

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

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## **Document NCC/GY3RC/EX/066: Update on Protective Provisions**

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**Planning Act 2008**

**Infrastructure Planning**

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

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## Glossary of Abbreviations and Defined Terms

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|---------------|--|
| The Applicant | Norfolk County Council (in its capacity as Highway Authority and promoter of the Scheme) |
| dDCO          | Draft Development Consent Order  |
| IDB           | Waveney, Lower Yare and Lothingland Internal Drainage Board                              |
| NWG           | Northumbrian Water Group   |

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# 1 Introduction

## 1.1 Purpose of document

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- 1.1.1 The Applicant has engaged with all relevant Statutory Undertakers, apparatus owners and relevant statutory parties in respect of protective provisions. An update on the status of negotiations with all relevant parties is provided in section 2 below.

## 2 Protective Provisions Update Table

| Statutory Undertaker, apparatus owner or relevant statutory party | Protective Provisions update  |
|---|---|
| Anglian Water Services Limited                                    | <p>Part 3 of Schedule 14 to the draft Development Consent Order ('dDCO') includes Protective Provisions for the benefit of Anglian Water, in a form which has been agreed between the Applicant and Anglian Water.</p> <p>The Protective Provisions in Part 3 of Schedule 14 set out constraints on the exercise of the powers in the dDCO with a view to safeguarding Anglian Water's undertaking whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>   |
| Environment Agency  | <p>The Applicant has received the Environment Agency's preferred form of Protective Provisions which it has reviewed and returned with comments. Discussions on the Protective Provisions are continuing between the parties and the Applicant is confident that agreement will be reached. The Applicant understands that, once the provisions for the protection of the Environment Agency are agreed between the Applicant and the Environment Agency, the Environment Agency will grant its consent under section 150 of the Planning Act 2008 to the disapplication of the relevant consents set out in article 3 of the dDCO.</p> |
| Waveney, Lower Yare and Lothingland Internal Drainage Board       | <p>Part 5 of Schedule 14 to the dDCO includes draft Protective Provisions for the benefit of Internal Drainage Board which have been agreed between the parties. The IDB has given its consent under section 150 of the Planning Act 2008 to the relevant disapplications contained in article 3 of the dDCO.</p>   |

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| <p>Great Yarmouth Port Authority</p> | <p>Part 6 of Schedule 14 to the dDCO includes Protective Provisions for the benefit of the Great Yarmouth Port Authority in a form which has been agreed between the Applicant and the Great Yarmouth Port Authority. A further provision, the wording of which has been agreed between the Applicant and the Great Yarmouth Port Authority, will be included in these Protective Provisions once the Applicant has completed a side agreement with the Great Yarmouth Port Authority and Great Yarmouth Port Company. The Applicant expects to enter into this side agreement shortly and will update the Protective Provisions as soon as it is in a position to do so.</p> <p>In addition, the Applicant negotiated and entered into an Agreement dated 29 March 2019 with the Great Yarmouth Port Company Limited, covering, inter-alia, land acquisition proposals and compensation terms in respect of Great Yarmouth port land. The Agreement is conditional on development consent for the Scheme being granted, funding being secured and notices for the acquisition of land required for the Scheme being served (see the Applicant's Negotiations Tracker, Revision 2, updated for Deadline 6 (Document Reference NCC/GY3RC/EX/065).</p> <p>On this basis, the Applicant considers that adequate protection for the Great Yarmouth Port Authority's (and Great Yarmouth Port Company's) assets are included in the agreed Protective Provisions in Part 6 of Schedule 14 to the dDCO and that the tests set out in sections 127(3) and 127(6) of the Planning Act 2008 are satisfied.</p> |
| <p>Cadent Gas Limited</p>            | <p>Bespoke Protective Provisions for the benefit of Cadent are currently being negotiated and will be included in the draft DCO once in an agreed form. The Applicant aims to reach agreement with Cadent on its protective provisions such that Cadent can withdraw its objection prior to the close of the examination.</p> <p>In addition, the Protective Provisions in Part 1 of Schedule 14 to the dDCO set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 would still be satisfied</p>   |

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|   | <p>even without the inclusion in the dDCO of bespoke protective provisions for the benefit of Cadent.</p> <p>In addition, the Applicant has been negotiating with Cadent in respect of its land which is required for the Scheme with a view to the Applicant acquiring such land and rights over land by agreement (see the Applicant's Negotiations Tracker, Revision 2, updated for Deadline 6 (Document Reference NCC/GY3RC/EX/065)). Negotiations are progressing and on this basis, the Applicant considers that the tests set out in sections 127(3) and 127(6) of the Planning Act 2008 will be satisfied.</p>   |
| <p>Essex &amp; Suffolk Water Limited (part of Northumbrian Water Group ('NWG'))</p> | <p>Essex &amp; Suffolk Water (NWG) confirmed on 25 April 2019 that it is satisfied in principle with the content and wording of the protective provisions for the protection of water undertakers included within Part 1 of Schedule 14 to the dDCO. Essex &amp; Suffolk Water (NWG) confirmed that the protective provisions do follow standard wording and did not propose any amendments to those protective provisions or request bespoke protective provisions.</p> <p>The Protective Provisions in Part 1 of Schedule 14 to the dDCO set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p> |
| <p>Eastern Power Networks Plc</p>   | <p>Eastern Power Networks Plc has not requested bespoke protective provisions. Part 1 of Schedule 14 to the dDCO includes draft Protective Provisions for the benefit of electricity undertakers.</p> <p>The Protective Provisions in Part 1 of Schedule 14 to the dDCO set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>  |



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| Openreach Limited     | <p>The Applicant initially contacted Openreach in respect of protective provisions prior to the submission of the DCO application in April 2019. To date, no response has been received.</p> <p>Part 2 of Schedule 14 to the dDCO includes draft Protective Provisions for the benefit of operators of Electronic Communications Code Networks which set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>    |
| Virgin Media Limited  | <p>The Applicant initially contacted Virgin Media in respect of Protective Provisions prior to the submission of the DCO application in April 2019. To date, no response has been received.</p> <p>Part 2 of Schedule 14 to the dDCO includes draft Protective Provisions for the benefit of operators of Electronic Communications Code Networks which set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p> |
| Vodafone Limited      | <p>The Applicant initially contacted Vodafone in respect of protective provisions prior to the submission of the DCO application in April 2019. To date, no response has been received.</p> <p>Part 2 of Schedule 14 to the dDCO includes draft Protective Provisions for the benefit of operators of Electronic Communications Code Networks which set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>     |
| GTC Pipelines Limited | <p>GTC Pipelines Limited has not requested bespoke protective provisions. Part 1 of Schedule 14 to the dDCO includes draft Protective Provisions for the benefit of utility undertakers.</p> <p>The Protective Provisions in Part 1 of Schedule 14 to the dDCO set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers'</p>   |

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|  | <p>interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>  |
| <p>National Grid Property Holdings Limited</p> | <p>National Grid Property Holdings Limited has not requested bespoke protective provisions. Part 1 of Schedule 14 to the dDCO includes draft Protective Provisions for the benefit of utility undertakers.</p> <p>The Protective Provisions in Part 1 of Schedule 14 to the dDCO set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p> <p>In addition, the Applicant has been seeking to negotiate with National Grid Property Holdings Limited in respect of its land which is required for the Scheme with a view to the Applicant acquiring such land and rights over land by agreement (see the Applicant's Negotiations Tracker, Revision 2, updated for Deadline 6 (Document Reference NCC/GY3RC/EX/065)).</p> <p>On this basis, the Applicant seeks engagement with National Grid Property Holdings Limited to enable the tests set out in sections 127(3) and 127(6) of the Planning Act 2008 to be satisfied.</p> |