

**Deadline 2 Submission of National Highways Limited**  
**Comments on responses to the Examining Authority's**  
**First Written Questions**

Application by Chrysador Production (UK) Limited for an Order granting  
Development Consent for the Viking CCS Pipeline Project

Planning Inspectorate Reference Number: EN 070008



1. National Highways considers it necessary to respond to certain answers given by the Applicant in response to Examining Authority's First Written Questions.
2. In respect of Q1.7.8, Q1.7.11(6) and 1.16.23 (all relating to 'street works') the Applicant responds in the following terms:

*The Applicant does not consider the installation of the pipeline under a highway / the strategic road network to constitute 'street works', as the works would be outside of the zone of influence of the street. The subsurface land affected would therefore not be considered to form part of the street.*

3. The Applicant appears to have misunderstood National Highways' position in this regard (and indeed the legal position). National Highways does not suggest that the subsurface land (outside of the zone of influence) forms part of the street. That is not to say however that the installation of the pipeline under the strategic road network (SRN) does not constitute 'street works'.
4. Part III to the New Roads and Street Works Act 1991 (NRSWA) is clear that 'street works' don't merely apply to the 'zone of influence' but include works below this. Section 48 of NRSWA provides the definition of a "street" and "street works" for the purposes of Part III. It states as follows (emphasis added):

*"(1) In this Part a "street" means the whole or any part of any of the following, irrespective of whether it is a thoroughfare—*

*(a) any highway, road, lane, footway, alley or passage,*

*(b) any square or court, and*

*(c) any land laid out as a way whether it is for the time being formed as a way or not.*

...

*(3) In this Part "street works" means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence—*

*(a) placing apparatus, or*

*(b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it,*

*or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, **or tunnelling or boring under the street**).*

5. Section 48(3) clearly states that works consisting of tunnelling or boring under the street are 'street works'.
6. It must also be noted that the reference to "executed in a street" must be interpreted in accordance with the definitions provision for the purposes of Part III, namely section 105(1), which provides as follows (emphasis added):

““in,” in a context referring to works, apparatus or other property in a street or other place includes a reference to works, apparatus or other property **under**, over, across, along or upon it”

7. It clearly matters not whether the works in question are physically in, over, on or under the highway; they are still 'street works' governed by Part III of NRSWA.
8. It therefore follows, for example, that works involving trenchless technology which would not involve the actual breaking up of the surface of a highway in order to place infrastructure under the highway (outside the 'zone of influence') would still amount to 'street works' within the meaning of s.48(3) and would be governed by and regulated by NRSWA.
9. This position is further evidenced by section 51 of NRSWA which is in the following terms (emphasis added):

*51.— Prohibition of unauthorised street works.*

*(1) It is an offence for a person other than the street authority—*

*(a) to place apparatus in a street, or*

*(b) to break up or open a street, or a sewer, drain or tunnel under it, **or to tunnel or bore under a street**, for the purpose of placing, inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, or of changing the position of apparatus or removing it,*

*otherwise than in pursuance of a statutory right or a street works licence.*

10. It would appear that when drafting the DCO the Applicant was aware that street works can take place outside of the 'zone of influence' because Article 8 itself, headed 'Street Works', makes a number of references to works *under the street*, for example (emphasis added):

*(b) tunnel or bore **under the street**;*

*(c) remove or use all earth and materials in **or under the street**;*

*(d) place or keep apparatus in **or under the street**;*

*(e) maintain, alter or renew apparatus in **or under the street**...*

11. Article 8(2) states:

*(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.*

12. It is without question that works involving the installation of the pipeline beneath the SRN (and indeed any highway) are 'street works' for the purposes of NRSWA.