

# **The Lake Lothing (Lowestoft) Third Crossing Order 201[\*]**

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Lake Lothing  
**THIRD  
CROSSING**

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## **Document SCC/LLTC/EX/13: Explanation of changes to Draft Development Consent Order**

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**Planning Act 2008**

**The Infrastructure Planning (Examination Procedure) Rule 2010**

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## THE LAKE LOTHING (LOWESTOFT) THIRD CROSSING ORDER

### EXPLANATION OF AMENDMENTS MADE TO THE DRAFT DCO AT DEADLINE 3 (REV 1)

#### 1. INTRODUCTION

- 1.1 This document provides a commentary on changes made to the draft Development Consent Order ("dDCO") in the version submitted at Deadline 3 (8 January 2019) (DCO Revision 1), compared with the submission version of the draft DCO submitted with the application on 13 July 2018 (Examination Library document reference APP-005). The Applicant's revised draft DCO (Revision 1) is document 3.1 (Revision 1) [SCC/LLTC/EX/11], and an electronic .pdf comparison between the two versions has also been submitted [SCC/LLTC/EX/12].
- 1.2 In broad terms the changes made in the latest dDCO have been made for the following reasons:
- 1.2.1 changes arising from issues raised by Interested Parties in their Relevant Representations;
  - 1.2.2 on-going discussions with Interested Parties, including those recorded in the SoCG Report submitted prior to the Preliminary Meeting (AS-007);
  - 1.2.3 changes made to the Deemed Marine Licence arising from discussions with the Marine Management Organisation (MMO);
  - 1.2.4 changes arising from discussions with Associated British Ports (ABP);
  - 1.2.5 changes arising from issues raised by the Examining Authority (ExA) in its first written questions issued on 17 December 2018 (and amended on 24 December 2018); and
  - 1.2.6 other points which the Applicant has identified as requiring amendment since the initial version of the draft DCO was submitted with the application.

#### 2. TABLE OF CHANGES TO THE DRAFT DCO REVISION 1

Provision in revised draft DCO and/or issue	Brief description and explanation
Preamble	This has been amended to reflect that the Examination is being carried out by a Panel as opposed to a single appointed person.
General	Throughout the DCO, references to Waveney District Council or the district of Waveney have been changed to references to East Suffolk Council. This reflects the fact that the latter name will come into formal existence on 1 April 2019, taking over the responsibility of Suffolk Coastal and Waveney District Councils. As this will arise prior to the Secretary of State's determination of the application for this DCO, the Applicant considered it prudent to make this change now.
Article 2(1) (interpretation)	This interpretation article has been amended to: <ul style="list-style-type: none"><li>• add missing footnotes;</li><li>• include reference to the design guidance manual (previously defined in Schedule 2 (as the document is</li></ul>

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	<p>referenced earlier in the DCO, in article 5(8)(b));</p> <ul style="list-style-type: none"> <li>• move the definition of 'preliminary navigation risk assessment' to article 2 from Schedule 2 following amends to article 40;</li> <li>• add a definition of 'the Scheme of Operation';</li> <li>• amend the definition of the 'harbour authority' and 'Lowestoft Harbour' following a request by ABP; and</li> <li>• add a definition of 'navigation working group' following the amendments to article 40 and requirement 11.</li> </ul>
Article 3 (disapplication of legislation, etc.)	Changes have been made to this article following discussions with ABP. Discussions between the parties are continuing in relation to the disapplication of byelaw 36; however it is understood that all other elements of this article are agreed between the parties.
Articles 6 (street works), 9 (classification of roads, etc.) and 16 (protective works to buildings)	Minor typographical changes have been made to these articles.
Article 10 (permanent stopping up of streets and private means of access)	Changes have been made to this article and the headings of Schedule 4 to reflect the fact that no streets or public rights of way are sought to be stopped up by the Scheme.
Article 17 (Authority to survey and investigate land)	Paragraph (7) of this article has been removed, as it duplicates article 60 (consents, agreements and approvals).
Article 20 (temporary suspension of navigation within Lake Lothing in connection with authorised development)	<p>Following discussions with ABP and consideration of the Examining Authority's FWQ 4.2, this article has been amended to make this power subject to ABP's consent and to be limited to the Order limits.</p> <p>It is understood that the wording of this article is agreed between ABP and the Applicant.</p>
Article 21 (removal of vessels)	This article has been amended following discussions with ABP, but the wording is not yet fully agreed with ABP.
Article 40 (operation of the new bridge)	<p>This article has been substantially amended following further work by the Applicant in developing a draft Scheme of Operation and following discussions with ABP and the Navigation Working Group.</p> <p>The article now refers to a Scheme of Operation which will be certified if the Order is made; and sets out the mechanisms by which this scheme will be able to be varied or replaced, including its relationship with any revised NRA required as a result.</p> <p>This wording is not yet agreed with ABP.</p>
Article 41 (extinguishment of right of navigation within Lake Lothing in connection with authorised development)	<p>A change has been made to paragraph (6) of this article, following discussions with ABP who are concerned that vessels carrying out dredging of the harbour, and other vessels subject to the Harbour Master's direction, should not require the consent of the undertaker to traverse the areas set out in paragraph (2) of this article.</p> <p>The Applicant has sought to deal with this issue in the wording provided in paragraph (6), but this wording is not yet fully agreed.</p>
Article 43 (subsidiary works)	Further to ExA FWQ 4.4 the Applicant has amended this article to limit the exercise of powers (pursuant to the article) to works

<b>Provision in revised draft DCO and/or issue</b>	<b>Brief description and explanation</b>
and operations)	which would not give rise to materially new or materially different effects to those reported in the ES.
Article 44 (protection against dredging)	This article has been amended following discussions with ABP. It is understood that this wording is agreed between the parties.
Article 45 (byelaws)	Following discussions with ABP, this article has been amended to reflect matters agreed between the parties, to deal with the consequences of byelaws needing to be approved by ABP as harbour authority post the granting of the DCO, and to ensure consistency across the DCO. The wording of this article is not yet agreed with ABP.
Article 46 (fixed penalty notices)	This article has been amended following a suggestion by ABP that is agreed by the Applicant.
Schedule 2, General	Throughout this Schedule, references to 'Waveney District Council' have been changed to 'local planning authority' to ensure consistency within the DCO and to accord with good drafting practice.
Schedule 2, requirement 1 (interpretation)	<p>The interpretation section has been amended to:</p> <ul style="list-style-type: none"> <li>• move the definition of the design guidance manual to article 2(1) (as it is referenced earlier in the DCO, in article 5(8)(b));</li> <li>• move the definition of preliminary navigation risk assessment to article 2(1);</li> <li>• delete reference to 'the ecological mitigation and enhancement areas' as this wording is not referenced in the requirements itself (the principle being included in the reference to ecological areas in requirement 5(2)(b)); and</li> <li>• remove reference to the 'trial pits written scheme of investigation', as it has been agreed with Historic England and SCC's archaeological adviser that this is not needed (as noted in the SoCGs with both parties submitted prior to the Preliminary Meeting (document reference AS-007)).</li> </ul>
Schedule 2, requirement 9 (highway lighting)	<p>This requirement has been amended (and consequential changes made to requirement 1 and Schedule 14), to change the starting point of the lighting strategy to be developed in detailed design pursuant to this requirement.</p> <p>It has changed from the outline lighting strategy (appendix 9 to the Design Report (APP-132) to figure 5.5 of the ES (APP-140). This change has been made to ensure consistency with the ES, which at paragraph 5.5.1 makes clear that it is figure 5.5 which has formed the basis of the assessments within the ES.</p> <p>As mentioned in paragraph 5.5.2 of the ES, feature lighting design of the Scheme will be secured through the application of the Design Guidance Manual (see section 5).</p>
Schedule 2, requirement 8	This requirement has been amended to reflect discussions with

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(contamination)	the local and county planning authorities, and is more consistent with the contamination condition that these authorities routinely apply to planning conditions under the Town and Country Planning Act regime.
Schedule 2, requirement 10 (WSI)	This requirement has been amended to reflect the fact that it has been agreed between the relevant parties that the trial pits written scheme of investigation is no longer required (see above).
Schedule 2, requirement 11 (NRA)	This requirement has been amended to reflect discussions between the Applicant, ABP and the Navigation Working Group; and seeks to make it clear that the NRA is a live document which will change over time.
Schedule 2, requirement 12 (traffic mitigation)	Reference to 'monitoring' has been removed from the heading as this activity is not set out in the requirement.
Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights)	A minor change has been made to this Schedule to ensure complete consistency with the recently-made Silvertown Tunnel Order 2017.
Schedule 10 (Byelaws)	A definition deleted as it was not used.
Schedule 12 (DML)	The Deemed Marine Licence has been amended to reflect the most recent position agreed between the Applicant and the MMO, including the issues raised in its Relevant Representation. Further discussions with the MMO are still on-going and consequently the wording of the DML is not yet fully agreed.
Schedule 13 (Protective Provisions), Parts 2-4	<p>The Protective Provisions for the benefit of Electronic Communications Code Networks, Network Rail and the Environment Agency have had minor changes made to ensure full consistency within the document.</p> <p>The Environment Agency Protective Provisions have included an additional term in the definition of 'plans' that has been approved by the Environment Agency. This reflects the Applicant's on-going discussions with that body in relation to the Sediment Transport Assessment (re-submitted at Deadline 3 at document reference SCC/LLTC/EX/36).</p>
Schedule 13 (Protective Provisions), Part 5 (for the protection of the harbour authority)	Part 5 of the protective provisions (for the protection of ABP as harbour authority) have been amended to reflect some of the discussions held and ongoing with ABP. ABP has not requested more changes to the Protective Provisions than those shown here, so it is considered that these can be considered as agreed. Changes to the 'front-end' DCO articles are still under discussion with ABP.
Schedule 13 (Protective Provisions), Part 7	Protective Provisions for the benefit of Cadent Gas Limited have been added to the DCO for Deadline 3. These are substantively agreed and full agreement is anticipated shortly.
Schedule 14 (documents to	The list of Documents to be certified has been updated to reflect

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be certified)	the latest set of drawings and other documents submitted at Deadline 3.