

Anglian Water Services Limited (Anglian Water) is the statutory undertaker for water and sewerage services in the application area. Jacobs UK Limited (Jacobs) is supporting Anglian Water as an Interested Party in this examination. Anglian Water have been working with the Applicant to reach agreement on the protective provisions in Schedule 4 (For the Protection of Anglian Water) Part 6 of the Draft Development Consent Order (DCO) as some provisions differed from Anglian Water's protective provisions template that was previously shared with the Applicant. Currently, there is one outstanding matter where the Applicant has suggested an amendment to paragraph 55 in order to ensure that the protective provisions expire on the commencement of operation of the development. The Applicant's reasons for this were set out in an email to Jacobs and Anglian Water as detailed below:

"We have suggested an amendment to paragraph 55 in order to ensure that the PP expires on the commencement of operation of the development in recognition of the fact that there are no active AW assets within the red line boundary, meaning that we do not believe that it is appropriate for ABP to provide an indemnity and protections in respect of AW's assets in perpetuity. Following the construction period, the port estate will essentially return to 'business as usual', with no possibility of damage being caused to the decommissioned AW pipe, or any active AW apparatus outside of the red line boundary. Please could AW explain why they feel the need for the protective provisions to remain in force for longer than the construction period?"

Whilst we note that there may not be a previous example of AW's PPs expiring following the construction period, we believe that the absence of AW infrastructure within the red line boundary marks the IERRT out as a special case. Meanwhile, we do not consider that limiting the time period over which the protective provisions apply creates any uncertainty for Anglian Water, as the commencement of operational (as opposed to construction) activity at the IERRT will provide a definitive time at which the PP will come to an end".

Anglian Water does not agree to the amendment to paragraph 55 as it creates doubt as to whether or not the protective provisions apply. Anglian Water is not aware of this addition to the provision forming part of any other DCO Anglian Water protective provisions. Other reasons for not agreeing to the amendment are provided below:

- 1) If there is "no possibility of damage being caused to the decommissioned AW pipe, or any active AW apparatus outside of the red line boundary", as the undertaker's representative says, then what would be the purpose of including the limitation?
- 2) Further, if that's the reason, then why is it included in the protective provisions of the other protected parties in the DCO since their undertakings are directly affected?
- 3) If the undertaker carries out any activity that does not engage the use of DCO powers, then (if one takes the time to look at the wording of them) the protective provisions would not be engaged in any event either; so again, what is the purpose of including the limitation?
- 4) This concept forms the basis of no other protective provision in any other DCO apart from this one: it is therefore entirely novel without there being a compelling argument as to why this project is so special compared with all other Nationally Significant Infrastructure Projects.

The Applicant has prepared a draft Statement of Common Ground, which outlines the matters that have been agreed with Anglian Water. At this stage, the amendment to paragraph 55 of the protective provisions is not agreed. This will be reflected in the final copy of the Statement of Common Ground, if this matter is not resolved before Deadline 9. Anglian Water will continue to work with the Applicant to resolve this outstanding matter.