

Great Yarmouth Third River Crossing Order 202[*]

Document NCC/GY3RC/EX/106 Statement of Common Ground: Great Yarmouth Port Company (Peel Ports)

Planning Act 2008

Infrastructure Planning

The Infrastructure Planning (Examination Procedure) Rules 2010

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Glossary of Abbreviations and Defined Terms

The Applicant	Norfolk County Council (in its capacity as Highway Authority and promoter of the Scheme)
DCO	Development Consent Order
The Planning Act	The Planning Act 2008
Scheme	The Great Yarmouth Third River Crossing project for which the Applicant seeks development consent
SoCG	Statement of Common Ground
SoS	Secretary of State
GYPC	Great Yarmouth Port Company
GYPA	Great Yarmouth Port Authority

1 Introduction

1.1 Purpose of this Document

- 1.1.1 This Statement of Common Ground ('SoCG') has been prepared in relation to the application by Norfolk County Council ('the Applicant') of an order granting development consent ('DCO') under the Planning Act 2008 ('the Planning Act 2008') for the construction, operation and maintenance of a new bridge over the River Yare in Great Yarmouth, Norfolk ('the Scheme').
- 1.1.2 The application was submitted on 29th April 2019 and accepted on 28th May 2019 by the Planning Inspectorate on behalf of the Secretary of State.

1.2 Aim of this document

- 1.2.1 The aim of this SoCG between the Applicant and Great Yarmouth Port Company (GYPC) is to provide a record of engagement between the parties, including of the issues discussed between the parties and the current status of those discussions.

1.3 Terminology

1.3.1 In this SoCG:

- Where a table is entitled 'Matters Agreed', this signifies matters that have been stated as agreed between the parties;
- Where a table is entitled 'Matters under Discussion', this signifies matters still under discussion; and
- Where a table is entitled 'Matters not Agreed', this specifies that both parties are confident that no agreement can be reached.

2 Record of Engagement

2.1.1 A summary of the key meetings and correspondence that have taken place between the Applicant and Great Yarmouth Port Company (GYPC) in relation to the Scheme is outlined in Table 2.1.

Table 2.1: Record of Engagement

Date	Form of Correspondence	Key Topics / Outcomes (if any)
29 June 2017	Technical meeting between the Applicant and Peel Ports	Key points discussed. Bridge height vertical alignment; Pilot Vessel Dimensions; Channel Width/Navigation and Hydrology; Port Operations; Access and Accommodation Work; Geotechnical; Statutory Bridge Orders; Bridge Operation; Construction; Statement of Common Ground; Costs; Others matters to consider and for inclusion in SoCG.
6 October 2017	GYPC letter of Response to Stage 2 Consultation	
31 October 2017	Meeting between the Applicant and Port of GY	Key points discussed: Results of informal consultation, protective provisions, commercial agreement, navigation simulation and scoping of Environmental Impact Assessment.
31 January 2018	Meeting between the Applicant and Port of GY	Key points discussed: Land assembly including likely footprint for temporary works, cost indemnity, access for Ground Investigation works, draft Heads of Terms and navigation simulation.
2 March 2018	Deed of Indemnity between Peel Ports	

	and the Applicant	
04 May 2018	Telephone conference (the Applicant, Peel Ports, WSP, NPS)	<p>Key point discussed:</p> <p>Timescales for land assembly meeting, navigation risk assessment, vessels survey data, hydrodynamic survey, Navigation Working Group Scope of Reference, pontoon design and need to consider potential requirement for emergency layby berth for commercial vessels, bridge control tower, draft protective provisions.</p> <p>Construction milestones and plan showing permanent and temporary land take circulated after the meeting</p>
13 July 2018	Meeting between the Applicant and Peel Ports, (venue, Nottingham)	<p>Key points discussed:</p> <p>DCO process update</p> <p>Feedback from Peel Ports on vessel survey note, hydrodynamic modelling note and Navigation Working Group Scope of Reference</p> <p>Navigation simulation and hydrodynamic modelling</p> <p>Protective provisions</p> <p>Commercial delivery structure</p> <p>Port security authority and port security plan</p>
17 July 2018	Land Assembly meeting between the Applicant, Peel Ports, GYBC (Gt Yarmouth Borough Council)	<p>Key points discussed:</p> <p>Permanent and temporary land take and impact on port operations</p> <p>Impact on existing berths due to temporary land take</p>
3 August 2018	Applicant email (Mark Kemp) to Peel Ports, circulating draft specification for bridge control tower.	Email containing Control Tower Specification Memo (WSP ref. 1073739-WSP-MAR-GY-RP-MA-0008M).
17 August 2018	Meeting between the Applicant, Perenco, ASCO, Ashtons Legal, Paul	<p>Key points discussed:</p> <p>Impact on operations and mitigation action plan</p>

	Robinson Partnership, NPS, RUA Construction Consulting, Peel Ports, and GYBC	Statement of Common Ground Project timeline
7 September 2018	Meeting between the Applicant, Peel Ports, and Great Yarmouth Port Users Association (GYPUA)	DCO progress update
2 October 2018	Meeting between the Applicant and Peel Ports, London	DCO process and Statement of Common Ground Navigation working group Port protective provisions Commercial agreement Operation and maintenance agreement
3 October	Consultation response issued from GYPA (Robert Smith, Chairman) to the Applicant (Norfolk County Council Ref. No. L28.1_IN)	Key point from consultation response added into draft SoCG
5 October 2018	Meeting between the Applicant, Peel Ports, and Great Yarmouth Port Users Association (GYPUA)	DCO progress update
17 October 2018	GYPC letter of Response to Formal Consultation under Section 42 of the Planning Act	
13 November 2018	Meeting between the Applicant and Peel Ports, London	DCO process and Statement of Common Ground Navigation working group Port protective provisions Commercial agreement Operation and maintenance agreement

19 December 2018	Applicant email (Mark Kemp) to Peel Ports	Draft protective provisions and draft DCO Temporary use of Atlas Quay Contractors design Schedule of assessment and surveys
24 January 2019	Meeting between the Applicant and Peel Ports, London	Commercial discussions
15 February 2019	Meeting between Applicant, Applicants contractor and Peel Ports, Gt Yarmouth	Presentation of Contractors design and proposed construction sequencing
15 February 2019	Telephone conference between Applicant and Peel Ports	Port protective provisions and draft DCO
11 March 2019	Meeting between the Applicant and Peel Ports, London	Commercial discussions
15 March 2019	GYPC letter of Response to Further Consultation on Minor Changes to the Scheme Proposals	
25 March 2019	Meeting between the Applicant and Peel Ports, London	Commercial discussions
26 March 2019	pNRA workshop	Methodology for preparation of pNRA. Hazards and causational effects reviewed. The need for additional simulations identified.
27 March 2019	Applicant attendance at Great Yarmouth Port Authority Annual Public Meeting	Presentation of Contractors design and proposed construction sequencing
16 May 2019	Telephone conference between Applicant and Peel Ports	Statement of Common Ground
7 June 2019	Meeting between the Applicant and Peel	Statement of Common Ground

	Ports, London	
19 November 2019	Issue Specific Hearing 1	Oral submissions made during the hearing and a short meeting was held immediately post-hearing to discuss items under discussion at that stage.

3 Summary of Topics Covered by the Statement of Common Ground

3.1 Covered in the Statement of Common Ground

3.1.1 The following topics discussed between the Applicant and Great Yarmouth Port Company (GYPC) are commented on further in this SOCG:

- Section 42 of the Planning Act Consultation Response
- Draft Protective Provisions
- Draft Scheme of Operation
- Draft DCO marine related articles
- Commercial agreement

3.2 Not Covered in the Statement of Common Ground

3.2.1 For the avoidance of doubt, matters not covered in this SOCG have not been discussed between the parties as they have not been raised by Great Yarmouth Port Company (GYPC).

4 Matters Agreed

Table 4.1: Matters Agreed

Ref.	Description of matter	Details of Agreement
Consultation Response		
1	<p>Section 42 of the Planning Act.</p> <p>GYPC consultation response letter, dated 17th October 2018, from Warren Marshall, Group Planning Director GYPC</p>	<p>GYPC acknowledge the potential benefits that improved road connectivity to the peninsular and Outer Harbour the new crossing will bring, GYPC do have significant concerns over the potential adverse impact upon the considerable commercial activity upon the River Yare. This is because the new crossing will sever our (GYPC) operational landholdings and a number of the tenants / operators. Of particular relevance to GYPC is the safeguarding of commercial port activity upstream of the proposed crossing.</p> <p>GYPC's principle requirement therefore is to ensure the continued primacy of the harbour in terms of current and future shipping activity in an unfettered manner. GYPC cannot accept any restrictions upon the opening / closing of the new bridge and our expectation is the bridge will be opened "on demand".</p> <p>The Applicant acknowledges the matters raised by GYPC and has collaborated with GYPC to develop draft Port protective provisions, a draft Scheme of Operation and draft DCO articles where they relate to marine activities. These matters are discussed in detail below.</p> <p>The Applicant and GYPC have collaborated to develop Head of Terms related to compensation matters relating to GYPC operational landholdings. This matter is discussed further below.</p>
Commercial Agreement		

Ref.	Description of matter	Details of Agreement
2	Commercial Agreement	<p>See GYPC consultation response above.</p> <p>The Applicant and GYPC have signed a commercial agreement which addresses all GYPC commercial concern raised in their letter dated 17 October 2018.</p>
Scheme of Operation		
3	Draft Scheme of Operation	<p>See GYPC consultation response above.</p> <p>The Applicant has consulted GYPC on the draft scheme of operation comprising Schedule 10 of the draft DCO (Document Reference 3.1).</p> <p>The Applicant and GYPC are in agreement on the form of Schedule 10 subject to the following modifications being made to Version Number: 0 – Revision for Submission dated 30 April 2019:</p> <p>Add to definitions at paragraph 1(1) – “the communications facilities” means “an email address, web portal, telephone number and the VHF equipment detailed in paragraph 2(5),”</p> <p>Paragraph 2(6) redrafted as follows “The undertaker is to provide, publicly promote, and constantly monitor the communication facilities for the purposes of receiving opening requests and opening request revisions.”</p> <p>Paragraph 3(4) redrafted as follows “Opening requests and reconfirmations under sub-paragraph (3) are to be made by the vessel via the communication facilities.”</p> <p>Paragraph 4(2)(a) redrafted as follows “it is made via the communication facilities;”</p>
Protective Provisions		
4	Rights/powers/duties	The Applicant and GYPC have agreed that the following provision will be included in the

Ref.	Description of matter	Details of Agreement
	of GYPA	dDCO: <i>'Except as provided by this Order, nothing in this Order prejudices or derogates from any of the rights, powers and duties of the GYPA.'</i>
5	Giving of directions and safety of navigation	The Applicant and GYPC have agreed that the following provision will be included in the dDCO: <i>'57. —(1) The undertaker must comply with any special direction given by the harbour master under section 3(1)(b) of the Great Yarmouth Outer Harbour Act 1986 or section 16 of the Great Yarmouth Port Authority Act 1990 that is strictly necessary to ensure the safety of navigation during construction of the works.</i> <i>(2) Except as is mentioned in sub-paragraph (1), neither the harbour master nor the GYPA may give any general or special direction which would prevent or materially hinder any works or activity authorised by or under any provision of this Order.'</i>
Draft DCO Marine Articles		
6	Article 23 (Temporary suspension of navigation in connection with the authorised development)	The Applicant and GYPC have agreed that the following provision will be included in the dDCO (with other amendments also having been agreed and made to this article): <i>'23.—(1) Notwithstanding anything in any other enactment or in any rule of law, the undertaker may in accordance with the provisions of this article temporarily close any part of the river Yare under paragraph (2) or (4) for the purposes of constructing, inspecting or maintaining the authorised development.'</i>
7	Article 24 (Removal of vessels)	The Applicant and GYPC have agreed that the article shall remain in the dDCO with the inclusion of the following provision: <i>'(8) The undertaker and GYPA may enter into agreements relating to the manner in which</i>

Ref.	Description of matter	Details of Agreement
		<i>the powers of this article are to be exercised.'</i>
8	Article 43 (Operation of new bridge)	The Applicant and GYPC have agreed the drafting of article 43 included in the dDCO in respect of sub-paragraphs (6), (9) and (10).
9	Article 43 (Operation of new bridge)	The Applicant and GYPC have agreed the drafting of article 43 and Schedule 10 included in the dDCO in respect of the issues raised during the Issue Specific Hearing on the Effect of the Scheme on Port Operations held on 19 November 2019. In particular, this relates to the procedure for the transit of the bridge by "large vessels" (as well as the revised definition of "recreational vessel"). The procedure avoids the need for a 'passage abort berth'.
10	Article 51 (Byelaws)	<p>The Applicant and GYPC have agreed that sub-paragraph (5) stating the amendments to the byelaws should remain in the dDCO:</p> <p><i>'(5) From the date that this Order comes into force, the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997(b) are amended as follows—'</i></p> <p>Amendments to the changes to the byelaws have been agreed between the Applicant and GYPC and are also included in the dDCO.</p>
Co-ordination of Great Yarmouth Bridges		
11	Co-ordination of the bridges	<p>During the Examination requests have been made from Interested Parties that:</p> <ol style="list-style-type: none"> 1. A single point of contact be used for the booking of the openings of the three Great Yarmouth bridges (i.e. Breydon Bridge, Haven Bridge, the Third River Crossing Bridge); and 2. A co-ordinated approach is taken for the opening of all of those bridges to allow a single passage of a vessel.

Ref.	Description of matter	Details of Agreement
		<p>The Applicant and GYPC confirm that:</p> <p>A. They agree to the principle for notifications for bridge openings for all three bridges to be made via the Third River Crossing contact process, with GYPC as operator of the existing two bridges. This would mean the requisite sub-notices would be taken care of by the operator of the Third River Crossing and a vessel would only need to make one application to have any number of these bridges opened for an individual passage. Each specific bridge would still be subject to their individual operational protocols on when that bridge would be opened.</p> <p>B. They will work with Highways England and Norfolk County Council (who are responsible for the maintenance and management of Breydon Bridge and Haven Bridge respectively) to examine the potential and feasibility of implementing what is set out in A. above.</p>

5 Matters under Discussion

Table 5.1: Matters under Discussion

Ref.	Description of matter	Current Position
Draft Protective Provisions		
1	Draft Port Protective Provisions	<p>The Applicant agrees to the inclusion of draft protective provisions and has collaborated with GYPC on their development. The Applicant and GYPC are in agreement on the form of the GYPA draft protective provisions.</p> <p>The items listed below are the outstanding points and it has been agreed between the Applicant, GYPA and GYPC that all of them will be resolved by a side agreement that the Applicant has now finalised with GYPA and GYPC. The Applicant, GYPA and GYPC will legally complete this agreement soon after the close of the examination and will provide a copy of this agreement to the Secretary of State for Transport (and set out the necessary amendments to the protective provisions in the draft development consent order) once it has been completed.</p> <p><u>Indemnity</u></p> <ol style="list-style-type: none"> 1) GYPC has requested the Applicant includes the following paragraph within the draft protective provisions – ‘The Undertaker agrees to indemnify and hold harmless the Authority from and against all charges, claims, demands, damage, expenses, liabilities, loss or third party liability suffered or incurred by the Authority, except those matters which are not within the reasonable control of the Undertaker, to the extent such loss is caused by any of the construction, operation, maintenance or failure of any of the Authorised Development or Protective Works or any act or omission of the Undertaker, its contractors, agents or employees whilst engaged upon the Authorised Development or Protective Works or dealing with any failure of

Ref.	Description of matter	Current Position
		<p>the said works or in the operation of the Authorised Development. The Authority must mitigate its losses where practicable.' The Applicant has not included this paragraph within the draft protective provisions.</p> <p><u>Notice period for “protective works”</u></p> <p>2) GYPC has requested that the notice referred to under the definition of protective works is shortened from 6 months to 28 days. The applicant has not included this shorter time frame within the draft protective provisions.</p> <p><u>Passage obligations and restrictions on NCC</u></p> <p>3) GYPC has requested the following sub paragraph within paragraph 3 ‘make or maintain any permanent works in or over the River so as to impede, obstruct or prevent (whether by reducing the headroom or depth of water available for vessels, or the width of the River or otherwise) the free and uninterrupted passage of any vessel along the River unless otherwise agreed by the Authority, such that the minimum permanent vertical clearance over the River must be maintained at all times at “A” metres above ordnance datum and the existing permanent width of the River must be maintained at all times at “B” metres; and the minimum permanent vertical clearance over the River will be maintained at all times at “C” metres over the normal water level of “D” metres above ordnance datum and the existing permanent width of the River will be maintained at all times at “E” metres’. The Applicant has not included this sub paragraph within the draft protective provisions.</p>
Draft DCO		
2	Draft DCO marine related articles	<p>See GYPC consultation response above.</p> <p>The Applicant has consulted GYPC on the draft DCO marine related articles comprising</p>


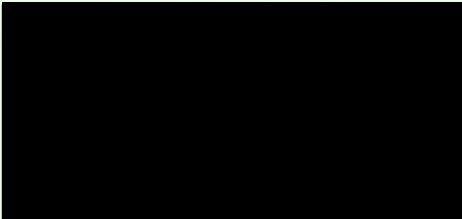
Ref.	Description of matter	Current Position
		<p>Articles 3, 23, 24, 43, 44, 49, 50, 51 and 52 (Document Reference 3.1).</p> <p>The Applicant and GYPC are in agreement on the form of the above draft DCO articles and the only outstanding matter is as follows:</p> <ol style="list-style-type: none">1) Article 3 - GYPC does not agree to the disapplication of byelaws 20, 48 and 56 of the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997. It has been agreed between the Applicant, GYPA and GYPC that this issue will be resolved by a side agreement that the Applicant has now finalised with GYPA and GYPC. The Applicant, GYPA and GYPC will legally complete this agreement soon after the close of the examination and will provide a copy to the Secretary of State for Transport (and set out the necessary amendments to article 3 of the draft development consent order) once it has been completed.

6 Matters Not Agreed

Table 6.1: Matters Not Agreed

Ref.	Description of matter	Details of Matter not Agreed
N/A		

7 Signatures

	Great Yarmouth Port Company	Norfolk County Council (the Applicant)
Signature		
Printed Name	Warren Marshall	Mark Kemp
Title	Group Planning Director	Project Manager
On behalf of	Great Yarmouth Port Company (GYPC)	Norfolk County Council
Date	20/03/2020	20/03/2020