

From: [Stephen Dagg](#)
To: lakelothing@pins.gsi.gov.uk
Subject: RE: Lake Lothing (Lowestoft) Third Crossing DCO (TR010023) - Network Rail's Deadline 11 Submissions
Date: 04 June 2019 15:42:49
Attachments: [image565330.PNG](#)
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[image5f1ced.PNG](#)

Dear Sirs

We are writing with Network Rail's comments on the ExA's dDCO.

Matters Approved

Network Rail notes the inclusion of Article 5(7)(d) in the draft order, reducing the limits of deviation downwards in respect of the bridge over the railway, and its protective provisions (as amended) in Part 4 of Schedule 13.

This drafting is vital to allow Network Rail to comply with its duties under its Network Licence under the Railways Act 1993 and, subject to the below, it is agreed by Network Rail.

Further Amendment

Network Rail is concerned that the timetable set out in the arbitration provisions does not take account of their duties under the Network Licence. They therefore consider that the following additional paragraph is needed in the Protective Provisions at Part 4 of Schedule 13.

52. In relation to any dispute arising under this Part of this Schedule that is referred to arbitration in accordance with article 62 (arbitration), the process referred to in article 62(2) must be varied by the arbitrator where Network Rail demonstrates to the arbitrator's reasonable satisfaction that Network Rail is unable (acting reasonably) to comply with the process due to timing constraints that may arise for Network Rail in –

- (a) obtaining clearance conditions;*
- (b) obtaining any engineering, regulatory or stakeholder (internal or external) consent; or*
- (c) assessing any matter of concern with regard to the safe operation of Network Rail's railway,"*

the variation being to the extent reasonably necessary so that Network Rail is able (acting reasonably) to comply with that process.

There would also require an amendment to article 62(2) as follows

(2) Subject to any other provision of this Order, any arbitration to be undertaken under paragraph (1) must be carried out using the same process as is set out in sub-paragraphs (2) (d) to (f), (4) to (8) and (12) of paragraph 19 of Schedule 2 subject to the modifications set out in paragraph (3).

This amendment has been agreed with the Suffolk County Council as Promoter of the Order, and it is understood that they are to include it in their Deadline 11 Submission.

We therefore trust that the inclusion of this amended text is in order.

Regards

Stephen

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