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Your Ref:

Our Ref: TR010010

Date: 27 January 2014

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Dear Sir/Madam

**Planning Act 2008 (as amended) and the Infrastructure Planning  
(Examination Procedure) Rules 2010 (as amended)**

**Application by Northumberland County Council for an Order Granting  
Development Consent for the Morpeth Northern Bypass**

**Notice of procedural decisions of the Examining Authority**

At the recent Preliminary Meeting, discussion turned to the documents submitted by the applicant to the Planning Inspectorate under cover of the applicant's letter dated 7 January 2014. Those documents and the applicant's letter dated 15 January 2014 propose changes to the application. This letter is the Examining Authority's initial response to the matters raised.

The attention of interested parties is drawn to the final section of this letter.

**A Draft Development Consent Order**

Thank you for changing the format of the draft DCO to that of the statutory instrument template.

**B Land Plan and Works Plan**

Here I adopt the following terminology:

The "original land plans" are those which accompanied the application, and are numbered HE092631/0/A197/100/28 and HE092631/0/A197/100/29.

The "revised land plans" are those which the applicant issued to the Planning Inspectorate on 8 January 2014, and are numbered HE092631/0/A197/100/28revA (in electronic copy only) and HE092631/0/A197/100/29revA.

The "original red line boundary" is the DCO boundary as shown on the Works Plan that accompanied the application, and that plan is numbered HE092631/0/A197/02/08.

The “revised red line boundary” is the Scheme Boundary as shown on sheets 1 to 7 of the Works Plan issued to the Planning Inspectorate on 8 January 2014, numbered HE092631/0/A197/02/12 to HE092631/0/A197/02/18.

At the meeting, the following was confirmed for the applicant. The original red line boundary was not consistent with the original land plans, but the revised red line boundary is consistent with the original land plans. It is also fully consistent with the scheme design. The revised land plans (and the revised draft Book of Reference that was submitted at the same time) are otiose. The applicant proposes that the application be considered on the basis of the original land plans and the revised red line boundary. This would give rise to no need for compulsory acquisition of land beyond that shown by the original land plans to be compulsorily acquired.

Following the end of the Preliminary Meeting I have compared the original land plans and the revised red line boundary. It currently seems to me that there are differences between the two at 22 locations, as shown by the attached document Ex1; and that at 21 of those locations additional land would be needed. Location X1 corresponds to plot reference 7b, which would be outside the revised red line boundary.

#### Questions to the applicant

- 1 If the applicant's true position is misrepresented in the previous paragraphs, please provide a correction cross-referenced to the recording of the meeting or other material in the Examination.
- 2 Please provide a version of the Works Plan that uses the term “development consent order boundary” rather than “scheme outline”, so as to accord with article 2 of the draft Order.
- 3 Does the applicant still propose to compulsorily acquire the rights in plot 7b described in the Book of Reference? How would that be done if the land is outside the DCO boundary?
- 4 For each of Location X2 to Location X22 in document Ex1, please identify whether an additional interest in land would be needed for the scheme beyond that shown on the original land plans. In cases where no additional interest would be required, please explain why not.
- 5 If the proposed changes involve interests previously not identified in the book of reference, is it the applicant's submission that those interests amount to “additional land” in the terms set out in the Infrastructure Compulsory Acquisition Regulations? If so, do you think the requirements of the Infrastructure Compulsory Acquisition Regulations are engaged? If so, do you intend to proceed on the basis that you will secure all necessary consents to the inclusion of the new provision in the Order (and if so then how and when do you intend to provide evidence of this?); or do you intend to follow the procedure in Regulations 5 to 19?

#### **C Changes to the works proposals**

At the Preliminary Meeting it was explained for the applicant that some changes had been made to the works proposals as shown on the drawings. Some were said to be drafting changes while others were minor changes to the scheme design.

The Planning Act 2008 places great emphasis on the pre-application consultation process. Such consultation is a part of achieving compliance with the Infrastructure

Question to the applicant

- 6 Please describe any consultation to which the changes were subject, indicating who was consulted about them, in what ways they were consulted, and what responses were received. If there was no consultation, please indicate why not.

If changes are made to proposals after the scheme has been accepted for examination, it cannot be guaranteed that the changes would not adversely affect parties consulted during the pre-application stage, unless they are re-consulted and given an adequate opportunity to comment, except where such changes are very minor. The Examining Authority will apply the "Wheatcroft principle"<sup>1</sup> in coming to a judgement on whether or not to accept the change for examination; that is, a judgement will be made about whether the changes proposed could cause anyone to have concerns about the amended application (or to have different concerns) even if they were not interested parties within the examination process.

Questions

- 7 The applicant is asked to prepare a Table listing all the changes to the proposed development requested in the January 2014 submission against the assessments and conclusions contained in the submitted Environmental Statement (ES). To assist, a proforma for the Table is suggested below:

Proposed change	Where information is present in previously submitted material (include reference to specific paragraph numbers)	Need to amend ES? (Yes/No)	Explanation

The Table should include the following:

- i) Every drafting change, that is, every change to the drawings made to bring them into conformity with the scheme as it was proposed in the application documents submitted in July 2013 (please also provide validation of such drafting changes by reference to the correct design intention as previously stated in the ES or other submitted application document);
- ii) Every change to the scheme that is proposed (ie not simply a drafting change);
- iii) The nature and scale of each change to the scheme that is proposed;
- iv) The environmental effect (if any) of each change, relative to the scheme's environmental effect as reported and assessed in the ES; and whether the proposed changes individually or collectively would take the

<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL, 1982. P37]



proposals outside any parameters set in the ES or any environmental effects reported in the ES, including a change in the significance level and the need for mitigation; and,

- v) Whether and why, in the applicant's view, the individual and cumulative effect of the changes would be such as to make it appropriate for a supplementary ES to be prepared and be the subject of consultation.

8 The applicant is invited to make submissions on:

- i) Whether and why (or why not) the proposed changes to the scheme should be considered to be material, in the sense identified in the "Wheatcroft" judgement; and,
- ii) Why the proposed changes to the application can and should be accepted by the Secretary of State.

## **D Responses and Comments**

The applicant is asked to provide its complete responses to questions 1 to 8, to be received by the Examining Authority on or before Friday 14 February 2014.

The applicant's responses will then be posted on the project website. Any interested person who wishes to comment on the applicant's responses to Question 7 or Question 8, or who wishes to respond to either of those questions, should do so to be received by the Examining Authority on or before Friday 28 February 2014.

The Examining Authority has varied the examination timetable in accordance with rule 8(3) of the Infrastructure Planning (Examination Procedure) Rules 2010, to accommodate the deadlines set in this letter.

Yours faithfully

*John Watson*

**John Watson**  
**Examining Authority**

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.





## Infrastructure Correspondence FAQ

### What is this correspondence about?

The accompanying letter contains information regarding a proposed Nationally Significant Infrastructure Project, often abbreviated as an NSIP, within your area. This type of development follows its own planning process with the Examining Authority, appointed to examine the application, being made up of between one and five Planning Inspectors rather than the local planning authority.

Further information on the specifics of the particular application described in the letter's header can be found on the National Infrastructure pages of the Planning Portal website and for electronic inspection at local document deposit locations.

### Why am I receiving correspondence from the Planning Inspectorate?

When NSIP applications are accepted for examination by the Planning Inspectorate, correspondence is sent out to individuals and organisations classed as 'interested parties' together with statutory parties, and relevant local authorities.

If you have not registered with the Planning Inspectorate by completing a relevant representation form and are unsure why you are receiving our letters, you or your organisation may be automatically an interested party, for example by virtue of having an interest in land directly affected by the scheme, and having been notified of acceptance of the application by the developer.

### What further details can you supply regarding affected land?

Details of land plots directly affected by the application are contained within the Book of Reference and shown on the accompanying Land Plans that are submitted with the application, but which may be subsequently amended. Both documents, including any amendments, can be found on the relevant project page of the National Infrastructure pages of the Planning Portal website, under the application documents header.

The Planning Inspectorate does not hold any further information, such as customer account numbers or mortgage details, for land plots or affected persons. If you require additional details not contained within the Book of Reference, or in other application documents, you may wish to contact the developer directly.

### Do I have to do anything further in connection with this letter?

While we encourage engagement with the examination process, especially from those with an interest in land it directly affects, all participation is entirely optional.

### Can I be removed from your mailing list?

Any interested party is able to notify the Examining Authority in writing that they no longer wish to be an interested party, although please consider carefully whether you want to have your interested party status removed. Please also note that anyone with an interest in land directly affected by an application whose interest the developer is seeking to compulsorily acquire will still retain their status as an affected person, and hence, amongst other things, will be able to call for a compulsory acquisition hearing to be held.

### What if I have further questions?

The Planning Inspectorate's Advice Note 8 series, which can be found on the National Infrastructure pages of the Planning Portal website, contains a useful overview of the NSIP process and how to get more fully involved. You can also contact us as shown on your letter via the project's email address or by telephone on the Customer Services number.

MORPETH NORTHERN BYPASS DEVELOPMENT CONSENT ORDER APPLICATION

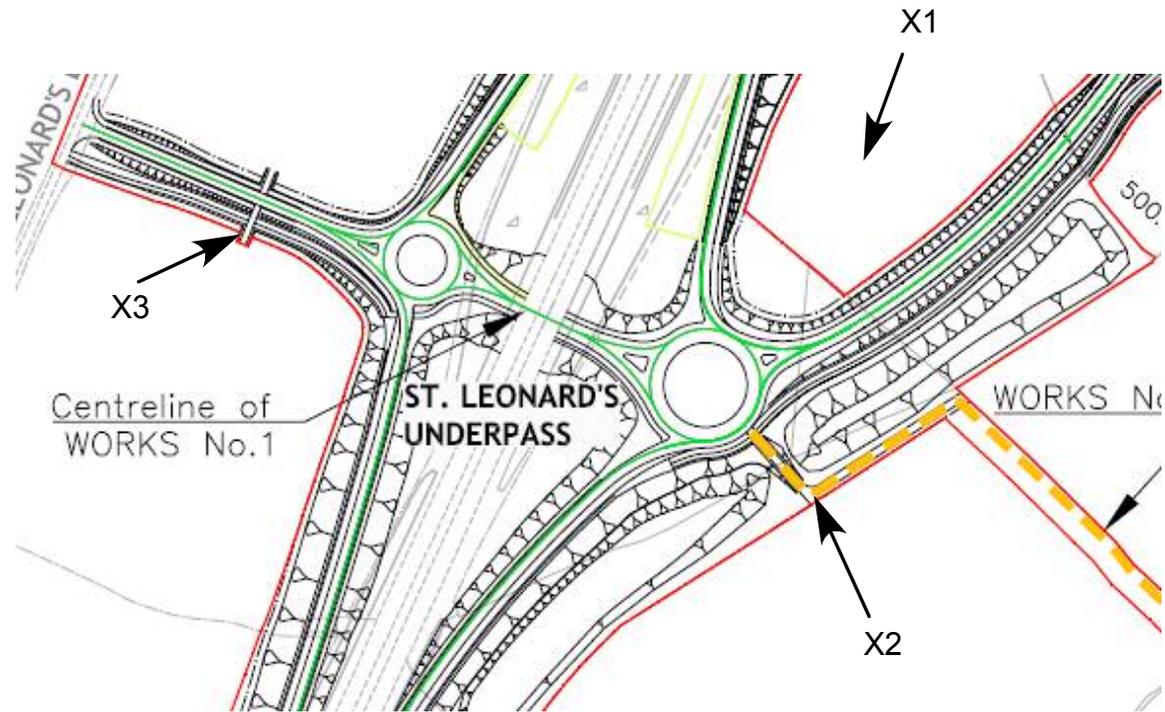
INITIAL COMPARISON BY THE EXAMINING AUTHORITY  
OF  
REVISED DCO BOUNDARY  
("Scheme Boundary" on Works Plan drawings HE092631/0/A197/02/12 to HE092631/0/197/02/18)  
AND  
LAND PLANS AS ORIGINALLY SUBMITTED  
(Drawings HE092631/0/A197/100/28 and HE092631/0/A197/100/29)

23 January 2014

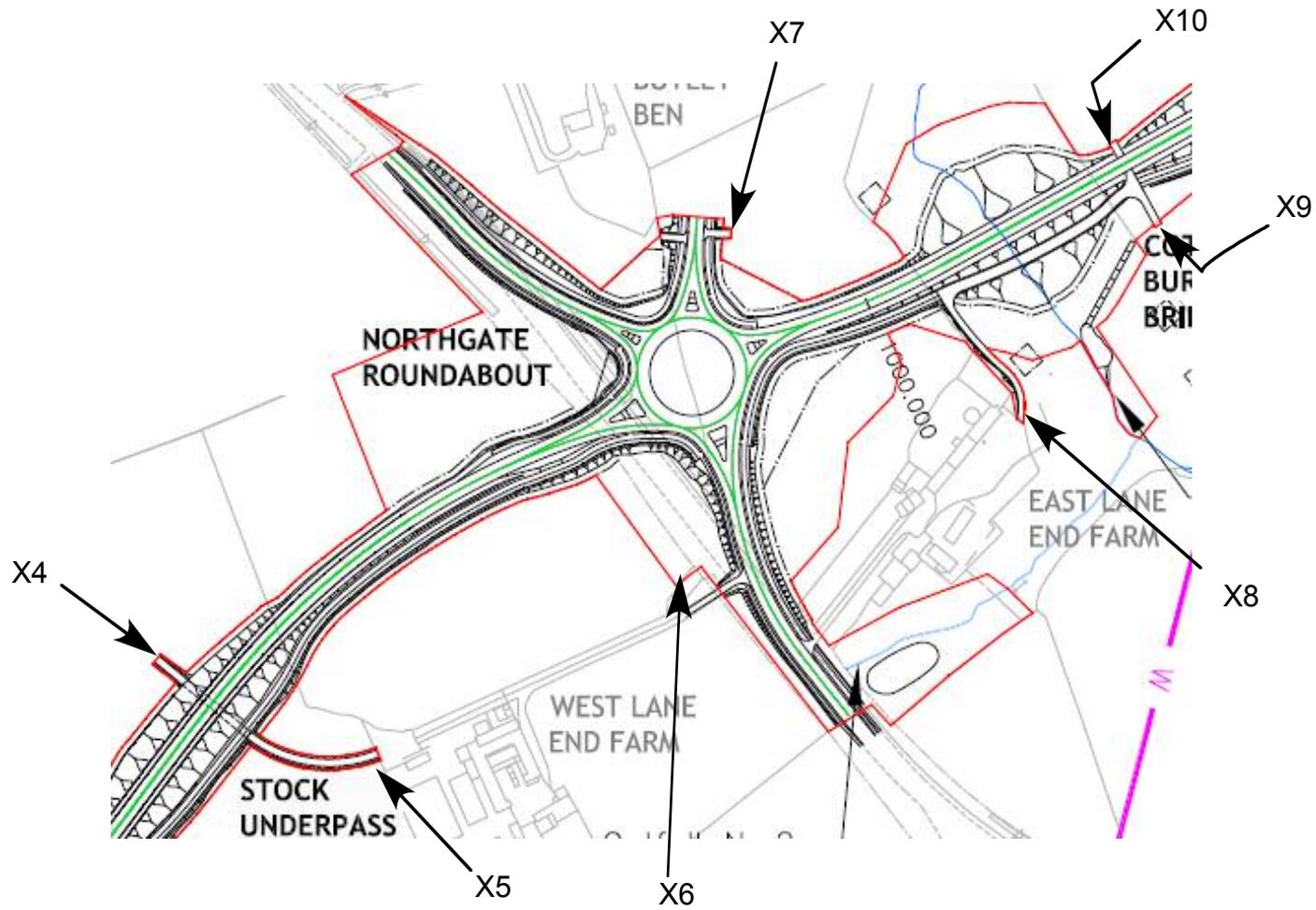
Arrows X1 to X22 draw attention to apparent differences between the Works Plan and the Land Plan.

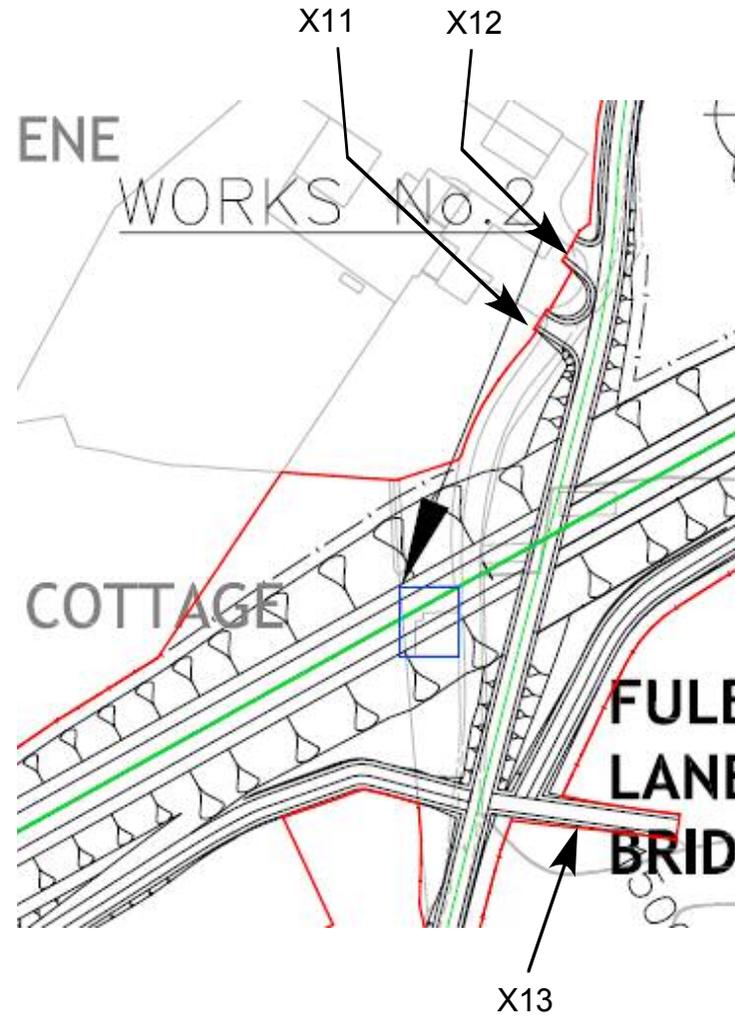
Arrow X1 highlights the exclusion of plot reference 7b from the Works Plan  
Arrows X2 to X22 highlight other apparent differences.

Extract: Works Plan sheet 1 (Drg HEO92631/0/A197/02/12)

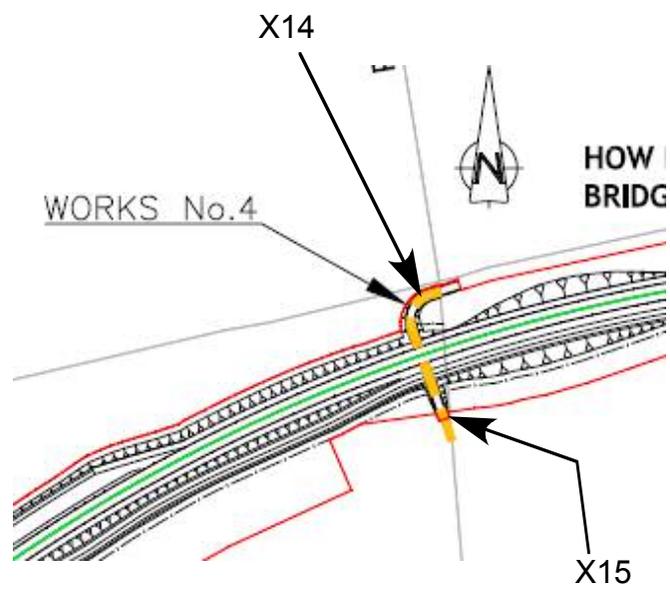


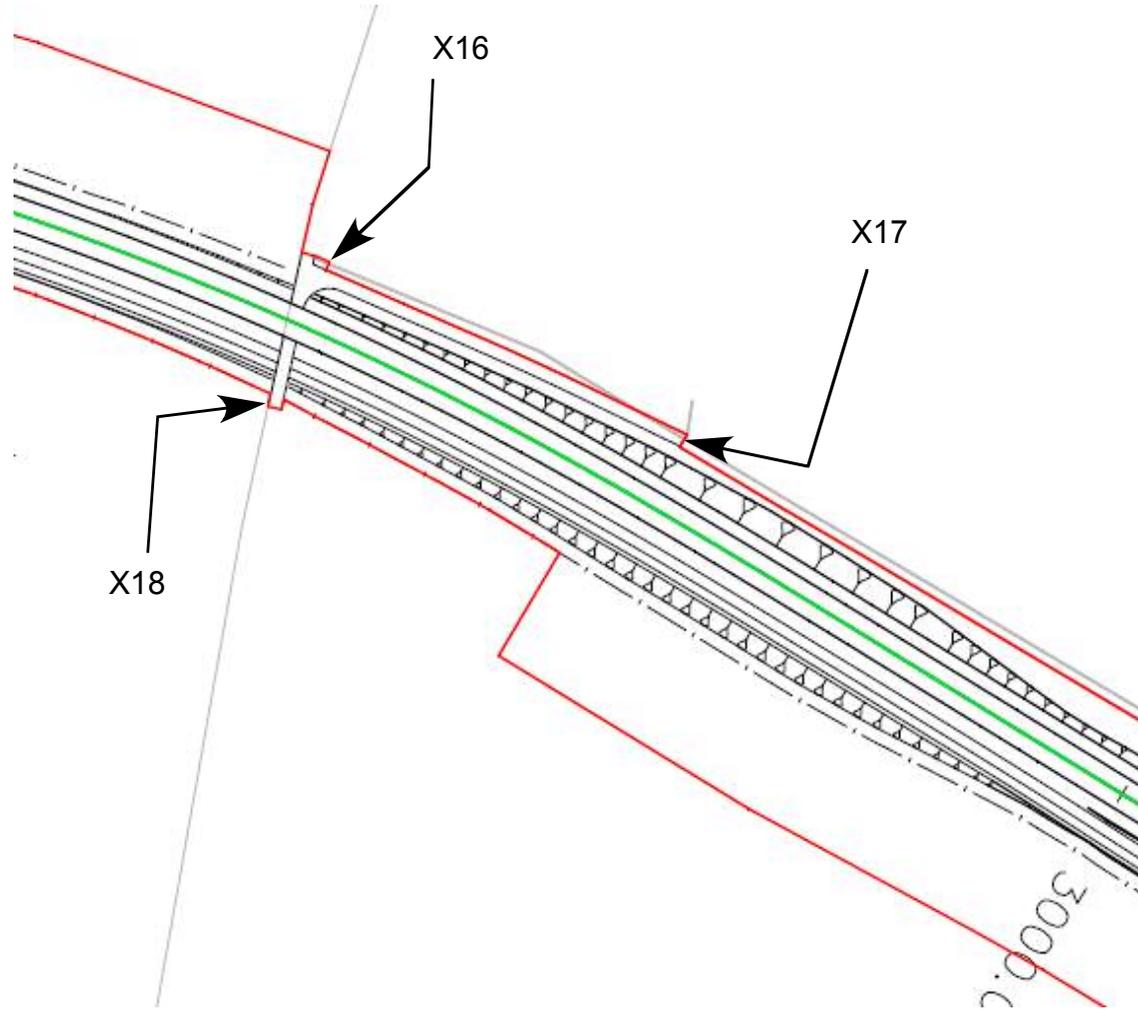
Extract: Works Plan sheet 4 (Drg HEO92631/0/A197/02/15)



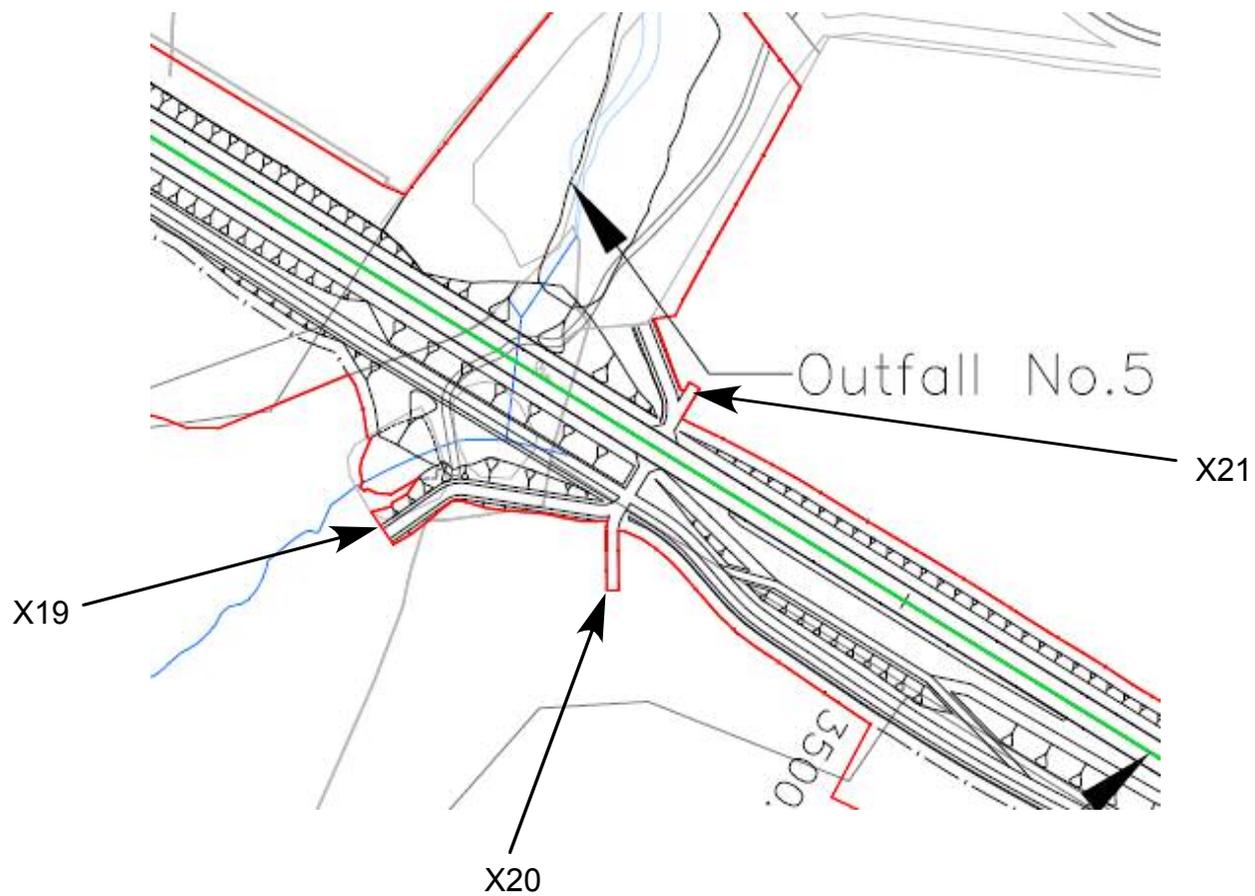


Extract; Works Plan sheet 6 (Drg HEO92631/0/A197/02/17)





Extract: Works Plan sheet 7 (Drg HEO92631/0/A197/02/18)



Extract: Works Plan sheet 7 (Drg HEO92631/0/A197/02/18)

