B3-26, B3-43, B3-65, B3-66, B3-67, B3-68,	Deemed to be a statutory undertaker for the purposes of the Acquisition of Land Act 1981 by virtue of Schedule 16, paragraph 2(2)(g) of the Electricity Act 1989 Section 138 – By virtue of	No Relevant Representatio n received. Section 138 engaged. Section 127 engaged.	Protective provisions for the benefit of Northern Powergrid (Northeast) PLC have been added as a new Part 5 to Schedule 15 of the draft DCO (Document 3.1(D)). The form of these protective provisions is agreed. Protective	Before Deadline 5Agreement reached	None

	nd/rights How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
B4 B5 B5 B5 C1 C1 C1 C2 C4 C4 C4 C8 Te Us B1 B3 B5	8-70, B3-72, 226(6) Town and Country Planning Act 1990 5-51, B5-54, 5-55, B5-56, 1-02, C1-03, 1-04, C1-05, 1-06, C1-13, 2-04, C2-07, 1-02, C4-04, 1-07, C4-06, 1-09, C8-13, 3-14, C8-17  emporary se:  1-19, B3-40, 3-45, B4-24, 5-21, B5-24, 5-27		provisions for the benefit of electricity undertakers (part 1) (which also includes gas, water and sewerage undertakers) have been included within the DCO.  These are not agreed by Northern Power Grid and so bespoke protective provisions are currently being negotiated for this statutory undertaker and will be included		

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
					DCO once in agreed form.  This will protect both the Yorkshire and Northeast entity.  The issues between the parties have narrowed considerably and agreement is anticipated in advance of Deadline 5.		
Network Rail Infrastructu re Limited (NRIL)	Rail transport infrastructure and services	Compulsory Acquisition of Rights: B2-36, B2-37, B2-40, B2-68, B3-28, B3-35, B3-37, B3-39, C1-02, C1-17,	By virtue of Section 8 Acquisition of the Land Act 1981 as being within the definition of "railway" Section 138 -	Yes – Relevant Representatio n received 13 February 2023. Section 138 engaged.	Protective provisions for the benefit of Network Rail have been included within the DCO (part 4).  These are not agreed by	National Grid is aiming to reach agreement by Deadline 5the end of Examination but this may not be possible.	Updates to Network Rail's standard form protective provisions from the precedent position previously confirmed in

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
		E5-04, E5-15, E6-22, E6-36  Temporary Use:  B2-55, B3-29, B3-30, B3-31, B3-32, B3-34, B3-39, B3-73	By virtue of Section 262(1)Town and Country Planning Act 1990 as being within the definition of "railway"	Section 127 engaged.	Network Rail and so negotiations are continuing.  An update has been made to Part 4 of Schedule 15 in the draft DCO (Document 3.1(D)) which reflects the progress made between the parties but this position is still not in agreement. with a view to reaching a suitable update to be incorporated into the draft DCO.A Statement of Common Ground between National Grid and Network		National Grid DCOs. National Grid are considering the extent to which it is able to update the approach which has been followed between the parties on previous Projects.

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
					Rail has been submitted to the examination at Deadline 5, wherein there is a summary of the points of disagreement in respect of the protective provisions.  A Section 127/138 Statement in respect of Network Rail (Document 8.27.1) has been submitted to the examination at Deadline 5.		
Cellnex UK Limited (On Tower UK 5 Limited in	Telecommunicati ons	Compulsory Acquisition of Rights:	S138 applies to Cellnex UK because the definition of "relevant	No Relevant Representatio n received. Section 138 engaged.	Protective provisions for the protection of Operators of Electronic Communications	Not applicable protective provisions are not in dispute.	None

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
the Book of Reference)		D1-28, D1-29, D1-32, D1-46, D1-56	apparatus" at Section 138(3)(b) includes "electronic communicatio ns apparatus kept installed for the purposes of an electronic communicatio ns code network"	Section 127 not engaged.	Code Networks have been included within the DCO (part 2).  One query has been raised by Cellnex UK regarding the provision for outages. National Grid has responded to this query and explained that no amendment to the protective provisions is required.  A final SoCG between National Grid and Cellnex has been submitted to the Examination at Deadline 5 which confirms		

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
					agreement has been reached.		
Hutchison 3G UK Limited	Telecommunications	Compulsory Acquisition of Rights: D1-07, D1-09, D1-10, D1-13, D1-15 Extinguishm ent of Private Rights: D1-04, D1-08	S138 applies to Hutchinson 3 EE because the definition of "relevant apparatus" at Section 138(3)(b) includes "electronic communications apparatus kept installed for the purposes of an electronic communications code network"	No Relevant Representatio n received. Section 138 engaged Section 127 not engaged	Protective provisions for the protection of Operators of Electronic Communications Code Networks have been included within the DCO.  The content of these protective provisions is not in dispute with Hutchinson 3 EE.	Not applicable protective provisions are not in dispute.	None

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
BT (Openreac h Limited)	Telecommunications	Compulsory Acquisition of Rights: D1-06. D1-38, D1-44, D1-45, D1-50, D1-71, D1-74, E3-19, E3-21, E3-22, E3-24, E3-25, E3-27, E3-28, E3-29, E3-30, E3-37. E3-38, E3-40, E3-41a, E3-43, E5-06, E6-28, E6-33, E6-36, E6-40, E7-17, E7-18, E7-23, E7-25, E7-30, E7-38, E7-38, E7-38, E7-44, E7-44a, E7-47, F1-07, F1-13, F1-17, F1-18, F1-20, F1-28,	S138 applies to BT because the definition of "relevant apparatus" at Section 138(3)(b) includes "electronic communications apparatus kept installed for the purposes of an electronic communications code network"	No Relevant Representatio n received. Section 138 engaged Section 127 not engaged.	Protective provisions for the protection of Operators of Electronic Communications Code Networks have been included within the DCO.  The content of these protective provisions is not in dispute with BT.	Not applicable protective provisions are not in dispute.	None

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
		Compulsory Acquisition of Land: F1-10, F1-15, F1-23 Temporary Use: D1-72,					
National Gas Transmissi on plc	Gas distribution	Compulsory Acquisition of Rights: D1-28, D1-29, D1-32, D1-39, D1-46, D1-56, E3-08, E3-13,	Deemed to be a statutory undertaker for the purposes of the Acquisition of Land Act 1981 by virtue of Schedule 4, paragraph 2(xxxi) of the Gas Act 1995.	Yes – Relevant Representatio n received on 13 February 2023. Section 138 engaged Section 127 engaged	Protective provisions for the benefit of gas undertakers (which also includes electricity, water and sewerage undertakers) have been included within the DCO. These are not agreed by National Gas Transmission	National Grid is aiming to reach agreement by Deadline 5 but this may not be possible the end of the Examination.	National Grid is only able to agree Protective Provisions which are reflective of the scale of impacts on National Gas Transmission's apparatus.

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
			Section 138 - By virtue of Section 262(3) Town and Country Planning Act 1990 as being within the definition of "gas transporter"		and so bespoke protective provisions are currently being negotiated for this statutory undertaker and will be included within the draft DCO once in agreed form.  A Statement of Common Ground between National Grid and National Grid and National Gas Transmission has been submitted to the examination at Deadline 5, wherein there is a summary of the points of disagreement in respect of the		

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
					protective provisions.  A Section 127/138 Statement in respect of National Gas Transmission (Document 8.27.3) has been submitted to the examination at Deadline 5.		
Northern Gas Networks Limited	Gas distribution	Compulsory Acquisition of Rights: B2-05, B2-24, B2-30, B2-35, B2-60, B3-09, B3-10, B3-12, B3-14, C8-12, C8-18, C8-24, C8-27, C8-28, C8-29, C8-30, C8-33, D1-02, D1-03, D1-06,	Deemed to be a statutory undertaker for the purposes of the Acquisition of Land Act 1981 by virtue of Schedule 4, paragraph 2(xxxi) of the	No Relevant Representatio n received. Representatio n made to the ExA but no formal objection has been received. Section 138 engaged.	Protective provisions for the benefit of gas undertakers (which also includes electricity, water and sewerage undertakers) have been included within the DCO.	Before Deadline 5 National Grid is aiming to reach agreement by the end of Examination	None

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
		D1-07, D1-09, D1-10, D1-11, D1-14, D1-15, D1-16, D1-19, D1-23, D1-27, D1-32, D1-33, D1-39, D1-56, D1-77, D1-84, E7-45, F1-39  Extinguishm ent of Private Rights: D1-04, D1-08  Temporary Use: D1-18, D1-35, D1-85	Gas Act 1995.  Section 138 - By virtue of Section 262(3) Town and Country Planning Act 1990 as being within the definition of "gas transporter"	Section 127 not engaged.	These are not agreed by Northern Gas Network and so bespoke protective provisions are currently being negotiated for this statutory undertaker and will be included within the draft DCO once in agreed form.  A Statement of Common Ground between National Grid and Northern Gas Networks has been submitted to the examination at Deadline 5, wherein there is		

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
					a summary of the points of disagreement in respect of the protective provisions.		
					A Section 127/138 Statement in respect of Northern Gas Networks (Document 8.27.4) has been submitted to the		
					examination at Deadline 5.		
Canal and River Trust	Navigation authority	-	The Trust has a duty under S105 Transport Act 1968 to maintain commercial waterways in	Yes – Relevant Representatio n received on 7 February 2023.	Protective provisions for the benefit of the Canal and River Trust have been included within the DCO (Part 3).	Before Deadline 5Agreement reached	None

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
			a suitable condition for use.	Section 138 engaged. Section 127 engaged.	These have been updated within the draft DCO (Document 3.1(D)) at Deadline 5 and are notw agreed by the Canal and River Trust.  A final SoCG between National Grid and the Canal and River Trust has been submitted to the Examination at Deadline 5 and confirms agreement has been reached. and so negotiations are continuing with a view to reaching a suitable update to be		

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
					incorporated into the draft DCO.  National Grid consider the issues between the parties have narrowed and are now mainly points of drafting rather than substance.		
Yorkshire Water Services Limited	Water and waste water services	Compulsory Acquisition of Rights: B2-07, B2-26, B2-29, B2-37, B2-39, B2-41, B2-42, B2-46, B2-50, B2-51, B2-52, B2-53, B2-57, B2-58, B2-62, B2-68, B2-72, B2-73, B3-42, B3-43, B3-48, B3-53, B5-08, B5-11,	Deemed to be a statutory undertaker for the purposes of the Acquisition of Land Act 1981 by virtue of Schedule 25, paragraph 1(2)	No Relevant Representatio n received. Section 138 engaged Section 127 not engaged	Protective provisions for the benefit of water undertakers (which also includes electricity, gas and sewerage undertakers) have been included within the DCO.  The protective provisions within Part 1 of the draft	Side agreement currently being negotiated agreed.  Protective Provisions are agreed as sit on the face of the draft DCO.	None

Statutory Undertake r name	ertaking affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
	B5-12, B5-14, B5-15, B5-18, B5-19, B5-23, B5-25, B5-40, B5-46, B5-49, B5-54, B5-55, B5-56, B5-57, C1-02, C1-03, C1-05, C1-06, C1-09, C1-13, C1-15, C1-16, C2-09, C4-03, C4-12, C6-02, C6-03, C6-05, C6-09, C8-12, C8-18, C8-28, C8-29, C8-33, C9-23, C9-27, C9-38, C9-39, C9-41, C9-52, D1-30, D1-38, D1-41, D1-44, D1-50, D1-73, D1-74, D1-75, E3-16, E3-23a, E3-38, E3-41a, E5-	Town and		DCO (Document 3.1(D)) are agreed by Yorkshire Water and a related side agreement has also been agreed with Yorkshire Water.  Whilst it is understood that these are not objected to by Yorkshire Water, an agreement is being negotiated with Yorkshire Water to ensure that their assets are satisfactorily protected. The issues regarding the side agreement have narrowed and National Grid consider these to		

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
		17, E6-06, E6- 19, E6-20, E6- 22, E6-28, E6- 33, E6-40, E7- 18, E7-19, E7- 22, E7-23, E7- 40, E7-53, F1- 07, F1-10, F1- 12, F1-13, F1- 15, F1-17, F1- 20, F1-23, F1- 28			now be matters of drafting rather than substance.		
		Temporary Use:					
		B2-06, B2-14, B2-28, B2-34, B2-48, B2-49, B2-55, B2-61, B2-64, B3-40, B3-44, B3-45, B3-52, B3-54, B5-24, B5-27, B5-28, B5-58, B5-59, D1-37, D1-72, E7-27, E7-34					

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
National Highways	Highways Authority	Compulsory Acquisition of Rights:  B2-30, B2-35, B2-47, B2-52, B2-59, B2-60, B2-65, B2-66, B2-67, B3-01, B3-07, B3-08, B3-09, B3-11, B3-66, B3-74, B3-75, D1-17, D1-24, D1-60, E6-02, E6-10, E7-04, E7-05, E7-07, E7-08, E7-10, E7-11, E7-12, E7-14, E7-15, E7-19, E7-24, E7-29, E7-32, E7-33, E7-36, E7-38, E7-38a, E7-39, E7-44, E7-44a, E7-45, E7-47, E7-48, E7-49, E7-50,	By virtue of Section 8 Acquisition of the Land Act 1981 as being within the definition of "road transport"	Yes – Relevant Representatio n received 20 January 2023. Section 138 engaged. Section 127 engaged.	No protective provisions have been provided for the benefit of National Highways in the DCO to date Protective Provisions for the benefit of National Highways have now been included within Part 6 of the draft DCO.  Following engagement with National Highways, it is anticipated that bespoke protective provisions will be included on the face of the DCO to protect	National Grid is aiming to reach agreement by Deadline 5the end of Examination but this may not be possible.	As explained further within the response to written question 4.2.8 (Document 8.25.1), National Grid is only able to agree Protective Provisions which are reflective of the scale of impacts on the Strategic Road Network.

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
		E7-51, E7-52, E7-53, F1-30, F1-39  Temporary Use:  B2-48, B3-05, B3-06, E7-27, E7-37, E7-43, F1-31, F1-34, F1-37			National Highways' interests. These are not agreed by National Highways and engagement continues to try and reach an agreed position.  A Statement of Common Ground between National Grid and National Highways has been submitted to the examination at Deadline 5, wherein there is a summary of the points of disagreement in respect of the protective provisions.		

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
					A Section 127/138 Statement in respect of National Highways (Document 8.27.2) has been submitted to the examination at Deadline 5.		
Ainsty (2008) Internal Drainage Board	IDB	Compulsory Acquisition of Rights: B4-11, B4-15, B4-21, B4-22, B5-34 Temporary Use: B4-10, B4-18, B4-23,	For the purposes of S127 and S138 of the Planning Act 2008, Ainsty (2008) Internal Drainage Board is not a Statutory Undertaker.	Yes – Relevant Representatio n made 9 February 2023 Section 127 not engaged Section 138 not engaged	Not applicable as Article 19 (Discharge of Water) of the draft DCO (Document 3.1(D)) is being updated and byelaws not being disapplied.	Not applicable	None
Foss (2008) Internal	IDB	-	For the purposes of S127 and	Yes – Relevant Representatio	Not applicable as Article 19 (Discharge of	Not applicable	None

Statutory Undertake r name	Nature of Undertaking	Land/rights affected	How are they a Statutory Undertaker	Representati on made/S127 engaged and/or S138 engaged	Status of Discussions including Status of protective provisions and/or commercial agreement	Estimate of the timescale for securing agreement	Envisaged impediments to the securing of such agreements
Drainage Board			S138 of the Planning Act 2008, Foss (2008) Internal Drainage Board is not a Statutory Undertaker.	n made 9 February 2023 Section 127 not engaged Section 138 not engaged	Water) of the draft DCO (Document 3.1(D)) is being updated and byelaws not being disapplied.		
Kyle Internal Drainage Board	IDB	-	For the purposes of S127 and S138 of the Planning Act 2008, Kyle (2008) Internal Drainage Board is not a Statutory Undertaker.	No Relevant Representatio n made. Section 127 not engaged S138 not engaged	Not applicable as Article 19 (Discharge of Water) of the draft DCO (Document 3.1(D)) is being updated and byelaws not being disapplied.	Not applicable	None

## 2.2 **Explanatory Note**

The definitions of statutory undertaker for the purposes of Section 127 and 138 of the Planning Act 2008 are different. Please see extracts from both sections below.

### 2.2.2 Extract from Section 127(8) Planning Act 2008:

- (8) In this section—
- "statutory undertakers" has the meaning given by section 8 of the Acquisition of Land Act 1981 (c. 67) and also includes the undertakers—
- (a) which are deemed to be statutory undertakers for the purposes of that Act, by virtue of another enactment;
- (b) which are statutory undertakers for the purposes of section 16(1) and (2) of that Act (see section 16(3) of that Act).

### 2.2.3 Extract from Section 8 Acquisition of Land Act 1981:

- (8)(1) In this Act, unless the context otherwise requires, "statutory undertakers" means—
- (a) any person authorised by any enactment to construct, work or carry on—
- (i) any railway, light railway, tramway, road transport, water transport, canal or inland navigation undertaking, or
- (ii) any dock, harbour, pier or lighthouse undertaking, or
- (iii) any undertaking for the supply of hydraulic power, or
- (b) the Civil Aviation Authority [ or a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)], or
- (c) [a universal service provider in connection with the provision of a universal postal service] and in this subsection "enactment" means any Act or any order or scheme made under or confirmed by an Act.

#### 2.2.4 Extract from Section 138(4A) Planning Act 2008:

(4A) In this section "statutory undertakers" means persons who are, or are deemed to be, statutory undertakers for the purpose of any provision of Part 11 of TCPA 1990.

#### 2.2.5 Extract from Section 262 Town and Country Planning Act 1990:

262 (1) Subject to the following provisions of this section, in this Act "statutory undertakers" means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power and a relevant airport operator (within the meaning of Part V of the Airports Act 1986).

- (2) Subject to the following provisions of this section, in this Act "statutory undertaking" shall be construed in accordance with subsection (1) and, in relation to a relevant airport operator (within the meaning of that Part), means an airport to which that Part of that Act applies.
- (3) Subject to subsections (5) to (5B), for the purposes of the provisions mentioned in subsection (4) any gas transporter, water or sewerage undertaker, the Environment Agency, the Natural Resources Body for Wales, any universal postal service provider in connection with the provision of a universal postal service, the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) shall be deemed to be statutory undertakers and their undertakings statutory undertakings.
- (6) Any holder of a licence under section 6 of the Electricity Act 1989 shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking.

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