

2015 No. 1561

INFRASTRUCTURE PLANNING

The Preesall Underground Gas Storage Facility Order 2015

Made - - - -

17th July 2015

Coming into force - -

7th August 2015

CONTENTS

PART 1

PRELIMINARY

1. Citation and commencement
2. Interpretation

PART 2

WORKS PROVISIONS

CHAPTER 1

Principal powers

3. Development consent etc. granted by the Order
4. Maintenance of authorised development
5. Limits of deviation
6. Defence to proceedings in respect of statutory nuisance

CHAPTER 2

Benefit of order

7. Benefit of Order
8. Transfer of benefit of Order

CHAPTER 3

Streets

9. Street works
10. Power to alter layout, etc., of streets
11. Maintenance of altered streets
12. Temporary stopping up of streets and rights of way
13. Access to works
14. Agreements with street authorities

CHAPTER 4

Supplemental powers

15. Discharge of water

16. Protective work to buildings
17. Authority to survey and investigate the land

PART 3
ACQUISITION AND POSSESSION OF LAND

CHAPTER 1

Powers of acquisition

18. Compulsory acquisition of land
19. Compulsory acquisition of rights
20. Acquisition of subsoil only
21. Power to override easements and other rights
22. Application of the Compulsory Purchase (Vesting Declarations) Act 1981

CHAPTER 2

Temporary possession of land

23. Temporary use of land for carrying out the authorised development
24. Temporary use of land for maintaining authorised development

CHAPTER 3

Compensation

25. Disregard of certain interests and improvements
26. Set-off for enhancement in value of retained land
27. No double recovery

CHAPTER 4

Supplementary

28. Acquisition of part of certain properties
29. Statutory undertakers
30. Recovery of costs of new connections
31. Time limit for exercise of authority to acquire land compulsorily
32. Private rights of way
33. Rights under or over streets

PART 4
MISCELLANEOUS AND GENERAL

34. Application of landlord and tenant law
 35. Deemed licence for purposes of the 2009 Act
 36. Operational land for purposes of the 1990 Act
 37. Felling or lopping of trees or shrubs
 38. Protective provisions
 39. Certification of plans etc.
 40. Service of notices
 41. Arbitration
 42. Requirements
 43. Appeals relating to decisions under Requirements
 44. Crown land
-

- SCHEDULE 1 — AUTHORISED DEVELOPMENT
- SCHEDULE 2 — STREETS SUBJECT TO STREET WORKS
- SCHEDULE 3 — STREETS SUBJECT TO ALTERATION OF LAYOUT
- SCHEDULE 4 — STREETS AND RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP
- SCHEDULE 5 — ACCESS TO WORKS
- SCHEDULE 6 — LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN
- SCHEDULE 7 — DEEMED LICENCE UNDER THE MARINE AND COASTAL ACCESS ACT 2009
- SCHEDULE 8 — PROTECTIVE PROVISIONS
 - PART 1 — FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS
 - PART 2 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS
 - PART 3 — FOR THE PROTECTION OF BLACKPOOL BOROUGH COUNCIL
- SCHEDULE 9 — REQUIREMENTS

An application was made to the former Infrastructure Planning Commission in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009^(a) for an order under sections 37, 114, 115, 120, 121, 122, 123, 142 and 149A of the Planning Act 2008^(b) (“the 2008 Act”).

The application was examined by a Panel appointed by the Secretary of State pursuant to Chapter 2 of Part 6 of the 2008 Act^(c), and the examination was carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010^(d) (“the 2010 Rules”).

The Panel, having considered the application with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74 of the 2008 Act^(e) made a report and recommendation to the Secretary of State.

The Secretary of State refused the application on 9th April 2013, but, pursuant to a judgment of the High Court of Justice ([2013] EWHC 17 (Admin)) dated 17th January 2014, the Secretary of State was required to re-decide the application. The Secretary of State then invited further representations from interested parties in accordance with rule 20(2) of the 2010 Rules.

The Secretary of State, having considered the report and recommendation of the Panel and further representations received (under rule 20(2) of the 2010 Rules and otherwise), and decided the application, has determined to make an Order giving effect to the proposals comprised in the application with modifications.

(a) S.I. 2009/2264, amended by S.I. 2010/439, 602, 2012/635, 2654, 2732, 2013/522, 755.
 (b) 2008 c. 29. The relevant provisions of the Planning Act 2008 are amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c. 20), and by sections 22-27 of the Growth and Infrastructure Act 2013 (c. 27) (see S.I. 2013/1124 for transitional provisions).
 (c) Following the abolition of the Infrastructure Commission on 1st April 2012, a Panel appointed under section 61 of the 2008 Act is treated as if appointed by the Secretary of State by virtue of a direction given by the Secretary of State under section 129 of the Localism Act 2011.
 (d) S.I. 2010/103, amended by S.I. 2012/635.
 (e) Section 74 is amended by the Localism Act 2011, Schedule 13 paragraph 29(3) and Schedule 25 paragraph 1.

The Secretary of State, in exercise of the powers conferred by sections 103, 114, 115, 120, 122, 123, 142 and 149A of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Preesall Underground Gas Storage Facility Order 2015 and shall come into force on 7th August 2015.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(a);

“the 1965 Act” means the Compulsory Purchase Act 1965(b);

“the 1980 Act” means the Highways Act 1980(c);

“the 1990 Act” means the Town and Country Planning Act 1990(d);

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

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009(f);

“access and temporary stopping up plans” means the plans certified as the access and temporary stopping up plans by the Secretary of State for the purposes of this Order;

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- (a) 1961 c. 33. Sections 1 and 4 were amended by the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). Sections 2 and 3 were repealed by that Order. There are other amendments to the 1961 Act which are not relevant to this Order.
- (b) 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 Provisions) Act 1985 (c. 71). Section 5 was amended by section 67 of the Planning and Compensation Act 1991; section 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 make provisions in respect of interest payable on compensation. Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c. 39). Section 11(1) and sections 31 and 32 were amended, and section 30 was substituted, by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67); sections 11(1) and 31 were also amended by section 14 of, and paragraph 12 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 of 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 4 of Schedule 15 to, the Planning and Compensation Act 1991. Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991. Section 125 of the Planning Act 2008 applies Part 1 of the 1965 Act with modifications. There are other amendments to the 1965 Act which are not relevant to this Order.
- (c) 1980 c. 66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c. 22); section 1(2), (3) and (4) was 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, 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 1992 (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; and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994. 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.
- (d) 1990 c. 8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008. There are other amendments to the 1990 Act which are not relevant to this Order.
- (e) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18). There are other amendments to the 1991 Act which are not relevant to this Order.
- (f) 2009 c. 23.

“approved development plans” mean the plans listed below and certified as the approved development plans by the Secretary of State for the purposes of this Order—

A-9000-016 Rev.C (application boundary index plan); A-9100-006 Rev.C (application boundary sheet 1 of 9); A-9100-007 Rev.B (application boundary sheet 2 of 9); A-9100-008 Rev.B (application boundary sheet 3 of 9); A-9100-009 Rev.B (application boundary sheet 4 of 9); A-9100-010 Rev.B (application boundary sheet 5 of 9); A-9100-011 Rev.B (application boundary sheet 6 of 9); A-9100-012 Rev.B (application boundary sheet 7 of 9); A-9100-013 Rev.B (application boundary sheet 8 of 9); A-9100-014 Rev.B (application boundary sheet 9 of 9); A-5000-001 Rev.B (seawater pump station site location plan); A-5000-002 Rev.B (seawater pump station site plan); A-5000-003 Rev.B (seawater pump station ground floor plan); A-5000-004 Rev.B (seawater pump station elevations, cross section); A-6000-001 Rev.B (booster pump station and control centre location plan); A-6000-002 Rev.B (booster pump station site and location plan); A-6000-003 Rev.B (booster pump station ground floor plan and section); A-6000-004 Rev.B (booster pump station elevations); A-7000-001 Rev.B (entrance facilities site and location plans); A-7000-002 Rev.B (entrance facilities proposed barn rebuild); A-7000-003 Rev.B (entrance facilities gatehouse and farmhouse); A-2000-001 Rev.B (compressor station & electrical sub-station locations); A-2000-002 Rev.B (gas compressor compound site plan); A-2000-003 Rev.B (compressor compound floor plans); A-2000-004 Rev.B (gas compressor compound sectional elevations); A-2000-005 Rev.C (gas compressor compound equipment elevations); A-2000-006 Rev.B (gas compressor compound indicative planting); A-1000-001 Rev.C (wellhead compounds location plan); A-1000-030 Rev.B (cavern development); A-9100-015 Rev.C (temporary construction compounds index plan); A-9100-016 Rev.C (temporary construction compounds - sheet 1 of 5); A-9100-017 Rev.B (temporary construction compounds - sheet 2 of 5); A-9100-018 Rev.B (temporary construction compounds - sheet 3 of 5); A-9100-019 Rev.B (temporary construction compounds - sheet 4 of 5); A-9100-020 Rev.B (temporary construction compounds - sheet 5 of 5); MMD-277663-D-DR-00-XX-0100 (proposed access road - sheet 1 of 3); MMD-277663-D-DR-00-XX-0101 (proposed access road - sheet 2 of 3); 277663-D-DR-00-XX-0103 (proposed access road - sheet 3 of 3); C.01117.X03 (location of outfall on map); C.01121.X03 (concrete diffuser); A-9000-032 Rev.C (seawall crossing site location plan); 4726/05 Rev.B (proposed sea wall crossing of brine outfall pipe); A-9000-001 Rev.C (master plan overall); A-9000-002 Rev.C (fleetwood master plan); A-9000-003 (Preesall master plan); A-9000-005 Rev.B (master plan/metering station); A-9000-014 Rev.C (master site location plan-reference drawing); A-9000-033 Rev.C (nts master plan); A-3000-010 Rev.B (metering station location plan); A-3000-001 Rev.B (plan and elevation metering station); and 14.10-WX40004-02 (landscape and ecological management strategy plan);

“the authorised development” means the development and associated development described in Schedule 1 (authorised development);

“Blackpool Borough Council” means the Blackpool Borough Council whose address is Town Hall, Blackpool, FY1 1AD;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“deemed Marine Licence” means the marine licence set out in Schedule 7 (deemed licence under the Marine and Coastal Access Act 2009) and deemed by article 35 to have been granted under Part 4 of the 2009 Act, by virtue of section 149A of the 2008 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“existing brine cavern” means any brine cavern which existed prior to the making of this Order;

“existing brine well” means any brine well which existed prior to the making of this Order;

“gas” has the same meaning as natural gas in section 235 (interpretation) of the 2008 Act;

“geology summary report” means the document entitled the geology summary report and certified as the geology summary report by the Secretary of State for the purposes of this Order;

“Halite Energy Group” means Halite Energy Group Limited (company number 04145789) whose registered office is at Unit 5, St Georges Park, Kirkham, Lancashire, PR4 2EF;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“the landscape and ecological management strategy plan” means the document entitled the landscape and ecological management strategy plan with drawing reference 14.10V2-WX40004-02 dated May 2012 and certified as the landscape and ecological management strategy plan by the Secretary of State for the purposes of this Order;

“maintain” includes maintain, inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, decommission, demolish, replace or improve the authorised development and “maintaining” and “maintenance” shall be construed accordingly;

“MMO” means the Marine Management Organisation created under the 2009 Act or any successor to its statutory functions;

“operational cavern” means an underground cavern created pursuant to the powers contained in this Order and brought into operation for the storage of gas;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired and described in the book of reference;

“the Order limits” means the limits shown on the works plans within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);

“Preesall halite deposit” means the member of the Kirkham Mudstone formation being a deposit characterised by halite with varying marl content and localised mudstone interbeds, more particularly described and shown as the Preesall Salt on the Geological Survey of Great Britain (England and Wales) Sheet 66, 1:50,000 Series, Solid and Drift Edition, of the British Geological Survey Classification entitled “The Geology of the country around Blackpool” dated 1990 and further described in the accompanying British Geological Survey Sheet Memoir 66;

“Preesall site” means that part of the authorised development situated to the east of the River Wyre and shown shaded green on the Preesall site plan;

“Preesall site plan” means the drawing dated 4th November 2011 and given drawing reference D-9000-032 certified as the Preesall site plan by the Secretary of State for the purposes of this Order;

“relevant planning authority” means Wyre Borough Council and any successors to its function as planning authority for the area in which the land to which the provisions of this Order apply;

“the Requirements” means the requirements set out in Schedule 9 (Requirements);

(a) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991. Paragraph 1(5) of Part 1 of Schedule 2 was amended by section 67 of, and paragraph 27(3) of Schedule 9 to, the Coal Industry Act 1994 (c. 21). There are other amendments to this Act which are not relevant to this Order.

“solution mining” means the pumping of a leaching solution into the Preesall halite deposit, such that the leaching solution dissolves the halite, thereby forming a void, and is then pumped back to surface as a halite-saturated brine;

“the standard temperature and pressure” means 15 degrees centigrade and 1 bar atmospheric;

“statutory undertaker” means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act(a), together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“UK marine area” has the same meaning as in section 42 of the 2009 Act(b);

“the undertaker” means the person who has the benefit of this Order in accordance with articles 7 and 8;

“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

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) Save for the definition of the “undertaker”, the definitions in paragraph (1) shall not apply to Schedule 7 (deemed licence under the Marine and Coastal Access Act 2009).

(3) The definition of the “undertaker” in paragraph (1) shall not apply to Schedule 8 (protective provisions).

(4) 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.

(5) All distances, directions and lengths referred to in this Order and any document referred to in this Order are approximate, and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

PART 2

WORKS PROVISIONS

CHAPTER 1

Principal powers

Development consent etc. granted by the Order

3.—(1) Subject to the other terms of this Order, including the Requirements and the provisions and conditions of the deemed Marine Licence, the undertaker is granted—

- (a) development consent for the authorised development to be carried out within the Order limits; and
- (b) consent to use the authorised development for the purpose for which it is designed including use of the cavities to be created for the underground storage of gas.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation that may be required from time to time to authorise the use of the authorised development for any purpose other than the matters referred to in section 33(1) of the 2008 Act.

(a) Section 48 is amended by the Local Transport Act 2008 (c. 26), Part 7, section 124(2).

(b) 2009 c. 23.

Maintenance of authorised development

4.—(1) Subject to—

- (a) the other terms of this Order, including the Requirements and the provisions and conditions of the deemed Marine Licence; and
- (b) any contrary provision in an agreement made under this Order,

the undertaker may at any time maintain the authorised development and may enter on any land within the Order limits if such entrance is reasonably required for the purpose of maintaining the authorised development.

(2) Subject to paragraphs (1) and (3), and to the Requirements, the power to maintain the authorised development includes the power to carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction or operation of the authorised development, namely—

- (a) works to alter the position of apparatus below ground level, including mains, sewers, drains and cables including below-ground structures associated with that apparatus within the Order limits;
- (b) works of decommissioning and demolition.

(3) Paragraph (2) shall only authorise the carrying out or maintenance of works within the Order limits.

Limits of deviation

5.—(1) The development authorised by this Order shall be constructed in the lines or situations shown on the works plans.

(2) But in constructing or maintaining the authorised development, the undertaker may deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans.

Defence to proceedings in respect of statutory nuisance

6.—(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) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance), no order shall be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) 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 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) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974^(b); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use

^(a) 1990 c. 43. section 82 is amended by section 5 of the Noise and Statutory Nuisance Act 1993 (c. 40), Schedule 17 to the Environment Act 1995 (c. 25) and section 103 of the Clean Neighbourhoods and Environment Act 2005 (c. 16).

^(b) 1974 c. 40. sections 61 and 65 are amended by section 133 of the Building Act 1984 (c. 55), Schedule 24 to the Environment Act 1995 (c. 25) and section 162 of, and Schedule 15 to, the Environmental Protection Act 1990 (c. 43); there are other amendments not relevant to this Order.

of the authorised development which is being used in accordance with a scheme for noise management approved by the relevant planning authority as described in paragraph 27 of Schedule 9 (Requirements); or

- (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site 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 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

CHAPTER 2

Benefit of Order

Benefit of Order

7. Subject to article 8 (transfer of benefit of Order), the provisions of this Order shall have effect solely for the benefit of Halite Energy Group.

Transfer of benefit of Order

8.—(1) Subject to the provisions of this article, the undertaker may with the 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 (excluding the deemed Marine Licence referred to in paragraph (3) below) and such related rights as may be agreed between the undertaker and the transferee; or
- (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 this Order (excluding the deemed Marine Licence referred to in paragraph (3) below) and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker shall include references to the transferee or the lessee.

(3) The undertaker may with the written consent of the Secretary of State—

- (a) where an agreement has been made in accordance with paragraph (1)(a), transfer to the transferee the whole of the deemed Marine Licence and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) where an agreement has been made in accordance with paragraph (1)(b), grant to the lessee, for the duration of the period mentioned in paragraph (1)(b), the whole of the deemed Marine Licence and such related statutory rights as may be so agreed.

(4) The Secretary of State shall consult the MMO before giving consent to the transfer or grant to another person of the whole of the benefit of the provisions of the deemed Marine Licence.

(5) Where the undertaker has transferred any benefit or the deemed Marine Licence, or for the duration of any period during which the undertaker has granted any benefit or the deemed Marine Licence under paragraph (1) or (3)—

- (a) the benefit or the deemed Marine Licence transferred or granted (“the transferred benefit”) shall include any rights that are conferred, and any obligations that are imposed by virtue of the provisions to which the transferred benefit relates;
- (b) the transferred benefit shall reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit shall not be enforceable against the undertaker save in the case of the deemed Marine Licence transferred or granted in respect of any breach of an obligation by the undertaker which occurs prior to such transfer or grant or which occurs as a result of any activity carried out by the undertaker on behalf of the transferee.

(6) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) or (3) shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by Halite Energy Group.

CHAPTER 3

Streets

Street works

9.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 2 (streets subject to street works) as are within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position;
- (e) demolish, remove, replace and relocate any bus shelter and associated bus stop infrastructure;
- (f) execute any works to provide or improve sight lines required by the highway authority; and
- (g) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c), (d), (e) and (f).

(2) The authority given by paragraph (1) 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^(a).

(3) The provisions of sections 54 to 106 of the 1991^(b) Act apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act save that it shall further include a bus shelter and associated bus stop infrastructure.

Power to alter layout, etc., of streets

10.—(1) The undertaker may alter the layout of or carry out any ancillary works in the street specified in column (2) of Schedule 3 (streets subject to alteration of layout) in the manner specified in relation to that street in column (3).

(2) Without prejudice to the specific powers conferred by article 3 or paragraph (1) but subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street 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 or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track or verge; and

(a) Section 48 is amended by the Local Transport Act 2008 (c. 26) section 124(2); section 51 is amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).

(b) Sections 54 to 106 are amended by Schedule 7 to the Road Traffic Act 1991 (c. 40), Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60), sections 255 and 256 of the Transport Act 2000 (c. 38), sections 40 to 64 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18), Schedule 3 to the Flood and Water Management Act 2010 (c. 29), and regulation 17 of S.I. 2007/1951; there are other amendments that are not relevant to this Order.

(c) reduce the width of the carriageway of the street.

(3) The powers conferred by paragraph (2) shall not be exercised without the consent of the street authority but such consent shall not be unreasonably withheld.

(4) The alteration of the layout of any street carried out pursuant to paragraph (1) or (2) shall be completed to the reasonable satisfaction of the street authority.

Maintenance of altered streets

11.—(1) Where a street is altered or diverted under this Order, the altered or diverted part of the street shall, unless otherwise agreed with the street authority, be maintained by and at the expense of the undertaker.

(2) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(3) For the purposes of a defence under paragraph (2), the court shall in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street;
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Temporary stopping up of streets and rights of way

12.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street or any other right of way and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street or right of way; and
- (b) subject to paragraph (2), prevent all persons from passing along the street or right of way.

(2) The undertaker shall provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the streets or rights of way specified in columns (1) and (2) of Schedule 4 (streets and rights of way to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the access and temporary stopping up plans, in column (3) of that Schedule.

(4) The undertaker shall restore to the reasonable satisfaction of the highway authority any street that has been temporarily stopped up, altered or diverted under paragraph (1) or (3).

(5) The undertaker shall not temporarily stop up, alter or divert—

- (a) any street or right of way specified as mentioned in paragraph (3) without first consulting the highway authority; and
- (b) any other street without the consent of the highway authority which may attach reasonable conditions to any consent.

(6) Any person who suffers loss by the suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Access to works

13. The undertaker may, for the purposes of the construction or the maintenance of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 5 (access to works); and
- (b) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

Agreements with street authorities

14.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street including any structure carrying the street over or under any part of the authorised development;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) any stopping up, alteration or diversion of a street authorised by this Order; or
- (d) the carrying out in the street of any of the works referred to in article 9(1) (street works).

(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) include an agreement between the undertaker and street authority specifying a reasonable time for completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

CHAPTER 4

Supplemental powers

Discharge of water

15.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may 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 the use of a public sewer or drain by the undertaker pursuant to paragraph (1) shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(a) 1991 c. 56; section 106 is amended by 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 shall 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 shall not be unreasonably withheld.

(4) The undertaker shall not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval shall not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker shall not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker shall 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.

(7) This article does not authorise the discharge or entry into inland fresh waters or coastal waters of any matter whose entry or discharge into those waters is prohibited by regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010(a).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency or a harbour authority within the meaning of section 57 of the Harbours Act 1964(b) (interpretation), an internal drainage board, a joint planning board, a local authority or a sewerage undertaker; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Protective work to buildings

16.—(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 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 5 years beginning with the day on which that part of the authorised development is first opened for 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
- (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;

(a) S.I. 2010/675.

(b) 1964 c. 40; there are amendments to section 57 that are not relevant to this Order.

- (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 shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 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)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question 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 41 (arbitration).

(7) The undertaker shall 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 5 years beginning with the day on which the part of the authorised development carried out 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 shall compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article shall relieve the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act (compensation for injurious affection).

(10) Any compensation payable under paragraph (7) or (8) shall be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) 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

17.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer or subsoil or to remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey or investigation of land or the making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) shall, 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 shall be made under this article—

(a) in land located within the highway boundary without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

but such consent shall not be unreasonably withheld.

(5) The undertaker shall 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.

PART 3

ACQUISITION AND POSSESSION OF LAND

CHAPTER 1

Powers of acquisition

Compulsory acquisition of land

18.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate it, or is incidental to it.

(2) As from the date on which a compulsory acquisition notice under section 134(3) of the 2008 Act is served or the date on which the Order land, or any part of it, is vested in the undertaker, whichever is the later, all rights, trusts and incidents to which that land or that part of it which is vested (as the case may be) was previously subject are discharged or suspended, so far as their continuance would be inconsistent with the exercise of the powers under this Order.

(3) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) This article is subject to article 20 (acquisition of subsoil only) and article 23 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of rights

19.—(1) The undertaker may acquire compulsorily the existing rights and create and acquire compulsorily the new rights described in the book of reference and shown on the land plans.

(2) As from the date on which a compulsory acquisition notice is served or the date on which any new right is vested in the undertaker, whichever is the later, the land over which any new rights is acquired shall be 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 that new right.

(3) Subject to section 8 of the 1965 Act, as substituted by article 28 (acquisition of part of certain properties), where the undertaker acquires an existing right over land under paragraph (1), the undertaker shall not be required to acquire a greater interest in that land.

(4) Any person who suffers loss as a result of the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Acquisition of subsoil only

20.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 18 (compulsory acquisition of land) 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 land under paragraph (1), the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 28 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Power to override easements and other rights

21.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, 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 the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or carrying out, or maintenance of any building or work on land;
- (b) the erection, construction, or maintenance of anything in, on, over or under land; or
- (c) the use of any land (including the temporary use of land).

(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 and include restrictions as to the user of land arising by the virtue of a contract.

(4) Where any interest or right to which this article applies is interfered with or any restriction breached by any authorised activity in accordance with the terms of this article the interest, right or restriction shall be extinguished, abrogated or discharged at the time that the interference or breach in respect of the authorised activity in question commences.

(5) In respect of any interference, breach, extinguishment, abrogation or discharge in pursuance of this article, compensation—

- (a) shall be payable under section 7 or 10 of the 1965 Act^(a); and
- (b) shall be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(6) Where a person deriving title under the undertaker by whom the land in question was acquired—

- (a) is liable to pay compensation by virtue of paragraph (5), and
- (b) fails to discharge that liability,

the liability shall be enforceable against that undertaker.

(7) Nothing in this article shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(a) There are amendments that are not relevant to this Order.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

22.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981^(a) shall apply as if this Order were a compulsory purchase order and as if the undertaker were a public authority under section 1(2) of that Act.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, shall have effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) In that section, for subsections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there shall be inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(7) 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)” shall be omitted.

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 shall be construed as references to that Act as applied by section 125 of the 2008 Act to the compulsory acquisition of land under this Order.

CHAPTER 2

Temporary possession of land

Temporary use of land for carrying out the authorised development

23.—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of the land specified in columns (1) and (2) of Schedule 6 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on that land.

(a) 1981 c. 66.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker shall 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 of any land under this article after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 6 (land of which temporary possession may be taken) 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 19 (compulsory acquisition of rights) of this Order.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to replace a building removed under this article.

(5) The undertaker shall 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 any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(7) Nothing in this article shall affect 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 carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1) except that the undertaker shall not be precluded from—

- (a) acquiring new rights over any part of that land under article 19 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 20 (acquisition of subsoil only).

(9) Where the undertaker takes possession of land under this article, the undertaker shall not be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act^(a) (refusal to give possession to acquiring authority) shall apply 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).

Temporary use of land for maintaining authorised development

24.—(1) Subject to paragraph (2), 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 if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order limits for the purpose of gaining access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) shall 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.

^(a) Section 13 is amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may remain in possession of land under this article only 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.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker shall 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.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(8) Nothing in this article shall affect 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 (6).

(9) Where the undertaker takes possession of land under this article, the undertaker shall not be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) shall apply 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).

(11) 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 first opened for use.

CHAPTER 3

Compensation

Disregard of certain interests and improvements

25.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal shall not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) "relevant land" means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

Set-off for enhancement in value of retained land

26.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal shall set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to

that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil), under article 19 (compulsory acquisition of rights), the tribunal shall set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act shall have effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

No double recovery

27. Compensation shall 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 different provisions under this Order.

CHAPTER 4

Supplementary

Acquisition of part of certain properties

28.—(1) This article shall apply instead of section 8(1) of the 1965 Act (other provisions as to 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 21 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 shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, 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 shall be required to 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 shall 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 shall be 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 shall 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, shall 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 shall 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.

Statutory undertakers

29. The undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers shown on the land plans within the limits of the land to be acquired and described in the book of reference;
- (b) within the Order limits extinguish the rights of, or remove, replace, reposition, renew, alter and supplement the apparatus belonging to, statutory undertakers shown on the access and temporary stopping up plans and described in the book of reference; and
- (c) acquire compulsorily the new rights over land belonging to statutory undertakers shown on the land plans and described in the book of reference.

Recovery of costs of new connections

30.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 29 (statutory undertakers), any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be 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) shall not apply in the case of the removal of a public sewer but where such a sewer is removed under article 29, 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, shall be 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 shall 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 same meaning as in section 151(1) of the Communications Act 2003(a); and

“public utility undertaker” has the same meaning as in the 1980 Act.

Time limit for exercise of authority to acquire land compulsorily

31.—(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 shall be served under Part 1 of the 1965 Act; and

(b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981(b) as applied by article 22 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 23 (temporary use of land for carrying out the authorised development) shall cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph shall prevent 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 that period.

Private rights of way

32.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order shall 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 the land by the undertaker under section 11(1) of the 1965 Act(c) (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 limits of land which may be acquired shown on the land plans, is required for the purposes of this Order shall be extinguished on the appropriation of the land by the undertaker for any of those purposes.

(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 shall 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 of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(a) 2003 c. 21; there are amendments to section 151 that are not relevant to this Order.

(b) 1981 c. 66.

(c) Section 11 is amended by Schedule 4 to the Acquisition of Land Act 1981 (c. 67), Schedule 1 to the Housing (Consequential Provisions) Act 1985 (c. 71), the Church of England (Miscellaneous Provisions) Measure 2006 No. 1 Schedule 5 paragraph 12(1) and the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307).

(5) This article does not apply in relation to any right of way to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 29 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) shall have effect subject to—

(a) any notice given by the undertaker before—

- (i) the completion of the acquisition of 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 shall not apply to any right of way 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 of way 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 shall be effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Rights under or over streets

33.—(1) The undertaker may enter on and appropriate 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) shall 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, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation shall 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.

PART 4

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

34.—(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 shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law shall apply 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.

Deemed licence for purposes of the 2009 Act

35. The undertaker is deemed to have been granted a licence under Part 4 of the 2009 Act^(a) to carry out the works described in Schedule 7 (deemed licence under the Marine and Coastal Access Act 2009), subject to the provisions set out in that Schedule, which are deemed to have been attached to the licence by the Secretary of State under Part 4 of the 2009 Act.

Operational land for purposes of the 1990 Act

36. Development consent granted by this Order shall 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 not being operational land for the purposes of that Act).

Felling or lopping of trees or shrubs

37.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from 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) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.

Protective provisions

38. Schedule 8 (protective provisions) has effect.

(a) 2009 c. 23; there are amendments that are not relevant to this Order.

Certification of plans etc.

39.—(1) The undertaker shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the access and temporary stopping up plans;
- (b) the approved development plans;
- (c) the book of reference;
- (d) the environmental statement;
- (e) Flints Caravan Park plan;
- (f) geology summary report;
- (g) Harbour Village plan;
- (h) Kneps Farm Holiday Park plan;
- (i) the land plans;
- (j) the landscape and ecological management strategy plan; and
- (k) Preesall site plan,

for certification that they are true copies of the plans or documents referred to in this Order.

(2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

40.—(1) A notice or other document required or authorised to be served, given or supplied under this Order may be served, given or supplied in any of these ways—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied;
- (b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address;
- (c) by sending it by post, addressed to that person at that person's usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;
- (d) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at that person's usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;
- (e) in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (2), to that person at that address;
- (f) in the case of an incorporated company or body—
 - (i) by delivering it to the secretary or clerk of the company or body at their registered or principal office;
 - (ii) by sending it by post, addressed to the secretary or clerk of the company or body at that office; or
 - (iii) by sending it in a prepaid registered letter or, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) The condition mentioned in paragraph (1)(e) is that the notice or other document must be—

- (a) capable of being accessed by the person mentioned in that provision;
- (b) legible in all material respects; and
- (c) in a form sufficiently permanent to be used for subsequent reference.

(3) For the purposes of paragraph (2), “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

41. Any difference or dispute under any provision of this Order (other than a difference or dispute which falls to be determined by the tribunal) shall, unless otherwise provided for in this Order and unless otherwise agreed between the parties, 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) by the President of the Institution of Civil Engineers.

Requirements

42.—(1) Schedule 9 (Requirements) has effect.

(2) Save for paragraph 4(1) and (2) (detailed design approval) of Schedule 9 (Requirements), Schedule 9 shall not apply to—

- (a) Work Nos. 16J, 16K and 16L of Schedule 1 (authorised development) so far as these fall within the UK marine area; and
- (b) the incorporation of filters into the existing water intake structure comprised in Work No. 15 of Schedule 1 (authorised development).

Appeals relating to decisions under Requirements

43.—(1) Where the relevant planning authority—

- (a) refuses an application for any consent, agreement or approval of that authority required by a Requirement or grants that consent, agreement or approval subject to conditions; or
- (b) does not give notice to the undertaker of its decision on an application for any consent, agreement or approval of that authority required by a Requirement within 8 weeks beginning with the day immediately following that on which the application is received by that authority or within such extended period as may at any time be agreed upon in writing between the undertaker and that authority,

article 41 (arbitration) does not apply but the undertaker may by notice appeal to the Secretary of State.

(2) Any appeal to the Secretary of State under paragraph (1) shall be made under Part 3 (control over development) of the 1990 Act as if the Requirement which is the subject of the appeal were a condition under subsection 78(1)(b) of the 1990 Act.

Crown land

44.—(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 to take, use, enter upon or in any manner interfere with any land, hereditaments, or rights of whatsoever description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary) belonging to—

- (a) Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
- (b) 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; or
- (c) Her Majesty in right of the Duchy of Lancaster, without the consent in writing of the Chancellor of the Duchy.

(2) No interest in Crown land may be acquired compulsorily under this Order unless the appropriate Crown authority consents to the acquisition.

(3) A consent under paragraph (1) or (2) may be given unconditionally or subject to such conditions or upon such terms as may be considered necessary or appropriate.

Signed by authority of the Secretary of State

17th July 2015

Giles Scott
Head of National Infrastructure Consents
Department of Energy and Climate Change

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

In the Borough of Wyre in the County of Lancashire and in the Irish Sea adjacent to the Borough of Wyre

A nationally significant infrastructure project as defined in sections 14 and 17 of the 2008 Act comprising—

Work No. 1A — an underground gas storage facility to store gas in, extract gas from and inject gas into, with—

- (a) a total storage capacity of up to 900 million standard cubic metres; and
- (b) a working capacity of up to 600 million standard cubic metres, but not less than 130 million standard cubic metres,

in each case specified at the standard temperature and pressure, comprising up to 19 operational caverns formed by solution mining of the Preesall halite deposit; all to be constructed to any extent downwards below 220 metres below ground surface and to be confined within the Preesall halite deposit; and

associated development within the meaning of section 115(2) of the 2008 Act comprising—

Work No. 1B — vertical wells, S-shaped wells, slant wells and extended reach slant wells and internal operational pipeline strings connecting the multiple wellhead compounds (Work Nos. 2A to 2G) to the gas storage caverns (Work No. 1A);

Work No. 2A — a wellhead compound area containing multiple wellheads, valve boxes, emergency hydraulic packs, manifold valve boxes, instrument enclosures, closed-circuit television facilities, intruder detectors, compound lighting, grassed mounds, stock proof fencing, security fencing and hard standings, below ground gas manifold pipelines, brine feeds and returns and power and communication cables situated beneath the wellhead compound and gated access roads from the wellheads to the gas compressor compound (Work No. 3) and to the booster pump station (Work No. 4);

Work No. 2B — a wellhead compound area containing multiple wellheads, valve boxes, emergency hydraulic packs, manifold valve boxes, instrument enclosures, closed-circuit television facilities, intruder detectors, compound lighting, grassed mounds, stock proof fencing, security fencing and hard standings, below ground gas manifold pipelines, brine feeds and returns and power and communication cables situated beneath the wellhead compound and gated access roads from the wellheads to the gas compressor compound (Work No. 3) and to the booster pump station (Work No. 4);

Work No. 2C — a wellhead compound area containing multiple wellheads, valve boxes, emergency hydraulic packs, manifold valve boxes, instrument enclosures, closed-circuit television facilities, intruder detectors, compound lighting, grassed mounds, stock proof fencing, security fencing and hard standings, below ground gas manifold pipelines, brine feeds and returns and power and communication cables situated beneath the wellhead compound and gated access roads from the wellheads to the gas compressor compound (Work No. 3) and to the booster pump station (Work No. 4);

Work No. 2D — a wellhead compound area containing multiple wellheads, valve boxes, emergency hydraulic packs, manifold valve boxes, instrument enclosures, closed-circuit television facilities, intruder detectors, compound lighting, grassed mounds, stock proof fencing, security fencing and hard standings, below ground gas manifold pipelines, brine feeds and returns and power and communication cables situated beneath the wellhead compound and gated access roads

from the wellheads to the gas compressor compound (Work No. 3) and to the booster pump station (Work No. 4);

Work No. 2E — a wellhead compound area containing multiple wellheads, valve boxes, emergency hydraulic packs, manifold valve boxes, instrument enclosures, closed-circuit television facilities, intruder detectors, compound lighting, grassed mounds, stock proof fencing, security fencing and hard standings, below ground gas manifold pipelines, brine feeds and returns and power and communication cables situated beneath the wellhead compound and gated access roads from the wellheads to the gas compressor compound (Work No. 3) and to the booster pump station (Work No. 4);

Work No. 2F — a wellhead compound area containing multiple wellheads, valve boxes, emergency hydraulic packs, manifold valve boxes, instrument enclosures, closed-circuit television facilities, intruder detectors, compound lighting, grassed mounds, stock proof fencing, security fencing and hard standings, below ground gas manifold pipelines, brine feeds and returns and power and communication cables situated beneath the wellhead compound and gated access roads from the wellheads to the gas compressor compound (Work No. 3) and to the booster pump station (Work No. 4);

Work No. 2G — a wellhead compound area containing multiple wellheads, valve boxes, emergency hydraulic packs, manifold valve boxes, instrument enclosures, closed-circuit television facilities, intruder detectors, compound lighting, grassed mounds, stock proof fencing, security fencing and hard standings, below ground gas manifold pipelines, brine feeds and returns and power and communication cables situated beneath the wellhead compound and gated access roads from the wellheads to the gas compressor compound (Work No. 3) and to the booster pump station (Work No. 4);

Work No. 3 — a gas compressor compound containing gas compressor station, electrical utilities building and equipment including pig launchers and receivers, slug catchers, glycol contactors and regeneration system, compressors, compressor knock out separators, compressor aftercoolers, gas filters, and heaters and all storage tanks, sub stations, switch yards and valve pits, a vent stack within the fire water storage pond, drainage and interception facilities, internal and external site access roads linking to the public highway and individual wellhead compounds (Work Nos. 2A to 2G), diversion of overhead electricity cables, stock proof fencing, security fencing, gates, closed-circuit television, intruder detector system and external and internal lighting; and extensions of those parts of the 132kV electrical circuits, 11kV power cables and electrical control cables and interconnector gas main comprised in Work Nos. 17A, 18, 19 and 20A which link to elements within this Work No;

Work No. 4 — a booster pump station, de-brine facility and control centre compound including hardstandings for nitrogen tanks, hydrocyclones, a de-brine pond, other pumping equipment and a transformer compound. Internal vehicular access routes, turning areas, pedestrian areas, walls, fencing, closed-circuit television, intruder detector security systems and external lighting, a screen wall and grassed mounds situated on the north and west sides and underground and above ground pipework, electrical cables and other utilities; and extensions of those parts of the wash water pipelines, brine discharge pipelines, power and control cables comprised in Work Nos. 10, 11, 12, 13, 14, 18 and 19 which link to elements within this Work No;

Work No. 5 — a security and support facility at Higher Lickow farm including staff facilities, a maintenance workshop, an administration, health and safety and training facility and a security gatehouse, security fencing, power circuits, telecommunications cables and other facilities, closed-circuit television, intruder sensing security systems and external lighting; and those extensions of the roads comprised in Work Nos. 6 and 7 which link with elements of this Work No;

Work No. 6 — an internal/external site road from the A588 up to and including the security and support facility at Higher Lickow farm (Work No. 5) including drainage and interceptors, lighting, piped culverts/bridge, realigned watercourses, grass mounding and landscape screening;

Work No. 7 — an internal site access road from the security and support facility at Higher Lickow farm (Work No. 5) to the gas compressor compound area (Work No. 3) including drainage

and interceptors, lighting, piped culverts, realigned watercourses, grass mounding and landscaping;

Work No. 8 — internal site access roads from the wellhead compounds (Work Nos. 2A to 2G) to the booster pump station (Work No. 4) and the gas compressor compound (Work No. 3);

Work No. 9 — a gas manifold, distribution pipelines, power, control and telecommunications cables including underground pressure pipelines, pipelines and cables linking the wellhead compounds (Work Nos. 2A to 2G) to the gas compressor compound (Work No. 3); all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where the pipelines, power, control and telecommunications cables rise to interface with the wellhead compounds (Work Nos. 2A to 2G) and the gas compressor compound (Work No. 3);

Work No. 10 — a wash water pipeline including underground pressure pipelines linking each wellhead compound (Work Nos. 2A to 2G) to the booster pump station and de-brine facility (Work No. 4); all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where the wash water pipeline rises to interface with the wellhead compounds (Work Nos. 2A to 2G) and the booster pump station (Work No. 4);

Work No. 11 — a brine outlet pipeline including underground pressure pipelines linking each wellhead compound (Work Nos. 2A to 2G) to the booster pump station and de-brine facility (Work No. 4); all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where the brine outlet pipeline rises to interface with the wellhead compounds (Work Nos. 2A to 2G) and the booster pump station (Work No. 4);

Work No. 12 — a wash water pipeline from the seawater pump station (Work No. 15) to the booster pump station (Work No. 4) including an underground, under river pressure pipeline crossing constructed in trench, in pre-placed sleeves or placed by trenchless methods where not below the bed of the river Wyre and placed by trenchless methods where below the bed of the river Wyre; all to be constructed not less than 1 metre below ground surface (or not less than 8 metres below the bed of the river Wyre where applicable) and not more than 10 metres below ground surface (or not more than 35 metres below the bed of the river Wyre where applicable) save where the wash water pipeline rises to interface with the seawater pump station (Work No. 15) and the booster pump station (Work No. 4);

Work No. 13 — a brine discharge pipeline between the booster pump station, (Work No. 4) and the seawater pump station (Work No. 15) including an underground, under river pressure pipeline crossing constructed in trench, in pre-placed sleeves or placed by trenchless methods where not below the bed of the river Wyre and placed by trenchless methods where below the bed of the river Wyre; all to be constructed not less than 1 metre below ground surface (or not less than 8 metres below the bed of the river Wyre where applicable) and not more than 10 metres below ground surface (or not more than 35 metres below the bed of the river Wyre where applicable) save where the brine discharge pipeline rises to interface with the booster pump station (Work No. 4) and the seawater pump station (Work No. 15);

Work No. 14 — twin 11kV power and control cables from the seawater pumping station (Work No. 15) to the booster pump station and debrine facility (Work No. 4), sleeves, service pipes, power and control cables laid in trench, in pre placed sleeves or placed by trenchless methods where not below the bed of the river Wyre and placed by trenchless methods where below the bed of the river Wyre; all to be constructed not less than 1 metre below ground surface (or not less than 8 metres below the bed of the river Wyre where applicable) and not more than 10 metres below ground surface (or not more than 35 metres below the bed of the river Wyre where applicable) save where the cables and sleeves rise to interface with the booster pump station (Work No. 4) and the seawater pump station (Work No. 15);

Work No. 15 — a seawater pump station containing a wet well abstraction facility and multiple pumps connected to the fish dock by an existing culvert, a connection to the brine discharge pipeline and flow meters and monitoring systems for the brine discharge pipeline, the incorporation of filters into the existing water intake structure, extensions of those parts of the wash water pipelines, brine discharge pipelines, power and control cables comprised in Work Nos. 12, 13, 16A and 14 which link to elements of this Work No., a banded transformer compound, a mobile gantry crane and roller shutter doors, internal vehicular access routes, parking areas, pedestrian areas and landscaping, gated security fencing, closed-circuit television and intruder detection systems, lighting and drainage, temporary and permanent access from Amounderness Way via Dock Avenue and Herring Arm Road;

Work No. 16A — a brine discharge pipeline from seawater pump station (Work No. 15) to United Utilities treatment plant, approximate chainage 3445m to 2690m, including a pressure pipeline laid in trench or within a pre-existing sleeve beneath a newly constructed housing area road; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and temporary works compound and fencing adjacent to Amounderness Way and temporary access from Herring Arm, Road, Amounderness Way and Jameson Road;

Work No. 16B — a brine discharge pipeline from United Utilities treatment plant to Jameson Road approximate chainage 2690m to chainage 1960m, including a pressure pipeline laid in trench; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and temporary access from Jameson Road to a temporary works compound and temporary fencing;

Work No. 16C — a brine discharge pipeline from Jameson Road, approximate chainage 1960m, to the temporary works compound/pipe insertion and reception compound, approximate chainage 1820m, including a pressure pipeline laid in trench; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where it crosses the former rail line adjacent to Jameson Road on a pipe bridge at ground surface (shown on drawing no. MMD-277663-C-DR-00-XX-0003); and a temporary works compound/pipe insertion, reception compound and fencing adjacent to Jameson Road and a fenced temporary access from Jameson Road;

Work No. 16D — a brine discharge pipeline from the Jameson Road temporary works compound, approximate chainage 1820m, to the temporary works compound/pipe insertion and reception compound, approximate chainage 1580m, including a pressure pipeline and sleeve laid by trenchless methods beneath Fleetwood Road and adjacent land; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and a temporary works compound/pipe insertion and reception compound and fencing, a temporary access road and fencing from the temporary works compound at approximate chainage 1580m to Fleetwood Road and any temporary subsidence monitoring stations within Fleetwood Road required by the highway authority;

Work No. 16E — a brine discharge pipeline from the temporary works compound/pipe insertion and reception compound, approximate chainage 1580m, to pipe insertion and reception compound, approximate chainage 1410m, including a pressure pipeline and sleeve laid by trenchless methods beneath Amounderness Way and adjacent land; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and a temporary works compound/pipe insertion and reception compound and fencing, a temporary access road and fencing from the temporary works compound at approximate chainage 1410m to Rossall Lane and any temporary subsidence monitoring stations within Amounderness Way required by the highway authority;

Work No. 16F — a brine discharge pipeline from the temporary works compound/pipe insertion and reception compound, approximate chainage 1410m, to the temporary works compound/pipe insertion and reception compound, at approximate chainage 890m, including a pressure pipeline laid in trench; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and a temporary works compound/pipe insertion and reception compound and fencing adjacent to the Blackpool Tramway and temporary access and fencing to South Strand;

Work No. 16G — a brine discharge pipeline from the temporary works compound/pipe insertion and reception compound, approximate chainage 890m, to the temporary works compound/pipe insertion and reception compound, approximate chainage 770m, including a pressure pipeline and sleeve laid by trenchless methods beneath the Blackpool Tramway and adjacent land; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and a temporary works compound/pipe insertion and reception compound and fencing, a temporary access road and fencing from the temporary works compound at approximate chainage 770m to South Strand/Broadway and any temporary subsidence monitoring stations within the Blackpool Tramway required by Blackpool Borough Council;

Work No. 16H — a brine discharge pipeline from the temporary works compound/pipe insertion and reception compound, approximate chainage 770m, to the temporary works compound/pipe insertion and reception compound, approximate chainage 610m, including a pressure pipeline and sleeve laid by trenchless methods beneath the junction of Broadway, South Strand, the Strand and adjacent land; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and a temporary works compound/pipe insertion and reception compound and fencing, access from South Strand and any temporary subsidence monitoring stations within Broadway or South Strand required by the highway authority;

Work No. 16I — a brine discharge pipeline from the temporary works compound/pipe insertion and reception compound, approximate chainage 610m, to the temporary works compound at Rossall Promenade, approximate chainage 0.00m, including a pressure pipeline laid in trench; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and a temporary works compound and fencing on and adjacent to Rossall Promenade, temporary access and fencing to Fairway, temporary modifications or closures to existing public rights of way, car parking areas and access to the promenade;

Work No. 16J — a brine discharge pipeline within and adjacent to Rossall Promenade including a pressure pipeline laid in trench beneath the promenade; all to be constructed not less than 1 metre below ground surface and not more than 10 metres below ground surface, or affixed to the existing modified sea wall to descend to and beneath the foreshore to a depth of not less than 1 metre below the foreshore and not more than ten metres beneath the foreshore; and pipe protection where appropriate, all permanent or temporary, full or partial, removal of the existing promenade surfacing, access ramps and retaining walls from the landward and seaward sides of the promenade, modifications to and breaking through the sea wall to allow the passage of the pipeline beneath the promenade to the foreshore, modifications to the promenade rear flood wall including the provision of flood gates and the construction of an observation platform/shelter, including new steps, retaining walls and revetments to access the foreshore;

Work No. 16K — a brine discharge pipeline from the Rossall Promenade (sea wall) to approximately the mean low water mark, including a pressure pipeline laid in trench from and beneath the foreshore; all to be constructed not less than 1 metre below the surface of the foreshore and not more than 10 metres below the surface of the foreshore;

Work No. 16L — a brine discharge pipeline from approximately mean low water mark to the pipeline's termination at the single two-port diffuser, including a pressure pipeline laid in a backfilled trench beneath the sea bed from a seagoing vessel; all to be constructed not less than 1

metre below the sea bed and not more than 10 metres below the sea bed; and a single two-port diffuser fitted to distribute flows into the Irish Sea and all warning measures required to delineate the works area;

Work No. 17A — 132kV cables from the electric substation at the gas compressor compound (Work No. 3) to the south river crossing and splice pits laid in trench beneath Agglebys Road, Corcas Lane, the public highway linking High Gate Lane with Burrows Lane named as being part of High Gate Lane and Burrows Lane; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and splice pits situated in the vicinity of the river exit point, adjacent to Burrows Lane, Highgate Lane and Agglebys Road;

Work No. 17B — twin sleeves and 132kV electricity cables from the south river temporary exit compound to the south river temporary entry compound; all to be constructed by trenchless methods not less than 8 metres below the bed of the river Wyre and not more than 35 metres below the bed of the river Wyre save where the electricity cables rise to enter the drive and reception pits at the limits of Work No. 17B; and temporary works sites at the under river entry and exit points containing drive and reception pits, temporary fencing and temporary access track from Burrows Lane;

Work No. 17C — twin sleeves and 132kV electricity cables from the south river temporary entry compound to the 132kV grid substation operated by Electricity North West and located within the National Grid 400kV substation and switchyard at Stanah; all to be constructed by trenchless methods not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where the electricity cables rise to enter the drive and reception pits situated at the limits of Work No. 17C; and sleeves and cables to be laid beneath the existing Flints caravan park and Hillilaid Pool, temporary works sites at the river exit points and within the Stanah Substation Switchyard, temporary access from River Road to the temporary compound, temporary fencing and connection to National Grid electricity infrastructure at the Stanah substation;

Work No. 18 — 11kV electrical circuits from the electrical substation/switchyard at the gas compressor compound (Work No. 3) to the booster pump station (Work No. 4), including twin 11kV electric cables laid in trench crossing Footpaths 45, 61 and 42 and an unnamed watercourse designated as main river; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where the circuits rise to interface with the electrical substation/switchyard at the gas compressor compound (Work No. 3) and the booster pump station (Work No. 4);

Work No. 19 — electrical control cables extending from the proposed electrical substation /switchyard at the gas compressor compound (Work No. 3) to the booster pump station (Work No. 4), including electrical control cables laid in trench and sleeves, crossing Footpaths 45, 61 and 42 and an unnamed watercourse designated as main river; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where the circuits rise to interface with the electrical substation/switchyard at the gas compressor compound (Work No. 3) and the booster pump station (Work No. 4);

Work No. 20A — an interconnector gas pipeline from the gas compressor compound (Work No. 3) to the A588 Hall Gate Lane including a gas pressure pipeline laid in trench or by trenchless methods crossing Monks Lane, Back Lane, Hall Gate Lane and watercourses/drains; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where the pipeline rises to interface with the gas compressor compound (Work No. 3); and temporary fencing, stock proof fencing, temporary access, temporary access roads and any temporary subsidence monitoring stations required by the highway authority;

Work No. 20B — an interconnector gas pipeline from the A588/Hall Gate Lane to Lancaster Road C308 including a gas pressure pipeline laid in trench or by trenchless methods crossing Footpath 31, Bridleway 29, White Lane, Shaws Lane, Footpath 34, Longwood Lane (New Lane), Lancaster Road C308 and watercourses/drains; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and temporary fencing, stock proof fencing, temporary access, temporary access roads and any temporary subsidence monitoring stations required by the highway authority;

Work No. 20C — an interconnector gas pipeline from Lancaster Road C308 to Bradshaw Lane C414 including a gas pressure pipeline laid in trench or by trenchless methods crossing Bradshaw Road C414, Ridgy Pool and other watercourses/drains; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and temporary fencing, stock proof fencing, temporary access, temporary access roads and any temporary subsidence monitoring stations required by the highway authority;

Work No. 20D — an interconnector gas pipeline from Bradshaw Lane C414 to Bone Hill Lane including a gas pressure pipeline laid in trench or by trenchless methods crossing Footpath 39 and Bone Hill Lane; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and temporary fencing, stock proof fencing, temporary access, temporary access roads and any temporary subsidence monitoring stations required by the highway authority;

Work No. 20E — an interconnector gas pipeline from Bone Hill Lane to Black Lane C436 including a gas pressure pipeline laid in trench or by trenchless methods crossing Black Lane; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and temporary fencing, stock proof fencing, temporary access, temporary access roads and any temporary subsidence monitoring stations required by the highway authority;

Work No. 20F — an interconnector gas pipeline from Black Lane C436 connecting to metering station including a gas pressure pipeline laid in trench or by trenchless methods, crossings of other ordinary watercourses/drains, temporary fencing, stock proof fencing; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where the pipeline rises to interface with metering station (Work No. 21); and temporary access, temporary access roads and any temporary subsidence monitoring stations required by the highway authority;

Work No. 20G — an interconnector gas pipeline connecting from metering station (Work No. 21) National Grid feeder main No. 21 to Station Lane including a gas pressure pipeline laid in trench or by trenchless methods crossing Station Lane and watercourses/drains; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable) save where the pipeline rises to interface with metering station (Work No. 21); and temporary fencing, stock proof fencing, temporary access and temporary access roads;

Work No. 20H — an interconnector gas pipeline from Station Lane connecting to National Grid feeder main No. 15 including a gas pressure pipeline laid in trench or by trenchless methods crossing Station Lane, Footpath No. 4 and Footpath No. 2 and watercourses/drains; all to be constructed not less than 1 metre below ground surface (or below bed of watercourse where applicable) and not more than 10 metres below ground surface (or below bed of watercourse where applicable); and temporary fencing, stock proof fencing, temporary access and temporary access roads;

Work No. 21 — an interconnector gas pipeline metering station including a gas metering station containing underground pipework, a metering station instrument building, above ground valves and pipework, a pipe pig reception/insertion area, an area reserved for extension of the facility,

extensions of those parts of the interconnector gas pipeline comprised in Work Nos. 20F and 20G which link to elements of this Work No., temporary access tracks and turning areas adjacent to the NTS Feeder 21 control valve station and an access track to Station Lane and security fencing and landscaping;

in connection with the above Work Nos. further associated development within the Order limits consisting of—

- (a) mechanical, electrical and telecommunications equipment and the provision of utilities services;
- (b) ramps, means of access, footpaths and bridleways;
- (c) embankments, shafts, foundations, retaining walls, drainage, valves, air valves, washout valves, stopcocks and other pipe fittings, fencing and culverts;
- (d) works to alter the course of, or otherwise interfere with a watercourse other than a navigable watercourse;
- (e) works to construct pipelines and to remove or alter the position of apparatus including mains, sewers, drains and cables;
- (f) landscaping, ecological mitigation works and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (g) works for the benefit or protection of land affected by the authorised development;
- (h) works required for the strengthening, improvement, maintenance or reconstruction of any streets;
- (i) works to install subsidence monitoring systems and equipment where any subsidence to existing brine caverns may affect any part of the authorised development; and
- (j) such other works, including working sites and works of demolition as may be necessary to expedite for the purposes of or in connection with the construction of the authorised development and which fall within the scope of the environmental statement.

SCHEDULE 2

Article 9

STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to street works</i>
County of Lancashire, Borough of Wyre	For the purposes of Work Nos. 1A and 1B, Work Nos. 2 to 5 inclusive and Work Nos. 8 to 11 inclusive— Footpath 42 (Preesall) Footpath 43 (Preesall) Footpath 45 (Preesall) Footpath 46 (Preesall) Footpath 61 (Preesall) Footpath 53 (Preesall) Monks Lane (Unadopted) (drawing nos. MMD-277663-C-DR-00-XX-0005, 0006, 0007 and 0015), where crossed by the authorised development within the Order limits
County of Lancashire,	For the purposes of Work No. 6—

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to street works</i>
Borough of Wyre	A588 Hall Gate Lane (Adopted Classified Road) Back Lane (Adopted Unclassified Road) (drawing nos. MMD-277663-C-DR-00-XX-0010 and 0016), where crossed by the authorised development within the Order limits
County of Lancashire, Borough of Wyre	For the purposes of Work No. 7— Monks Lane (Unadopted) (drawing no. MMD-277663-C-DR-00-XX-0010), where crossed by the authorised development within the Order limits
County of Lancashire, Borough of Wyre	For the purposes of Work No. 13— unnamed track adjacent to Fleetwood Fish Dock (drawing no. MMD-277663-C-DR-00-XX-0004), where crossed by the authorised development within the Order limits
County of Lancashire, Borough of Wyre	For the purposes of Work No. 15— Herring Arm Road (drawing no. MMD-277663-C-DR-00-XX-0004), where crossed by the authorised development within the Order limits
County of Lancashire, Borough of Wyre	For the purposes of Work Nos. 16A to 16L inclusive— Jameson Road (Adopted Unclassified) Rossall Lane B5409, Wyre Way (Adopted Classified) South Strand (Adopted Unclassified) Broadway A587 (Adopted Classified) Broadway Playing Field Entrance (Adopted Unclassified) Fairway/Westway (Adopted Unclassified) Rossall Promenade (drawing nos. MMD-277663-C-DR-00-XX-0002 and 0003), where crossed by the authorised development within the Order limits
County of Lancashire, Borough of Wyre	For the purposes of Work Nos. 17A, 17B and 17C— Agglebys Road Corcas Lane Bridleway 2a (Stalmine-with-Staynall) High Gate Lane, linking High Gate Lane with Burrows Lane (Adopted Unclassified) Footpath 13 (Fleetwood) River Road (Adopted Unclassified) (drawing nos. MMD-277663-C-DR-00-XX-0010, 0012 0013 and 0015), where crossed by the authorised development within the Order limits
County of Lancashire, Borough of Wyre	For the purposes of Work No. 18— Footpath 42 (Preesall) Footpath 45 (Preesall) Footpath 61 (Preesall) (drawing nos. MMD-277663-C-DR-00-XX-0005 and 0007), where crossed by the authorised development within the Order limits
County of Lancashire, Borough of Wyre	For the purposes of Work No. 19— Footpath 42 (Preesall) Footpath 43 (Preesall) Footpath 45 (Preesall) Footpath 61 (Preesall) Footpath 53 (Preesall) Monks Lane (Unadopted) (drawing nos. MMD-277663-C-DR-00-XX-0005 and 0007),

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to street works</i>
	where crossed by the authorised development within the Order limits
County of Lancashire, Borough of Wyre	For the purposes of Work Nos. 20A to 20H inclusive— A 588 Hall Gate Lane (Adopted Classified) Footpath 31 (Preesall) Bridleway 29 (Nateby) White Lane (Unadopted) Shaws Lane, Footpath 34 (Pilling) (Unadopted) Longwood Lane (New Lane) Lancaster Road C305 (Adopted Classified) Bradshaw Lane C414 (Adopted Classified) Footpath 39 (Pilling) Bonehill Lane (Adopted Unclassified) Black Lane C436 (Adopted Classified) Bridleway 1 (Nateby) Station Lane (Adopted Unclassified) Footpath 4 (Nateby) (drawing nos. MMD-277663-C-DR-00-XX-0016, 0017, 0018, 0019, 0020, 0021 and 0022), where crossed by the authorised development within the Order limits

SCHEDULE 3

Article 10

STREETS SUBJECT TO ALTERATION OF LAYOUT

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
County of Lancashire, Borough of Wyre	The A588 Hall Gate Lane in Preesall, Lancashire	Widening of the existing adopted highway (classified road), and the creation of a left turn lane for northbound traffic wishing to enter the new private access road (Schedule 1, Work No. 6 and Work No. 7), between points AA and BB on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0216)
County of Lancashire, Borough of Wyre	Back Lane, Preesall, Lancashire	Formation of two junctions with Back Lane to carry the private access road across the existing adopted highway to the gas compressor compound (Schedule 1, Work No. 6 and Work No. 7), between points M and N on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0210)

SCHEDULE 4

Article 12

STREETS AND RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP

<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up	<i>(3)</i> Extent of temporary stopping up
County of Lancashire, Borough of Wyre		For the purposes of Work Nos. 1A and 1B, Work Nos. 2 to 5 inclusive, Work Nos. 8 to 11 inclusive and Work Nos. 18 and 19—
	Footpath 42 (Preesall)	For a distance of 70m measured along the length of the footpath between points A and B on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0205)
	Footpath 45 (Preesall) and Footpath 43 (Preesall)	For a distance of 40m measured along the length of the footpath between points C and D and I and J on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0207)
	Footpath 61 (Preesall)	For a distance of 20m measured along the length of the footpath between points E and F and G and H on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0207)
County of Lancashire, Borough of Wyre	Back Lane	For the purposes of Work Nos. 6 and 20A— Between points M and N on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0210)
County of Lancashire, Borough of Wyre	Monks Lane	For the purposes of Work Nos. 7 and 17A— Between its junction with Back Lane to the Westerly limit of the gas compressor compound between points Q1 to R1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0210)
County of Lancashire, Borough of Wyre	Unnamed track adjacent to Fleetwood Fish Dock (Private access)	For the purposes of Work No. 13— Between the sea water pumping station and the dock edge between points Q2 and R2 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0204)
County of Lancashire, Borough of Wyre	Rossall Promenade (Footpath 12 (Fleetwood))	For the purposes of Work Nos. 16A to 16L inclusive— From the access point from Fairway to the Order limits between points S1, T1 and U1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0202)

(1) Area	(2) Street to be temporarily stopped up	(3) Extent of temporary stopping up
County of Lancashire, Borough of Wyre	Wyre Way, adjacent to B5049	For the width of the proposed temporary access track between points V1 and W1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0203)
	Agglebys Road	For the purposes of Work Nos. 17A to 17C inclusive— Between points K and L on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0210)
	Bridleway 2a (Stalmine-with-Staynall)/Corcas Lane	Between points Q and P on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0212)
	High Gate Lane linking High Gate Lane with Burrows Lane (Adopted unclassified)	Between points T and T2 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0213)
	Burrows Lane (Adopted unclassified)	Between points R and S on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0213)
County of Lancashire, Borough of Wyre	Footpath 42 (Preesall)	For the purposes of Work No. 19— Between points A and B on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0205)
	Footpath 45 (Preesall)	Between points C and D on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0207)
	Footpath 61 (Preesall)	Between points E and F on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0207)
County of Lancashire, Borough of Wyre	Footpath 31 (Preesall)	For the purposes of Work Nos. 20A to 20H inclusive— Between points U and V on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0216)
	Bridleway 29 (Preesall)	Between points W and X on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0217)
	White Lane	Between points Y and Z on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0217)
	Shaws Lane (Footpath 34 (Pilling))	Between points A1 and B1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0217)
	Longwood Lane (New Lane)	Between points C1 and D1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0218)

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
	Lancaster Road	Between points C2 and D2 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0218)
	Bradshaw Lane	Between points E1 and F1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0219)
	Footpath 39 (Pilling)	Between points E2 and F2 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0220)
	Bone Hill Lane	Between points G1 and H1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0220)
	Black Lane	Between points I1 and J1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0221)
	Station Lane	Between points K1 and L1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0222)
	Footpath 4 (Nateby)	Between points M1 and N1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0222)
	Bridleway 1 (Nateby)	Between points K2 and K1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0222)
	Footpath 2 (Nateby)	Between points O1 and P1 on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0223)

SCHEDULE 5

Article 13

ACCESS TO WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
Permanent Access to Works	
County of Lancashire, Borough of Wyre	Preesall, main access private road to A588 formed within Work No. 6— Access from the A588 Hall Gate Lane opposite Moss House Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0216)
	Preesall, secondary access/road crossing formed within Work No. 6— Access from Back Lane approximately 95m south of Monks Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0210)
	Preesall, emergency access to works area from Acres Road—

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
	Access from Acres Road approximately 90m west of Acre House as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0208)
	Fleetwood Fish Dock— Access to seawater pump station, connection to Herring Arm Road and Dock Avenue within the Fleetwood Fish Dock as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0204)
Temporary Access to Works	
County of Lancashire, Borough of Wyre	Preesall, access to works area from A588 formed within Work No. 6— Access from the A588 Hall Gate Lane opposite Moss House Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0216)
	Preesall, secondary access/road crossing formed within Work No. 6— Access from Back Lane approximately 95m south of Monks Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0210)
	Fleetwood Fish Dock— Access to seawater pump station, connection to Herring Arm Road within the Fleetwood Fish Dock as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0204)
	Fleetwood Fish Dock to Work No. 16A— Access from Herring Arm Road within the Fleetwood Fish Dock as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0204)
	Fleetwood, Jameson Road two access points to Work Nos. 16B, 16C and 16D— Access from Jameson Road to the temporary works compound close to the disused railway, as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0203)
	Access from Jameson Road to the temporary works compound sited approximately 90m west of the disused railway, as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX -0203)
	Fleetwood, Fleetwood Road to Work Nos. 16D and 16E— Access from Fleetwood Road to the temporary work compound and works. The access is situated approximately 100m south east of its junction (roundabout) with Amounderness Way, as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0203)
	Fleetwood, Rossall Lane to Work Nos. 16E and 16F— Access from Rossall Lane to the temporary works compound north of Rossall Lane. The access is situated approximately 25m west of the junction with Amounderness Way, as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX -0203)
	Fleetwood, South Strand to Work No. 16F—

(1) Area	(2) Description of access
	Access from South Strand access to field area. The access is situated approximately 230m south west of its junction with Broadway, as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0202)
	Fleetwood, South Strand to Work Nos. 16G and 16H— Access from South Strand to the works compound situated adjacent to South Strand/Broadway. The access is situated at the junction of South Strand with Broadway, as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0202)
	Rossall Promenade, Fairway/Westway to Work Nos. 16I, 16J, 16K and 16L— Access from Fairway/Westway at the point of the existing access to the promenade/car parking areas, as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0202)
	Preesall, Agglebys Road to Work No. 17A— Access from Agglebys Road at a point approximately 20m to the west of its junction with Back Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0210)
	Preesall, Corcas Lane to Work No. 17A Access to work from Corcas Lane at a point approximately 20m west of its junction with Back Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0212)
	Preesall, High Gate Lane linking Burrows Lane to High Gate Lane to Work No. 17A— Access to work from High Gate Lane at a point approximately 180m east of its junction with Burrows Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0213)
	Preesall, Burrows Lane to Work No. 17A— Access to work from Burrows Lane at a point approximately 350m south of its junction with High Gate Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0213)
	Preesall, Burrows Lane to Work Nos. 17A and 17B, temporary works compound— Access to work from Burrows Lane at a point approximately 1040m south of its junction with High Gate Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0214)
	Preesall, Burrows Lane to Work Nos. 17A and 17B, temporary works compound— Access to work from Burrows Lane at a point approximately 300m north west of its junction with Staynall Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0214)
	Thornton-Clevelys, Stanah Substation, River Road to Work No. 17C—

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
	Access from River Road via two existing access roads serving a caravan park and the Stanah Substation as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0215)
	Preesall, Access from A588 Hall Gate Lane to Work No. 20B Interconnector Gas Main— Access from the A588, High Gate Lane approximately 40m north of Moss House Lane as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0216)
	Pilling Moss, Lancaster Road to Work Nos. 20B and 20C— Access from Lancaster Road approximately 125m north of Bankfield as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0218)
	Pilling Moss, Bradshaw Lane to Work Nos. 20C and 20D— Access from Bradshaw Lane approximately 110m east of Ridgy Pool as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0219)
	Pilling Moss, Bone Hill Lane to Work Nos. 20D and 20E— Access from Bone Hill Lane approximately 200m south east of Bone Hill Farm as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0220)
	Nateby Moss, Black Lane to Work Nos. 20E, 20F and 21— Access to work from Black Lane at a point approximately 100m north BAP habitats west of its junction with Footpath No. 6 as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0221)
	Nateby, Station Lane to Work Nos. 20H and 20G— Access from Station Lane via existing access roads serving the National Grid gas compound at Black Wood approximately 175m south of the Orchard as shown on the access and temporary stopping up plans (drawing no. MMD-277663-C-DR-00-XX-0222)

SCHEDULE 6

Article 23

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
Lancashire County Council, Wyre Borough Council	1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 31, 32, 33, 35, 37, 38, 39, 40, 45, 46, 47, 48, 51, 52, 61, 62,	Construction and carrying out of the authorised development; worksite for construction and carrying out of the	Work Nos. 1A, 1B, 2A, 2B, 2C, 2D, 2E, 2F, 2G, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16A, 16B, 16C, 16D, 16E, 16F, 16G, 16H,

<i>(1)</i> Area	<i>(2)</i> Number of land shown on land plans	<i>(3)</i> Purpose for which temporary possession may be taken	<i>(4)</i> Relevant part of the authorised development
	63, 64, 65, 66, 67, 69, 69A, 70, 71, 73, 74, 75, 77, 79, 80, 80a, 80b, 81, 82, 83, 85, 86, 87, 88, 89, 90, 91, 93, 94, 95, 96, 97, 98, 99, 101, 102, 104, 105, 108, 110, 111, 114, 115, 117, 118, 119, 123, 124, 125, 127, 129, 130, 131, 132, 133, 134, 135, 136, 137, 142, 143, 144, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 184, 185, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 198, 199, 200, 202, 203, 204, 206, 207, 208, 209, 210, 211, 214 and 215	authorised development	16I, 16J, 16K, 16L, 17A, 17B, 17C, 18, 19, 20A, 20B, 20C, 20D, 20E, 20F, 20G, 20H and 21
Lancashire County Council, Wyre Borough Council	14, 23, 24, 25, 30, 34, 36, 41, 42, 43, 44, 49, 50, 54, 58, 109, 112, 113, 116, 120, 121, 122, 126, 128, 158, 159, 160, 161, 183, 187, 197, 201 and 212	Construction and carrying out of the authorised development; worksite and access for construction of the authorised development	Work Nos. 6, 16A, 16B, 16C, 16D, 16E, 16F, 16H, 16I, 17A, 17B, 17C, 20A, 20B, 20C, 20D, 20E, 20F, 20G and 20H

SCHEDULE 7

Article 35

DEEMED LICENCE UNDER THE MARINE AND COASTAL ACCESS ACT 2009

Interpretation

1.—(1) In this licence—

“the 2009 Act” means the Marine and Coastal Access Act 2009(a);

(a) 2009 c. 23.

“authorised development” means the development and associated development described in Schedule 1 (authorised development) of the Order;

“commencement” means beginning to carry out any material operation (as defined in section 155 of the 2008 Act) other than operations consisting of marine and benthic surveys, archaeological investigations and investigations for the purpose of assessing ground and geological conditions and “commence” and “commenced” shall be construed accordingly;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order;

“key BAP habitats” means the Sabellaria alveolata reef;

“licence conditions” means the licence conditions set out at paragraphs 2 to 42;

“licence holder” means the “undertaker” as defined in article 2 (interpretation) of the Order to whom this licence is issued;

“licensed activity” means an activity described in paragraph 8 of this licence;

“licensed location” means the area bounded by the coordinates set out at paragraph 9 of this licence;

“licensed works” means any works constructed in the course of a licensed activity;

“MMO” means the Marine Management Organisation created under the 2009 Act responsible for the monitoring of this licence or any successor to its statutory functions;

“the Order” means the Preesall Underground Gas Storage Facility Order 2015;

“pipeline” means the brine discharge pipeline comprised in the licensed works;

“sea bed” means the solid surface of the earth which lies under the sea;

“UK marine area” has the same meaning as that given at section 42 (UK marine area) of the 2009 Act;

“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;

“working day” means a day which is not a Saturday, Sunday, bank holiday or other public holiday.

(2) Unless otherwise indicated all geographical co-ordinates contained within this licence shall be taken to be latitude and longitude degrees and minutes to three decimal places.

(3) Except where otherwise indicated—

- (a) the point of contact with the MMO shall be at its main office(a); and
- (b) details for contact with the MMO’s marine pollution response team shall be at its main office(b).

Licence validity period

2.—(1) This licence is valid from the licence commencement date until the licence termination date.

(2) For the purposes of this licence—

- (a) the “licence commencement date” means the date on which the Order is made; and

(a) Contact details for the main office of the MMO are Marine Management Organisation, Inshore Marine Licensing, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH; telephone 0300 123 1032; fax: 0191 376 2681; and email: infrastructure@marinemanagement.org.uk.

(b) Contact details for the main office of the MMO’s Marine Pollution response team are Marine Management Organisation, Marine Pollution Response Team, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH; telephone 0870 785 1050 or 07770 977825; and email: dispersants@marinemanagement.org.uk.

- (b) the “licence termination date” means an indefinite period unless a licensed activity has not been commenced by the fifth anniversary of the licence commencement date, in which case it means the fifth anniversary of the licence commencement date.

Inspection of records etc.

3. The licence holder shall—

- (a) permit any person who is appointed by the MMO for the purpose to inspect, and make notes from, all books, papers, maps and other records of any kind kept by the licence holder in pursuance of this licence or in connection with activities associated with this licence; and
- (b) furnish that person at reasonable times with such information at reasonable times with such reasonable assistance as may be requested by that person in connection with or arising out of an inspection in pursuance of this paragraph.

Rights of access

4. Any person authorised by the MMO shall be entitled at all reasonable times to enter into and upon any of the licence holder’s installations, vessels or equipment used or to be used in connection with the activities authorised by this licence in accordance with Chapter 2 of Part 8 (common enforcement powers) of the 2009 Act.

Transfer

5. In the application of section 72 of the 2009 Act to this licence, subsection 72(8) of the 2009 Act shall not apply to a transfer made in accordance with article 8 (transfer of benefit of Order) of the Order.

Force majeure

6.—(1) If by reason of force majeure any substances or articles are deposited or removed otherwise than at the licensed location, the licence holder shall notify the MMO of the full details of the circumstances of that deposit within 48 hours of the incident occurring.

(2) For the purposes of this paragraph, “force majeure” means when, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit substances or articles otherwise than at the licensed location because the safety of human life or the vessel is threatened.

Licence conditions binding other parties

7. The licence conditions shall bind any person who for the time being owns, occupies or enjoys any use of the licensed works.

Licensed activities

8. Subject to the licence conditions this licence authorises the licence holder (and any agent, contractor or subcontractor acting on its behalf) to—

- (a) carry out those elements of—
 - (i) Work No. 1A;
 - (ii) Work No. 1B;
 - (iii) Work No. 15;
 - (iv) Work No. 16J;
 - (v) Work No. 16K; and
 - (vi) Work No. 16L,

of Schedule 1 (authorised development) of the Order, and of any further associated development listed at items (a) to (j) in Schedule 1 in connection with those Work Nos., which fall within the UK marine area and constitute licensable marine activities under section 66 of the 2009 Act; and

- (b) undertake a borehole survey in connection with the installation of the brine outfall pipeline comprised within the licensed activities set out at sub-paragraph (a), the purpose of which would be to inform the micro-siting of the pipeline and to determine if there are any archaeological remains or there is any palaeoenvironmental evidence present which could be directly affected by such pipeline installation.

Licensed location

9. The licence holder (and any agent, contractor or subcontractor acting on its behalf) may engage in the licensed activities in the area bounded by the following coordinates—

<i>Latitude</i>	<i>Longitude</i>
Work Nos. 16J, 16K, 16L and borehole surveys—	
N 53 53.986	W 3 05.095
N 53 54.035	W 3 03.029
N 53 53.985	W 3 03.015
N 53 53.987	W 3 02.907
N 53 54.081	W 3 02.927
N 53 54.077	W 3 03.041
N 53 54.067	W 3 03.038
N 53 54.018	W 3 05.096
Work No. 15—	
N 53 54.774	W 3 00.799
N 53 54.798	W 3 00.768
N 53 54.819	W 3 00.823
N 53 54.793	W 3 00.855
N 53 54.802	W 3 00.869
N 53 54.791	W 3 00.858
N 53 54.770	W 3 00.883
N 53 54.755	W 3 00.889
N 53 54.755	W 3 00.880
N 53 54.769	W 3 00.827
Work Nos. 1A and 1B—	
N 53 54.759	W 2 59.541
N 53 54.758	W 2 59.618
N 53 54.745	W 2 59.705
N 53 54.658	W 2 59.780
N 53 54.654	W 2 59.789
N 53 54.590	W 2 59.771
N 53 54.501	W 2 59.767
N 53 54.348	W 2 59.635
N 53 54.347	W 2 59.641
N 53 54.212	W 2 59.528
N 53 54.210	W 2 59.519
N 53 54.204	W 2 59.502
N 53 54.186	W 2 59.468
N 53 54.187	W 2 59.434
N 53 54.195	W 2 59.426

N 53 54.201	W 2 59.413
N 53 54.215	W 2 59.351
N 53 54.303	W 2 59.196
N 53 54.440	W 2 59.071

Reporting of engaged agents, contractors or sub-contractors

10.—(1) The licence holder shall notify the MMO in writing of any agents, contractors or sub-contractors that will be carrying out the licensed activities on behalf of the licence holder no less than 5 working days before the commencement of that activity.

(2) The licence holder shall ensure that a copy of this licence and any subsequent revisions or amendments have been read and understood by any agents, contractors or sub-contractors that will be carrying out the licensed activities on behalf of the licence holder.

Notification of vessels

11.—(1) The licence holder shall ensure that the MMO is provided with notification of any vessel being used to undertake the licensed activities no less than 24 hours before that vessel first commences licensed activities.

(2) The licence holder shall ensure that a copy of this licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to undertake any licensed activity, and that a copy of this licence is held on board any such vessel.

Distribution of copies

12.—(1) The licence holder shall ensure that a copy of this licence and any subsequent revisions or amendments made to it in accordance with section 72 (variation, suspension, revocation and transfer) of the 2009 Act are given to—

- (a) any agent, contractor or subcontractor undertaking a licensed activity;
- (b) the master of any vessel undertaking a licensed activity;
- (c) the transport manager responsible for any vehicle undertaking a licensed activity.

(2) The licence holder shall keep a copy of this licence at its registered address.

Application of licence conditions

13.—(1) Reference to licensed activities in paragraphs 15 and 18 to 42 shall not include the undertaking of the borehole survey referred to at paragraph 8(b), unless the MMO (following a review of the method statement submitted in respect of such survey pursuant to paragraph 17) notifies the licence holder otherwise.

(2) Paragraphs 15 to 42 shall not apply to—

- (a) Work Nos. 1A and 1B of Schedule 1 (authorised development) of the Order; or
- (b) any part of Work No. 15 of Schedule 1 (authorised development) other than the incorporation of filters into the existing water intake structure comprised in that Work No.

Licence conditions prior to commencement of the licensed activities

14. The licence holder shall, unless otherwise agreed in writing with the MMO, within ten working days of receipt of a copy of this licence notify the MMO that it accepts the terms and conditions of this licence; and no licensed activities may be carried out until that notice has been given.

15. No licensed activities shall commence until a written scheme setting out all the stages of the licensed activities and a list of all proposed licensed activities additional to those listed at paragraph 8(a)(i) to (vi) (if any), have been submitted to and agreed with the MMO.

16. The licence holder shall, unless otherwise agreed in writing with the MMO, no less than ten working days prior to the commencement of any stage of the licensed activities notify the MMO of the proposed commencement date of that stage; and no stage of the licensed activities may be carried out until notice for that stage has been given.

17.—(1) The licence holder shall no less than two months prior to the commencement of any stage of the licensed activities submit to the MMO a method statement for that stage, the scope of which is to be agreed by the MMO prior to its submission; and no stage of the licensed activities may commence until the method statement for that stage has been approved in writing by the MMO.

(2) The licence holder shall carry out any stage of licensed activities in accordance with the approved method statement for that stage.

18.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities carry out a marine benthic ecology and habitats survey for that stage.

(2) The scope of any marine benthic ecology and habitats survey shall be agreed with the MMO in writing prior to it being carried out.

(3) Any report arising from any marine benthic ecology and habitats survey and any necessary monitoring requirements shall be agreed in writing with the MMO prior to the commencement of the stage of the licensed activities to which that survey relates; and no stage of the licensed activities may commence until such monitoring requirements (if any) for that stage and any amendments to the licence conditions (if required by the MMO) have been agreed.

19.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities agree in writing with the MMO a vessel movement plan for that stage; and no stage of the licensed activities may commence until such a plan for that stage has been agreed.

(2) The licence holder shall carry out the licensed activities in accordance with the approved vessel movement plan, unless otherwise agreed in writing with the MMO.

20.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities agree in writing with the MMO a construction monitoring plan (or, if so agreed with the MMO, construction monitoring plans) for that stage; and no stage of the licensed activities may commence until such a plan or plans for that stage have been agreed.

(2) Any construction monitoring plan shall include but not be limited to a pre-construction, construction and post-construction plan for monitoring the laying of the pipeline, consisting of trawl surveys within the transshipment area and barge approach routes for the delivery of rock armouring, and surveys of the pipeline corridor to ensure that the pipeline does not become exposed.

(3) The licence holder shall carry out any stage of the licensed activities in accordance with any approved construction monitoring plan for that stage.

21.—(1) The licence holder shall no less than six weeks prior to the transshipment of rock armouring comprised in any stage of the licensed activities submit a method statement relating to such transshipment for that stage, including details of the location of the transshipment area and barge approach routes for the delivery of rock armouring; and no stage of the licensed activities may commence until such a method statement for that stage has been approved in writing by the MMO.

(2) The licence holder shall carry out any stage of the licensed activities in accordance with the rock armouring transshipment method statement approved for that stage.

22.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities agree with the MMO the lighting and marking of the licensed works comprised in that stage.

(2) The details of such lighting and marking shall be included in the method statement to be submitted for approval under paragraph 17.

23.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities notify local mariners' and fishermen's organisations of that commencement by procuring issue of a notice to mariners; and no stage of the licensed activities may commence until such notice for that stage has been given.

(2) For the purposes of this paragraph, "notice to mariners" includes any notice to mariners issued by the Admiralty, Trinity House, Queen's harbourmasters, government departments or harbour or pilotage authorities.

24.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities, following consultation with English Heritage, submit to the MMO for that stage a written scheme of investigation of areas of archaeological interest; and no stage of the licensed activities may commence until the written scheme of investigation for that stage has been approved in writing by the MMO.

(2) In undertaking any stage of the licensed activities, the licence holder shall act in accordance with the written scheme of investigation approved for that stage (if any).

Licence conditions during construction of the licensed works

25. The licence holder shall minimise the re-suspension of sediment during any stage of construction of the licensed works. Details of how this is to be achieved shall be included in the method statement for that stage to be submitted for approval under paragraph 17.

26.—(1) The licence holder shall in the course of any stage of construction of the licensed works take appropriate steps to minimise damage to the foreshore, including to key BAP habitats so far as they are located on the foreshore. Details of such steps, and for steps to identify damage caused (if any) by the construction of the licensed works to key BAP habitats so far as they are located on the foreshore, shall be included in the method statement for that stage to be submitted for approval under paragraph 17.

(2) For the purposes of this paragraph, "the foreshore" means land which is covered and uncovered by the ordinary movement of the tide.

27. The licence holder shall in the course of construction of any stage of the licensed works ensure that the pipeline, anchoring and rock armouring (if present during construction of that stage) are fully covered and do not protrude above the seabed. Details of the necessary steps shall be included in the method statement for that stage to be submitted for approval under paragraph 17.

28. The licence holder shall in the course of construction of any stage of the licensed works only access the licensed location within a defined and marked out area which shall be set out in the method statement to be submitted for approval for that stage under paragraph 17, thereby limiting personnel and plant access to the licensed location.

29.—(1) The licence holder shall in the course of construction of the licensed works fit diffusers to the discharge end of the pipeline, unless otherwise agreed in writing with the MMO.

(2) The details of such diffusers shall be included in the method statement to be submitted for approval under paragraph 17.

30.—(1) The licence holder shall in the course of construction of the licensed works ensure that all chemicals utilised are selected from the list of notified chemicals assessed for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a) or has gone through a similar level of ecotoxicological hazard or risk assessment.

(a) S.I. 2002/1355; amended by S.I. 2005/2055; 2010/1513; 2011/78; and 2011/982.

(2) The licence holder shall obtain from the MMO prior written approval for the use of drilling fluids other than water-based mud for carrying out drilling operations comprised in any stage of the licensed activities.

(3) The licence holder shall comply with any guidance provided to it by the MMO in relation to the disposal of any arisings resulting from drilling operations using drilling fluids other than water-based mud.

31.—(1) The licence holder shall in the course of construction of the licensed works ensure that any coatings or treatments are suitable for use in the marine environment and are used in accordance with best environmental practice.

(2) For the purposes of this paragraph, “best environmental practice” means best environmental practice as defined in Appendix 1 of the 1992 OSPAR Convention of the Protection of the Marine Environment of the North-East Atlantic.

32. The licence holder shall in the course of construction of the licensed works, unless otherwise agreed in writing with the MMO, ensure that a soft-start procedure is used, whereby pile power is incrementally increased over a time period of not less than twenty minutes until full operational power is achieved. In the event that piling ceases for a period greater than ten minutes, the soft-start procedure shall be repeated.

33.—(1) The licence holder shall in the course of construction of the licensed works install bunding and/or storage facilities to contain and prevent the release of fuel, oils, and chemicals associated with plant, refuelling and construction equipment into the marine environment.

(2) There shall be containment facilities secondary to the bunding or storage facilities described in sub-paragraph (1).

(3) The capacity of those secondary containment facilities shall not be less than 100% of the storage capacity of the bunding or storage facilities described in sub-paragraph (1).

34. The licence holder shall ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO’s Marine Pollution Response Team by email or by telephone.

35. The licence holder shall in the course of construction of the licensed works ensure that during the works all waste is stored in designated areas which are isolated from surface water drains, open water and banded to contain any spillages.

36.—(1) The licence holder shall in the course of construction of the licensed works ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment.

(2) Concrete and cement mixing shall, unless otherwise agreed in writing with the MMO, be contained and sited at least ten metres from any watercourse or surface water drain.

(3) For the purposes of this paragraph “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.

37. The licence holder shall ensure that any vessels used for rock transhipment or delivery operations—

- (a) are suitably constructed and loaded to prevent rock falling over the side; and
- (b) use suitable screening to prevent the loss of rock or shingle through drainage holes.

38. The licence holder shall ensure that any rock misplaced or lost below the level of mean high water springs in the course of construction of the licensed works is reported to the MMO within 48 hours and located and recovered within six weeks, unless otherwise agreed in writing with the MMO.

Licence conditions following completion of the licensed works

39. The licence holder shall prior to the commencement of any stage of the licensed activities in which backfilling operations within the marine environment are to take place following the completion of that stage, submit to the MMO for that stage details of the materials to be used in such backfilling operations; and no such stage of the licensed activities may commence until those details have been approved in writing by the MMO.

40. The licence holder shall ensure that, unless otherwise agreed in writing with the MMO, within six weeks of completion of the licensed works, backfill operations shall return the intertidal area to its profile prior to the commencement of the licensed activities; and the licence holder shall use the materials the details of which have been approved pursuant to paragraph 39 in respect of those backfill operations.

41. The licence holder shall within six weeks of completion of the licensed works ensure that any equipment, temporary structures, waste or debris associated with those works are removed, unless otherwise agreed in writing with the MMO.

42.—(1) The licence holder shall as soon as reasonably practicable following completion of the licensed works notify the Hydrographic Office of that completion.

(2) The “Hydrographic Office” means the Hydrographic Office of the Ministry of Defence, Taunton, Somerset, TA1 2DN.

Changes approved by the MMO

43. Where the words “unless otherwise agreed” appear in this licence, any such agreement or statement may be given only in relation to immaterial changes where it has been demonstrated to the satisfaction of MMO that the subject matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

SCHEDULE 8

Article 38

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

Application

1. For the protection of the undertakers referred to in this Part, the following provisions shall, unless otherwise agreed in writing between the promoter and the undertaker concerned, have effect.

Interpretation

2. In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of an undertaker referred to in sub-paragraph (a) of the definition of “undertaker”, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;
- (b) in the case of an undertaker referred to in sub-paragraph (b) of the definition of “undertaker”, 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 an undertaker referred to in sub-paragraph (c) of the definition of “undertaker”, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of an undertaker referred to in sub-paragraph (d) of the definition of “undertaker”—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(b) and Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011; 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 includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“commence” has the same meaning as in paragraph 1 of Schedule 9 (Requirements);

“functions” includes powers and duties;

“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 land;

“plan” includes a section and description of the works to be executed;

“promoter” means the undertaker as defined in article 2 of this Order;

“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 of the Gas Act 1986(c);
 - (c) a water undertaker within the meaning of the Water Industry Act 1991; and
 - (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,
- for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained;

“United Utilities” means United Utilities PLC (company number 02366616) whose registered address is Haweswater House, Lingley Mere Business Park, Lingley Green Avenue, Great Sankey, Warrington, WA5 3LP.

3. This Part does not apply to apparatus in respect of which the relations between the promoter and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Temporarily stopped up streets

4. Notwithstanding the temporary stopping up or diversion of any streets or highway under the powers in article 12 (temporary stopping up of streets and rights of way), an undertaker shall be at liberty at all times to execute and do all such works and things in, upon or under any such highway

(a) 1989 c. 29.
 (b) 1991 c. 56.
 (c) 1986 c. 44.

as may be reasonably necessary or desirable to enable it to maintain, renew or use any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5.—(1) The promoter, in the case of the powers conferred by article 16 (protective work to buildings), shall, so far as is reasonably practicable, so exercise those powers as not to obstruct or render less convenient the access to any apparatus 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 any undertaker or any interruption in the supply of electricity, gas or water, as the case may be, by the undertaker is caused, the promoter shall bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

- (a) make reasonable compensation to the undertaker for any loss sustained by it; and
- (b) indemnify the undertaker against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by that undertaker, by reason of any such damage or interruption.

(2) Nothing in this paragraph shall impose any liability on the promoter with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of an undertaker or its contractors or workers; and the undertaker shall give to the promoter reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the promoter.

Acquisition of apparatus

6. Notwithstanding any provision in this Order or anything shown on the land plans, the promoter shall 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 promoter acquires any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this Part and any right of an undertaker to maintain that apparatus in that land shall not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the promoter requires the removal of any apparatus placed in that land, it shall give to the undertaker in question 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 an undertaker reasonably needs to remove any of its apparatus) the promoter shall, subject to sub-paragraph (3), afford to the undertaker the necessary—

- (a) facilities and rights for the construction of alternative apparatus in other land of the promoter; and
- (b) subsequently facilities and rights 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 the promoter, or the promoter 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, the undertaker in question shall, on receipt of a written notice to that effect from the promoter, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the promoter under this Part shall be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and the promoter or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(5) The undertaker in question shall, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 41 (arbitration), and after the grant to the undertaker 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 promoter to be removed under the provisions of this Part.

(6) Notwithstanding anything in sub-paragraph (5), if the promoter gives notice in writing to the 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 in any land of the promoter, that work, instead of being executed by the undertaker, shall be executed by the promoter without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(7) Nothing in sub-paragraph (6) shall authorise the promoter to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part, the promoter affords to an undertaker facilities and rights for the construction, use, maintenance, renewal and inspection in land of the promoter of alternative apparatus in substitution for apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the promoter and the undertaker in question or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(2) In settling the terms and conditions mentioned in respect of alternative apparatus to be constructed in the authorised development, the arbitrator shall—

- (a) give effect to all reasonable requirements of the promoter for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with the authorised development, its safety or its efficient operation; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions (if any) applicable to the apparatus constructed in the authorised development for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the promoter 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 more or less favourable on the whole to the 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 shall make such provision for the payment of compensation to or by the promoter by or to that 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 of the type referred to in paragraph 7(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the promoter under paragraph 7(2), the promoter shall submit to the undertaker in question a plan.

(2) In relation to works which will or may be situated over or within 15 metres measured in any direction of, or (wherever situated) impose any load directly upon any sewer, the plan to be submitted to the undertaker under sub-paragraph (1) shall be detailed 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;
- (d) the position of all sewers within 15 metres of the works or upon which the works will impose a load; and
- (e) by way of detailed drawings, every alteration proposed to be made to any such sewer.

(3) The promoter shall not commence the construction or renewal of any works to which sub-paragraph (2) applies until the undertaker has given written approval of the plan so submitted.

(4) Any approval of the undertaker required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5);
- (b) shall not be unreasonably withheld; and
- (c) shall be deemed to have been given if it is neither given nor refused within 56 days of the submission of plans for approval.

(5) In relation to a work to which sub-paragraph (2) applies, the specified undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its sewerage system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any sewer.

(6) Works of the type referred to in paragraph 7(2) shall be executed only in accordance with the plan, submitted under sub-paragraph (1) (and in the case of a plan relating to sewers, in accordance with the plan approved or deemed to have been approved under sub-paragraph (4) or settled by arbitration in accordance with article 41 (arbitration), as amended from time to time by agreement between the promoter and the undertaker) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (7) by the undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the undertaker shall be entitled to watch and inspect the execution of those works.

(7) Any requirements made by an undertaker under sub-paragraph (6) shall be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(8) If an undertaker in accordance with sub-paragraph (7) and in consequence of the works proposed by the promoter, reasonably requires the removal of any apparatus and gives written notice to the promoter of that requirement, paragraphs 1 to 3 and 5 to 8 shall apply as if the removal of the apparatus had been required by the promoter under paragraph 7(2).

(9) Nothing in this paragraph shall preclude the promoter 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, 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.

(10) The promoter shall not be required to comply with sub-paragraph (1) in a case of emergency but in that case it shall give to the undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable thereafter and shall comply with sub-paragraph (6) insofar as is reasonably practicable in the circumstances.

Expenses

10.—(1) Subject to the following provisions of this paragraph, the promoter shall repay to an undertaker the reasonable expenses incurred by that 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) 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, that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

- (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 promoter or, in default of agreement, is not determined by arbitration in accordance with article 41 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part 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 undertaker in question by virtue of sub-paragraph (1) shall 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 shall 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 shall 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 an undertaker in respect of works by virtue of sub-paragraph (1) shall, 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 undertaker 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 such works referred to in paragraph 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 an undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any undertaker, the promoter shall—

- (a) bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) shall impose any liability on the promoter with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an undertaker, its officers, servants, contractors or agents.

(3) An undertaker shall give the promoter reasonable notice of any such claim or demand and no settlement or compromise shall be made without the consent of the promoter which, 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.

Ground subsidence monitoring scheme in respect of United Utilities' apparatus

12.—(1) No works comprised in Work No. 1A in Schedule 1 (authorised development) shall commence until a scheme for monitoring ground subsidence (referred to in this paragraph as the “monitoring scheme”) which is capable of interfering with or risking damage to United Utilities' apparatus has been submitted to and approved by United Utilities, such approval not to be unreasonably withheld or delayed.

- (2) The monitoring scheme shall set out—
- (a) the apparatus of United Utilities which is to be subject to such monitoring;
 - (b) the extent of land to be monitored;
 - (c) the manner in which ground levels are to be monitored;
 - (d) the timescales of any monitoring activities; and
 - (e) the extent of ground subsidence which, if exceeded, shall require the promoter to submit for United Utilities' approval a ground subsidence mitigation scheme in respect of such subsidence in accordance with sub-paragraph (4).

(3) The monitoring scheme must be implemented as approved, unless otherwise agreed in writing with United Utilities.

(4) As soon as reasonably practicable after any ground subsidence identified by the monitoring activities set out in the monitoring scheme has exceeded the level described in sub-paragraph (2)(e), a scheme setting out necessary mitigation measures (if any) for such ground subsidence (referred to in this paragraph as a “mitigation scheme”) shall be submitted to United Utilities for approval, such approval not to be unreasonably withheld or delayed; and any mitigation scheme must be implemented as approved, unless otherwise agreed in writing with United Utilities.

(5) If the monitoring scheme or mitigation scheme would conflict with any aspect of any ground subsidence monitoring scheme or ground subsidence mitigation scheme approved by the relevant planning authority pursuant to paragraph 35 of Schedule 9 (Requirements) the promoter may submit a revised monitoring scheme or mitigation scheme to United Utilities for its approval, such approval not to be unreasonably withheld or delayed; and the revised monitoring scheme or mitigation scheme must be implemented as approved, unless otherwise agreed in writing with United Utilities.

Enactments and agreements

13. Nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the promoter and an undertaker in respect of any apparatus laid or erected in land belonging to the promoter on the date on which this Order is made.

Co-operation

14. Where in consequence of the proposed construction of any of the authorised development, the promoter or an undertaker requires the removal of apparatus under paragraph 7(2) or an undertaker makes requirements for the protection or alteration of apparatus under paragraph 9(6), the promoter 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 development and each undertaker shall use its best endeavours to co-operate with the promoter for that purpose.

Access

15. If in consequence of the exercise of the powers of this Order the access to any apparatus is materially obstructed, the promoter shall provide such alternative means of access to such apparatus as will, so far as reasonably practicable, enable the undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

16. Any difference or dispute arising between the promoter and an undertaker under this Schedule shall, unless otherwise agreed in writing between the promoter and that undertaker, be determined by arbitration in accordance with article 41 (arbitration).

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1. For the protection of any operator, the following provisions shall, unless otherwise agreed in writing between the promoter (as defined in Part 1) and the operator, have effect.

2. In this Part—

“the 2003 Act” means the Communications Act 2003(a);

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system shall be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act(b);

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit 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 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; and

“operator” means the operator of an electronic communications code network.

3. The exercise of the powers of article 29 (statutory undertakers) is subject to paragraph 23 of Schedule 2 to the Telecommunication Act 1984(c).

4.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) 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 other property of an operator); or

(b) there is any interruption in the supply of the service provided by an operator,

the promoter shall bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and shall—

(i) make reasonable compensation to an operator for loss sustained by it; and

(ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) shall impose any liability on the promoter with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator shall give the promoter reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand shall be made without the consent of the promoter which, 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.

(a) 2003 c. 21.

(b) See section 106.

(c) 1984 c. 12.

(4) This Part shall not apply to—

- (a) any apparatus in respect of which the relations between the promoter and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(5) Nothing in this Part shall affect the provisions of any enactment or agreement regulating the relations between the promoter and an undertaker in respect of any apparatus laid or erected in land belonging to the promoter on the date on which this Order is made.

5. The temporary stopping up or diversion of any highway under article 12 (temporary stopping up of streets and rights of way) shall not affect any right of the operator under paragraph 9 of the electronic communications code to maintain any apparatus which, at the time of the stopping up or diversion, is in that highway.

6. Any difference or dispute arising between the promoter and an operator under this Part, unless otherwise agreed in writing between the promoter and that operator, be referred to and settled by arbitration under article 41 (arbitration).

PART 3

FOR THE PROTECTION OF BLACKPOOL BOROUGH COUNCIL

Application and interpretation

1.—(1) For the protection of Blackpool Borough Council and the operator the following provisions shall, unless otherwise agreed in writing between the promoter (as defined in Part 1) and Blackpool Borough Council, have effect.

(2) In this Part—

“commence” has the same meaning as in paragraph 1 of Schedule 9 (Requirements);

“construction” includes execution, demolition, placing and altering and “construct” and “constructed” shall be construed accordingly;

“the engineer” means an engineer to be appointed by Blackpool Borough Council;

“the operator” means the operator for the time being of the Blackpool to Fleetwood Tramway;

“plans” includes a section and description of the works to be executed and “approved plans” means plans approved in accordance with the provisions of this Part or settled by arbitration under article 41 (arbitration);

“specified works” means so much of the authorised development as is situated upon, across, under, over or within 15 metres of tramway property or which in any way adversely affects tramway property;

“tramway property” means—

- (a) any tram rail of Blackpool Borough Council;
- (b) any works, apparatus and equipment of Blackpool Borough Council or the operator connected with such tram rails; and
- (c) any land, premises, structures or erections held or used by Blackpool Borough Council or the operator for the purposes of operating such tram rails or such works, apparatus and equipment.

Pedestrian and vehicular access

2.—(1) The promoter shall not in the exercise of the powers in this Order prevent pedestrian or vehicular access to any tramway property, unless preventing such access is with the consent of the engineer.

(2) The consent of the engineer under sub-paragraph (1) shall not be unreasonably withheld or delayed but may be given subject to reasonable conditions.

Approval of plans

3. The promoter shall, before commencing the construction of any part of the specified works, furnish to the engineer such proper and sufficient plans relevant to the part of the specified works concerned as may be reasonably required by the engineer; and the promoter shall not commence those specified works until the plans have been approved in writing by the engineer or settled by arbitration under article 41 (arbitration).

4. The engineer's approval under paragraph 3 shall not be unreasonably withheld and any question of whether it has been unreasonably withheld shall in the absence of agreement be settled by arbitration under article 41 (arbitration).

Protective works

5.—(1) Upon signifying approval or disapproval of the plans submitted pursuant to paragraph 3 the engineer may notify the promoter in writing of any protective works, whether temporary or permanent, which in the reasonable opinion of the engineer should be carried out before the commencement of the construction of the specified works to ensure the stability of tramway property, or the continuation of the safe and effective operation of the tram rails of Blackpool Borough Council; and such protective works as may be reasonably necessary for those purposes shall be constructed by Blackpool Borough Council and the operator with all reasonable dispatch or, if engineer so notifies the promoter, such protective works shall be carried out by the promoter (in either case at the expense of the promoter).

(2) The promoter shall not commence the construction of the specified works until the engineer has notified the promoter that the protective works referred to in sub-paragraph (1) have been completed to the engineer's reasonable satisfaction.

Notice of works and maintenance

6. The promoter shall give to the engineer not less than 28 days' notice of its intention to—
- (a) commence the construction of any of the specified works; and
 - (b) (save in the event of an emergency in which case it shall give such notice as may be reasonably practicable in the circumstances) carry out any maintenance of the specified works in so far as such maintenance adversely affects tramway property.

Manner of carrying out specified and protective works

7. The construction by the promoter of the specified works, any protective works described in paragraph 5 and any alterations and additions to such specified works and protective works shall, when commenced, be carried out—

- (a) with all reasonable dispatch in accordance with the plans approved under paragraph 3 or settled under article 41 (arbitration);
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer; and
- (c) in such manner as to cause—
 - (i) as little damage as reasonably practicable to tramway property;
 - (ii) as little interference as is reasonably practicable with the conduct of traffic on the tram lines of Blackpool Borough Council and the use by passengers of tramway property,

and if any such damage or interference shall be caused by the promoter carrying out the specified works or any protective works, the promoter shall, notwithstanding any approval given under paragraph 3 or settled under article 41 (arbitration), make good such

damage and shall pay to Blackpool Borough Council and the operator (as appropriate) all reasonable expenses to which Blackpool Borough Council or the operator (as appropriate) may be put and compensation for any loss which Blackpool Borough Council or the operator (as appropriate) may sustain by reason of any such damage or interference.

8. Nothing in paragraph 7 shall impose any liability on the promoter with respect to any damage, cost, expense or loss which is attributable to the act, neglect or default of Blackpool Borough Council or the operator or any person in either of their employ or of either of their contractors or agents; and any liability of the promoter under paragraph 7 shall be reduced proportionately to the extent to which any damage, cost, expense or loss is attributable to the act, neglect or default of Blackpool Borough Council or the operator or any person in either of their employ or of either of their contractors or agents.

Access for the carrying out of works in compliance with this Part

9. The promoter shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and the construction of any protective works carried out by the promoter pursuant to the provisions of paragraph 5 and shall supply the engineer with all such information as the engineer may reasonably require with regard to the specified works or any such protective works or to the method of their construction.

10.—(1) During the construction of any works by Blackpool Borough Council or the operator under this Part Blackpool Borough Council and the operator shall at all times afford reasonable facilities to the promoter and its agents for access to those works, and shall supply the promoter with such information as the promoter reasonably requires with regard to such works or the method of construction of such works.

(2) During the construction of the specified works Blackpool Borough Council and the operator shall at all reasonable times subject to the prior written approval of the engineer afford reasonable facilities to the promoter and its agents for access to tramway property and shall supply the promoter with such information as the promoter reasonably requires with regard to tramway property as is reasonably necessary to enable the promoter to comply with sub-paragraphs (a) to (c) of paragraph 7.

(3) During the carrying out of maintenance of the specified works under paragraph 12 Blackpool Borough Council and the operator shall at all reasonable times subject to the prior written approval of the engineer afford reasonable facilities to the promoter and its agents for access to tramway property and shall supply the promoter with such information as the promoter reasonably requires with regard to tramway property as is reasonably necessary to enable the promoter to comply with paragraph 12.

Expenses

11. The promoter shall repay to Blackpool Borough Council or the operator (as appropriate) all reasonable costs, charges and expenses reasonably incurred by Blackpool Borough Council or the operator (as appropriate)—

- (a) in constructing any protective works under the provisions of paragraph 5, including, in respect of any permanent protective works, a capitalised sum representing the cost which may be expected to be reasonably incurred by Blackpool Borough Council or the operator (as appropriate) in maintaining and renewing such works (such sum in the absence of agreement to be settled by arbitration under article 41 (arbitration)); and
- (b) in respect of the approval of plans and any supervision by the engineer of the construction of the specified works.

Right to require maintenance of specified works

12. If at any time after the completion of a specified work (unless that specified work is vested in Blackpool Borough Council) the engineer gives notice to the promoter informing it that the state of repair of the specified work appears to be such that it adversely affects the safe and

effective operation of tramway property, the promoter shall, on receipt of such a notice, take such steps as are reasonably necessary to put that specified work in a state of repair such that it no longer adversely affects tramway property.

Indemnity

13. The promoter shall be responsible to Blackpool Borough Council and the operator (as appropriate) for all reasonable costs, charges, damages and expenses not otherwise provided for in paragraph 11 which may be occasioned to, or reasonably incurred by, Blackpool Borough Council or the operator (as appropriate)—

- (a) by reason of the construction or maintenance of the specified works or the failure of the specified works; or
- (b) by reason of any act or omission of the promoter or of any person in its employ or of its contractors whilst engaged in the construction or maintenance of the specified works,

and the promoter shall indemnify Blackpool Borough Council and the operator from and against all claims and demands arising out of or in connection with the construction of the specified works or any such failure, act or omission; and the fact that any act or thing has been done in accordance with any requirement of the engineer or under the engineer's supervision shall not (unless it was done as a result of negligence on the part of Blackpool Borough Council or the operator or any person in either of their employ or of either of their contractors or agents) excuse the promoter from any liability under the provisions of this paragraph.

14.—(1) Any liability of the promoter under paragraph 13 shall be reduced proportionately to the extent to which any costs, charges, damages and expenses are attributable to the act, neglect or default of Blackpool Borough Council or the operator or any person in either of their employ or of either of their contractors or agents.

(2) The engineer shall give to the promoter immediate notice of any claim or demand described in paragraph 13 and no settlement or compromise of the claim or demand shall be made without the consent of the promoter which, 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.

(3) In the assessment of any sums payable to Blackpool Borough Council or the operator under this Part there shall 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 Blackpool Borough Council or the operator 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 promoter under this Part or increasing the sums so payable.

(4) The engineer shall, on receipt of a request from the promoter, from time to time provide the promoter 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 and with such information as may reasonably enable the promoter to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part.

Approvals and arbitration

15.—(1) Where any consent, approval or expression of satisfaction is sought under this Part from Blackpool Borough Council or the operator it shall not be unreasonably withheld or delayed.

(2) Any difference or dispute arising between the promoter and Blackpool Borough Council or the operator under this Part shall be referred to and settled by arbitration under article 41 (arbitration).

SCHEDULE 9

REQUIREMENTS

Article 42

Interpretation

1. In this Schedule—

“the 1999 Regulations” means the Control of Major Accident Hazards Regulations 1999^(a);

“the 2010 Regulations” means the Conservation of Habitats and Species Regulations 2010^(b);

“132kV electrical circuits” means the works described in Work Nos. 17A to 17C of Schedule 1;

“aftercare” means monitoring, maintenance and management of land within the Order limits following its restoration;

“brine discharge pipeline” means the works described in Work Nos. 16A to 16L of Schedule 1;

“commence” means begin to carry out any material operation (as defined in section 155 of the 2008 Act) other than operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground and geological conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “commencement” and “commenced” shall be construed accordingly;

“competent authority” means the Health and Safety Executive and Environment Agency acting jointly;

“construction phase” means the period during which works to construct the authorised development are carried out;

“construction work” means construction works undertaken during the construction phase;

“decommissioned cavern” means an operational cavern decommissioned pursuant to paragraph 32 or 33;

“decommissioning” means the decommissioning of operational caverns, structures, hoardings and other infrastructure comprised in the authorised development when it is no longer required for operational use or, as the case may be, upon the permanent cessation of operation of the authorised development;

“decommissioning phase” means the period during which the authorised development is decommissioned following permanent cessation of operation of the authorised development;

“European protected species” has the same meaning as in regulation 40 of the 2010 Regulations;

“European site” has the same meaning as it has in regulation 8(1) of the 2010 Regulations and includes the Morecambe Bay site designated under the Convention on Wetlands of International Importance especially as Waterfowl Habitat, signed in Ramsar, Iran in 1971, ratified by the United Kingdom in 1976 and known as the “Ramsar Convention”;

“existing mineworking” means a mineworking which existed prior to the making of this Order;

“Flints Caravan Park plan” means the drawing dated September 2012 and given drawing reference A-9100-4001 certified as the Flints Caravan Park plan by the Secretary of State for the purposes of this Order;

(a) S.I. 1999/743.

(b) S.I. 2010/490.

“Harbour Village plan” means the drawing dated September 2012 and given drawing reference A-9100-4003 certified as the Harbour Village plan by the Secretary of State for the purposes of this Order;

“Kneps Farm Holiday Park plan” means the drawing dated September 2012 and given drawing reference A-9100-4002 certified as the Kneps Farm Holiday Park plan by the Secretary of State for the purposes of this Order;

“mudstone” means the members of the Kirkham Mudstone formation known as the Coat Walls Mudstone Member (above the Preesall halite deposit) and the Thornton Mudstone Member (beneath the Preesall halite deposit), belonging to the Mercia Mudstone Group, characterised by a distinctive sequence of alternately red-brown and grey-green well bedded mudstones with many thin intercalations of siltstone and dolomitic siltstone and more particularly described on the Geological Survey of Great Britain (England and Wales) Sheet 66, 1:50,000 Series, Solid and Drift Edition, of the British Geological Survey Classification entitled “The Geology of the country around Blackpool” dated 1990 and further described in the accompanying British Geological Survey Sheet Memoir 66;

“NTS interconnector pipeline” means the works described in Work Nos. 20A to 20H of Schedule 1 (authorised development);

“operational phase” means the period during which the authorised development is in operational use as an underground gas storage facility;

“permanent cessation” means—

- (a) where it is referred to in the context of a part of the authorised development the cessation of operation of that part in circumstances that at the time of such cessation it is the undertaker’s understanding and expectation that that part of the authorised development will not be returned to operational use at any point in the future; and
- (b) where it is referred to in the context of the authorised development as a whole the cessation of operation of the authorised development in circumstances that at the time of such cessation it is the undertaker’s understanding and expectation that the authorised development as a whole will not be returned to operational use at any point in the future;

“reaming” means the process used to increase a pilot hole to the required size;

“restoration” means the restoration of land within the Order limits for future use after permanent cessation of the operation of the authorised development;

“stage” means a defined section or part of the authorised development, the extent of which is shown in a scheme submitted to and approved by the relevant planning authority pursuant to paragraph 3 (stages of authorised development);

“wet rockhead areas” means those parts of the subsoil of the Order limits shown on Figure 5.7 (Distribution of known wet rockhead (BGS data)) in the geology summary report where what was formerly the Preesall halite deposit has been dissolved by groundwater circulation such that mudstone strata overlying what was formerly the Preesall halite deposit have collapsed into it.

Time limits

2. The authorised development must commence within five years of the date of this Order.

Stages of authorised development

3. No authorised development shall commence until a written scheme setting out all the stages of the authorised development has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority.

Detailed design approval

- 4.—(1) The authorised development shall not be carried out otherwise than in accordance with the approved development plans.

(2) Notwithstanding sub-paragraph (1), no works to the sea wall crossing and observation platform comprising part of Work No. 16J of Schedule 1 (authorised development) shall commence until details of the layout, scale, external appearance and means of access of the sea wall and crossing and observation platform have been submitted to and approved by the relevant planning authority. Works to the sea wall crossing and observation platform must be carried out in accordance with the approved details.

(3) Notwithstanding sub-paragraph (1), no construction of a wellhead compound area (comprised in Work Nos. 2A to 2G (inclusive) of Schedule 1 (authorised development)) shown on the approved development plans shall commence until the following details for that wellhead compound area have been submitted to and (after consultation by the relevant planning authority with Natural England in relation to measures necessary to avoid or mitigate significant effects on designated European sites) approved by the relevant planning authority—

- (a) details of the siting and size of each wellhead compound area;
- (b) details of the design and external appearance of any buildings, structures or equipment to be provided;
- (c) means of access and details of the construction of each access;
- (d) details of the construction of the surface of each wellhead compound area including the stripping and stockpiling of soils, the location and the storage of such, and the materials to be used in the construction of each wellhead compound area;
- (e) details of any fencing to be erected; and
- (f) details of any floodlighting to illuminate the wellhead compound area including the number, height and location of any stanchions to be erected or mobile floodlighting units to be used, the number of floodlights, their lux levels, angles of luminance and extent of light distribution.

(4) The details submitted pursuant to sub-paragraph (3) shall include the development of earth bunds and temporary screening to reduce visual disturbance to birds using the designated European sites and adjacent farmland, consistent with the principles of the landscape and ecological management strategy plan and environmental statement (Chapter 9 of Volume 1A).

(5) Each wellhead compound area shall be constructed in accordance with the details approved pursuant to sub-paragraph (3) for that wellhead compound area; and any approved temporary screening at a wellhead compound area shall be retained until the completion of construction from that wellhead compound area.

(6) Notwithstanding sub-paragraph (1), the construction of any underground pipe between any wellhead compound area (comprised in Work Nos. 2A to 2G (inclusive) of Schedule 1 (authorised development)) and any existing brine well shall not commence until details of the route, depth and design of such underground pipe have been submitted to and approved by the relevant planning authority; and the underground pipe shall be constructed in accordance with the approved details.

External materials approval

5. No stage of the authorised development shall commence until details of the external materials for any building within that stage have been submitted to and approved by the relevant planning authority.

Details of operational cavern layout and design

6.—(1) No more than 19 operational caverns, with—

- (a) a total storage capacity of up to 900 million standard cubic metres; and
- (b) a working capacity of up to 600 million standard cubic metres but not less than 130 million standard cubic metres,

in each case specified at the standard temperature and pressure, shall be constructed within the “area for cavern development” shown on the approved development plan with reference A-1000-030 Rev B.

(2) Unless the safety reports (to be submitted pursuant to regulations 7(1), 7(5) and 8 of the 1999 Regulations), following communication of the competent authority's conclusions of its examination of those reports pursuant to regulation 17 of the 1999 Regulations (and directions if any), allow otherwise—

- (a) in this paragraph, where an operational cavern is not of a constant radius, reference to the radius of that operational cavern shall mean the largest radius for that operational cavern; and the maximum radius of any operational cavern shall not exceed approximately 50 metres;
- (b) the thickness of the remaining salt between the operational cavern roof and the upper surface of the Preesall halite deposit shall be not less than the radius of each operational cavern;
- (c) a minimum thickness of 20% of the radius of the operational cavern shall be maintained between the deepest point of the operational cavern and the basal surface of the Preesall halite deposit;
- (d) wall to wall separation of proposed operational caverns, operational caverns, proposed decommissioned caverns or decommissioned caverns of equal diameter shall be no less than three times the radius of the proposed operational caverns, operational caverns, proposed decommissioned caverns or decommissioned caverns; wall to wall separation of proposed operational caverns, operational caverns, proposed decommissioned caverns or decommissioned caverns of unequal diameter shall be no less than the sum of one and a half times the radius of the smaller proposed operational cavern, operational cavern, proposed decommissioned cavern or decommissioned cavern plus one and a half times the radius of the larger proposed operational cavern, operational cavern, proposed decommissioned cavern or decommissioned cavern;
- (e) the minimum distance between any operational cavern and the Burn Naze fault or any intra-grabinal fault shall be no less than three times the radius of that operational cavern;
- (f) the minimum distance between any operational cavern and any existing brine cavern or existing mineworking shall be no less than four times the radius of that operational cavern (save that where the size of an existing brine cavern is not known the minimum separation distance between an operational cavern and the well head of that existing brine cavern shall be five times the radius of that operational cavern);
- (g) the minimum distance between any operational cavern and any exploratory borehole drilled into the Preesall halite deposit shall be no less than twice the radius of that operational cavern;
- (h) the minimum distance between any operational cavern and wet rockhead areas shall be four times the radius of that operational cavern.

(3) Within 7 days of the submission of the safety reports (to be submitted to the competent authority pursuant to regulations 7(1), 7(5) and 8 of the 1999 Regulations), copies shall be made available and submitted to Lancashire County Council.

European protected species

7.—(1) Before commencing any stage of the authorised development, Natural England shall be consulted as to whether further survey work is required to establish whether a European protected species is present—

- (a) on any of the land affected, or likely to be affected, by that stage of the authorised development; or
- (b) in any of the trees to be lopped or felled or in buildings to be demolished during that stage of the authorised development.

No stage of the authorised development shall commence until further survey work (if required by Natural England) has been carried out to establish whether a European protected species is so present.

(2) Where a European protected species is shown to be present by such further survey work, that stage of the authorised development shall not commence until a scheme of protection and mitigation measures has been submitted to the relevant planning authority and, after consultation with Natural England and the Secretary of State for the Environment, Food and Rural Affairs, has been approved by the relevant planning authority. That stage of the authorised development shall be carried out in accordance with the approved scheme.

Ecological management scheme

8.—(1) No stage of the authorised development shall commence until an ecological management strategy scheme for that stage, reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement (Chapter 9 of Volume 1A and Appendices 9.4–9.16 of Volume 1B), and including details of working methods, means of mitigation and restoration, has been submitted to and (after consultation by the relevant planning authority with Natural England in relation to measures necessary to avoid or mitigate significant effects on designated European sites) approved by the relevant planning authority.

(2) The ecological management strategy scheme shall include an implementation timetable and give effect to the landscape and ecological management strategy plan where the landscape and ecological management plan is applicable to that stage of the authorised development; and must be carried out as approved.

Landscape scheme

9.—(1) No stage of the authorised development shall commence until a landscape scheme for that stage has been submitted to and (after consultation by the relevant planning authority with Natural England in relation to measures necessary to avoid or mitigate significant effects on designated European sites) approved by the relevant planning authority. The scheme shall set out the long term design objectives, management responsibilities and maintenance schedules for all relevant landscape areas relating to that stage together with details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;
- (f) minor structures, such as furniture, refuse or other storage units, signs and lighting;
- (g) proposed and existing functional services above and below ground, including drainage, power and communications cables and pipelines, manholes and supports;
- (h) details of existing trees to be retained, with measures for their protection during the construction phase; and
- (i) programme and implementation timetable for all landscaping works.

(2) The landscape scheme shall give effect to the landscape and ecological management strategy plan where the landscape and ecological management strategy plan is applicable to that stage of the authorised development.

Implementation and maintenance of landscaping

10.—(1) All landscaping works must be carried out in accordance with any relevant landscape scheme approved under paragraph 9 (landscape scheme) and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(2) The landscaping works must be carried out in accordance with implementation timetables approved under paragraph 9 (landscape scheme).

(3) Any tree or shrub planted as part of an approved landscape 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, unless otherwise agreed with the relevant planning authority.

Highway accesses

11.—(1) No stage of the authorised development shall commence until for that stage, written details of the siting, design and layout of any new permanent or temporary means of access to a highway to be used by vehicular traffic, or any alteration to an existing means of access to a highway used by vehicular traffic, has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority.

(2) The highway accesses must be constructed in accordance with the approved details.

(3) No stage of the authorised development shall be begun until for that stage, a written access management scheme has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority.

(4) The access management scheme must be carried out in accordance with the approved details.

Limits on heavy goods vehicle movements

12.—(1) The maximum number of heavy goods vehicle movements to and from the Preesall site during the construction phase, operational phase and decommissioning phase shall not exceed 62 per day (31 in and 31 out).

(2) The number of heavy goods vehicles which enter the Preesall site shall be recorded by the site operator. These records shall be available for inspection at the site office, and a copy of these records shall be submitted to the relevant planning authority every six months, or within five working days of such records being requested by the relevant planning authority.

Covered heavy goods vehicles

13. During the construction phase, operational phase and decommissioning phase the loads of all heavy goods vehicles carrying friable bulk materials or waste shall be covered on route to and from the Order limits unless the load is otherwise enclosed or an incoming load is being uncovered for the purposes of inspection.

Wheel cleaning facilities

14.—(1) Following construction of the access from the A588 comprised in Work No. 6 of Schedule 1 (authorised development) to base course level, wheel-cleaning facilities shall be provided at a location to be agreed with the relevant planning authority in writing.

(2) Unless otherwise agreed with the relevant planning authority in writing, the wheel-cleaning facilities installed shall remain available for use, and shall be maintained in full working order, at all times during the construction phase, and be used so as to ensure that no debris from any work site is deposited by vehicle wheels upon the public highway.

Internal roads

15. The access road between the wheel-cleaning facilities referred to in paragraph 14 (wheel cleaning facilities) and the boundary of the Preesall site shall, during the construction phase, be metalled and drained and kept clear of debris along its entire length at all times.

Temporary access routes

16.—(1) Upon completion of construction of the authorised development, all temporary access routes onto the public highway shall be closed, except for those to the gas compressor compound

forming part of Work No. 3 in Schedule 1 (authorised development), to the booster pump station forming part of Work No. 4 in Schedule 1 (authorised development) and to the well head compound areas forming part of Work Nos. 2A to 2G in Schedule 1 (authorised development).

(2) All verges and field boundaries that will be affected by temporary access routes shall be restored in accordance with details to be first agreed in writing by the relevant planning authority and thereafter shall be maintained for a period of five years.

Fencing and other means of enclosure

17.—(1) No stage of the authorised development shall commence until written details of all temporary fences or other means of enclosure for the construction of that stage have been submitted to and approved by the relevant planning authority.

(2) Any construction sites required for a stage of the authorised development must remain securely fenced at all times during the construction phase of that stage.

(3) Any temporary fencing must be removed on completion of the authorised development.

(4) No stage of the authorised development shall commence until written details of all permanent fences for that stage have been submitted to and (after consultation by the relevant planning authority with Natural England in relation to measures necessary to avoid or mitigate significant effects on designated European sites) approved by the relevant planning authority.

(5) Any approved permanent fencing around works comprised in a stage of the authorised development must be completed before those works are brought into use.

(6) All fencing must be completed in accordance with the written details approved by the relevant planning authority.

Ground/surface water and pollution prevention

18.—(1) No stage of the authorised development shall commence until for that stage, written details of the surface and foul water drainage system (including means of pollution control) have, after consultation with the sewerage and drainage authority, been submitted to and approved by the relevant planning authority. The surface and foul water drainage system must be constructed in accordance with the details approved under this sub-paragraph.

(2) No stage of the authorised development involving the diversion of any stream or watercourse shall commence until a scheme and programme (including a timescale) for its diversion has been submitted to and (after consultation by the relevant planning authority with Natural England in relation to measures necessary to avoid or mitigate significant effects on designated European sites and with the Environment Agency) approved in writing by the relevant planning authority. The stream or watercourse must be diverted in accordance with the approved scheme and programme.

(3) Unless otherwise permitted under sub-paragraphs (1) and (2), throughout the construction phase, operational phase, and decommissioning phase, all ditches, watercourses, field drainage systems and culverts shall be maintained such that the flow of water is not impaired or the drainage onto and from adjoining land rendered less effective.

(4) All oil, diesel oil and lubricants stored within the authorised development for any purpose shall be stored on a base impervious to both oil and water and surrounded by an impermeable bund wall. The bunded area shall be capable of containing 110% of the largest tank's capacity and all drain pipes, fill pipes and sight gauges shall be enclosed within its curtilage.

(5) All drilling mud shall be stored in a bunded area with an impermeable liner within the drilling compound prior to disposal in accordance with a scheme to be agreed with the relevant planning authority.

(6) All drilling cuttings shall be removed from each drilling compound for use in the landscape scheme or for disposal in accordance with a scheme to be agreed with the relevant planning authority.

Archaeology

19.—(1) No stage of the authorised development shall commence until for that stage, a written scheme for the investigation of areas of archaeological interest as identified in the environmental statement (Chapter 7 of Volume 1A) has been submitted to and approved by the relevant planning authority.

(2) The written scheme of investigation shall identify areas where a programme of archaeological investigation is required, and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.

(3) Any archaeological works or watching brief carried out under the archaeological scheme must be by a suitably qualified person or body approved by the relevant planning authority.

(4) Any archaeological works or watching brief must be carried out in accordance with the approved archaeological scheme.

External lighting

20. No stage of the authorised development shall commence until written details of any external lighting to be installed—

(a) temporarily at any of the construction sites within that stage during the construction phase; or

(b) permanently during the operational phase at any site within that stage,

including measures to prevent light spillage, have, after consultation with the highway authority, been submitted to and approved by the relevant planning authority; and any approved means of lighting must subsequently be installed and retained for the duration of the construction phase and operational phase as approved.

Construction hours

21.—(1) Except in the event of an emergency, construction work (other than cavern drilling and cavern washing activities and, in relation to Work Nos. 12, 13, 14, 17B and 17C of Schedule 1 other than reaming activities) shall not take place other than between the hours of 08:00 and 18:00 hours Monday to Friday and 08:00 and 13:00 hours on Saturdays; and, unless otherwise agreed in writing with the relevant planning authority, except in the event of an emergency no construction work (other than cavern drilling and cavern washing activities) shall take place on Sundays and public holidays.

(2) Nothing in sub-paragraph (1) precludes—

(a) a start-up period from 07:30 to 08:00 and a shut-down period from 18:00 to 18:30 Monday to Friday; and

(b) a start-up period from 07:30 to 08:00 and a shut-down period from 13:00 to 13:30 on Saturdays.

(3) Unless otherwise agreed in writing by the relevant planning authority, no heavy goods vehicles shall, in the course of construction of the authorised development, enter or leave the Order land other than between the hours of 08:00 and 18:00 hours Monday to Friday and 08:00 and 13:00 hours on Saturdays (excluding public holidays); and in the course of construction of the authorised development, no heavy goods vehicles shall enter or leave the Order land on Sundays and public holidays, unless otherwise agreed in writing by the relevant planning authority.

Construction of and drilling operations in wellhead compound areas

22.—(1) Wellhead compound areas (including the erection of associated bunds and temporary screening) shall not be constructed other than during the months of May to August (inclusive) in the same calendar year.

(2) Drilling operations within wellhead compound areas shall take place at no more than one wellhead compound area at any one time.

Code of construction practice

23.—(1) No stage of the authorised development shall commence until a code of construction practice has been submitted to and approved by the relevant planning authority.

(2) All construction works shall be undertaken in accordance with the approved code of construction practice, unless otherwise agreed with the relevant planning authority.

Construction worker travel plan

24.—(1) No stage of the authorised development shall commence until a construction worker travel plan relating to the construction phase has been submitted to and approved by the relevant planning authority.

(2) The construction worker travel plan shall be implemented during the construction phase.

Disposal of filtered material

25. All filtered material resulting from solution mining shall be disposed of on-site unless otherwise agreed in writing with the relevant planning authority.

Control of noise during construction and maintenance

26.—(1) No stage of the authorised development shall commence until a written scheme for noise management during construction and maintenance of that stage has been submitted to and approved by the relevant planning authority.

(2) The scheme shall set out the particulars of—

- (a) the works, and the method by which they are to be carried out;
- (b) the noise attenuation measures to be taken to minimise noise resulting from the works, including any noise limits;
- (c) a scheme for monitoring the noise during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures;
- (d) noise attenuation measures required to avoid significant disturbance to birds associated with the designated European sites; and
- (e) a scheme for the handling of complaints in respect of noise resulting from the works, including a designated point of contact to which such complaints may be submitted.

(3) The approved noise management scheme must be implemented before and maintained during construction and maintenance of the relevant stage of the authorised development.

(4) The construction and maintenance works must be undertaken in accordance with the approved noise management scheme.

(5) All plant, equipment and machinery used in the construction, operation and maintenance of the authorised development shall be equipped with effective silencing equipment or sound proofing equipment to the standard of design set out in the manufacturer's specification and shall be maintained in accordance with that specification at all times during the construction, operation and maintenance of the authorised development.

(6) Notwithstanding sub-paragraph (1), during drilling under the river Wyre comprised in Work Nos. 12, 13 and 14 of Schedule 1 (authorised development), noise levels at the nearest occupied residential property at Harbour Village shall not exceed—

- (a) 60dB LAeq,1h between the hours of 07:00 and 19:00;
- (b) 55dB LAeq,1h between the hours of 19:00 and 23:00; and
- (c) 42dB LAeq,1h between the hours of 23:00 and 07:00,

and in this sub-paragraph "Harbour Village" means the land edged red on the Harbour Village plan.

(7) Notwithstanding sub-paragraph (1), during drilling under the river Wyre comprised in Work Nos. 17B and 17C of Schedule 1 (authorised development), noise levels at the nearest occupied caravan at Kneps Farm Holiday Park and at the nearest occupied caravan at Flints Caravan Park shall not exceed—

- (a) 60dB LAeq,1h between the hours of 07:00 and 19:00;
- (b) 55dB LAeq,1h between the hours of 19:00 and 23:00; and
- (c) 42dB LAeq,1h between the hours of 23:00 and 07:00,

and in this sub-paragraph “Kneps Farm Holiday Park” means the land edged red on the Kneps Farm Holiday Park plan and “Flints Caravan Park” means the land edged red on the Flints Caravan Park plan.

Control of noise during operational phase

27.—(1) No stage of the authorised development shall commence operation until a written scheme for noise management of works comprised in that stage, including monitoring and attenuation for the use of works comprised in that stage of the authorised development, has been submitted to and approved by the relevant planning authority.

(2) The noise management scheme must be implemented as approved and maintained for the duration of use of the authorised development.

Control of dust emissions

28.—(1) No stage of the authorised development shall commence until a written scheme for the management and mitigation of dust emissions for that stage has been submitted to and approved by the relevant planning authority.

(2) The approved scheme for the management and mitigation of dust emissions must be implemented before and maintained during the construction phase, operational phase and decommissioning phase (as appropriate) of the relevant stage of the authorised development.

Protection of agricultural practice

29. All topsoil and subsoil storage mounds arising from the authorised development shall be kept free from noxious weeds.

Soil stripping, handling and storage

30.—(1) No stage of the authorised development involving the stripping of soil shall commence until a scheme setting out the method, handling, storage, re-instatement and programme of works related to the stripping of soil (if any) comprised in that stage has been submitted to and approved by the relevant planning authority.

(2) Soil stripping must be carried out in accordance with the approved scheme.

Decommissioning, restoration and aftercare scheme for submission prior to commencement of the authorised development

31.—(1) No stage of the authorised development shall commence until a scheme of decommissioning, restoration and aftercare for that stage has been submitted to and approved by the relevant planning authority.

(2) The scheme (so far as relevant to that stage) shall include proposals for—

- (a) decommissioning of the operational caverns following permanent cessation of such operational caverns;
- (b) decommissioning of the pipelines comprised in the authorised development;
- (c) what above-ground structures, buildings and other parts of the authorised development are to be demolished, removed or retained and the means of any demolition;

- (d) the phasing (if any) of any decommissioning, demolition or removal proposed in paragraphs (a) to (c);
- (e) the means of removal of decommissioning materials and demolition waste arising from the activities listed in paragraphs (a) to (c);
- (f) the restoration and aftercare of land on which works comprised in that stage of the authorised development are located.

Decommissioning of individual operational caverns during operational phase

32.—(1) Following the completion of all solution mining works relating to the creation of a proposed operational cavern pursuant to the powers granted in this Order, if that proposed operational cavern is determined during testing to be unsuitable for the storage of gas and after a period of 24 months from the date of that determination it is still deemed unsuitable for storage of gas, then a scheme detailing the decommissioning of that proposed operational cavern (referred to hereafter in this paragraph as a “redundant cavern”) and infrastructure related to that redundant cavern not required for the remainder of the authorised development shall be submitted to the relevant planning authority for approval.

(2) The scheme referred to in sub-paragraph (1) shall also set out proposals for—

- (a) the long-term management of the redundant cavern;
- (b) the monitoring of the redundant cavern;
- (c) a risk management plan setting out measures to be taken in appropriate circumstances to minimise risk in respect of the redundant cavern; and
- (d) a timetable for implementation of the scheme.

(3) Following written approval by the relevant planning authority, the scheme referred to in sub-paragraph (1) shall be implemented.

Decommissioning, restoration and aftercare scheme after permanent cessation of operations

33.—(1) Six months prior to the permanent cessation of operation of the authorised development, a scheme of decommissioning, restoration and aftercare of the authorised development shall be submitted for approval in writing by the relevant planning authority.

(2) The scheme shall include proposals for—

- (a) future uses of the operational caverns following permanent cessation of such operational caverns or (if none) the means of decommissioning such operational caverns;
- (b) future uses of the pipelines comprised in the authorised development or (if none) the means of decommissioning of such pipelines;
- (c) what above-ground structures, buildings and other parts of the authorised development are to be demolished or retained and the means of any demolition;
- (d) the phasing of any decommissioning, demolition or removal proposed in paragraphs (a) to (c);
- (e) the means of removal of decommissioning materials and demolition waste arising from the activities listed in paragraphs (a) to (c);
- (f) works for the restoration of land within the Order limits on which the authorised development is located and the phasing of such restoration works;
- (g) aftercare of the authorised development, having regard to any future uses of elements of the authorised development, including the long-term monitoring and management of the decommissioned caverns;
- (h) a risk management plan setting out measures to be taken in appropriate circumstances to minimise risk in respect of the authorised development following permanent cessation of operation of the authorised development; and
- (i) a timetable for implementation of the scheme.

(3) The scheme shall be implemented as approved following the permanent cessation of the operation of the authorised development.

Maintenance of brine discharge pipeline, 132kV electrical circuits and NTS interconnector pipeline

34.—(1) Save in the case of emergency (which shall include but not be limited to works necessitated by safety or production requirements), 28 days' written notice shall be given to the relevant planning authority prior to the implementation of any maintenance works relating to the brine discharge pipeline, the 132kV electrical circuits and NTS interconnector pipeline. The notice shall set out the extent of the maintenance works and their timing.

(2) Save in the case of emergency (which shall include but not be limited to works necessitated by safety or production requirements) or unless otherwise agreed in writing with the relevant planning authority, all maintenance works to the brine discharge pipeline, the 132kV electrical circuits and NTS interconnector pipeline shall not be carried out other than between the hours of 07:00 and 18:00 (Monday to Saturday) and no such maintenance work shall be carried out on a Sunday, bank holiday or public holiday.

(3) The maintenance works described in sub-paragraphs (1) and (2) shall be carried out and the land related to such maintenance works shall be reinstated as expeditiously as reasonably practicable.

Ground subsidence monitoring scheme

35.—(1) That part of the interconnector gas pipeline between Work No. 3 in Schedule 1 (authorised development) and Back Lane, comprised in Work No. 20A in that Schedule, shall not be commenced until a ground subsidence monitoring scheme relating to the Preesall site has been submitted to and approved by the relevant planning authority. The scheme shall include details of—

- (a) how ground levels are to be monitored; and
- (b) the extent within the Preesall site and timescales of any monitoring activities.

(2) Within 6 months of any ground subsidence being identified by the monitoring activities set out in the ground subsidence monitoring scheme, a scheme setting out necessary mitigation measures (if any) for such ground subsidence (a “ground subsidence mitigation scheme”) shall be submitted to the relevant planning authority for approval.

(3) The ground subsidence monitoring scheme and ground subsidence mitigation scheme shall be implemented as approved, unless otherwise agreed in writing by the relevant planning authority.

Signals

36. The undertaker shall in the course of construction of the works authorised under the marine licence set out at Schedule 7 (deemed licence under the Marine and Coastal Access Act 2009) ensure that any jack up barges or vessels utilised, when jacked up, shall exhibit signals in accordance with the UK standard marking schedule for offshore installations(a).

River Wyre crossings

37.—(1) All works in respect of pipelines and cables comprised in the authorised development which cross the river Wyre (including the creation of compounds associated with such works (referred to in this paragraph as “compounds”))—

(a) Obtainable by post from the Department of Energy and Climate Change, OED - EDU, Environment Management Team, 4th Floor, Atholl House, 86-88 Guild Street, Aberdeen, AB11 6AR (telephone 01224 254050; email EMT@decc.gsi.gov.uk).

- (a) shall be carried out in such a way as to ensure that there is no encroachment on or damage to habitats within the designated European sites; and
- (b) shall not be carried out other than during the months of May to August (inclusive) in the same calendar year save that any excavation and drilling operations comprised in such works may be undertaken only during the months of May to July (inclusive) in the same calendar year and save that the creation of compounds may be undertaken only during the months of April to August (inclusive) in the same calendar year.

(2) Compounds shall not be created until details of the siting of such compounds have been submitted to the relevant planning authority and (after consultation by the relevant planning authority with Natural England in relation to measures necessary to avoid or mitigate significant effects on designated European sites) have been approved by the relevant planning authority; and the compounds shall be created in accordance with the approved details.

Dedication agreement

38. The works described in Schedule 3 (streets subject to alteration of layout) shall not be commenced until a written agreement has been entered into with the highway authority (which shall not unreasonably withhold or delay its entry into such an agreement) which provides for—

- (a) completion of those works to the reasonable satisfaction of the highway authority;
- (b) dedication of those works as public highway upon such completion;
- (c) agreement by the highway authority to adopt the works as highway maintainable at the public expense following—
 - (i) such completion; and
 - (ii) the expiry of a maintenance period of 12 months during which time any necessary remedial works shall be undertaken by the undertaker at its own expense; and
- (d) such other matters reasonably required by the highway authority in respect of subparagraphs (a) to (c) which are usually and reasonably included in such written agreements with highway authorities.

Requirement for written approval

39. 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

40. With respect to any Requirement which requires the authorised development to be carried out in accordance with details agreed with the relevant planning authority, the agreed details shall be taken to include any amendments that may subsequently be agreed in writing with the relevant planning authority.

Changes approved by the relevant planning authority

41. Where the words “unless otherwise agreed with the relevant planning authority” or “unless otherwise agreed in writing with the relevant planning authority” appear in these Requirements, any such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of that authority that the subject matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Halite Energy Group Limited (referred to as “the undertaker”) to construct and operate an underground gas storage facility and associated infrastructure in Preesall, Lancashire.

The Order permits the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose. The Order also makes provision in connection with the maintenance of the facility.

The Order also deems to be granted a marine licence for the marine licensable activities as set out in Schedule 7 (deemed licence under the Marine and Coastal Access Act 2009). The deemed marine licence imposes conditions in connection with the works for which it grants consent.

A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 39 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at the Planning Reception Desk, Wyre Borough Council, Civic Centre, Breck Road, Poulton-le-Fylde, Lancashire, FY6 7PU.

Informative: To the extent that an activity comprised in the maintenance of the licensed works authorised under the marine licence at Schedule 7 requires a marine licence under the 2009 Act, the undertaker must submit an application to the MMO for such a licence in respect of such an activity.

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