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# **Great Yarmouth Third River Crossing Order 202[\*]**

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## **Document NCC/GY3RC/EX/025: Explanation of Changes to Revision 1 of the Draft DCO**

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**Planning Act 2008**

**Infrastructure Planning**

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

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## Foreword

This document relates to an application ('the Application') submitted by Norfolk County Council ('the Council' / 'the Applicant') to the Secretary of State for a Development Consent Order ('DCO') under the Planning Act 2008.

If made by the Secretary of State, the DCO would grant development consent for construction, operation and maintenance of a new bascule bridge highway crossing of the River Yare in Great Yarmouth, and which is referred to in the Application as the Great Yarmouth Third River Crossing (or 'the Scheme').



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# 1 Introduction

## 1.1 Introduction

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- 1.1.1 This document provides a commentary on changes made to the version of the draft Development Consent Order submitted at Deadline 2 on 22 October 2019 (DCO Revision 1) compared with the application of draft Development Consent Order (document reference 3.1, Planning Inspectorate Reference [APP-020]). An electronic .pdf comparison between the two versions has also been submitted at Deadline 2.
- 1.1.2 In broad terms the changes made in the latest draft of the DCO have been made for the following reasons:
- changes arising from the Applicant's consideration of Deadline 1 submissions;
  - changes to reflect further comments received from, and ongoing discussions with, interested parties; and
  - typographical corrections and changes to reflect statutory instrument drafting practice.
- 1.1.3 Table 1.1 below includes a summary of the changes to this revision of the draft DCO.

*Table 1.1: Summary of changes to the DCO*

Provision in revised draft DCO and/or issue	Brief description and explanation
Preamble	The Applicant has amended the preamble to reflect the examination of the application being conducted by a single appointed person.
Article 2 Interpretation	The Applicant has amended the definition of “authorised development” to avoid conflict with paragraph 3(2) of Schedule 13 (deemed marine licence) which uses a modified definition of “authorised development” for the purposes of the deemed marine licence. Amendments to the deemed marine licence contained in Schedule 13 are discussed further below. The definition of “authorised development” has also been moved into alphabetical order within article 2(1).
Article 8 Benefit of the Order	The Applicant has amended paragraph 4 of this article to clarify that the Secretary of State’s consent is not required where the power to compulsorily acquire rights under the Order is exercised by a statutory undertaker with the consent of the Applicant. For further details please see the discussion below in respect of the changes to article 28 (compulsory acquisition of rights).
Article 28 Compulsory acquisition of rights	<p>The Applicant has made a series of amendments to article 28 (compulsory acquisition of rights) for the purposes of enabling the acquisition of rights for the benefit of statutory undertakers. Paragraph (1) has been amended to include an express reference to the acquisition of rights or imposition of restrictive covenants for the benefit of statutory undertakers.</p> <p>A new paragraph (2) has been inserted to provide for the exercise by statutory undertakers of the power to acquire rights in paragraph (1) with the Applicant’s consent.</p> <p>A new paragraph (3) has been inserted to clarify that, save for in respect of matters of compensation, a statutory undertaker exercising the power to acquire rights is to be treated for the purposes of the Order as being in the undertaker.</p> <p>A new paragraph (5) has been inserted to regulate the interactions between the Applicant and statutory undertakers in the exercise of the acquisition of rights under paragraph (1) in such a fashion so as not to preclude one another from the acquisition of rights.</p> <p>The changes are required to ensure that, where the Order provides for the acquisition of rights for the benefit of statutory undertakers or other persons, that those persons are able to</p>

	directly benefit from those rights.
Article 51 Byelaws	The Applicant has made a minor amendment in article 51(b) to the provisions to be inserted into the existing Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997 at new byelaw 44F(1) to clarify that the 7 knot speed limit is to be measured as a speed over the ground. This amendment is required for consistency with other speed limits in those byelaws which are expressed to be measured over the ground.
Article 55 Removal of human remains	The Applicant has introduced a paragraph (13) to provide certainty on the procedure that applies where remains, to which paragraph (12) applies, are encountered (which applies where the Applicant is satisfied that the remains in question were interred more than 100 years ago and that no relative or personal representative would object to their removal). It provides that in such circumstances the Applicant (i) may remove those remains but (ii) must apply to the Secretary of State for a direction as to how those remains will subsequently be treated and (iii) thereafter deal with the remains according to the Secretary of State's direction.
Schedule 2 Requirements Paragraphs 5, 6, 10 and 11	The Applicant has made minor amendments to each of these requirements to clarify that they may be discharged in part.
Schedule 2 Requirements Paragraphs 11 and 15	The Applicant has amended both requirements to remove the redundant reference to "permanently maintained".
Schedule 2 Requirements Paragraph 12 Completion and availability of particular works	The Applicant has removed the redundant reference in subparagraph (1) to the relevant works having been completed "in compliance with the Order".
Schedule 2 Requirements Paragraph 13 Archaeology	The Applicant has amended this requirement to make it clear that the scheme for the investigation of revealed remains, to be approved by the county planning authority, may provide for the removal of those remains, subject to any direction of the Secretary of State, or determination of the court made under article 55 (removal of human remains). The amendment is necessary for consistency between the operative provisions of the Order and its requirements.



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Schedule 10 Scheme of operation	The Applicant has introduced a definition of “communication facilities” for drafting expediency and consistency and has applied the term where appropriate in Schedule 10. These changes have been discussed with Great Yarmouth Port Company.
Schedule 13 Deemed marine licence	The Applicant has amended Schedule 13 following further discussions with the MMO. The Applicant understands that the MMO agrees with the amendments. The principal changes relate to the description of the “authorised development” for the purposes of the deemed marine licence which is set out in paragraph 3, and changes to the procedures for consulting on matters to be approved by the MMO under the deemed marine licence which are now referred to as “returns”. A new paragraph 19 has been added to Part 3 which, following the equivalent provision in Schedule 2 in respect of the requirements, would allow measures taken in advance of the grant of the Order to be taken into account in the discharge of the conditions of the deemed marine licence.