



Immingham Green Energy Terminal

TR030008

Volume 8

8.6 Applicant's Schedule of Changes to draft Development Consent Order

Planning Act 2008

Regulation 5(2)(q)

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009 (as
amended)

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Immingham Green Energy Terminal Development Consent Order 2023

Applicant's Schedule of Changes to the draft Development Consent Order

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Version 7	15 August 2024	Deadline 7
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1 Introduction

1.1 Purpose of this document

1.1.1 This document has been prepared by Associated British Ports (the "Applicant") to set out the changes made to the draft development Consent Order ("dDCO") from the version submitted to the Planning Inspectorate ("PINS") on 21 September 2023 as part of the application for development consent **[APP-006]**.

1.1.2 In preparing this document, the Applicant has had regard to Procedural Decision 10 (*Amendments to the dDCO*) as listed in Annex F of the Rule 6 Letter dated 8 January 2024 **[PD-005]** and paragraph 14 (*Providing a DCO audit trail*) of PINS's Advice Note Fifteen: Drafting Development Consent Orders. The document is also prepared and submitted in accordance with Regulation 5(2)(q) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 as a document which ABP considers necessary to support the Application.

1.1.3 This document is therefore submitted together with:

(a) A revised dDCO (**TR030008/APP/2.1 (Revision 8)**) (clean); and

(b) A tracked version of the dDCO showing all changes as between the previously submitted version of the dDCO at Deadline 5 **[REP4-004]** and the new Revision 8 (**TR030008/APP/2.1 (Revision 8)**).

1.1.4 This document is a 'live' document and will be further updated (on a consolidated basis) by the Applicant at each Deadline in the Examination in which a new revision of the dDCO is submitted.

1.2 Overview of changes made at Procedural Deadline A Deadline 1 (6 February 2024)

1.2.1 Revision 2 of the draft DCO **[PDA-006]** was submitted at Procedural Deadline A.

1.2.2 Table 1 lists the changes made by the Applicant shown in Revision 2 of the draft DCO.

1.3 Overview of changes made at Deadline 1 (13 March 2024)

1.3.1 Revision 3 of the draft DCO **[REP1-016]** was submitted at Deadline 1.

1.3.2 Table 2 lists the changes made by the Applicant shown in Revision 3 of the draft DCO.

1.4 Overview of changes made at Deadline 3 (3 May 2024)

1.4.1 Revision 4 of the draft DCO **[REP3-004]** was submitted at Deadline 3.

1.4.2 Table 3 lists the changes made by the Applicant shown in Revision 4 of the draft DCO.

1.5 Overview of changes made at Deadline 4 (4 June 2024)

1.5.1 Revision 5 of the draft DCO **[REP4-004]** was submitted at Deadline 4.

- 1.5.2 Table 4 lists the changes made by the Applicant shown in Revision 5 of the draft DCO.

- 1.6 Overview of changes made at Deadline 5 (11 July 2024)
 - 1.6.1 Revision 7 of the draft DCO [**REP5-004**] was submitted at Deadline 5.
 - 1.6.2 Table 5 lists the changes made by the Applicant shown in Revision 7 of the draft DCO.

- 1.7 Overview of changes made at Deadline 6 (2 August 2024)
 - 1.7.1 Revision 8 of the draft DCO [**REP6-015**] was submitted at Deadline 6.
 - 1.7.2 Table 6 lists the changes made by the Applicant shown in Revision 8 of the draft DCO.

- 1.8 Overview of changes made at Deadline 6 (15 August 2024)
 - 1.8.1 Revision 9 of the draft DCO (**TR030008/APP2.1 (Revision 9)**) was submitted at Deadline 7.
 - 1.8.2 Table 7 lists the changes made by the Applicant shown in Revision 8 of the draft DCO.

2 Schedule of Changes as updated at Procedural Deadline A (6 February 2024)

Table 1: Schedule of Changes to Revision 2 of the dDCO [PDA-006]

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Preamble	Updated to reflect reference to a Panel of five members, as appointed by the Planning Inspectorate on 31 October 2023.	<p>The application has been examined by {a panel of 5 members (“the Panel”)}-OR-[the single appointed person], pursuant to [Chapter 2]/[Chapter 3] of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(e).</p> <p>The [Panel]-OR-[the single appointed person], having examined the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with [section 74(2)]/[section 83(1)] of the 2008 Act, made a report and recommendation to the Secretary of State.</p> <p>The Secretary of State has considered the representations made and not withdrawn and the report and recommendation of [the Panel]-OR-[single appointed person], taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(d) and, as a National Policy Statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.</p>	Revision 2
2.	Article 2, Interpretation	Minor typographical error	“the 1847 Act” means the Harbours, Docks, and Piers Clauses Act 1847(e);	Revision 2
		“The harbour master” revised to reflect wording provided by the Statutory Conservancy and Navigation Authority.	“the harbour master” means the harbour master appointed by the Humber Conservancy Commissioners for the purposes of the Humber Conservancy Acts 1852 to 1951 and the Humber Harbour Reorganisation Scheme 1966 Confirmation Order 1967 and includes the harbour master’s deputies and assistants; <u>for the Statutory Conservancy and Navigation Authority;</u>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		Definition of "Natural England" deleted as it is noted made DCOs do not define statutory bodies.	"Natural England" means the advisor to the Government for the natural environment in England;	Revision 2
		"the Statutory Conservancy and Navigation Authority" added to reflect wording provided by the Statutory Conservancy and Navigation Authority.	<u>"the Statutory Conservancy and Navigation Authority" means the statutory conservancy and navigation authority for the River Humber (as successor to the Conservancy Commissioners established under the Humber Conservancy Act 1868) and including in its role as competent harbour authority and local lighthouse authority for its statutory area;</u>	Revision 2
		Definition of "vessel" revised to reflect that waterborne structures are not relevant in this case.	"vessel" means every description of vessel or waterborne structure , however propelled; or moved or constructed , and includes <u>a</u> displacement and non-displacement craft, <u>a</u> personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over or placement in water and which is at the time in, on, or over water;	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
3.	Article 4, Incorporation of the 1847 Act	The number of provisions of the 1847 Act incorporated into the dDCO has been reduced from the list adopted from previous made orders as it has been ascertained that a number of those provisions have since been repealed. For further detail in respect of Article 4 please see paragraphs 7.17 – 7.21 of the Explanatory Memorandum (TR030008/APP/2.2 (Revision 2)). Reference in section 69 of the 1847 Act to “level 4 on the standard scale” is reduced to being read as to “level 3 on the standard scale”, so that incorporation of the provision complies with section 120(8) and paragraph 32B of Schedule 5 of the 2008 Act.	<p>4. —(1) The 1847 Act, except sections 65 to 13, 16 to 23, 25, 4847 to 50, 77 to 80, 8485 to 90, 97 to 99102 and 101104, so far as applicable for the purposes of and not inconsistent with this Order, is incorporated with and forms part of this Order, <u>subject to the modifications set out in sub-paragraph (2).</u></p> <p>(2) For the purposes of the 1847 Act, as so incorporated—</p> <ul style="list-style-type: none"> (a) the expression “the special Act” means this Order; (b) the expressions “the Promoters of the undertaking” and “the undertakers” have the meaning given to “the Company” in article 2(1) of this Order; (c) the expression “the harbour, dock or pier” means the area of jurisdiction; (d) the expression “the harbour master” so far as applicable to the authorised project, has the meaning given to “the dock master” in article 2(1) of this Order; (e) the meaning given to the word “vessel” by section 3 of the 1847 Act is substituted by that given to “vessel” in article 2(1) of this Order; (f) section 53 of the 1847 Act is not to be construed as requiring the dock master to serve on the master of a vessel a notice in writing of his directions but such directions may be given orally or otherwise communicated to such master; <u>(g) reference in section 69 of the 1847 Act to “level 4 on the standard scale” is to be read as to “level 3 on the standard scale”;</u> <u>(h) (g) section 33 of the 1847 Act, as so incorporated, must not be construed as derogating from the power of the dock master (which has the meaning given in article 2(1) of this Order) to discontinue any part of its undertaking; and</u> <p><u>(i) (h) any requirement to comply with a notice or direction given by the harbour master is to be construed as including a requirement that, in complying with such notice or direction, a person who is subject to the notice or direction must also comply with any relevant notice or direction given by the dock master or the harbour master (which both have the meaning given in this Order) in the exercise by either or both of them of any function conferred by or under any enactment (including this Order).</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
4.	Article 6, Extent of Certain Works	The amendments have been made in order to provide further clarification regarding the location of the dredged pocket, now shown indicatively in the Works Plans (document reference AS/002), further to the request of the Examining Authority at Box 30 of the S55 Checklist and first referenced in the applicant's letter of 3 January 2024 to Mr Karl-Jonas Johansson of the Planning Inspectorate.	<p>6. —(1) is <u>Subject to paragraph (2) , in</u> carrying out the authorised project comprising the works numbered in Part 1 (authorised development) in Schedule 1 (authorised project) the undertaker must, where the works plans set out the lateral extent of the area in which the numbered work comprised in the authorised project is to be located, carry out, maintain, use or decommission the numbered work within the lateral extent of the area set out for it on those plans.</p> <p><u>(2) For the purposes of paragraph (1), the lateral extent of the area for the dredged pocket described in paragraph 1(b) of Part 1 (authorised development) of Schedule 1 (authorised project) is not to be taken as the area set out on the works plans, which is shown on those plans for indicative purposes only, and the area within which the dredged pocket described in paragraph 1(b) of Part 1 (authorised development) of Schedule 1 (authorised project) must be carried out is instead to be taken from time to time to be the area bounded by the grid coordinates specified in paragraph 5(2) of the deemed marine licence or such other area for the dredged pocket as is specified in any marine licence granted or varied pursuant to the 2009 Act (including any variation of the deemed marine licence).</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
5.	Article 29, Application of the 1981 Act	Following review of footnoting, appropriate additions have been included	<p>29.— y) <u>(1)</u> The 1981 Act applies as if this Order were a compulsory purchase order.</p> <p>(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.</p> <p>(3) In section 1 (application of Act) for subsection (2) substitute—</p> <p style="padding-left: 40px;">(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order. .</p> <p>(4) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.</p> <p>(5) Section 5A (time limit for general vesting declaration) is omitted(a).</p> <p>(6) In section 5B(1) (extension of time limit during challenge)(b) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 23 (time limit for exercise of powers to acquire land compulsorily or to possess land temporarily) of the Associated British Ports (Immingham Green Energy Terminal) Order 202**”.</p> <p>(7) In section 6 (notices after extension of declaration)(c), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.</p> <p>(8) In section 7 (constructive notice to treat)(d), in subsection (1)(a) omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.</p> <p>(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) (e), for paragraph 1(2) substitute—</p> <p><u>(a)</u> 1981 c. 66. Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.</p> <p><u>(b)</u> As inserted by section 202(2) of the Housing and Planning Act 2016.</p> <p><u>(c)</u> As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.</p> <p><u>(d)</u> 1981 c. 66. Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).</p> <p><u>(e)</u> As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
6.	Article 44, power to appropriate (paragraph 1)	The appropriate defined term to which paragraph (1) should be referring is "area of jurisdiction", emphasis added, and this omission has been corrected.	44.—(1) (1) Regardless of anything in section 33 of the 1847 Act (harbour, dock and pier to be free to the public on payment of rates) or any other enactment, the dock master may from time to time set apart and appropriate any part of the <u>area of</u> jurisdiction for the exclusive or preferential use and accommodation of any trade, person, vessel or goods or any class of trader, vessel or goods, subject to the payment of such charges and to such terms, conditions and regulations as the dock master may think fit.	Revision 2
7.	Article 45, Powers to dredge (paragraph 1)	The paragraph has been revised to reflect that the dDCO is authorising a capital dredge as part of construction of the authorised project (see paragraph 1(b) of Work No. 1 of Part 1 (Authorised Development) of Schedule 1 (Authorised Project)).	45.—(1) (1) The Company may dredge, deepen, scour, cleanse, alter and improve the river bed and foreshore within any part of the Order limits situated within the River Humber as may be required for the purpose of <u>constructing</u> , maintaining and operating the authorised project.	Revision 2
8.	Article 45, Powers to dredge (paragraph 3)	The paragraph has been revised to make clearer the intent of the original provision that the deemed marine licence comprised in the dDCO sets out terms required by the MMO for disposal of materials dredged, i.e. no further approval is required. See paragraphs 4(1) and 4(3) of Schedule 3 (Deemed marine licence) of the dDCO.	(3) No materials dredged under the powers of this Order may be disposed of in the UK marine area except in accordance with an approval from the MMO under the deemed marine licence or under any other marine licence granted by the MMO.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
9.	Article 46, Benefit of Order (paragraphs 10, 12 and 13)	<p>The MMO's relevant representation states that it does not accept that the deemed marine licence at Schedule 3 (Deemed marine licence) of the dDCO may be transferred along with the remainder of the dDCO of which the deemed marine licence is a part. The MMO asserts that such transfer should only take place by way of section 72(7)(a) of the Marine and Coastal Access Act 2009 as if the MMO had granted the deemed marine licence (which is not the case - the Secretary of State is deeming the grant of the deemed marine licence). The MMO has requested the following addition: "(8) For the avoidance of doubt sections 72(7) and (8) of the 2009 Act shall continue to apply to all parts of the deemed marine licence".</p> <p>It is well established in development consent orders made pursuant to the Planning</p>	<p>(10) An undertaker with the benefit of any provision of this Order may pursuant to this paragraph—</p> <ul style="list-style-type: none"> (a) transfer to any person any or all of the benefit of the provision <u>(excluding the deemed marine licence)</u> and such related statutory rights as may be agreed between the undertaker and that person; (b) grant to any person for a period agreed between the undertaker and that person any or all of the benefit of the provision <u>(excluding the deemed marine licence)</u> and such related statutory rights as may be so agreed between the undertaker and that person, <p><u>(12) An undertaker with the benefit of any provision of the deemed marine licence may pursuant to this sub-paragraph, with the consent of the Secretary of State—</u></p> <ul style="list-style-type: none"> <u>(a) transfer to any person any or all of the benefit of the provision and such related statutory rights as may be agreed between the undertaker and that person;</u> <u>(b) grant to any person for a period agreed between the undertaker and that person any or all of the benefit of the provision and such related statutory rights as may be so agreed between the undertaker and that person,</u> <p><u>but the Secretary of State must consult the MMO before giving such consent to the transfer or grant to another person of the benefit of the provision and such related statutory rights.</u></p> <p><u>(13) Paragraph (12) does not prevent an application to the MMO pursuant to section 72(7) of the 2009 Act to transfer the deemed marine licence to another person and vary it accordingly.</u></p>	Revision 2

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		<p>Act 2008, where there is to be transfer of a marine licence deemed to be granted by the Secretary of State pursuant to such an order, that approval is needed from the Secretary of State, who deemed the grant, with the MMO often specified as a consultee on the matter. This approach has evolved because of the imperative for limiting the number of duplicated regimes engaged in the context of nationally significant infrastructure projects. It may also be because, it appears to ABP, that there is no scope for appealing an MMO decision not to issue a notice under section 72(7) of the Marine and Coastal Access Act 2009 to transfer a marine licence (as no notice will have been issued to appeal to the First-tier Tribunal, and in any event the Secretary of State is the more appropriate arbiter of such matters having determined the original application for development consent). The applicant has therefore instead incorporated</p>		

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		paragraphs 3 and 5 of article 6 (Benefit of the Order) of the Norfolk Vanguard Offshore Wind Farm Order 2020 into the draft DCO, which provide for Secretary of State approval of transfers of the benefit of the deemed marine licence, following consultation with the MMO. To reflect the MMO's comment, the applicant has also included clarification that the deemed marine licence may also, as an alternative, be transferred pursuant to a variation notice under section 72(7) of the Marine and Coastal Access Act 2009.		
10.	Article 49, Provision against danger to navigation	The amendments reflect the request of the Statutory Conservancy and Navigation Authority and the deletion of unnecessary wording. The existing wording recognised that in the context of a criminal offence for breach of a term of a development consent order the undertaker could not be held to the differing requirements of three different statutory bodies for the same matter. All three bodies must	49. In case of damage to, or destruction or decay of, a tidal work or any part of it, the undertaker must as soon as reasonably practicable notify Trinity House and the statutory harbour authority or Humber <u>and the Statutory Conservancy Commissioners and Navigation Authority</u> (as relevant) and must lay down such buoys, exhibit such lights, and take such other steps for preventing danger to navigation, as Trinity House and the statutory harbour authority or Humber conservancy commissioners (as relevant) or, failing agreement between them, the statutory harbour authority or Humber <u>Statutory Conservancy Commissioners and Navigation Authority</u> (as relevant) may from time to time direct.	Revision 2

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		be notified and will in practice ensure consistency in their requirements or the undertaker can only be held to the requirements of one of them. There was therefore no need to refer to disagreements between these bodies.		
11.	Article 50, Lights on tidal works during construction	The amendments have been made for the same reasons as Article 49.	<p>50. The undertaker must at or near—</p> <ul style="list-style-type: none"> (a) a tidal work, including any temporary work; or (b) any plant, equipment or other obstruction placed in connection with any authorised project within the area of seaward construction activity in the River Humber, <p>during the whole time of their construction, alteration, replacement or extension, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House and the statutory harbour authority or Humber Conservancy Commissioners (as relevant) or, failing agreement between them, the statutory harbour authority or Humber<u>Statutory</u> Conservancy Commissioners<u>and Navigation Authority</u> (as relevant) may, may from time to time direct.</p>	Revision 2
12.	Article 51, Permanent light on tidal works	The amendments have been made for the same reasons as Article 49.	<p>51. After a completion of a tidal work, the undertaker must at the outer extremity of the tidal work exhibit every night from sunset to sunrise such lights, if any, and take such steps for the prevention of danger to navigation as Trinity House and the statutory harbour authority or Humber Conservancy Commissioners (as relevant) or, failing agreement between them, the statutory harbour authority or Humber<u>Statutory</u> Conservancy Commissioners<u>and Navigation Authority</u> (as relevant) may from time to time direct.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
13.	Article 62, Arbitration	<p>Further to a request by the MMO for exemption from arbitration provisions under the dDCO, paragraph 2 was inserted to mirror Articles 84(2) and (4) (Arbitration) of the Sizewell C (Nuclear Generating Station) Order 2022 in clarifying that it is not appropriate that arbitration should apply to the provisions of the 1847 Act incorporated in the Order by article 4 (Incorporation of the 1847 Act), Trinity House or any matter for which the consent or approval of the Secretary of State or the MMO is required under the Order. The Statutory Conservancy and Navigation Authority has been added to the list of exemptions at its request. These bodies consider it inappropriate to be subject to arbitration and the applicant has no issue with the position. The 1847 Act anticipates its own enforcement mechanisms, as summarised at paragraphs 7.17 – 7.21 of the Explanatory Memorandum (document</p>	<p>62.—(1) Subject to article 63 (procedure regarding certain approvals, etc.) and except where otherwise expressly provided for in this Order or unless otherwise agreed between the parties, any difference under any provision of this Order must be referred to and settled in arbitration in accordance with the rules set out in Schedule 16 (arbitration rules) of this Order, by a single arbitrator to be agreed between the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.</p> <p><u>(2) This article does not apply to—</u></p> <p><u>(a) the provisions of the 1847 Act incorporated in this Order by article 4 (incorporation of the 1847 Act);</u></p> <p><u>(b) Trinity House in the exercise of its statutory functions;</u></p> <p><u>(c) any matter for which the consent or approval of the Secretary of State, the Statutory Conservancy and Navigation Authority or the MMO is required under any provision of this Order.</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		reference TR030008/APP/2.2 (Revision 2)) and, as evidenced by the Sizewell C precedent, it is not appropriate to introduce Secretary of State governed arbitration to provisions aimed at the expeditious and safe ongoing management of a harbour.		
14.	Article 63, Procedure Regarding Certain Approvals (Paragraph (5)(b))	The addition has been made at the request of the Statutory Conservancy and Navigation Authority, which considers it appropriate to be excluded from operation of Schedule 17 (procedure regarding certain approvals, etc.) of the dDCO.	<p><u>(5) Schedule 17 (procedure regarding certain approvals, etc.) does not apply</u></p> <p><u>(a) in respect of any consents, agreements or approvals contemplated by the provisions of Schedule 14 (protective provisions) or any difference or dispute under article 20(7) (protective works) to which, in each case, article 6262 (arbitration) instead applies; or</u></p> <p><u>(b) in respect of the Statutory Conservancy and Navigation Authority.</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
15.	Schedule 1, Authorised Project, Part 1, Authorised Development, (Paragraph 1(a) and (b), Work No. 1))	Paragraph 1(a)(ii) has been revised to clarify that the supporting jetty topside infrastructure should include shelters. The depth restriction for the capital dredge has been removed from the description of the work in question because it is more properly a condition of the deemed marine licence, as is the case at paragraph 4(1) of Part 1 (General) of Schedule 3 (Deemed Marine Licence) of the dDCO.	<p>Work No. 1</p> <p>1. Within the area shown on sheets 1, 2 and 3 of the works plans as Work No. 1, a multi-user marine terminal for the import and export of bulk liquids including—</p> <p>(a) Work No. 1a, within the area shown as such, being—</p> <p>(i) an open piled approach jetty leading to a jetty head with a single berth with loading and unloading platforms and associated dolphins, fenders and walkways; and</p> <p>(ii) supporting jetty topside infrastructure including marine loading arms, pipes, valves, pipe racks and other process equipment, roadways, footways, maintenance and access platforms, lighting infrastructure, utilities (including electrical systems, firewater systems, communication systems, security systems and potable water supply), ship access equipment, electrical rooms, control rooms, <u>shelters</u>, toxic refuge rooms and other berth furniture;</p> <p>(b) a dredged pocket to create a berthing pocket with a depth of up to 14.5 metres below chart datum;</p>	Revision 2
16.	Schedule 2, Requirements, (paragraph 4, Detailed Approval)	Further to comments from the Environment Agency, the Requirement has been reworded to remove reference to “commence”, which is not necessary in this instance.	<p>Detailed approval</p> <p>4. — zz) Construction must not commence above the ground floor slab (1) No part of—</p> <p>(a) any security building within Work No.2;</p> <p>(b) any control building within Work No. 5; or</p> <p>(c) any control room and workshop building, security and visitor building, contractor building and warehouse within Work No. 7,</p> <p><u>may be constructed above its ground floor slab</u> until details of the external materials to be used in the construction of that building have been submitted to and approved by the relevant planning authority.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
17.	Schedule 2, Requirements, (paragraph 5(2), Phasing)	The Requirement has been reworded to remove reference to "commence", which is not necessary in this instance.	<p>Phasing</p> <p>5. —aaa <u>(1)</u> The ammonia storage tank within Work No. 3a and the hydrogen production units within Work No. 5 and Work No. 7 must not be brought into operational use until the jetty forming part of Work No. 1 is available for use.</p> <p>(2) No <u>The construction of no</u> more than two hydrogen production units and no more than one hydrogen liquefier unit may be commenced <u>begin</u> until a plan setting out the phase of works relating to that <u>any</u> additional hydrogen production unit or hydrogen liquefier unit has been submitted to and approved by the relevant planning authority.</p>	Revision 2
18.	Schedule 2, Requirements, (paragraph 6(1), Construction environmental management plan)	Erroneous reference to the MMO, which does not have jurisdiction outside of the UK marine area in any event, was identified by the Environment Agency which requested it be substituted as consultee in this instance.	<p>6. —bbb <u>(1)</u> No works forming part of Work No. 1 outside of the UK marine area may be commenced until a construction environmental management plan for that part of the works has been submitted to and approved by the relevant planning authority, following consultation with the MMO <u>Environment Agency</u> on matters related to its function; and it is agreed that any such construction environmental management plan and the construction environmental management plan submitted pursuant to paragraph 8 of Part 2 (conditions applying to all licensable activities) of Schedule 3 (deemed marine licence) may be comprised in the same document.</p>	Revision 2
19.	Schedule 2, Requirements, (paragraph 8(1), Highway works)	Further to comments from the Environment Agency, the Requirement has been reworded to remove reference to "commence", which is not necessary in this instance.	<p>8. —ddd <u>(1)</u> Before the commencement <u>construction</u> of any permanent access or permanent alteration to an existing means of access to a highway used by vehicular traffic in order to provide access to Work No. 2, Work No. 3, Work No. 5 or Work No. 7 <u>begins</u>, written details of the design and layout of such means of access or alteration must be submitted to and approved by the relevant planning authority following consultation with the highway authority on matters related to its functions.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
20.	Schedule 2, Requirements, (paragraphs 15(1) and (2), Contaminated land)	The provisions have been revised to make clearer that consultation with the Environment Agency by the relevant planning authority is to take place following submission and not before, in the usual manner.	<p>15.—kkk(1) No below ground works comprised in any part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7 may be undertaken until a written remediation strategy applicable to that part to deal with any contamination of that part which is likely to cause significant harm to persons or pollution of controlled waters or the environment has <u>been submitted to and approved by the relevant planning authority</u>, following consultation with the Environment Agency on matters related to its function, been submitted to and approved by the relevant planning authority.</p> <p>(2) In the event that any unexpected contamination is discovered during the construction of any part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7, the part of the works to which the contamination relates must cease until a site investigation and assessment report applicable to that part and, if necessary, a remediation strategy to deal with any contamination which is likely to cause significant harm to persons or pollution of controlled waters or the environment has <u>been submitted to and approved by the relevant planning authority</u>, following consultation with the Environment Agency on matters related to its function, been submitted to and approved by the relevant planning authority.</p>	Revision 2
21.	Schedule 2, Requirements, (paragraph 18(1) and (2), Decommissioning environmental management plan)	The Environment Agency requested it be added as a consultee. "Outline decommissioning environmental management plan" has already been defined in paragraph 1 (Interpretation).	<p>18.—nnn(1) Prior to the decommissioning of (in each case) the entirety of Work No. 2 (except the jetty access road), Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7, a decommissioning environmental management plan for that part of the authorised project must be submitted to and approved by the relevant planning authority, <u>following consultation with the Environment Agency on matters related to its function.</u></p> <p>(2) Any decommissioning environmental management plan submitted and approved under sub-paragraph (1) must be in general accordance with the outline decommissioning environmental management plan contained in appendix 2.F of the environmental statement.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
22.	Schedule 3, Deemed Marine Licence, Part 1 (General), (paragraph 1, Interpretation)	All new and revised definitions reflect requests in the relevant representation of the MMO. This includes the MMO's preference globally that licence holder" be amended to "undertaker".	<p>1. see (1) In this Schedule—</p> <p>"the 2008 Act" means the Planning Act 2008;</p> <p>"the 2009 Act" means the Marine and Coastal Access Act 2009(a);</p> <p>"the 2017 Regulations" means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017;</p> <p><u>"2023 sediment sampling plan" means—</u></p> <p><u>(a) the document of that name identified in the table at Schedule 15 (documents and plans to be certified) of the Order and which has been certified by the Secretary of State as the 2023 sediment sampling plan for the purposes of the Order, which sets out—</u></p> <ul style="list-style-type: none"> <u>(i) a detailed dredging methodology;</u> <u>(ii) dredge locations;</u> <u>(iii) dredge amounts (total and annual, if applicable);</u> <u>(iv) dredge depths;</u> <u>(v) duration of dredging activities;</u> <u>(vi) whether the dredge is a capital dredging activity or a maintenance dredging activity; and</u> <u>(vii) specific gravity of the material or material type; and</u> <p><u>(b) any sediment sampling analyses submitted to the MMO related to the plan to which sub-paragraph (a) refers prior to its expiry;</u></p> <p>"consolidated" dredged materials include <u>mean materials including</u> glacial clay with a diameter of less than 31.25 micrometres and gravel with a diameter of at least 2 and less than 64 millimetres;</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>“license holder” means has the meaning given to “undertaker” in article 2 (interpretation) of the Order and any agent, contractor or sub-contractor acting on its behalf;</p> <p>“licensable activity” means an activity licensable under section 66 of the 2009 Act;</p> <p>“licensed activity” means any activity authorised in paragraph 3 of this Schedule;</p> <p>“maintenance dredge” means a dredge undertaken to keep channels, berths and other areas at their designed depths, involving removing recently accumulated sediments such as mud, sand and gravel to a level that is not lower than it has been at any time during the past 10 years <u>and “maintenance dredging” is to be construed accordingly;</u></p> <p>“marine piles” means piles that will be in a free water condition during construction;</p> <p>“marine written scheme of investigation” means the marine archaeological written scheme of investigation contained in appendix 15.3 to the environmental statement;</p> <p><u>“further sediment sampling plan” means—</u></p> <p><u>(a) any further sediment sampling plan approved by the MMO in accordance with paragraph 9(2) of this Schedule which sets out—</u></p> <ul style="list-style-type: none"> <u>(i) a detailed dredging methodology;</u> <u>(ii) dredge locations;</u> <u>(iii) dredge amounts (total and annual, if applicable);</u> <u>(iv) dredge depths;</u> <u>(v) duration of dredging activities;</u> <u>(vi) whether the dredge is a capital dredging activity or a maintenance dredging activity; and</u> <u>(vii) specific gravity of the material or material type; and</u> <p><u>(b) any sediment sampling analyses submitted by the MMO related to the plan to which sub-paragraph (a) refers prior to its expiry;</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>“outline marine written scheme of investigation” means the outline marine archaeological written scheme of investigation contained in appendix 15B to the environmental statement;</u></p> <p>“Notice to Mariners” means any notice to mariners which may be issued by the Admiralty, Trinity House, the King’s harbour masters, government departments or harbour and pilotage authorities advising mariners of important matters affecting navigational safety;</p> <p>“the Order” means the Associated British Ports (Immingham Green Energy Terminal) Order 202*;</p> <p>“outline construction environmental management plan” means the document of that description certified under article 64 (certification of documents, public register, etc.)<u>name identified in the table at Schedule 15 (documents and plans to be certified) of the Order, and which has been certified by the Secretary of State as the outline construction environmental management plan for the purposes of the Order;</u></p> <p><u>“the Port of Immingham” has the meaning given in the Order;</u></p> <p>“relevant planning authority” has the meaning given in the Order;</p> <p>“the River Humber” means so much of the river Humber and the Humber<u>the tidal</u> estuary as is within the UK marine area<u>from its mouth at the Spurn Peninsula to its confluence with the rivers Ouse and Trent;</u></p> <p>“unconsolidated” dredged materials include<u>mean materials including</u> alluvial sand with a diameter of at least 62.5 micrometres and less than two millimetres, alluvial silt with a diameter of at least 31.25 and less than 62.5 micrometres and gravel with a diameter of at least 2 and less than 64 millimetres;</p> <p><u>“undertaker” has the meaning given to “undertaker” in article 2 (interpretation) of the Order;</u></p> <p>“vesselvessels” means every description of vessel or water borne structure, however propelled, or moved or constructed, and includes <u>a</u> displacement and non-displacement craft, <u>a</u> personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over or placement in water and which is at the time in, on, or over water; and</p>	

Immingham Green Energy Terminal
 Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
23.	Schedule 3, Deemed Marine Licence, Part 1 (General), (paragraph 2(4), Contacts)	Reflecting updates to Schedule 3, paragraph 2, concerning definition of "undertaker", reflecting the MMO's preference that it be referred to as "undertaker" rather than "licence holder"	(4) Unless otherwise stated in writing by the MMO, all notifications required by this licence must be sent by the licence holder <u>undertaker</u> to the MMO using MCMS.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
	<p>Schedule 3, Deemed Marine Licence, Part 1 (General), (paragraph (3)(1) and (3)(2)(a)(iv), Licensed marine activities)</p>	<p>Paragraph 1 has been revised to reflect the MMO's preference that it be referred to as "undertaker" rather than "licence holder"</p> <p>Paragraph 2 has been revised to clarify that the supporting jetty topside infrastructure should include shelters (and is also reflected at Paragraph 1(a)(ii) of Schedule 1 (Authorised Project, Part 1 (Authorised Development) of the dDCO).</p>	<p>3. —(1) <u>3. —(1)</u> Subject to the licence conditions in Part 2, this licence authorises the licence holder <u>undertaker</u> to carry out licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act which—</p> <ul style="list-style-type: none"> (a) form part of, or are related to, the authorised development; and (b) are not exempt from requiring a marine licence by virtue of any provision made under section 74 (exemption specified by order) of the 2009 Act. <p>(2) For the purposes of this licence "the authorised development" means the construction, operation and maintenance of a liquid bulk facility on the River Humber comprising—</p> <ul style="list-style-type: none"> (a) within the area shown as Work No.1a on the works plans— <ul style="list-style-type: none"> (i) an open piled approach jetty carrying on its surface a roadway, a footway, pipes, pipework and utilities and lighting, rising from ground level to cross over existing flood defence infrastructure and then extending from the shore in a north easterly direction connecting to a jetty head; (ii) a jetty head comprising structures including loading and unloading platforms with mechanical loading arms, two breasting dolphins with fenders, each with a gangway tower and eight mooring dolphins linked by walkways; (iii) two monopiles located in front of the jetty head or loading platform to provide fendering for smaller vessels; (iv) a jetty head building, a separate refuge building with attached office, water closet and external safety shower, an electrical building, <u>shelters</u>, pump housing and pump canister; (v) a jetty operations building located near the landside end of the jetty to house control room functions including switch room, operations room and welfare facilities; (vi) topside infrastructure installed on the jetty to load and unload vessels including marine loading arms, gangways, pipes, piping, valves and other process equipment, maintenance access roadways and access ramps; (vii) lighting infrastructure, utilities and electrical systems including firewater systems, communication systems and security systems; (viii) piling works and construction operations within the River Humber; 	<p>Revision 2</p>

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO															
24.	Schedule 3. Deemed Marine Licence, Part 1 (General), (paragraphs 4(3) (Licence to dredge and deposit) and paragraphs 5(1) and 5(2), (Details of licensed marine activities))	<p>The paragraphs have been revised to articulate their intended meaning more precisely: they are simply to act, for completeness, as an acknowledgment that the undertaker is already authorised to carry out maintenance dredging within the statutory area for the authorised development without the need for a marine licence, further to exemptions under the Marine and Coastal Access Act 2009 arising from the existing statutory powers of ABP, and to note that arisings from such dredging are governed (as they must be - not being subject to the exemption) by an existing marine licence (L/2014/00429).</p> <p>The paragraphs have also been revised to reflect the MMO's preference that it be referred to as "undertaker" rather than "licence holder".</p>	<p>4. ---(1) Subject to paragraph 5, the licence holder<u>undertaker</u> is permitted to undertake a capital dredge to a depth of 14.5 metres <u>below</u> chart datum (with an allowance for the tolerances of the dredging equipment) of the berth pocket, the grid coordinates for which are specified in paragraph 5(2).</p> <p>(2) The materials dredged may not exceed the approximate quantities and must be deposited at the locations set out in the following table—</p> <table border="1"> <thead> <tr> <th><i>Material</i></th> <th><i>Volume (m3)</i></th> <th><i>Specific gravity</i></th> <th><i>Maximum tonnage (wet tonnes)</i></th> <th><i>Disposal site</i></th> </tr> </thead> <tbody> <tr> <td>Unconsolidated</td> <td>3,900</td> <td>1.35</td> <td>5,265</td> <td>HU060</td> </tr> <tr> <td>Consolidated</td> <td>100</td> <td>2.26</td> <td>226</td> <td>HU056</td> </tr> </tbody> </table> <p>(3) The<u>It is acknowledged that pursuant to section 75 of the 2009 Act the undertaker does not need a marine licence holder is permitted</u> to carry out maintenance dredging within the statutory harbour authority area of the Port of Immingham for the purposes of maintaining the authorised development under section 75 of the 2009 Act<u>and that the disposal of dredged arisings for such maintenance dredging is permitted</u> in accordance with the existing marine licence.</p> <p>(4) Arisings of consolidated and unconsolidated materials from the capital dredge must be deposited at HU056 or HU060.</p> <p>(5) Arisings<u>It is noted that arisings</u> of unconsolidated materials from the maintenance dredge<u>dredging</u> must be deposited at HU060 in accordance with the existing marine licence.</p>	<i>Material</i>	<i>Volume (m3)</i>	<i>Specific gravity</i>	<i>Maximum tonnage (wet tonnes)</i>	<i>Disposal site</i>	Unconsolidated	3,900	1.35	5,265	HU060	Consolidated	100	2.26	226	HU056	Revision 2
<i>Material</i>	<i>Volume (m3)</i>	<i>Specific gravity</i>	<i>Maximum tonnage (wet tonnes)</i>	<i>Disposal site</i>															
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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO																											
			<p>5. ss3 (1) The grid coordinates within the UK marine area within which the license holder <u>undertaker</u> may carry out a licensed activity (save for the capital dredge and disposal of any arisings from such dredge to which paragraph 3(2)(b) refers) are specified below—</p> <table border="1" data-bbox="887 536 1921 815"> <thead> <tr> <th><i>Point reference</i></th> <th><i>Latitude</i></th> <th><i>Longitude</i></th> </tr> </thead> <tbody> <tr><td>1</td><td>53.622880</td><td>-0.169136</td></tr> <tr><td>2</td><td>53.623860</td><td>-0.167200</td></tr> <tr><td>3</td><td>53.627714</td><td>-0.157052</td></tr> <tr><td>4</td><td>53.630360</td><td>-0.155051</td></tr> <tr><td>5</td><td>53.628116</td><td>-0.145503</td></tr> <tr><td>6</td><td>53.624711</td><td>-0.147881</td></tr> <tr><td>7</td><td>53.624489</td><td>-0.153444</td></tr> <tr><td>8</td><td>53.621258</td><td>-0.164738</td></tr> </tbody> </table> <p>(2) No capital dredging may be carried out by the license holder <u>undertaker</u> other than within the area of the River Humber bounded by the grid coordinates specified below and identified as Work No. 1 on sheets 1, 2, 3 and 4 of the works plans—</p>	<i>Point reference</i>	<i>Latitude</i>	<i>Longitude</i>	1	53.622880	-0.169136	2	53.623860	-0.167200	3	53.627714	-0.157052	4	53.630360	-0.155051	5	53.628116	-0.145503	6	53.624711	-0.147881	7	53.624489	-0.153444	8	53.621258	-0.164738	
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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
25.	Schedule 3, Deemed Marine Licence, Part 2 (Conditions applying to all licensable activities), (Paragraph 7, Notifications regarding licenced activities)	<p>The inserted timescale at paragraph 5 reflects the request of the MMO in its relevant representation.</p> <p>The paragraphs have also been revised to reflect the MMO's preference that it be referred to as "undertaker" rather than "licence holder".</p>	<p>7. uuu) (1) The licence holder <u>undertaker</u> must inform the MMO—</p> <ul style="list-style-type: none"> (a) at least five business days prior to the commencement of the first licensed activity; and (b) within five business days following the completion of the final licensed activity, <p>of the commencement or the completion (as applicable).</p> <p>(2) The licence holder <u>undertaker</u> must provide the following information to the MMO—</p> <ul style="list-style-type: none"> (a) the name and function in writing of any agent or contractor or sub-contractor that will carry on any licensed activity on behalf of the licence holder <u>undertaker</u>; and (b) such notification must be received by the MMO in writing not less than 24 hours before the commencement of the licensed activity. <p>(3) The licence holder <u>undertaker</u> must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors, and sub-contractors that will be carrying out any licensed activity on behalf of the licence holder <u>undertaker</u>.</p> <p>(4) The licence holder <u>undertaker</u> must keep a copy of this licence and any subsequent revisions or amendments available for inspection at its registered address and any site office location at or adjacent to a construction site.</p> <p>(5) Any changes to details supplied under sub-paragraph (2) must be notified to the MMO in writing <u>no less than 24 hours</u> prior to the agent, contractor or vessel engaging in the licensed activity in question.</p> <p>(6) Only those persons notified to the MMO in accordance with this condition are permitted to carry out a licensed activity.</p> <p>(7) Copies of this licence must be available for inspection at the following locations—</p> <ul style="list-style-type: none"> (a) the licence holder's <u>undertaker's</u> office at the Port of Immingham; and (b) during the construction of the authorised development only, at any site office which is adjacent to or near the River Humber and which has been provided for the purposes of the construction of the authorised development. <p>(8) The licence holder <u>undertaker</u> must request that the masters responsible for the vessels that will be carrying out any licensed activity on behalf of the licence holder <u>undertaker</u> as notified to the MMO</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
26.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 8(1), Construction environmental management plan)	The deleted text is unnecessary because "outline construction environmental management plan" is defined in paragraph 1 (Interpretation).	8. vvv(1) No licensed activities may be commenced until a construction environmental management plan for them has been submitted to and approved by the MMO following consultation with the relevant planning authority, the Environment Agency and Natural England on matters related to their function; and the submitted construction environmental management plan must be in accordance with the outline construction environmental management plan contained in appendix 2.E of the environmental statement , unless otherwise approved by the MMO.	Revision 2
27.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 9, Sediment sampling)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	9. The licensee holder <u>undertaker</u> must undertake the works in accordance with the sediment sampling plan.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
28.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 10, Agents, contractors and sub-contractors)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>Agents, contractors and sub-contractors</p> <p>10.—www) (1) The licence holder <u>undertaker</u> must notify the MMO in writing of any agents, contractors or sub- contractors that will carry on any licensed activity listed in section 3 of this licence on behalf of the licence holder <u>undertaker</u>. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity.</p> <p>(2) The licence holder <u>undertaker</u> must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors or sub-contractors <u>sub-contractors</u> that will carry on any licensed activity listed in section 3 of this licence on behalf of the licence holder <u>undertaker</u>.</p>	Revision 2
29.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 11, Cold weather construction restriction strategy)	The revised text reflects the request of the MMO in its relevant representation and gives rise to no change in meaning.	<p>11.—xxx) (1) No construction operations for any licensed activity are to commence until a cold weather construction restriction is submitted to and agreed by the MMO in consultation with Natural England. The strategy must include the following—</p> <p>(a) No <u>A provision that no</u> construction operations (other than to finish driving any pile that is in the process of being driven at the point that the cold weather restriction comes into force) within 200 metres of exposed intertidal foreshore may <u>must</u> take place following seven consecutive days of zero or sub zero temperatures (where the temperature does not exceed zero degrees centigrade for more than six hours in any day or any other formula as may be agreed with the MMO to define short periods of thaw);</p> <p>(b) The establishment of three temperature monitoring points within the Humber Estuary;</p> <p>(c) If <u>A provision that if</u> the construction restriction comes into effect as a consequence of cold weather conditions, it will be reviewed as follows—</p> <p>(i) after 24 hours of above freezing temperatures the restriction will be lifted on a temporary basis provided that the weather forecast relevant for the area including the Port of Immingham, (as agreed with the MMO) indicates that freezing conditions will not return within five days; and</p> <p>(ii) after a further five clear days of above-freezing temperatures, the restrictions will be lifted entirely.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
30.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 12, Marine noise registry)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>12.—yyy) (1) Only when impact driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the licence holder<u>undertaker</u> must provide the following information to the Marine Noise Registry—</p> <ul style="list-style-type: none"> (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements; and (b) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the exact locations and specific dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements. <p>(2) The licence holder<u>undertaker</u> must notify the MMO of the successful submission of Forward Look requirements.</p>	Revision 2
31.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 13, Marine written scheme of archaeological investigation)	The revised text reflects the request of the MMO in its relevant representation that this should be amended to "outline marine written scheme of investigation".	<p>13. Archaeological method statements, together with a written report on any consultation carried out with Historic England and the relevant planning authority on matters related to their respective functions in their preparation, must be submitted to and approved by the MMO in writing in accordance with the provisions of the <u>outline</u> marine written scheme of investigation and a subsequent update must be provided to the MMO six weeks before commencement of any licensed activity to which the method statement relates.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
32.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 15(5) and (6), Piling and marine construction works)	The paragraphs have been revised to reflect the MMO's preference that it be referred to as "undertaker" rather than "licence holder".	<p>(5) Wherever possible the licence holder <u>undertaker</u> will use vibro-piling methodology whilst it is recognised that percussive piling may be required to drive the piles to their ultimately required depth.</p> <p>(6) <u>[Subject to sub-paragraph (7)]</u> below, the licence holder <u>undertaker</u> must ensure that no marine construction activity for the approach jetty, linkspan, innermost pontoon and the inner finger pier takes place between 1 October and 31 March inclusive in any year located within 200 metres of the intertidal foreshore.</p>	Revision 2
33.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 9, Sediment sampling)	The paragraphs have been revised in response to comments in the MMO's relevant representation, because sediment sampling is not something with which works must be carried out in accordance but one of the bases on which the deemed marine licence is being granted and must be kept up to date. The detail requested by the MMO for the definitions of "2023 sediment sampling plan" and "further sediment sampling plan" reflects this principle as to what needs to be kept up to date.	<p>Sediment sampling</p> <p>9. The licence holder must undertake the works in accordance with the sediment sampling plan.</p> <p><u>9. (1) Any sediment sampling analyses undertaken by a laboratory validated by the MMO and approved by the MMO as part of either the 2023 sediment sampling plan or any further sediment sampling plan are valid for a period of 3 years from the date when those analyses were undertaken.</u></p> <p><u>(2) Where the validity period for sediment sampling analyses set out in sub-paragraph (1) above expires, the undertaker must submit a further sediment sampling plan request to the MMO for its approval and any sediment sampling analyses from such further sediment sampling plan must be submitted to the MMO.</u></p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
34.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 18, Coatings and treatment)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	18. The licence holder <u>undertaker</u> must ensure that any coatings and any treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by the Health and Safety Executive and the Environment Agency.	Revision 2
35.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 19(4), Pollution and spills)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	(4) The licence holder <u>undertaker</u> must comply with the existing marine pollution contingency plan in place for the Port of Immingham as detailed in the construction environmental management plan.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
36.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 20, Disposal at sea)	<p>The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".</p> <p>Sub-paragraphs (2) to (4) have been deleted and the appropriate approach to sediment sampling reflected in a revised paragraph 9 (as summarised above).</p>	<p>20.—bbb(1) The licence holder/undertaker must inform the MMO of the location and quantities of material deposited each month under the licence. This information must be submitted to the MMO by 15 February each year for the months August to January inclusive and by 15 August each year for the months February to July inclusive.</p> <p>(2) The licence holder/undertaker must ensure that only inert material of natural origin produced during dredging must be deposited in the disposal sites—</p> <p>(a) HU060 (unconsolidated); and</p> <p>(b) HU056 (consolidated),</p> <p>or any other site approved in writing by the MMO.</p> <p>(2) Where dredged materials arising from a capital dredging activity are intended to be disposed of at sea by the licence holder, the licence holder must undertake such disposal in accordance with the sediment sampling plan or any amendments to it as may be approved by the MMO.</p> <p>(3) Any sediment sampling analyses undertaken by a laboratory validated by the MMO and approved by the MMO as part of any sampling plan is valid for a period of 3 years from the date when those analyses were undertaken.</p> <p>(4) Where the validity period for sediment sampling analyses as set out in sub paragraph (1) above, the licence holder must submit a further sediment sampling plan to the MMO for its approval and such plan must include—</p> <p>(a) a detailed dredging methodology;</p> <p>(b) dredge location;</p> <p>(c) dredge amounts (total and annual, if applicable);</p> <p>(d) dredge depths;</p> <p>(e) duration of dredging activities;</p> <p>(f) whether the dredge is a capital dredging activity or a maintenance dredging activity; and</p> <p>(g) specific gravity of the material or material type.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
37.	Schedule 3, Deemed Marine Licence, Part 2, Conditions applying to all licensable activities, (paragraph 21, Dropped objects)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>21. eeee (1) The licence holder <u>undertaker</u> must report all dropped objects to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of becoming aware of an incident.</p> <p>(2) On receipt of the Dropped Object Procedure Form, the MMO may require, acting reasonably, the licence holder <u>undertaker</u> to carry out relevant surveys. The licence holder <u>undertaker</u> must carry out surveys in accordance with the MMO's reasonable requirements and must report the results of such surveys to the MMO.</p> <p>(3) On receipt of such survey results the MMO may, acting reasonably, require the licence holder <u>undertaker</u> to remove specific obstructions from the seabed. The licence holder <u>undertaker</u> must carry out removals of the specific obstructions from the seabed in accordance with the MMO's reasonable requirements and its own expense.</p>	Revision 2
38.	Schedule 3, Deemed Marine Licence, Part 3, Procedure for the Discharge of Conditions, (paragraph 23, Meaning of "application")	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>23. In this Part, "application" means a submission by the licence holder <u>undertaker</u> for approval by or agreement of the MMO in respect of any document, strategy, information, plan, protocol or statement under this Schedule.</p>	Revision 2
39.	Schedule 3, Deemed Marine Licence, Part 3, Procedure for the Discharge of Conditions, (paragraph 24, Further information)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>24. The MMO may request in writing such further information from the licence holder <u>undertaker</u> as is necessary to enable the MMO to consider an application.</p>	Revision 2

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	regarding application)			
40.	Schedule 3, Deemed Marine Licence, Part 3, Procedure for the Discharge of Conditions, (paragraph 25(1), Determination of application)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>25.—eeee (1) In determining the application the MMO may have regard to—</p> <ul style="list-style-type: none"> (a) the application and any supporting information or documentation; (b) any further information provided by the license holder<u>undertaker</u>; and (c) such other matters as the MMO thinks relevant. 	Revision 2
41.	Schedule 3, Deemed Marine Licence, Part 3, Procedure for the Discharge of Conditions, (paragraph 26, Notice of determination)	The paragraph has been revised to reflect the MMO's preference that a global change be made that "licence holder" be referred to as the "undertaker".	<p>26.—fff (1) Subject to sub-paragraph (2) or (3), the MMO must give notice to the license holder<u>undertaker</u> of the determination of the application as soon as reasonably practicable after the application is received by the MMO.</p> <p>(2) Where the MMO has made a request under paragraph 24 the MMO must give notice to the license holder<u>undertaker</u> of the determination of the application as soon as reasonably practicable once the further information is received.</p> <p>(3) Where the MMO refuses the application the refusal notice must state the reasons for the refusal.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
42.	Schedule 11, Modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants (paragraph 2(3) and (4))	Correcting minor typographical error of paragraph numbering.	<p>(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 43(5)—</p> <p>(a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and</p> <p>(b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.</p> <p>(3) 3. — hhhh) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).</p> <p>(4) (1) For Section 5A (relevant valuation date) of the 1961 Act, omit the words after “If” and substitute—</p> <p>(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 43(7) of Schedule 11 to the Associated British Ports (Immingham Green Energy Terminal) Order 202*);</p> <p>(b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 43(10) of Schedule 11 to the Associated British Ports (Immingham Green Energy Terminal) Order 202* to acquire an interest in the land; and</p> <p>(c) the acquiring authority enters on and takes possession of that land,</p> <p>the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right .</p>	Revision 2
43.	Schedule 14, Protective Provisions, Part 1, For the Protection of the Statutory Conservancy and Navigation	All amendments have been made at the request of the Statutory Conservancy and Navigation Authority.	<p>PART 1</p> <p>FOR THE PROTECTION OF THE HUMBER STATUTORY CONSERVANCY COMMISSIONERS AND NAVIGATION AUTHORITY FOR THE HUMBER</p>	Revision 2

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	Authority for the Humber		<p>“authorised works” means any work, operation or activity that the Undertaker is authorised by this Order to construct or carry out;</p> <p>“the authority” means the Humber Conservancy Commissioners including in its role as competent harbour authority and local lighthouse authority and also as the appropriate Port of Immingham Statutory Harbour Authority also in its capacity as local lighthouse authority for its statutory area;</p> <p>“environmental document” means—</p> <p>(a) the environment statement prepared for the purposes of the application for this Order together with any supplementary environmental information or other document so prepared by way of clarification or amplification of the environmental statement; and</p> <p>(b) any other document containing environmental information provided by the undertaker to the Secretary of State or the authority<u>Statutory Conservancy and Navigation Authority</u> or Trinity House for the purposes of any tidal works approval under article 49 (provision against danger to navigation), article 50 (lights on tidal works during construction) or article 51 (permanent lights on tidal works); and</p> <p>“the river” means the River Humber;<u>;</u></p> <p>General</p> <p>2. —(iii)(1)<u>(1)</u> The provisions of this Part of this Schedule, unless otherwise agreed in writing between the undertaker and the authority<u>Statutory Conservancy and Navigation Authority</u>, have effect <u>until the commencement of the operation of the authorised development</u>, for the protection of the authority<u>Statutory Conservancy and Navigation Authority</u> and the users of the river.</p> <p>(2) For the purposes of this Part of this Schedule, the definition of “tidal work” is taken to include—</p> <p>(a) any projection over the river outside the area of jurisdiction by booms, cranes and similar plant or machinery, whether or not situated within the area of jurisdiction; and</p> <p>(b) any authorised work which affects the river or any functions of the authority<u>Statutory Conservancy and Navigation Authority</u>, whether or not that authorised work is within the limits of the authority<u>Statutory Conservancy and Navigation Authority</u>.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Approval of detailed design of tidal works</p> <p>3. — kkk (1) Prior to the commencement of the authorised development in the marine environment the undertaker must submit to the authority-plans <u>Statutory Conservancy and Navigation Authority plans (including method statements)</u> and sections of the tidal works or operation and such further particulars as the authority <u>Statutory Conservancy and Navigation Authority</u> may, within 28 days from the day on which plans and sections are submitted under this sub-paragraph, reasonably require.</p> <p>(2) Any approval of the authority <u>Statutory Conservancy and Navigation Authority</u> required under this paragraph is deemed to have been given if it is neither given nor refused (or is refused but without an indication of the grounds for refusal) within 28 days of the day on which the request for consent is submitted under sub-paragraph (1) and must not be unreasonably withheld but may be given subject to such reasonable requirements as the authority <u>Statutory Conservancy and Navigation Authority</u> may make for the protection of—</p> <ul style="list-style-type: none"> (a) traffic in, or the flow or regime of, the river; (b) the use of its operational land or the river for the purposes of performing its functions; or (c) the performance of any of its functions connected with environmental protection. <p>(3) Requirements made under sub-paragraph (2) may include conditions as to—</p> <ul style="list-style-type: none"> (a) the relocation, provision and maintenance of works, moorings, apparatus and equipment necessitated by the tidal work; and (b) the expiry of the approval if the undertaker does not commence construction of the tidal work approved within a prescribed period. <p>(4) Whenever the undertaker provides the Secretary of State with an environmental document it must at the same time send a copy to the authority <u>Statutory Conservancy and Navigation Authority</u>.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Commencement of tidal works</p> <p>4. Any operations for the construction of any tidal work approved in accordance with this Order, once commenced, must be carried out by the undertaker without unnecessary delay and to the reasonable satisfaction of the authority<u>Statutory Conservancy and Navigation Authority</u> so that river traffic, the flow or regime of the river and the exercise of the authority's<u>Statutory Conservancy and Navigation Authority's</u> functions do not suffer more interference than is reasonably practicable, and an authorised officer of the authority<u>Statutory Conservancy and Navigation Authority</u> is entitled at all reasonable times, on giving such notice as may be reasonable in the circumstances, to inspect and survey such operations.</p> <p>Discharges, etc.</p> <p>5. —(1)<u>(1)</u> The undertaker must not without the Consent of the authority<u>Statutory Conservancy and Navigation Authority</u> —</p> <ul style="list-style-type: none"> (a) deposit in or allow to fall or be washed into the river any gravel, soil or other material; or (b) discharge or allow to escape either directly or indirectly into the river any offensive or injurious matter in suspension or otherwise. <p>(2) Any consent of the authority<u>Statutory Conservancy and Navigation Authority</u> under this paragraph must not be unreasonably withheld but may be given subject to such terms and conditions as the authority<u>Statutory Conservancy and Navigation Authority</u> may reasonably impose.</p> <p>(3) Any such approval is deemed to have been given if it is neither given nor refused (or is refused but without an indication of the grounds for refusal) within 28 days of the day on which the request for consent is submitted under sub-paragraph (1).</p> <p>(4) In its application to the discharge of water into the river, article 18 (discharge of water) has effect subject to the terms of any conditions attached to a consent given under this paragraph.</p> <p>(5) The undertaker must not, in exercise of the powers conferred by article 18 (discharge of water), damage or interfere with the beds or banks of any watercourse forming part of the river unless such damage or interference is approved as a tidal work under this Order or is otherwise approved in writing by the authority<u>Statutory Conservancy and Navigation Authority</u>.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Obstruction in river</p> <p>6. If any pile, stump or other obstruction to navigation becomes exposed in the course of constructing any tidal work (other than a pile, stump or other obstruction on the site of a structure comprised in any permanent work), the undertaker, as soon as reasonably practicable after the receipt of notice in writing from the authority<u>Statutory Conservancy and Navigation Authority</u> requiring such action, must remove it from the river or, if it is not reasonably practicable to remove it—</p> <ul style="list-style-type: none"> (a) cut the obstruction off at such level below the bed of the river as the authority<u>Statutory Conservancy and Navigation Authority</u> may reasonably direct; or (b) take such other steps to make the obstruction safe as the authority<u>Statutory Conservancy and Navigation Authority</u> may reasonably require. <p>Removal, etc. of the authority's<u>Statutory Conservancy and Navigation Authority's</u> moorings and buoys</p> <p>7. If—</p> <ul style="list-style-type: none"> (a) by reason of the construction of any tidal work it is reasonably necessary for the authority<u>Statutory Conservancy and Navigation Authority</u> to incur reasonable costs in temporarily or permanently altering, removing, resiting, repositioning or reinstating existing moorings or aids to navigation (including navigation marks or lights) owned by the authority<u>Statutory Conservancy and Navigation Authority</u>, or laying down and removing substituted moorings or buoys, or carrying out dredging operations for any such purpose, not being costs which it would have incurred for any other reason; and (b) the authority<u>Statutory Conservancy and Navigation Authority</u> gives to the undertaker not less than 28 days' notice of its intention to incur such costs, and takes into account any representations which the undertaker may make in response to the notice within 14 days of the receipt of the notice, <p>the undertaker must pay the costs reasonably so incurred by the authority<u>Statutory Conservancy and Navigation Authority</u>.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Navigational lights, buoys, etc.</p> <p>8. In addition to any requirement set out in articles 50 (lights on tidal works during construction) and 51 (permanent light on tidal works) the undertaker, at or near every tidal work, and any other work of which the undertaker is in possession in exercise of any of the powers conferred by this Order (being in either case a work which is below mean high water level forming part of the River Humber), must exhibit such lights, lay down such buoys and take such other steps for preventing danger to navigation as the authority<u>Statutory Conservancy and Navigation Authority</u> may from time to time reasonably require.</p> <p>Removal of temporary works</p> <p>9. On completion of the construction of any part of a permanent authorised work, the undertaker must as soon as practicable remove—</p> <ul style="list-style-type: none"> (a) any temporary tidal work carried out only for the purposes of that part of the permanent work; and (b) any materials, plant and equipment used for such construction, <p>and must make good the site to the reasonable satisfaction of the authority<u>Statutory Conservancy and Navigation Authority</u>.</p>	

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			<p>Protective action</p> <p>10. mmmm <u>(1)</u> If any tidal work—</p> <ul style="list-style-type: none"> (a) is constructed otherwise than in accordance with the requirements of this Part of this Schedule or with any condition in an approval given pursuant to paragraph (3) (approval of detailed design of tidal works) or (b) during construction gives rise to sedimentation, scouring, currents or wave action detrimental to traffic in, or the flow or regime of, the river, <p>then the authority <u>Statutory Conservancy and Navigation Authority</u> may by notice in writing require the undertaker at the undertaker's own expense to comply with the remedial requirements specified in the notice.</p> <p>(2) The requirements that may be specified in a notice given under sub-paragraph (1) are—</p> <ul style="list-style-type: none"> (a) in the case of a tidal work to which sub-paragraph (1)(a) applies, such requirements as may be specified in the notice for the purpose of giving effect to the requirements of— <ul style="list-style-type: none"> (i) this Part of this Schedule; or (ii) the condition that has been breached; or (b) in any case within sub-paragraph (1)(b), such requirements as may be specified in the notice for the purpose of preventing, mitigating or making good the sedimentation, scouring, currents or wave action so far as required by the needs of traffic in, or the flow or regime of, the river. <p>(3) If the undertaker does not comply with a notice under sub-paragraph (1), or is unable to do so, the authority <u>Statutory Conservancy and Navigation Authority</u> may in writing require the undertaker to—</p> <ul style="list-style-type: none"> (a) remove, alter or pull down the tidal work, and where the tidal work is removed to restore the site of that work (to such extent as the authority <u>Statutory Conservancy and Navigation Authority</u> reasonably requires) to its former condition; or 	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>(b) take such other action as the authority<u>Statutory Conservancy and Navigation Authority</u> may reasonably specify for the purpose of remedying the non-compliance to which the notice relates.</p> <p>(4) If a tidal work gives rise to environmental impacts over and above those anticipated by any environmental document, the undertaker, in compliance with its duties under any enactment and, in particular, under section 48A of the Harbours Act 1964(a), must take such action as is necessary to prevent or mitigate those environmental impacts and in doing so must consult and seek to agree the necessary measures with the authority<u>Statutory Conservancy and Navigation Authority</u>.</p> <p>(5) If the authority<u>Statutory Conservancy and Navigation Authority</u> becomes aware that any tidal work is causing an environmental impact over and above those anticipated by any environmental document, the authority<u>Statutory Conservancy and Navigation Authority</u> must notify the undertaker of that environmental impact, the reasons why the authority<u>Statutory Conservancy and Navigation Authority</u> believes that the environmental impact is being caused by the tidal work and of measures that the authority<u>Statutory Conservancy and Navigation Authority</u> reasonably believes are necessary to counter or mitigate that environmental impact.</p> <p>(6) The undertaker must implement the measures that the authority<u>Statutory Conservancy and Navigation Authority</u> has notified to the undertaker or must implement such other measures as the undertaker believes are necessary to counter the environmental impact identified, giving reasons to the authority<u>Statutory Conservancy and Navigation Authority</u> as to why it has implemented such other measures.</p>	

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			<p>Abandoned or decayed works</p> <p>11.—(1) (1) If any tidal work or any other work of which the undertaker is in possession in exercise of any of the powers conferred by this Order (being in either case a work which is below mean high water level) is abandoned or falls into decay, the authority <u>Statutory Conservancy and Navigation Authority</u> may by notice in writing require the undertaker to take such reasonable steps as may be specified in the notice either to repair or restore the work, or any part of it, or to remove the work and (to such extent as the authority <u>Statutory Conservancy and Navigation Authority</u> reasonably requires) to restore the site to its former condition.</p> <p>(2) If any tidal work is in such condition that it is, or is likely to become, a danger to or an interference with navigation in the river, the authority <u>Statutory Conservancy and Navigation Authority</u> may by notice in writing require the undertaker to take such reasonable steps as may be specified in the notice—</p> <p>(a) to repair and restore the work or part of it; or</p> <p>(b) if the undertaker so elects, to remove the tidal work and (to such extent as the authority <u>Statutory Conservancy and Navigation Authority</u> reasonably requires) to restore the site to its former condition.</p> <p>(3) If after such reasonable period as may be specified in a notice under this paragraph the undertaker has failed to begin taking steps to comply with the requirements of the notice, or after beginning has failed to make reasonably expeditious progress towards their implementation, the authority <u>Statutory Conservancy and Navigation Authority</u> may carry out the works specified in the notice and any expenditure reasonably incurred by it in so doing is recoverable from the undertaker.</p> <p>Facilities for navigation</p> <p>12.—(1) (1) The undertaker must not in the exercise of the powers conferred by this Order interfere with any marks, lights or other navigational aids in the river without the agreement of the authority <u>Statutory Conservancy and Navigation Authority</u> and must ensure that access to such aids remains available during and following construction of any tidal works.</p> <p>(2) The undertaker must provide at any tidal works, or must afford reasonable facilities at such works (including an electricity supply) for the authority <u>Statutory Conservancy and Navigation Authority</u> to provide at the undertaker's cost, from time to time, such navigational lights, signals, radar or other apparatus for the benefit, control and direction of navigation of users of the river in general as the authority <u>Statutory Conservancy and Navigation Authority</u> may deem necessary by reason of the construction of any tidal works, and must ensure that access remains available to apparatus during and following construction of such works.</p>	

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			<p>Sedimentation, etc. and remedial action</p> <p>13.—pppp (1) This paragraph applies if any part of the river becomes subject to sedimentation, scouring, currents or wave action which—</p> <ul style="list-style-type: none"> (a) is, during the period beginning with the commencement of the construction of that tidal work and ending with the expiration of 10 years after the date on which all the tidal works constructed under this Order are completed, wholly or partly caused by a tidal work; and (b) the safety of navigation or for the protection of works in the river, should in the reasonable opinion of the authority <u>Statutory Conservancy and Navigation Authority</u> be removed or made good. <p>(2) The undertaker must either—</p> <ul style="list-style-type: none"> (a) pay to the authority <u>Statutory Conservancy and Navigation Authority</u> any additional expense to which the authority <u>Statutory Conservancy and Navigation Authority</u> may reasonably be put in dredging the river to remove the sedimentation or in making good the scouring so far as (in either case) it is attributable to the tidal work; or (b) carry out the necessary dredging at its own expense and subject to the prior approval of the authority <u>Statutory Conservancy and Navigation Authority</u>, such prior approval not to be unreasonably withheld or delayed; <p>and the reasonable expenses payable by the undertaker under this paragraph include any additional expenses accrued or incurred by the authority <u>Statutory Conservancy and Navigation Authority</u> in carrying out surveys or studies in connection with the implementation of this paragraph.</p>	

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			<p>Indemnity</p> <p>14. (1) <u>(1)</u> The undertaker is responsible for and must make good to the authority<u>Statutory Conservancy and Navigation Authority</u> all reasonable financial costs or losses not otherwise provided for in this Part of this Schedule which may reasonably be incurred or suffered by the authority<u>Statutory Conservancy and Navigation Authority</u> by reason of—</p> <ul style="list-style-type: none"> (a) the construction or operation of the authorised works or the failure of the authorised works; (b) anything done in relation to a mooring or buoy under paragraph 8 (navigational lights, buoys, etc.); or (c) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction or operation of the authorised works or dealing with any failure of the authorised works, <p>and the undertaker must indemnify the authority<u>Statutory Conservancy and Navigation Authority</u> from and against all claims and demands arising out of or in connection with the authorised works or any such failure, act or omission.</p> <p>(2) The fact that any act or thing may have been done—</p> <ul style="list-style-type: none"> (a) by the authority<u>Statutory Conservancy and Navigation Authority</u> on behalf of the undertaker; or (b) by the undertaker, its employees, contractors or agents in accordance with plans or particulars submitted to or modifications or conditions specified by the authority<u>Statutory Conservancy and Navigation Authority</u>, or in a manner approved by the authority<u>Statutory Conservancy and Navigation Authority</u>, or under its supervision or the supervision of its duly authorised representative, <p>does not (if it was done or required without negligence on the part of the authority<u>Statutory Conservancy and Navigation Authority</u> or its duly authorised representative, employee, contractor or agent) excuse the undertaker from liability under the provisions of this paragraph.</p> <p>(3) The authority<u>Statutory Conservancy and Navigation Authority</u> must give the undertaker reasonable notice of any such claim or demand as is referred to in sub-paragraph (1), and no settlement or compromise of any such claim or demand is to be made without the prior consent of the undertaker.</p>	

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			<p>Statutory functions</p> <p>15. 15.—(1) (1) Subject to the modification of any enactments in this Order and this paragraph, any function of the undertaker or any officer of the undertaker, whether conferred by or under this Order or any other enactment, is subject to—</p> <ul style="list-style-type: none"> (a) any enactment relating to the authority <u>Statutory Conservancy and Navigation Authority</u>; (b) any byelaw, direction or other requirement made by the authority <u>Statutory Conservancy and Navigation Authority</u> or the harbour master under any enactment; and any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction or operation of the authorised works or dealing with any failure of the authorised works, (c) any other exercise by the authority <u>Statutory Conservancy and Navigation Authority</u> or the harbour master of any function conferred by or under any enactment. <p>(2) The undertaker must not take any action in the river outside the area of jurisdiction under sections 57 and 65 of the 1847 Act as incorporated by article 4 (incorporation of the Act of 1847) except with the consent of the harbour master, which must not be unreasonably withheld.</p> <p>(3) The dock master must not give or enforce any special direction to any vessel under section 52 of the 1847 Act, as incorporated by article 4 (incorporation of the Act of 1847), if to do so would conflict with a special direction given to the same vessel by the harbour master.</p> <p>(4) the authority <u>Statutory Conservancy and Navigation Authority</u> must consult the undertaker before making any byelaw which directly applies to or which could directly affect the construction, operation or maintenance of the authorised development.</p> <p>(5) the authority <u>Statutory Conservancy and Navigation Authority</u> or the harbour master (as appropriate) must consult the undertaker before giving any general direction which directly affects the construction, operation or maintenance of the authorised development.</p> <p>Removal of wrecks and obstructions, etc. and oil spillage plan</p> <p>17. The undertaker must consult the harbour master before submitting any oil pollution emergency plan to the Maritime and Coastguard Agency and must ensure that any such plan is compatible with the authority's <u>Statutory Conservancy and Navigation Authority's</u> existing plan known as "Humber Clean" or such other plan as supersedes "Humber Clean".</p> <p>Disputes</p> <p>18. Any dispute arising between the undertaker and the authority under this Part of this Schedule is to be determined by arbitration as provided in article 62 (arbitration).</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
44.	Schedule 14, Protective Provisions, Part 3, For the protection of Northern Powergrid, (paragraph 35, Damages to property and other losses)	On submission of the dDCO the applicant was aware of a number of existing wayleaves and licences between ABP and Northern Powergrid (or their predecessors) and wished to regulate their interaction with the protective provisions (i.e. ensure that the protective provisions take precedence in the usual manner). The wayleaves and licences have now been identified and inserted. The applicant continues discussion with Northern Powergrid of the protective provisions in its favour.	<p>34.35. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Northern Powergrid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of [Company and Northern Powergrid identifying list of relevant existing agreements]—</p> <p>(a) the wayleave between (1) Lord Worsley and (2) Yorkshire Electricity Board entered into on or around 1966;</p> <p>(b) the wayleave between (1) The Right Honourable Kenneth Peter Lyle Fourth Earl of Inchape and (2) Northern Powergrid dated 26 May 2016;</p> <p>(c) the licence between (1) British Transport Docks Board and (2) Yorkshire Electricity Board dated 27 November 1973;</p> <p>(d) the licence between (1) British Transport Commission and (2) Yorkshire Electricity Board dated 16 October 1962;</p> <p>(e) the licence between (1) Lord Worsley and (2) Yorkshire Electricity Board dated 19 July 1962;</p> <p>(f) the licence between (1) Lord Worsley and (2) Yorkshire Electricity Board dated 25 October 1957; and</p> <p>(g) the licence between (1) British Transport Docks Board and (2) Yorkshire Electricity Board dated 14 May 1965.</p> <p>the term of this Part of this Schedule applies.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
45.	Schedule 14, Protective Provisions, Part 4, For the Protection of Anglian Water, (paragraph 50)	On submission of the dDCO the applicant was aware of a number of existing licences between ABP and Anglian Water (or their predecessors) and wished to regulate their interaction with the protective provisions. The licences have now been identified and inserted (i.e. ensure that the protective provisions take precedence in the usual manner). The applicant continues discussion with Anglian Water of the protective provisions in its favour.	<p>49.50. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of {Company and Anglian Water identifying list of relevant existing agreements} =</p> <p>(a) the licence between (1) Humber Conservancy Board and (2) Grimsby Rural District Council dated 1 July 1920;</p> <p>(b) the licence between (1) British Transport Docks Board and (2) Grimsby Rural District Council dated 28 March 1969; and</p> <p>(c) the licence between (1) British Transport Docks Board and (2) North East Lincolnshire Water Board dated 18 May 1970.</p> <p>the term of this Part of this Schedule applies.</p>	Revision 2
46.	Schedule 14, Protective Provisions, Part 7, for the Protection of Cadent Gas Limited as Gas Undertaker, (paragraph 92, Enactments and Agreements)	On submission of the dDCO the applicant was aware of a number of existing deeds of easement between ABP and Cadent (or their predecessors) and wished to regulate their interaction with the protective provisions (i.e. ensure that the protective provisions take precedence in the usual manner). The licences have now been identified and inserted. The applicant continues discussion with	<p>91.92. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of {Company and Cadent identifying list of relevant existing agreements} =</p> <p>(a) the deed of easement between (1) Mr G.M.V. Winn and others (2) and The British Gas Corporation dated 25 April 1975; and</p> <p>(b) the deed of easement between (1) Mr G.M.V. Winn and others (2) and The British Gas Corporation dated 6 May 1980.</p> <p>the term of this Part of this Schedule applies.</p>	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		Cadent of the protective provisions in its favour.		
47.	Schedule 14, Protective Provisions, Part 8, For the Protection of Operators of Electronic Communications Code Networks, (paragraph 103)	On submission of the dDCO the applicant was aware of a wayleave related to telecommunications apparatus and wished to regulate its interaction with the protective provisions in favour of telecoms operators (i.e. ensure that the protective provisions take precedence in the usual manner). The wayleave has now been identified and inserted.	102.103. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of the wayleave between (1) The London and North Eastern Railway Company and operators identifying list of relevant existing agreements <u>(2) Her Majesty's Postmaster General dated 24 May 1933</u> , the term of this Part of this Schedule applies.	Revision 2

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
48.	Schedule 17, Procedure regarding certain approvals, etc., (paragraph 1, Interpretation)	The definition of “requirement consultee” has been amended to reflect that consultees being consulted by any “relevant authority” in this Schedule, including in respect of conditions as well as requirements, benefit from its provisions and not just those consultees consulted by the “relevant planning authority”.	<p>1. In this Schedule—</p> <p>“appeal documentation” means a written statement of appeal which describes the nature of the differences between the parties, the factual issues, the undertaker’s case and evidence relied on;</p> <p>“relevant authority” means any person, authority or body named in any of the provisions of this Order and whose consent, agreement or approval is sought; and</p> <p>“requirement consultee” means any body or authority named in a requirement <u>or condition</u> as a body to be consulted by the relevant planning authority in discharging that requirement <u>or condition</u>.</p>	Revision 2
49.	Schedule 17, Procedure regarding certain approvals, etc., (paragraph 3(3), Further information and consultation)	The period of 10 business days for the relevant decision-making authority to pass on additional requests for information to the applicant arising from requirement consultee representations has been extended to 20 at the request of the Environment Agency.	<p>(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within five business days of receipt of the application, and must notify the undertaker in writing specifying any additional further information requested by the requirement consultee within 10<u>20</u> business days of receipt of the application.</p>	Revision 2

3 Schedule of Changes as updated at Deadline 1 (13 March 2024)

Table 2: Schedule of Changes to Revision 3 of the dDCO [REP1-016]

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Definition of “the Order land”	Additional clarity that all land in the definition is shown on the land plans and described in the book of reference.	“the Order land” means the land shown shaded pink, blue, green and purple and shown shaded and hatched blue (<u>in each case</u>) on the land plans and described in the book of reference;	Revision 3
2.	Definition of “Trinity House”	Request of Trinity House.	“Trinity House” means the Corporation of Trinity House <u>of Deptford Street</u> Strond ;	Revision 3
3.	Article 3 heading	Request of Examining Authority in First Round Written Question Q1.18.3.1 [PD-008] because the provision only provides for disapplication.	Application, disapplication and modification <u>Disapplication</u> of legislative provisions	Revision 3
4.	Article 4, Incorporation of the 1847 Act, (paragraph (2)(i))	To be clearer that the first reference to “harbour master” is to its references in the 1847 Act but assist the reader in knowing exactly where to find the provision’s later references to “dock master” and “harbour master” in the dDCO. No substantive change.	(i) any requirement to comply with a notice or direction given by the harbour master is to be construed as including a requirement that, in complying with such notice or direction, a person who is subject to the notice or direction must also comply with any relevant notice or direction given by the dock master or the harbour master (which both have the meaning given in <u>article 2(1) of this Order</u>) in the exercise by either or both of them of any function conferred by or under any enactment (including this Order).	Revision 3
5.	Article 31, Temporary use of land for	Amendment for precision, as more particularly explained in the response to First Round	(f) construct any works on the land referred to in sub-paragraph (a) <u>(a)(ii)</u> as are mentioned in Schedule 1 (authorised project); and	Revision 3

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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
	constructing the authorised project, (paragraph (1)(f))	Written Question Q1.18.3.11 [PD-008].		
6.	Article 46 (Benefit of Order), paragraph (4)	Correction of typographical error to reflect the actual defined term in article 2 (Interpretation).	(4) Air Products has the benefit of the provisions to which paragraph (3) refers solely so far as they relate to the land shown as plots 3/2, 4/5, 4/7, 4/8, 4/9, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/26, 4/28, 4/29, 4/30, 4/32, 5/3, 5/4, 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/18, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/36, 5/37, 5/38, 5/39, 6/6, 6/14, 6/15, 6/16, 6/18, 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 and 7/23 on the land plans and described in the book of reference and (where applicable) on the terms of those provisions) land outside the Order Limits limits, except (in each aforementioned case) in respect of any interests of the Company.	Revision 3
7.	Article 49 (Provision against danger to navigation)	Request of Trinity House to reflect that its directions must also be complied with, as general lighthouse authority.	49. In case of damage to, or destruction or decay of, a tidal work or any part of it, the undertaker must as soon as reasonably practicable notify Trinity House, the statutory harbour authority and the Statutory Conservancy and Navigation Authority (as relevant) and must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House, and the statutory harbour authority or Statutory Conservancy and Navigation Authority (as relevant) may from time to time direct.	Revision 3
8.	Article 50 (Lights on tidal works during construction)	Request of Trinity House to reflect that its directions must also be complied with, as general lighthouse authority.	during the whole time of their construction, alteration, replacement or extension, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House, and the statutory harbour authority or Statutory Conservancy and Navigation Authority (as relevant) may from time to time direct.	Revision 3
9.	Article 51 (Permanent light on tidal works)	Request of Trinity House to reflect that its directions must also be complied with, as general lighthouse authority.	51. After a completion of a tidal work, the undertaker must at the outer extremity of the tidal work exhibit every night from sunset to sunrise such lights, if any, and take such steps for the prevention of danger to navigation as Trinity House, and the statutory harbour authority or Statutory Conservancy and Navigation Authority (as relevant) may from time to time direct.	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
10.	Schedule 2, paragraph 1 (Interpretation), definition of "commence"	Clarification that the definition of "commence" is to be read in respect of parts of the authorised project as well as the whole. Removal of archaeological investigations which have already occurred. Exclusion of Work No. 9 from receipt and erection of construction plant and equipment and erection of temporary contractor and site welfare facilities to ensure it is clear that no significant environmental effects will arise from these limited operations which would facilitate site set up. See paragraphs 12.4.1 – 12.4.3 of the Explanatory Memorandum [TR030008/EXAM/9.3].	"commence" means beginning to carry out any material operation (as defined in section 155 (when development begins) of the 2008 Act) forming part of the authorised project <u>or the relevant part of it (in each case as specified where the term "commence" is used in this Schedule)</u> other than operations consisting of site clearance (excluding the clearance of trees or other vegetation from Long Strip), demolition work, archaeological investigations , environmental surveys and monitoring, investigations for the purposes of assessing ground and geological conditions, remedial work in respect of any contamination or other adverse ground conditions, the receipt and erection of construction plant and equipment <u>(excluding in relation to Work No. 9)</u> , the erection of temporary contractor and site welfare facilities <u>(excluding in relation to Work No. 9)</u> , the diversion, laying and connection of services, the erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "commencement" and "commenced" are to be construed accordingly;	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
11.	Schedule 3, Deemed Marine Licence, (paragraph 11)	Clarification that the cold weather construction restriction document is a "strategy" and at paragraph 11(2) that it must be complied with. Correction in paragraph 11(1)(a) with the common formulation for a restriction that no activity may occur in the specified circumstances. It is unarguable that the wording amounts to a restriction.	<p>11.—(1) No construction operations for any licensed activity are to commence until a cold weather construction restriction <u>strategy</u> is submitted to and agreed by the MMO in consultation with Natural England. The strategy must include the following—</p> <ul style="list-style-type: none"> (a) A provision that no construction operations (other than to finish driving any pile that is in the process of being driven at the point that the cold weather restriction comes into force) within 200 metres of exposed intertidal foreshore <u>must may</u> take place following seven consecutive days of zero or sub zero temperatures (where the temperature does not exceed zero degrees centigrade for more than six hours in any day or any other formula as may be agreed with the MMO to define short periods of thaw); (b) The establishment of three temperature monitoring points within the Humber Estuary; (c) A provision that if the construction restriction comes into effect as a consequence of cold weather conditions, it will be reviewed as follows— <ul style="list-style-type: none"> (i) after 24 hours of above freezing temperatures the restriction will be lifted on a temporary basis provided that the weather forecast relevant for the area including the Port of Immingham, (as agreed with the MMO) indicates that freezing conditions will not return within five days; and (ii) after a further five clear days of above-freezing temperatures, the restrictions will be lifted entirely. <p><u>(2) All licensed activities must be carried out in accordance with the cold weather construction restriction strategy approved pursuant to sub-paragraph (1), unless otherwise approved by the MMO.</u></p>	Revision 3
12.	Schedule 3, Deemed Marine Licence, (paragraph 15(6))	Amendment to the wording to capture an error in the description of the structures and refinement of wording to include decommissioning phase and provide explicit wording that mitigation is relevant to exposed intertidal only.	<p>(6) [Subject to sub-paragraph (7) below, the undertaker must ensure that no <u>marine</u> construction activity for the approach jetty, <u>linkspan, innermost pontoon and the inner finger pier</u> or decommissioning of topsides takes place between 1 October and 31 March inclusive in any year located within 200 metres of the <u>exposed</u> intertidal foreshore.]</p>	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
13.	Schedule 3, Deemed Marine Licence, (paragraph 15(7))	Amendment to the wording to include decommissioning. This was a result of questions from the examining authority during the issue specific hearings.	(7) During the restricted period between 1 October and 31 March inclusive in any year, marine construction activity <u>or decommissioning of topsides</u> may be undertaken at distances less than 200 metres of exposed intertidal foreshore provided that—	Revision 3
14.	Schedule 3, Deemed Marine Licence, (paragraph 15(9))	Removal of the word “percussive” so as to require any piling works to be restricted as per the condition. This change was at the request of the MMO and Natural England.	(9) Subject to sub-paragraph 10, no percussive piling of marine piles within the waterbody is to take place between the hours of 7pm and 7am from 1 March to 31 March (inclusive) and from 1 September to 31 October (inclusive) or between the hours of sunset and sunrise from 1 June to 30 June (inclusive) and from 1 August to 31 August (inclusive) in any one calendar year.	Revision 3
15.	Schedule 3, Deemed Marine Licence, (paragraph 15(11) and (18))	The MMO required that the restrictions align with the assessment maximums in sub-paragraph (11) but a contingency period is recognised in paragraph (18).	<p>(11) Percussive piling of marine piles is to be restricted at other times as follows—</p> <p>(a) From subject to sub-paragraph (18), from 1 June to 30 June (inclusive) in any one calendar year, the maximum amount of percussive piling permitted within any four-week 24 hour period must not exceed— 270 minutes;</p> <p style="padding-left: 40px;">(i) 140 hours where a single piling rig is in operation; or</p> <p style="padding-left: 40px;">(ii) a total of 196 hours where two or more rigs are in operation;</p> <p>(b) From subject to sub-paragraph (18), from 1 August to 31 October (inclusive) in any <u>one</u> calendar year, the maximum amount of percussive piling permitted within any four-week 24 hour period must not exceed— <u>270 minutes</u>,</p> <p style="padding-left: 40px;">(i) 140 hours where a single piling rig is in operation; or</p> <p style="padding-left: 40px;">(ii) a total of 196 hours where two or more rigs are in operation;</p> <p>except <u>(in each case)</u> for any percussive piling of marine piles undertaken on exposed mudflat outside the water column at periods of low water and save for percussive piling operations that have been initiated where an immediate cessation of the activity would form an unsafe working practice.</p>	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<u>(18) Where percussive piling is paused the recommencement of such percussive piling may take place for a contingency period of up to a total of 60 minutes within any 24 hour period in addition to the otherwise maximum amount of percussive piling permitted within any 24 hour period specified in sub-paragraph(11).</u>	
16.	Schedule 3, Deemed Marine Licence, (paragraph 15(15) - (16))	A piling protocol has been added following discussions with the MMO.	<p><u>(15) The undertaker must submit weekly reports to the MMO of the duration of percussive piling that is undertaken on any given day on which piling takes place during the construction of the authorised development, unless otherwise agreed in writing with the MMO.</u></p> <p><u>(16) The reports submitted to the MMO pursuant to sub-paragraph (15) must include a log of the number and approximate location of piling rigs which are in operation on any given day, along with the number of piles driven.</u></p> <p><u>(17) The undertaker must hold fortnightly meetings with the MMO to discuss the weekly reports submitted pursuant to sub-paragraph(15) and agree any corrective action if required, unless otherwise agreed in writing with the MMO.</u></p>	Revision 3
17.	Schedule 14, Protective Provisions, Part 1, For the Protection of the Statutory Conservancy and Navigation Authority for the Humber, definition of "environmental statement"	Clarifications requested by Trinity House and agreed by the Statutory Conservancy and Navigation Authority to tie this definition more closely to the particular provisions of articles 49, 50 and 51 in the dDCO. The Applicant has no objection.	(b) any other document containing environmental information provided by the undertaker to the Secretary of State or the Statutory Conservancy and Navigation Authority or Trinity House for the purposes of any tidal works approval <u>in connection with any direction</u> under article 49 (provision against danger to navigation), article 50 (lights on tidal works during construction) or article 51 (permanent lights <u>light</u> on tidal works); and	Revision 3

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
18.	Schedule 14, Protective Provisions, Part 1, For the Protection of the Statutory Conservancy and Navigation Authority for the Humber, (paragraph 15(1)(b))	Removal of errant text unrelated to these protective provisions, or indeed the dDCO, as identified by the Statutory Conservancy and Navigation Authority.	(b) any byelaw, direction or other requirement made by the Statutory Conservancy and Navigation Authority or the harbour master under any enactment; and any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction or operation of the authorised works or dealing with any failure of the authorised works;	Revision 3

4 Schedule of Changes as updated at Deadline 3 (3 May 2024)

Table 3: Schedule of Changes to Revision 4 of the dDCO [REP3-004]

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Article 2, Interpretation	Definition of “the undertaker” revised to include two additional land plots required in connection with the Applicant’s Change Application.	<p>so far as they relate to the land shown as plots 3/2, 4/5, 4/7, 4/8, 4/9, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/26, 4/28, 4/29, 4/30, 4/32, 5/3, 5/4, 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/18, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/36, 5/37, 5/38, 5/39, [5/45(a)], 6/6, 6/14, 6/15, 6/16, 6/18, [6/19(b)], 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 and 7/23 on the land plans and described in the book of reference and (where applicable on the terms of those provisions) land outside the Order limits except (in each aforementioned case) in respect of any interests of the Company; and</p> <p>(a) [Note to Examining Authority: reference to plot 5/45 is to be retained if the Examining Authority accepts the Applicant’s Change Application into the Examination and deleted if Proposed Change 3 is not accepted by the Examining Authority]</p> <p>(b) [Note to Examining Authority: reference to plot 6/19 is to be retained if the Examining Authority accepts the Applicant’s Change Application into the Examination and deleted if Proposed Change 3 is not accepted by the Examining Authority]</p>	Revision 4
2.	Article 4, Interpretation, Incorporation of the 1847 Act	As set out in the Statement of Common Ground with it, Trinity House requested that section 78 of the 1847 Act be incorporated into the dDCO and the Applicant was content to make the change (implemented in drafting terms by removing section 78 from the list of provisions <u>not</u> incorporated).	<p>Incorporation of the 1847 Act</p> <p>4. —(1) The 1847 Act, except sections 5 to 13, 16 to 25, 47 to 50, 77-te 79, 80, 85 to 102 and 104, so far as applicable for the purposes of and not inconsistent with this Order, is incorporated with and forms part of this Order, subject to the modifications set out in sub-paragraph (2).</p>	Revision 4

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
3.	Article 19, Authority to survey and investigate the land	<p>As requested by the Examining Authority, the Applicant has considered Article 26(6) of The HyNet Carbon Dioxide Pipeline Order 2024 which provides as follows:</p> <p><i>“As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove any apparatus and restore the land to the reasonable satisfaction of the owners of the land.”</i></p> <p>The Applicant is content to include wording to the same effect as a new Article 19(6) of the dDCO, with minor additions to clarify what apparatus and land is meant to the appropriate level of precision, and to clarify that the landowners cannot require the undertaker to breach the terms of the dDCO.</p>	<p><u>(6) As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove the apparatus used in connection with the activities and restore the land on which the activities were carried out to the reasonable satisfaction of the owners of the land; but the undertaker is not required to breach or fail to comply with a term of this Order.</u></p>	Revision 4

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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
4.	Article 31, Temporary use of land for constructing the authorised project	Minor revisions to the land plan references to reflect the two additional land plots required in connection with the Applicant's Change Application.	<p>(a) enter on and take temporary possession of—</p> <p>(i) the land shown shaded green on sheets 3, 4, <u>[5(a), 6(b)]</u> and 7 of the land plans, described in the book of reference and specified in columns (1) and (2) of Schedule 13 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and</p> <p><u>(a) [Note to Examining Authority: Reference to Sheet 5 of the land plans has been added to reflect changes to the land plans to reflect the addition of plot 5/45 on Sheet 5 of the land plans as part of the Applicant's Change Application, and is to be retained if the Examining Authority accepts Proposed Change 3 into the Examination, and deleted if Proposed Change 3 is not accepted].</u></p> <p><u>(b) [Note to Examining Authority: Reference to Sheet 6 of the land plans has been added to reflect changes to the land plans to reflect the addition of plot 6/19 on Sheet 5 of the land plans as part of the Applicant's Change Application, and is to be retained if the Examining Authority accepts Proposed Change 3 into the Examination, and deleted if Proposed Change 3 is not accepted].</u></p>	Revision 4
5.	Article 31, Temporary use of land for constructing the authorised project	The amendment is needed for the same reason as at Article 19(6), described above, to clarify that the landowners cannot require the undertaker to breach the terms of the dDCO.	<p>(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—</p> <p>(a) replace a building removed under this article;</p> <p>(b) restore the land on which any permanent works have been constructed under paragraph (1)(f);</p> <p>(c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised project;</p> <p>(d) remove or reposition any apparatus belonging to statutory undertakers, or measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised project;</p> <p>(e) remove or reposition necessary mitigation works;</p> <p>(f) remove any drainage works; or</p> <p>(g) restore ground levels adjusted as part of the authorised project; or</p> <p><u>(h) breach or fail to comply with a term of this Order.</u></p>	Revision 4

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
6.	Article 43, Area of jurisdiction to form part of the undertaking and application of byelaws	This is a correction of erroneous reference to the undertaker generally, when it should be a reference to the Company alone (i.e. ABP) as in the remainder of the Article, being the only body enforcing the byelaws.	<p>Area of jurisdiction to form part of the undertaking and application of byelaws</p> <p>43.—(1) The area of jurisdiction for all purposes forms part of the undertaking.</p> <p>(2) The Immingham Dock Byelaws 1929 are deemed to apply in relation to the limits within which the powers of the dock master may be exercised under article 42(1) (limits of dock master's jurisdiction) of this Order and may be enforced by the undertaker Company accordingly until such time as new byelaws relating to the area within such limits are made by the Company and come into operation.</p>	
7.	Article 46, Benefit of the Order	<p>This is to clarify that the various powers conferred on the Company (i.e. ABP), dock master or statutory harbour authority alone (i.e. those relating to harbour management such as Articles 4 (Incorporation of the 1847 Act), 43 (Area of jurisdiction to form part of the undertaking and application of byelaws), 44 (Power to appropriate) and 45 (Powers to dredge), to name a few) do not have effect for other bodies constituting the "undertaker" as defined in Article 2 (Interpretation).</p> <p>The provisions to which these paragraphs of Article 46 relate confer powers on the "undertaker", not the the Company, the dock master or</p>	<p>46.—(1) Subject to the remaining paragraphs of this article, the—</p> <p>(a) <u>the provisions of this Order conferring a power only on the Company, the dock master or the statutory harbour authority have effect solely for the benefit of (as applicable) the Company, the dock master or the statutory harbour authority; and</u></p> <p>(b) <u>the other</u> provisions of this Order have effect solely for the benefit of the undertaker.</p> <p>(2) (1) Paragraph (1)(1)(b) does not apply to the following provisions, of which the Company has the sole benefit—</p>	Revision 4

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		the statutory harbour authority alone, so only paragraph 1(b) of that Article applies.		
8.	Article 46, Benefit of the Order	Minor revisions to reflect the two additional land plots required in connection with the Applicant's Change Application.	(4) (3) Air Products has the benefit of the provisions to which paragraph (3) refers solely so far as they relate to the land shown as plots 3/2, 4/5, 4/7, 4/8, 4/9, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/26, 4/28, 4/29, 4/30, 4/32, 5/3, 5/4, 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/18, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/36, 5/37, 5/38, 5/39, <u>5/45(a)</u> , 6/6, 6/14, 6/15, 6/16, 6/18, <u>6/19(b)</u> , 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 and 7/23 on the land plans and described in the book of reference and (where applicable on the terms of those provisions) land outside the Order limits except (in each aforementioned case) in respect of any interests of the Company.	
9.	Article 46, Benefit of the Order	As mentioned at IS4, the new paragraph 13, mirroring article 6(16) (Benefit of the Order) of the Norfolk Vanguard Offshore Wind Farm Order 2020, necessarily clarifies that sections 72(7) and (8) of the 2009 Act do not apply to transfers of the deemed marine licence under paragraph 12. This is because those sections provide that a marine licence may not be transferred except in accordance with the 2009 Act, which would preclude transfer as part of the Order as proposed by the Applicant. The new paragraph 15 should be inserted for the avoidance	(12) (H) [An undertaker with the benefit of any provision of the deemed marine licence may pursuant to this sub-paragraph, with the consent of the Secretary of State— (a) transfer to any person any or all of the benefit of the provision and such related statutory rights as may be agreed between the undertaker and that person; (b) grant to any person for a period agreed between the undertaker and that person any or all of the benefit of the provision and such related statutory rights as may be so agreed between the undertaker and that person, but the Secretary of State must consult the MMO before giving such consent to the transfer or grant to another person of the benefit of the provision and such related statutory rights. <u>(13) Paragraphs (7) and (8) of section 72 of the 2009 Act do not apply to a transfer or grant of the benefit of any provision of the deemed marine licence pursuant to paragraph (12).</u> (14) (H2) Paragraph (H2) (12) does not prevent an application to the MMO pursuant to section 72(7) of the 2009 Act to transfer the deemed marine licence to another person and vary it accordingly. <u>(a)</u> <u>(15) [Paragraphs (7) and (8) of section 72 of the 2009 Act apply to any transfer of the deemed marine licence. (b)]</u>	Revision 4

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		<p>of doubt if transfer of the deemed marine licence is only to be pursuant to the 2009 Act, as proposed by the MMO, but deleted if this is not the Secretary of State's preference. The Applicant does not consider it appropriate to include the MMO's following wording at Paragraph 15, even if the MMO's approach is preferred by the Secretary of State: "For the avoidance of doubt article 46 does not apply to the MMO and sections 72(7) and (8) of the 2009 Act shall continue to apply to all parts of the deemed marine licence." This wording is an articulation of the MMO's general position but not appropriate legal drafting for a statutory instrument. "For the avoidance of doubt" is by convention almost always superfluous: a provision should be clear on its face. Article 46 is not about the MMO but about the deemed marine licence and other provisions of the Order. The Applicant's proposed Paragraph 15, even if the MMO's position is to be preferred, is clear that transfer</p>	<p><u>(a) [Note to Examining Authority: paragraphs (12) to (14) in square brackets are to be retained if the Secretary of State agrees that the deemed marine licence may be transferred either as part of the DCO or independently under the 2009 Act, as proposed by the Applicant, and deleted if not. Note that references to the deemed marine licence being excluding from paragraph (10) should be retained either way because in no circumstance do either the MMO or Applicant propose that it be capable of being transferred under that paragraph without Secretary of State or MMO approval.]</u></p> <p><u>(b) [Note to Examining Authority: paragraph (15) in square brackets is to be retained if the Secretary of State determines that the deemed marine licence may be transferred only independently under the 2009 Act, as proposed by the MMO, and deleted if not.]</u></p>	

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		<p>of the deemed marine licence is only to be pursuant to those relevant sections of the 2009 Act.</p> <p>Footnotes are included, as mentioned in ISH4, to assist the Examining Authority in understanding what paragraphs are to be retained or deleted depending on whether the Secretary of State determines that the undertaker should either be able to avail themselves of the procedure under paragraph 12 or that under section 72(7) of the 2009 Act for transfer of the deemed marine licence (in favour of which the Applicant has made representations) or the Secretary of State prefers the MMO's representation that transfer only via sections 72(7) and (8) of the 2009 Act is permissible.</p>		
10.	Article 63, Procedure regarding certain approvals	At ISH4 the Examining Authority suggested that in the Deadline 1 version of the dDCO the relationship between Articles 63(4) and (5) and Schedule 17 (Procedure regarding certain approvals,	(4) Subject to paragraph (5) (5), Schedule 17 (procedure regarding certain approvals, etc.) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to any provision <u>required or contemplated by any of the provisions</u> of this Order.	Revision 4

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		<p>etc.) could be made clearer. The Applicant agrees.</p> <p>Schedule 17 sets out a determination process for certain consents, agreements or approvals under the dDCO as well as an appeal mechanism, in the usual manner.</p> <p>First of all, therefore, in the Deadline 3 version of the dDCO the Applicant has deleted the words “granted, refused or withheld” before “consents, agreements or approvals” in Article 63(4) because otherwise it would not be clear that Schedule 17 applies not only to an appeal mechanism (for matters already “granted, refused or withheld”) but also to initial determination of the consents, agreements or approvals. The new wording at Article 46(4), shown in the column to the right, aligns better with that in Article 63(5) and Schedule 17 itself, further making that clear.</p> <p>Article 63(5) in the Deadline 3 version of the dDCO makes clear which consents,</p>		

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		<p>agreements or approvals Schedule 17 does not apply to (and the Applicant notes that it is clear that Articles 63(4) and 63(5) are to be read together). Article 63(5) is therefore key in clarifying how the scope of Schedule 17 is limited and cross reference to that Article has been inserted into the relevant provisions of Schedule 17 themselves in the Deadline 3 version of the dDCO (see rows below) to clarify additionally the limits of their scope:</p> <ul style="list-style-type: none"> • in the definition of the “relevant authorities” to whom Schedule 17 applies at paragraph 1 (Interpretation); • in the process for determining consents, agreements and approvals at paragraph 2 (Applications made under provisions of this Order); • in the process for appeals related to consents, agreements and 		

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		<p>approvals at paragraph 4 (Appeals).</p> <p>It is now considered that the relationship in the Deadline 3 version of the dDCO between Articles 63(4) and (5) of the dDCO and Schedule 17 is clear.</p>		
11.	Article 63, Procedure regarding certain approvals	<p>Following the discussion at Issue Specific Hearing 4 in relation to whether the discharge of marine licence conditions can be determined under Schedule 17, this amendment is to be made excluding the MMO from operation of that Schedule if the MMO's representations on the matter are preferred by the Examining Authority and Secretary of State. However, if the position of the Applicant is preferred, the wording in the column to the right should be deleted, meaning that the MMO is not to be excluded from the operation of the Schedule.</p>	<p>(5) Schedule 17 (procedure regarding certain approvals, etc.) does not apply—</p> <p>(b) [in respect of the MMO;](a) or</p> <p>(a) [Note to Examining Authority: The wording in square brackets is to be deleted if the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.).]</p>	Revision 4

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12.	Schedule 2, Requirements, (Paragraph 1)	As set out in their Statement of Common Ground submitted at Deadline 3, NELC has agreed with the Applicant that an outline operational travel plan is a suitable framework document to allow a detailed travel plan to be prepared for the part of the Project comprising the operation of the hydrogen production facility prior to operation of that facility and that a Requirement is needed to secure this. This is the definition needed for that Requirement.	<u>“outline operational travel plan” means the document of that name identified in the table at Schedule 15 (documents and plans to be certified) and which has been certified by the Secretary of State as the outline operational travel plan for the purposes of this Order;</u>	Revision 4
13.	Schedule 2, Requirements, (Paragraph 8)	Paragraph 8(2) (Highway works) of Schedule 2 (Requirements) of the dDCO has been revised, further to discussion with NELC, to provide that before the construction of the underground culvert forming part of Work No. 4 details of its design and construction methodology must be submitted to and approved by NELC. Paragraph 8(3) has been revised to require	<p><u>(2) Before the construction of the underground culvert forming part of Work No. 4 begins, written details of the design of such underground culvert, back-filling and making good to the highway and the construction methodology for its installation must be submitted to and approved by the relevant planning authority following consultation with the highway authority on matters related to its functions.</u></p> <p><u>(3) (4)—The permanent accesses and alterations referred to in sub-paragraph (4)(1) and the underground culvert, back-filling and making good referred to in sub-paragraph (2) must be constructed in accordance with the approved details, unless otherwise approved by the relevant planning authority following consultation with the highway authority on matters related to its function.</u></p>	Revision 4

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		compliance with the approved details.		
14.	Schedule 2, Requirements, (Paragraph 9)	Following NELC's response to Q1.18.5.1 of the ExA's first written questions, the Applicant has agreed to amend Requirement 9(3) to reduce the notification of emergency works from 72 hours to 24 hours.	(3) Any emergency works carried out under sub-paragraph (2)(b) (2)(b) must be notified to the relevant planning authority within 72 24 hours of being begun.	Revision 4
15.	Schedule 2, Requirements, (Paragraph 19)	The background to this change, agreed with NELC, is set out in row 12 above relating to the definition of "outline operational travel plan".	<p><u>Operational travel plan</u></p> <p><u>19.—(1) No part of the authorised project comprised in Work No. 3, Work No. 5 or Work No. 7 may be brought into operational use until an operational travel plan relating to that part of the authorised project has been submitted to and approved by the relevant planning authority.</u></p> <p><u>(2) Any operational travel plan submitted and approved under sub-paragraph (1) must be in general accordance with the outline operational travel plan.</u></p> <p><u>(3) Each part of Work No. 3, Work No. 5 and Work No. 7 must be operated in accordance with the approved operational travel plan for that part, unless otherwise approved by the relevant planning authority.</u></p>	Revision 4
16.	Schedule 3, Deemed Marine Licence, (Paragraph 3, (Licensed marine Activities), sub-paragraph 2(a)(iii))	Minor revisions to the number of monopiles to reflect the Applicant's Change Application.	<p>(iii) [two]a[four]b monopiles located in front of the jetty head or loading platform to provide fendering for smaller vessels;</p> <p><u>a [Note to Examining Authority: reference to two monopiles is to be deleted if the Examining Authority accepts the Applicant's Change Application into the Examination, as Proposed Change 1 as requested by the Applicant consists of an increase in the number of monopiles from the two monopiles in the original Application to four monopiles. If Change 1 is not accepted, then reference to two monopiles should be retained.]</u></p> <p><u>b [Note to Examining Authority: reference to four monopiles is to be retained if the Examining Authority accepts the Applicant's Change Application into the Examination, as Proposed Change 1 as requested by the Applicant consists of an increase in the number of monopiles from the two monopiles in the original Application to four monopiles. If Change 1 is not accepted then reference to four monopiles should be deleted.]</u></p>	Revision 4

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17.	Schedule 3, Deemed Marine Licence (Paragraph 11(a), 6 and 7)	These amendments are required following consultation with Natural England who wanted assurance on how the 200m buffer would be managed in practice.	<p>(a) A provision that no construction operations (other than to finish driving any pile that is in the process of being driven at the point that the cold weather restriction comes into force) within 200 metres of exposed-intertidal-foreshore<u>mean low water springs</u> may take place following seven consecutive days of zero or sub zero temperatures (where the temperature does not exceed zero degrees centigrade for more than six hours in any day or any other formula as may be agreed with the MMO to define short periods of thaw);</p> <p>(6) Subject to sub-paragraph (7)<u>(7)</u> below, the undertaker must ensure that no construction activity for the approach jetty or decommissioning of topsides takes place between 1 October and 31 March inclusive in any year located within 200 metres of the-exposed-intertidal-foreshore<u>mean low water springs</u>.</p> <p>(7) During the restricted period between 1 October and 31 March inclusive in any year, marine construction activity or decommissioning of topsides may be undertaken at distances less than 200 metres of exposed-intertidal-foreshore<u>mean low water springs</u> provided that—</p>	Revision 4
18.	Schedule 3, Deemed Marine Licence (Paragraph 14)	The Environment Agency requested that the words “outside of the UK marine area” in Requirement 13 be deleted so that the requirement to comply with the flood risk assessment apply also beneath mean high water springs (“MHWS”). The Applicant is content with the principle but wishes to maintain a distinction between the Requirements, dealing with matters above MHWS, and the deemed marine licence, dealing with matters below MHWS. Accordingly, an equivalent deemed marine	<p><u>Flood risk assessment</u></p> <p><u>14. All licensed activities must be carried out in accordance with the approved flood risk assessment contained in appendix 18A of the environment statement, unless otherwise approved by the MMO.</u></p>	Revision 4

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		licence condition has been added at paragraph 14 of Schedule 3 as set out in the column to the right. In discussions the Environment Agency noted that it was content for the matter to be resolved in this manner and the Statement of Common Ground will be updated accordingly in due course.		
19.	Schedule 3, Deemed Marine Licence (Paragraph 27)	As discussed with the Examining Authority in Issue Specific Hearing 4, the dDCO now sets out in square brackets what wording is to be retained or deleted depending on whether the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.).	<p>(3) Where the MMO refuses the application the refusal notice must state the reasons for the refusal.](a)</p> <p>[Approvals and appeals</p> <p>28. Schedule 17 (procedure regarding certain approvals, etc.) of the Order has effect in relation to any submission by the undertaker for approval by or agreement of the MMO in respect of any document, strategy, information, plan, protocol or statement under this Schedule.] (b)</p> <p>(a) [Note to Examining Authority: Paragraphs 24 - 27 are to be deleted if the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.).]</p> <p>(b) [Note to Examining Authority: Paragraph 28 is to be retained if the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.).]</p>	Revision 4

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20.	Schedule 13, Land of which only temporary possession may be taken	Minor revisions to reflect the two additional land plots required in connection with the Applicant's Change Application.	<p><u>15, 6</u> <u>5/45, 6/19</u></p> <p>The further associated development to which paragraph 11 of Part 1 (authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) or Schedule 1 (authorised project) refers(a)</p> <p>(a) [Note to Examining Authority: this row of Schedule 13 (land of which only temporary possession may be taken) has been added to incorporate new plots 5/45 and 6/19, shown on sheets 5 and 6 of the land plans respectively, which should be retained if the Examining Authority accepts the Applicant's Proposed Change 3 into the Examination. The row should be deleted if Proposed Change 3 is not accepted into the Examination.]</p>	Revision 4
21.	Schedule 14, Protective Provisions, Part 8, For the Protection of North East Lincolnshire Council (as Local Lead Flood Authority)	The dDCO submitted with the DCO application included protective provisions for the protection of NELC in its capacity as the relevant lead local flood authority at Schedule 14, Part 6. These protective provisions were amended following submission, resubmitted to NELC for its comments and these are the amendments reflected at this Deadline 3. As set out in the Statement of Common Ground between the Applicant and NELC, NELC has confirmed that these protective provisions are now considered to be appropriate.	70.71. The provisions of this Part of this Schedule apply <u>whilst any part of the authorised project is being constructed</u> for the protection of the authority unless otherwise agreed between the undertaker and the authority.	Revision 4

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			<p>“specified work” means any works carried out in relation to or which may affect any ordinary watercourse, drain or culvert in a manner that would be likely to affect the flow of the watercourse, <u>drain or culvert</u>.</p> <p>72.73. — sssss <u>(1)</u> Before beginning to construct any specified work, the undertaker must submit to the authority plans of the specified work and such further particulars available to it as the authority may within 28 days of the receipt of the plans reasonably require.</p> <p>(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the authority, or determined under sub-paragraph (3)<u>(3)</u>.</p> <p>(3) Any approval of the authority required under sub-paragraph (2)<u>(2)</u>—</p> <p>(a) must not be unreasonably withheld or delayed;</p> <p>(b) is deemed to have been given if it is neither given nor refused within 28 days of the receipt of the plans for approval or where further particulars are submitted under sub-paragraph (1)<u>(1)</u> within 28 days of the submission of those particulars, or where further particulars are received under sub-paragraph (1), within 28 days of the receipt of those particulars, and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and</p> <p>(c) may be given subject to such reasonable requirements as it may make for the protection of any drainage work or for the prevention of flooding and</p> <p>(d) the authority must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (b)<u>(b)</u>.</p> <p>74.75. — uuuuu <u>(1)</u> Subject to sub-paragraph (2)<u>(3)</u>, any specified work, and all protective works required by the authority under paragraph 8079 <u>must</u> be constructed—</p> <p>(a) without unnecessary<u>unreasonable</u> delay in accordance with the plans approved or settled under this Part of this Schedule; and</p> <p>75.76. — vvvvv <u>(1)</u> Subject to sub-paragraph (2)<u>(2)</u> the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified works <u>within the Order limits</u>, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.</p>	

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22.	Schedule 14, Protective Provisions, Part 8, For the Protection of the Internal Drainage Board	Articles 3(1)(a) to 3(1)(c) disapply the need for consents from the North East Lindsey Drainage Board ("NELDB") which would otherwise be required in respect of the Land Drainage Act 1991 and byelaws made under the Water Resources Act 1991 and the Land Drainage Act 1991. However, these disapplication provisions have been included so that they will be superseded by protective provisions in favour of NELDB which include equivalent approvals. A draft form of such protective provisions has been provided to NELDB and is now included on the face of the Order at Part 9 of Schedule 14. ABP and NELDB are working constructively towards agreeing the form of and these.	<p style="text-align: center;"><u>PART 9</u> <u>FOR THE PROTECTION OF THE INTERNAL DRAINAGE BOARD</u></p> <p><u>Application</u></p> <p><u>102. The provisions of this Part of this Schedule have effect for the protection of the Board unless otherwise agreed in writing between the undertaker and the Board.</u></p>	Revision 4

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			<p><u>Interpretation</u></p> <p><u>103. In this part of this Schedule—</u></p> <p><u>“construction” includes execution, placing, altering, replacing, relaying and removal; and “construct” and “constructed” must be construed accordingly;</u></p> <p><u>“drainage work” means any ordinary watercourse and includes any land that provides or is expected to provide flood storage capacity for any ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence in connection with an ordinary watercourse;</u></p> <p><u>“ordinary watercourse” has the meaning given in section 72 (Interpretation) of the Land Drainage Act 1991(a);</u></p> <p><u>“plans” includes sections, drawings, specifications and method statements;</u></p> <p><u>“specified works” means—</u></p> <p><u>(a) the making of any opening into or connections with any watercourse or drain in connection with the authorised development; and/or</u></p> <p><u>(b) so much of any work or operation of the authorised development as is in, on, under, over or within 9 metres of a drainage work for which the Board has responsibility or is otherwise likely to—</u></p> <p><u>(i) affect any such drainage work;</u></p> <p><u>(ii) affect the total volume or volumetric rate of flow of water in or flowing to or from any such drainage work;</u></p> <p><u>(iii) affect the flow of water in any such drainage work; or</u></p> <p><u>(iv) affect the conservation, distribution or use of water resources.</u></p> <p><u>104. The undertaker must not make any opening into or connections with any watercourse or drain in connection with the authorised development or carry out any specified work except—</u></p> <p><u>(a) in accordance with plans approved by the Board in accordance with this Part of this Schedule or determined under paragraph 111; and</u></p> <p><u>(b) where the Board has been given the opportunity to supervise the making of the opening or connection,</u></p>	

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			<p><u>and no discharge of water under article 18 (discharge of water) shall be made until details of the location and maximum rate of discharge have been submitted to and approved in writing by the Board (unless such location or maximum rate of discharge is in accordance with a drainage strategy approved under paragraph 12(1) of Schedule 2 (requirements)).</u></p> <p><u>(2) Before beginning to construct any specified work, the undertaker must submit to the Board plans of the specified work, and any such further particulars available to it as the Board may within 28 days of the submission of the plans reasonably require.</u></p> <p><u>(3) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Board or determined under paragraph 111.</u></p> <p><u>(4) Any approval of the Board required under this paragraph—</u></p> <p><u>(a) must not be unreasonably withheld or delayed;</u></p> <p><u>(b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval (or the submission of further particulars if applicable) or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; and</u></p> <p><u>(c) may be given subject to such reasonable requirements and conditions as the Board may consider appropriate.</u></p> <p><u>(5) The Board must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (4)(b).</u></p> <p><u>(a) 1991 c. 59. There are amendments to section 72 but none are relevant.</u></p> <p><u>(6) Where under this Part of this Schedule the Board is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that the Board complies with its obligations to consult other appropriate agencies, to have regard to any guidance issued by any appropriate supervisory body and has regard to its obligations under statute.</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>105. Without limiting paragraph 104, the requirements which the Board may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—</u></p> <p><u>(a) to safeguard any drainage work against damage; or</u></p> <p><u>(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased, by reason of any specified work.</u></p> <p><u>106.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Board under paragraph 105, must be constructed—</u></p> <p><u>(a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and</u></p> <p><u>(b) to the reasonable satisfaction of the Board, and an officer of the Board is entitled to give such notice as may be reasonably required in the circumstances to watch and inspect the construction of such works.</u></p> <p><u>(2) The undertaker must give to the Board—</u></p> <p><u>(a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and</u></p> <p><u>(b) notice in writing of its completion not later than 7 days after the date on which it is brought into use.</u></p> <p><u>(2) The undertaker must give to the Board—</u></p> <p><u>(a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and</u></p> <p><u>(b) notice in writing of its completion not later than 7 days after the date on which it is brought into use.</u></p> <p><u>(3) If the Board reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work to which the protective works relate.</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>(4) If any part of a specified work or any protective work required by the Board is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Board may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Board in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Board reasonably requires.</u></p> <p><u>(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the Board may execute the works specified in the notice, and any expenditure reasonably incurred by it in so doing is recoverable from the undertaker</u></p> <p><u>(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Board must not except in emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally resolved by agreement or determined under paragraph 111.</u></p> <p><u>107. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Board and, if the undertaker fails to do so, the Board may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.</u></p> <p><u>108. The undertaker must pay to the Board all costs, charges and expenses that the Board may reasonably incur, have to pay or may sustain:</u></p> <ul style="list-style-type: none"> <u>(a) in the examination or approval of plans under this Part of this Schedule;</u> <u>(b) in inspecting the proposed site for and construction of any specified work or any protective works required by the Board under this Part of this Schedule; and</u> <u>(c) in carrying out any surveys or tests by the Board that are reasonably required in connection with the construction of the specified work.</u> 	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>109.—(1) Without limiting the other provisions of this Part of this Schedule, the undertaker must make reasonable compensation to the Board in respect of all claims, demands, proceedings, costs, damages, expenses or loss that are properly made or taken against, reasonably recovered from or reasonably incurred by the Board by reason of—</u></p> <p><u>(a) any damage to any drainage work arising out of construction of the specified work so as to impair its efficiency for the purposes of flood defence; and</u></p> <p><u>(b) any flooding or increased flooding of any such land which is caused by, or results from, the construction of the specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the work.</u></p> <p><u>(2) The Board must give to the undertaker reasonable notice of any such claims, demands, proceedings, costs, damages, expenses or loss and no settlement or compromise may be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.</u></p> <p><u>(3) The Board must at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses and losses.</u></p> <p><u>(4) In no circumstances will the undertaker be liable to the Board under or in connection with this Part of this Schedule for loss of profit or for any indirect or consequential loss howsoever arising.</u></p> <p><u>110. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the Board, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part of this Schedule.</u></p> <p><u>111. Any dispute between the undertaker and the Board under this Part of this Schedule, unless otherwise agreed, must be determined by arbitration under 62 (arbitration).</u></p>	
23.	Schedule 15, Documents and plans to be certified	The background to the need for an “outline operational travel plan”, agreed with NELC, is set out in row 12 above.	<p>outline operational travel plan [•] [•] [•]</p>	Revision 4

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
24.	Schedule 17, Procedure regarding certain approvals etc.	<p>It is clarified at appropriate junctures that provisions of the Schedule do not apply to the exceptions set out in Article 63(5) (see the comments made at row 10 above in respect of Article 63(4)).</p> <p>Even if the Examining Authority does not agree that the Schedule should apply to deemed marine licence conditions, it is sensible to change “requirement consultee” to “consultee”.</p> <p>Reference to DML conditions in paragraph 3 will be needed if the Applicant’s position that these should be subject to Schedule 17 is to be preferred, and deleted if not.</p> <p>Paragraph 5 is deleted because the Applicant has noted it erroneously duplicated the same provision from different precedent DCOs both in that paragraph and at Article 63(6) but it need only be in one provision (which will be Article 63(6)).</p>	<p>Interpretation</p> <p>1. In this Schedule—</p> <p>“appeal documentation” means a written statement of appeal which describes the nature of the differences between the parties, the factual issues, the undertaker’s case and evidence relied on;</p> <p>“relevant authority” means, <u>subject to article 63(5)</u>, any person, authority or body named in any of the provisions of this Order and whose consent, agreement or approval is sought; and</p> <p>“requirement consultee” means any body or authority named in a requirement or condition as a body to be consulted by the relevant authority in discharging that requirement or condition.</p> <p>Applications made under provisions of this Order</p> <p>2. — mmmmmm <u>(1)</u> Where an application has been made to the relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order (including consent, agreement or approval in respect of a requirement) <u>except as provided in article 63(5)</u> the relevant authority must give notice to the undertaker of their decision on the application within—</p> <ul style="list-style-type: none"> (a) in respect of all provisions (including the requirements in Schedule 2 (requirements)) a period of 42 days beginning with the day immediately following that on which the application is received by the relevant authority; (b) where further information is requested under paragraph 33 of this Schedule (further information and consultation), a period of 42 days beginning with the day immediately following that on which further information has been supplied by the undertaker; or (c) such period that is longer than the periods in sub-paragraphs (a)(a) or (b)(b) as may be agreed in writing by the undertaker and the relevant authority before the end of such period. <p>(2) In determining any application made to the relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order (including consent, agreement or approval in respect of a requirement) <u>except as provided in article 63(5)</u>, the relevant authority may—</p>	Revision 4

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>(4) Where an application has been made to the relevant authority for any consent, agreement or approval required by a requirement included in <u>any of the provisions of this Order (except as provided in article 63(5))</u>, and—</p> <p>(a) the relevant authority does not determine the application within the period set out in sub-paragraph (1) <u>(1)</u> and such application is accompanied by a report which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or</p> <p>(b) the relevant authority determines during the period set out in sub-paragraph (1) <u>(1)</u> that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>(5) The undertaker must include in any application made to the relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order <u>(except as provided in article 63(5))</u> a statement that the provisions of sub-paragraph (3)(3) apply and, if the application fails to do so, it is to be null and void.</p> <p>Further information and consultation</p> <p>3. — nnnnnn<u>(1)</u> In relation to any application submitted pursuant to a requirement in Schedule 2 (requirements) <u>[or condition in schedule 3 (deemed marine licence)(a)]</u>, the relevant authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.</p> <p>(2) In the event that the relevant authority considers additional further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required the relevant authority must, within 10 business days of receipt of the application, notify the undertaker in writing specifying the additional further information required.</p> <p>(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within five business days of receipt of the application, and must notify the undertaker in writing specifying any additional further information requested by the requirement consultee within 20 business days of receipt of the application.</p> <p>(4) In the event that the relevant authority does not give notification as specified in sub-paragraph (2)(2) or (3)(3) it is to be deemed to have sufficient information to consider the application and is not thereafter entitled to request additional further information without the prior agreement of the undertaker.</p> <p><u>(a) [Note to Examining Authority: the wording in square brackets is to be retained if the Secretary of State agrees that the discharge of deemed marine licence conditions is to be determined by way of Schedule 17 (Procedure regarding certain approvals, etc.) and deleted if not.]</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Appeals</p> <p>4. oooooo (1) The undertaker may <u>(except as provided in article 63(5))</u> appeal in the event that—</p> <p>(a) the relevant authority refuses (including a deemed refusal pursuant to paragraph 2(4)<u>2(4)</u>) an application for any consent, agreement or approval required by an article of requirement <u>or condition</u> included in this Order or grants it subject to conditions;</p> <p>Anticipatory steps towards compliance with any requirement</p> <p>5. If before this Order came into force the undertaker or any other person took any steps that were intended to be steps towards compliance with any provision of Schedule 2 (requirements), those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.</p>	

5 Schedule of Changes as updated at Deadline 4 (4 June 2024)

Table 4: Schedule of Changes to Revision 5 of the dDCO [REP4-004]

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Article 2, Interpretation	Square brackets and footnote pertaining to Change Application removed in relation to where definition of “the undertaker” had been revised in the Revision 4 to include two additional land plots required in connection with the Applicant’s Change Application in light of the ExA’s acceptance of the Proposed Changes into the Examination	<p>so far as they relate to the land shown as plots 3/2, 4/5, 4/7, 4/8, 4/9, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/26, 4/28, 4/29, 4/30, 4/32, 5/3, 5/4, 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/18, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/36, 5/37, 5/38, 5/39, 5/45(a), 6/6, 6/14, 6/15, 6/16, 6/18, 6/19(a), 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 and 7/23 on the land plans and described in the book of reference and (where applicable on the terms of those provisions) land outside the Order limits except (in each aforementioned case) in respect of any interests of the Company; and</p> <p>(X) [Note to Examining Authority: reference to plot 5/45 is to be retained if the Examining Authority accepts the Applicant’s Change Application into the Examination and deleted if Proposed Change 3 is not accepted by the Examining Authority]</p> <p>(X) [Note to Examining Authority: reference to plot 6/19 is to be retained if the Examining Authority accepts the Applicant’s Change Application into the Examination and deleted if Proposed Change 3 is not accepted by the Examining Authority]</p>	Revision 5
2.	Article 31, Temporary use of land for constructing the authorised project	Square brackets and footnotes removed around minor revisions made to Revision 4 of the dDCO to the land plan references to reflect the two additional land plots required in connection with the Applicant’s Change Application, in light of the ExA’s acceptance of the Proposed Changes into the Examination	<p>(a) enter on and take temporary possession of—</p> <p>(i) the land shown shaded green on sheets 3, 4, 5(a), 6(a) and 7 of the land plans, described in the book of reference and specified in columns (1) and (2) of Schedule 13 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and</p> <p>(X) [Note to Examining Authority: Reference to Sheet 5 of the land plans has been added to reflect changes to the land plans to reflect the addition of plot 5/45 on Sheet 5 of the land plans as part of the Applicant’s Change Application, and is to be retained if the Examining Authority accepts Proposed Change 3 into the Examination, and deleted if Proposed Change 3 is not accepted].</p> <p>(X) [Note to Examining Authority: Reference to Sheet 6 of the land plans has been added to reflect changes to the land plans to reflect the addition of plot 6/19 on Sheet 5 of the land plans as part of the Applicant’s Change Application, and is to be retained if the Examining Authority accepts Proposed Change 3 into the Examination, and deleted if Proposed Change 3 is not accepted].</p>	Revision 5

Immingham Green Energy Terminal
 Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
3.	Article 46, Benefit of the Order	Square brackets and footnotes removed in relation minor revisions made to Revision 4 of the dDCO to reflect the two additional land plots required in connection with the Applicant's Change Application, as a result of the ExA's acceptance of Proposed Changes 1- 4 into the Examination	<p>(4) Air Products has the benefit of the provisions to which paragraph (3) refers solely so far as they relate to the land shown as plots 3/2, 4/5, 4/7, 4/8, 4/9, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/26, 4/28, 4/29, 4/30, 4/32, 5/3, 5/4, 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/18, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/36, 5/37, 5/38, 5/39, [5/45(a)], 6/6, 6/14, 6/15, 6/16, 6/18, [6/19(a)], 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 and 7/23 on the land plans and described in the book of reference and (where applicable on the terms of those provisions) land outside the Order limits except (in each aforementioned case) in respect of any interests of the Company.</p> <p>(X) [Note to Examining Authority: reference to plot 5/45 is to be retained if the Examining Authority accepts the Applicant's Change Application into the Examination and deleted if Proposed Change 3 is not accepted by the Examining Authority]</p> <p>(X) [Note to Examining Authority: reference to plot 6/19 is to be retained if the Examining Authority accepts the Applicant's Change Application into the Examination and deleted if Proposed Change 3 is not accepted by the Examining Authority]</p>	Revision 5
4.	Schedule 2, Requirements, (Paragraph 1)	For the reasons more particularly set out in the Applicant's Response to the Documentation Received from the Environment Agency at Deadline 3 [D302], under the heading "Applicant's response to ExQ1 on Flood Risk [REP1-029]", the Applicant is content to make the changes requested by the Environment Agency and set out in the column to the right. The Applicant does not intend to undertake any remediation works pursuant to the DCO other than in accordance with a remediation strategy that has been submitted and approved pursuant to Requirement 15. It	<p>"commence" means beginning to carry out any material operation (as defined in section 155 (when development begins) of the 2008 Act) forming part of the authorised project or the relevant part of it (in each case as specified where the term "commence" is used in this Schedule) other than operations consisting of site clearance (excluding the clearance of trees or other vegetation from Long Strip), demolition work, environmental surveys and monitoring, investigations for the purposes of assessing ground and geological conditions, remedial work in respect of any contamination or other adverse ground conditions, the receipt and erection of construction plant and equipment (excluding in relation to Work No. 9), the erection of temporary contractor and site welfare facilities (excluding in relation to Work No. 9), the diversion, laying and connection of services, the erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "commencement" and "commenced" are to be construed accordingly;</p>	Revision 5

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		is also content for the final CEMP to be submitted and approved pursuant to Requirement 6 before those remediation works are undertaken. For these reasons, the definition of "commence" and Requirement 15 are being amended as indicated in this row and in row 5 below.		
5.	Schedule 2, Requirements, (Paragraph 15)	See row 4 above.	<p>Contaminated land</p> <p>15.—(1) No below-ground works comprised in any part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7 may be undertaken<u>commenced</u> until a written remediation strategy applicable to that part to deal with any contamination of that part which is likely to cause significant harm to persons or pollution of controlled waters or the environment has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency on matters related to its function.</p>	Revision 5

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
6.	Schedule 3, Deemed Marine Licence Paragraph 1, (Interpretation), sub-paragraph (4)	This change has been made further to the Applicant's response to BIO2.2, where the ExA has asked for consistency of wording between the DML and CEMP.	<u>(4) References to sunset and sunrise are, unless otherwise agreed with the MMO, to be in accordance with the relevant daily set and rise times for the British Isles provided by HM Nautical Almanac Office.</u>	Revision 5
7.	Schedule 3, Deemed Marine Licence Paragraph 3, (Licensed marine activities), sub-paragraph (2)(a)(iii)	Square brackets, footnotes and reference to 'two' monopiles removed to reflect acceptance of the Applicant's Proposed Changes 1 – 4 into the Examination	<p>(iii) {two}{four} monopiles located in front of the jetty head or loading platform to provide fendering for smaller vessels;</p> <p>X- [Note to Examining Authority: reference to two monopiles is to be deleted if the Examining Authority accepts the Applicant's Change Application into the Examination, as Proposed Change 1 as requested by the Applicant consists of an increase in the number of monopiles from the two monopiles in the original Application to four monopiles. If Change 1 is not accepted, then reference to two monopiles should be retained.]</p> <p>X- [Note to Examining Authority: reference to four monopiles is to be retained if the Examining Authority accepts the Applicant's Change Application into the Examination, as Proposed Change 1 as requested by the Applicant consists of an increase in the number of monopiles from the two monopiles in the original Application to four monopiles. If Change 1 is not accepted then reference to four monopiles should be deleted.]</p>	Revision 5

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
8.	Schedule 3, Deemed Marine Licence Paragraph 16, (Piling and marine construction works), sub-paragraph (8)	Correction of typographical error	(6) Subject to sub-paragraph (7) below, the undertaker must ensure that no construction activity for the approach jetty or decommissioning <u>decommissioning</u> of topsides takes place between 1 October and 31 March inclusive in any year located within 200 metres of mean low water springs.	Revision 5
9.	Schedule 3, Deemed Marine Licence Paragraph 16, (Piling and marine construction works), sub-paragraph (8)	This change has been made further to the Applicant's response to BIO2.2, where the ExA has asked for consistency of wording between the DML and CEMP.	(8) No percussive piling of marine piles within the waterbody may take place between 1 April and 31 May (inclusive) in any one calendar year, except for any percussive piling of marine piles undertaken on exposed mudflat outside the water column at periods of low water.	Revision 5

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
10.	Schedule 13, Land of which only temporary possession may be taken	Removal of square brackets and footnotes around minor revisions made to Revision 4 of the dDCO to reflect the two additional land plots required in connection with the Applicant's Change Application, in light of the ExA's acceptance of Proposed Changes 1 – 4 into the Examination.	<div style="border: 1px dashed black; padding: 5px;"> <p>[5, 6</p> <p style="text-align: right;">5/45, 6/19</p> <p>The further associated development to which paragraph 11 of Part 1 (authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) of Schedule 1 (authorised project) refers(a)}</p> </div> <p><small>(X) [Note to Examining Authority: this row of Schedule 13 (land of which only temporary possession may be taken) has been added to incorporate new plots 5/45 and 6/19, shown on sheets 5 and 6 of the land plans respectively, which should be retained if the Examining Authority accepts the Applicant's Proposed Change 3 into the Examination. The row should be deleted if Proposed Change 3 is not accepted into the Examination.]</small></p>	Revision 5
11.	Schedule 14 (Protective Provisions) Part 1 (For the protection of the Statutory Conservancy and Navigation Authority for the Humber), Paragraphs 17 (Removal of wrecks and obstructions, etc.) and 18 (Oil spillage plan)	The Statutory Conservancy and Navigation Authority requested the additional provision, omitted in error from the template provisions provided to the Applicant. The Applicant is content to give the notice required and comply with the reasonable instructions of the Statutory Conservancy and Navigation Authority.	<p>Removal of wrecks and obstructions, etc. and oil</p> <p><u>17.—(1) Before exercising any power under section 252 of the Merchant Shipping Act 1995 or under section 56 of the 1847 Act, the dock master must notify the harbour master.</u></p> <p><u>(2) The dock master must comply with any reasonable instructions that the harbour master may give in relation to the exercise of the powers referred to in sub-paragraph (1).</u></p> <p><u>Oil spillage plan</u></p> <p><u>18.47.—</u> The undertaker must consult the harbour master before submitting any oil pollution emergency plan to the Maritime and Coastguard Agency and must ensure that any such plan is compatible with the Statutory Conservancy and Navigation Authority's existing plan known as "Humber Clean" or such other plan as supersedes "Humber Clean".</p>	Revision 5

6 Schedule of Changes as updated at Deadline 5 (11 July 2024)

Table 5: Schedule of Changes to Revision 7 of the dDCO [REP5-004]

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Article 2, Interpretation	Amended at the request of the Board's solicitors to reflect its correct name.	"the Board" means the North East Lindsey Internal -Drainage Board;	Revision 7
		These definitions reflect drafting proposed and more particularly explained at Appendix 4: DCO Drafting of the Applicant's Early Works Application Note [REP4-043].	<u>"existing early works planning permission" means the planning permission granted by the relevant planning authority on [●](a) with reference number [●] and any amendments or variations made or granted in respect of it pursuant to section 96A, section 73, section 73A or section 73B of the 1990 Act;</u> <u>(a) [Note to the Examining Authority: this will be updated prior to the end of the Examination].</u>	Revision 7
			<u>"new early works planning permission" means any planning permission granted under the 1990 Act prior to service of notice under article 55(3) for works also comprised in Work No. 2, Work No. 3, Work No 5 or Work No. 7 (including any further associated development to which paragraph 11 of Part 1 (authorised development) of Schedule 1 (authorised project) refers) or any part of them, and any amendments or variations made or granted in respect of such planning permission pursuant to section 96A, section 73, section 73A or section 73B of the 1990 Act;</u>	Revision 7

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
2.	Article 46, Benefit of Order	This provision is included to resolve the MMO's practical point about being aware of who has the benefit of the relevant person with the benefit of deemed marine licence provisions. This is more particularly explained in [TR030008/EXAM/9.80].	<p><u>(13) Any transfer or grant under paragraph (12) does not take effect until the undertaker has given notice to the MMO stating—</u></p> <p><u>(a) the name and contact details of the person to whom the benefit of the provision will be transferred or granted;</u></p> <p><u>(b) the date on which the transfer or grant will take effect; and</u></p> <p><u>(c) the provision to be transferred or granted,</u></p> <p><u>and providing a copy of the consent given by the Secretary of State to the transfer or grant and a copy of the transfer or grant itself; and the MMO may update its records in respect of the deemed marine licence accordingly.</u></p>	Revision 7

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
3.	Article 55, Planning legislation	These additions reflect drafting proposed and more particularly explained at Appendix 4: DCO Drafting of the Applicant's Early Works Application Note [REP4-043].	<p>(2) As from the date on which the authorised project is begun for the purposes of section 155 (when development begins) of the 2008 Act if the undertaker serves a notice on the relevant planning authority that any of the conditions attached to which a planning permission granted pursuant to section 57 (planning permission required for development) of the 1990 Act <u>is subject</u> prior to the making of this Order and which relate to the Order limits cease to have effect to the extent that they are inconsistent with the authorised project or anything done or approved pursuant to this Order then the notice will immediately have that effect; <u>except that this sub-paragraph (2) does not apply to any existing early works planning permission or new early works planning permission.</u></p> <p><u>(3) Before beginning Work No. 2, Work No. 3, Work No. 5 or Work No. 7 (as applicable) under this Order, the undertaker must serve notice on the relevant planning authority that it intends to begin Work No. 2, Work No. 3, Work No. 5 or Work No. 7 (as applicable) under this Order and must specify in that notice any existing early works planning permission or new early works planning permission under which works also comprised within Work No. 2, Work No. 3, Work No 5 or Work No. 7 (as applicable) have begun and whether or not such works have been completed.</u></p> <p><u>(4) From the date of service of any notice pursuant to paragraph (3)—</u></p> <p><u>(a) the undertaker must cease to carry out development under any existing early works planning permission or new early works planning permission specified in that notice; and</u></p> <p><u>(b) the conditions to which an existing early works planning permission or new early works planning permission specified in that notice are subject will be unenforceable except in respect of—</u></p> <p><u>(i) any breach that occurred prior to the undertaker serving notice pursuant to paragraph (3); and</u></p>	Revision 7

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>(ii) any conditions of the existing early works permission or new early works permission that relate to the statutory requirement under the 1990 Act for biodiversity net gain.</u></p> <p><u>(4) The undertaker must not begin Work No. 2, Work No. 3, Work No. 5 or Work No. 7 (as applicable) under this Order until notice has been served under paragraph (3).</u></p> <p><u>(5) Notwithstanding paragraphs (3) and (4), the undertaker may exercise any other powers under this Order in respect of any part of the authorised project prior to or following service of notice under paragraph (3).</u></p> <p><u>(6) Without prejudice to the generality of paragraph (6), the undertaker may discharge any requirement in Schedule 2 (requirements) of this Order at any time prior to or following the service of notice under paragraph (3).</u></p> <p><u>(7) Where details, documents, plans, works or any other matters have been imposed as a condition, or approved or agreed pursuant to a condition, of any existing early works planning permission or new early works planning permission prior to the date on which the undertaker serves notice under paragraph (3), the relevant planning authority and the undertaker must agree in writing which details, documents, plans, works or other matters under the existing early works planning permission or new early works planning permission will be deemed to have been discharged, approved, agreed, obtained or undertaken for the purposes of the requirements in Schedule 2 (requirements) of this Order relating to all or part of Work No. 2, Work No. 3, Work No. 5 or Work No. 7 (as applicable); and upon that agreement being reached in writing it will immediately have that effect.</u></p> <p><u>(8) In this article “begin” and “begun” mean for the purposes of section 155 (when development begins) of the 2008 Act.</u></p>	
4.	Schedule 2, Requirements, (Paragraph 1)	This definition reflects drafting proposed in the Applicant's response to DAS 2.1 of its Responses to the Examining Authority's Second Round of Written Questions [REP4-047].	<u>“hydrogen production facility building design code” means the document of that name identified in the table at Schedule 15 (documents and plans to be certified) and which has been certified by the Secretary of State as the hydrogen production facility building design code for the purposes of this Order;</u>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
5.	Schedule 2, Requirements, (Paragraph 4)	This definition reflects drafting proposed in the Applicant's response to DAS 2.1 of its Responses to the Examining Authority's Second Round of Written Questions [REP4-047].	<p>(a) any security building within Work No.2;</p> <p><u>(a)</u> (b) any control building within Work No. 5; or</p> <p><u>(b)</u> (e) any control room and workshop building, security and visitor building, contractor building and warehouse within Work No. 7,</p> <p>may be constructed above its ground floor slab until details of the external materials to be used in the construction of that building have been submitted to and approved by the relevant planning authority.</p> <p><u>(2) Any details submitted and approved under sub-paragraph (1) must be in general accordance with the principles contained in the hydrogen production facility building design code.</u></p>	Revision 7
6.	Schedule 5, Alterations of Streets, Part 1, Permanent Alteration of Layout	These amendments reflect drafting proposed and more particularly explained in the Applicant's Proposed Further Changes Notification Report [TR030008/EXAM/10.7].	<p>North East Lincolnshire Laporte Road</p> <p>Works for the provision of an altered layout and revised signage and markings in relation to the provision of the permanent speed limit change to which Part 1 (permanent speed limits) of Schedule 10 (traffic regulation measures) refers within the area shaded blue between the points marked D on sheets 4 and 5 and <u>[BC](a)</u> <u>[E](cccc)</u> on sheet 4 of the street works and accesses plan <u>[and the area shaded yellow between the points marked BC on sheet 4 of the street works and accesses</u></p> <p><u>plan and point E on inset 1 of that plan](a).</u></p>	Revision 7

Immingham Green Energy Terminal
Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>(a) [Note to Examining Authority: reference to BC is to be retained if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is not accepted, then reference to E should be retained.]</u></p> <p><u>(b) [Note to Examining Authority: reference to E is to be deleted if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is rejected, then reference to E should be retained.]</u></p> <p><u>(a) [Note to Examining Authority: reference to the amended speed limit between points BC and E is to be retained if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is not accepted, then this wording should be deleted.]</u></p>	
7.	Schedule 6, Permanent Stopping Up of Highways	These amendments reflect drafting proposed and more particularly explained in the Applicant's Proposed Further Changes Notification Report [TR030008/EXAM/10.7].	<p><u>[North East Lincolnshire Kings Road All of the area hatched pink (including any area shaded green which underlies the area hatched pink) marked AX on sheets 6 and 7 of the stopping up and restriction of use of streets and public rights of way plan.](a)</u></p> <p><u>(a) [Note to Examining Authority: reference to additional permanent stopping up at the area marked AX is to be retained if the Examining Authority accepts Proposed Change 6, as Proposed Change 6 as requested by the Applicant consists of an additional area of stopping up. If Proposed Change 6 is not accepted, then this wording should be deleted.]</u></p>	Revision 7
8.	Schedule 10, Traffic Regulation Measures, Part 1, Permanent Speed Limits	These amendments reflect drafting proposed and more particularly explained in the Applicant's Proposed Further Changes Notification Report [TR030008/EXAM/10.7].	<p>North East Lincolnshire</p> <p>That part of Laporte Road shaded blue and between the point marked D on sheets 4 and 5 of the traffic regulation measures plan and the point marked <u>[BC](a) [E](b)</u> on sheet 4 of that plan, a distance of approximately <u>[365](c) [660](d)</u> metres.</p> <p>30 miles per hour</p>	Revision 7

Immingham Green Energy Terminal
 Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>(a)</u> [Note to Examining Authority: reference to BC is to be retained if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is not accepted then reference to E should be retained.]</p> <p><u>(b)</u> [Note to Examining Authority: reference to E is to be deleted if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is not accepted, then reference to E should be retained.]</p> <p><u>(c)</u> [Note to Examining Authority: reference to 365m is to be retained if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is not accepted, then reference to 365m should be deleted.]</p> <p><u>(d)</u> [Note to Examining Authority: reference to 660m is to be deleted if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Change 5(c) is rejected, then reference to 660m should be retained.]</p>	
			<p><u>[North East Lincolnshire</u> <u>That part of Laporte Road</u> <u>40 miles per hour](a)</u> <u>shaded yellow and between the</u> <u>point marked BC on sheet 4 of</u> <u>the traffic regulation measures</u> <u>plan and the point marked E on</u> <u>inset 1 of that plan, a distance of</u> <u>approximately 545 metres</u></p> <p><u>(a)</u> [Note to Examining Authority: a new row relating to the permanent speed limit change to 40mph is to be retained if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is not accepted, then this wording should be deleted.]</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
9.	Schedule 14, Protective Provisions, Part 4, For the Protection of Anglian Water, (paragraphs 39, 40, 45 and 46)	The protective provisions for Anglian Water are in agreed form (see row 8 of the statement of common ground [TR030008/EXAM/9.25]) and the amendments shown in the column to the right reflect those which needed to be made to the dDCO to reflect that.	<p>Application</p> <p>39. For the protection of Anglian Water the following provisions have effect <u>until the commencement of the operation of the authorised development</u>, unless otherwise agreed in writing between the undertaker and Anglian Water.</p> <p>Interpretation</p> <p>40. In this Part of this Schedule—</p> <p>“1991 Act” means the New Roads and Street Works Act 1991;</p> <p>“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;</p> <p>“Anglian Water” means Anglian Water Services Limited;</p> <p>“apparatus” means—</p> <p>(a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage <u>including for the avoidance of doubt any decommissioned works, mains, pipes or other apparatus</u>;</p> <p>(b) any drain or works vested in Anglian Water under the Water Industry Act 1991(a);</p> <p>(c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act;</p> <p>(d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and</p> <p>(e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus, and for the purpose of this definition, where words are defined by section 219 of that Act, they are taken to have the same meaning;</p> <p>“functions” includes powers and duties;</p> <p>“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;</p>	Revision 7

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Retained apparatus</p> <p>45.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 4243, the undertaker must submit to Anglian Water a plan of the works to be executed.</p> <p>(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.</p> <p>(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.</p> <p>(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3), (6) and (7), apply as if the removal of the apparatus had been required by the undertaker under paragraph 4243(2).</p> <p>(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>(6) The undertaker is not required to comply with sub-paragraph in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.</p> <p>(7) For the purposes of sub-paragraph (2) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus—</p> <ul style="list-style-type: none"> (a) 2.25 metres where the diameter of the pipe is less than 250 millimetres; (b) 3 metres where the diameter of the pipe is between 250 and 400 millimetres; and (c) <u>where works fall within 7 metres of pipes with a diameter exceeding 400 millimetres a distance not exceeding 7 metres</u> to be agreed on a case by case basis <u>(both parties acting reasonably)</u> and before the submission of the plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres. <p>Expenses and costs</p> <p>46.—(15) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.</p> <p>(1) Nothing in sub paragraph (1) requires the undertaker to repay any expense for which Anglian Water is liable to the undertaker or a third party as a consequence of any default, negligence or omission by Anglian Water, its officers, employees, servants, contractors or agents.</p>	

<p>10.</p>	<p>Schedule 14, Protective Provisions, Part 4, For the Protection of Network Rail, (paragraphs 53, 55, 62, 66, 69, 71)</p>	<p>The amendments shown in the column to the right reflect those required by Network Rail, except those in square brackets and footnoted with notes to the Examining Authority, which instead reflect the differing positions of the Applicant and Network Rail and are more particularly explained in [TR030008/EXAM/9.24].</p>	<p>53. In this Part of this Schedule—</p> <p><u>“asset protection agreement” means an agreement, should such be required, to regulate the construction and maintenance of the specified work in a form to be agreed from time to time between the undertaker and Network Rail;</u></p> <p>“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;</p> <p>“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;</p> <p>“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail by the Secretary of State in exercise of their powers under section 8 of the Railways Act 1993;</p> <p>“Network Rail” means Network Rail Infrastructure Limited <u>with</u> company number 02904587; <u>and whose</u> registered at 1 Eversholt Street<u>office is at Waterloo General Office</u>, London NW1 2DN<u>SE1 8SW</u>, and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited, and any successor to Network Rail Infrastructure Limited’s railway undertaking;</p> <p>“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;</p> <p>“protective works” means any works specified by the engineer under paragraph 55<u>56</u>(4);</p> <p>“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;</p> <p>“railway property” means any railway belonging to Network Rail and—</p> <p>(a) any station, land, works, apparatus and equipment belonging to Network Rail or a tenant or licensee of Network Rail or connected with any such railway; and</p> <p>(b) any easement or other property interest held or used by <u>Network Rail or a tenant or licensee of</u> Network Rail for the purposes of such railway or works, apparatus or equipment; and</p> <p>“regulatory consents” means any consent or approval required under —</p> <p>(c) the Railways Act 1993;</p> <p>(d) the network licence; and/or</p> <p>(e) any other relevant statutory or regulatory provisions,</p>	
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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>55.—1(1) The undertaker must not exercise the powers conferred by—</p> <ul style="list-style-type: none"> (a) Article 5 (development consent etc. granted by the Order); (b) article 6 (extent of certain works); (c) article 19 (authority to survey and investigate the land);2 <p>in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.</p> <p>(2) The undertaker must not exercise the powers conferred by sections 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272 (extinguishment of rights of electronic communications code network operators: preliminary notices) of the 1990 Act or article 33 (statutory undertakers)26 (private rights), article 27 (power to override easements and other rights) or article 26 (private rights)33 (statutory undertakers) in relation to any right of access of Network Rail to railway property, but such right of access may be extinguished or diverted with the consent of Network Rail.</p> <p>(3) The undertaker must not under the powers of this Order acquire or use or acquire new rights over or seek to impose any restrictive covenants over, any railway property, or vary any existing rights of Network Rail in respect of any third party property except with the consent of Network Rail.1(a)</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>(4) The undertaker must not exercise the powers conferred by article 33(1)(b) (extinguishment of rights of statutory undertakers) in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.(b)</u></p> <p><u>(5) The undertaker must not under the powers of this Order do anything=</u></p> <p><u>(a) which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway except where the incapability of such use and maintenance is temporary and is with the consent of Network Rail; or</u></p> <p><u>(b) which would affect the safe running of trains on the railway but, for the avoidance of doubt, this does not apply where Network Rail upon prior written request by the undertaker has consented not to run trains on the railway temporarily.</u></p> <p><u>(6) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.</u></p> <p><u>(7) (5) Where Network Rail is asked to give its consent under this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it will never be unreasonable to withhold consent <u>[on reasonable operational or railway safety grounds]</u> [for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion)]</u></p> <p><u>(c).</u></p> <p><u>(a) [Note to Examining Authority: paragraphs (1) to (3) in square brackets are to be deleted if the Secretary of State agrees with the Applicant's representation that it would be contrary to Secretary of State Guidance and inappropriate for Network Rail to prohibit the use of powers over its interests in land without its consent in circumstances where this creates an impediment to the delivery and operation of the authorised project; paragraphs (1) to (3) in square brackets are to be retained if the Secretary of State disagrees with the Applicant's representations in this matter.]</u></p> <p><u>(b) [Note to Examining Authority: the wording in square brackets is to be retained if the Secretary of State agrees with the Applicant's representation that it is not seeking to extinguish any relevant right of Network Rail for the purposes of section 138 of the 2008 Act and that paragraphs 55(4) and (5) are all that is required for the Secretary of State to be satisfied in relation to section 138(4) of that Act.]</u></p> <p><u>(c) [Note to Examining Authority: the wording in the first set of square brackets is to be retained and the wording in the second set of square brackets is to be deleted if the Secretary of State agrees with the Applicant's representation that it is reasonable for Network Rail to withhold consent for reasonable operational or railway safety grounds but that it would be unacceptable for Network Rail to retain "absolute discretion" in any matter. The second set of square brackets equates to Network Rail being able to veto delivery of the authorised development without needing to act reasonably, including arguing spurious operational or railway safety grounds or indeed not giving any material grounds at all. It would mean Network Rail not being subject to arbitration in any meaningful way. As a public sector arm's length body managing England's railway infrastructure, the Secretary of State in arbitration would give very significant weight to its reasoned views on operational or railway safety, so there is no detriment to Network Rail in retaining the wording in the first set of square brackets and deleting the wording in the second.]</u></p>	

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			<p><u>62.—(1) In this paragraph—</u></p> <p><u>“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and</u></p> <p><u>“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.</u></p> <p><u>(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 56(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).</u></p> <p><u>(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures reasonably necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.</u></p> <p><u>(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—</u></p> <p><u>(a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 56(1)) in order to identify all potential causes of EMI and the measures reasonably required to eliminate them;</u></p> <p><u>(b) Network Rail must make available to the undertaker all information in the possession of Network Rail requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and</u></p> <p><u>(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be approved by Network Rail, acting reasonably, and in relation to such modifications paragraph 56(1) has effect subject to this sub-paragraph.</u></p> <p><u>(6) Prior to the commencement of operation of the authorised development the undertaker must test the use of the authorised development in a manner that must first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures reasonably necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.</u></p> <p><u>(7) In the event of EMI having occurred—</u></p> <ul style="list-style-type: none"> <u>(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;</u> <u>(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;</u> <u>(c) Network Rail must make available to the undertaker any additional material information in its possession requested by the undertaker in respect of Network Rail's apparatus or such EMI; and</u> <u>(d) the undertaker must not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.</u> <p><u>(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>(a) <u>Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;</u></p> <p>(b) <u>any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph (6).</u></p> <p>(9) <u>To the extent that it would not otherwise do so, the indemnity in paragraph 66(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.</u></p> <p>(10) <u>For the purpose of paragraph 61(1)(a), any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>66.65. — (1) <u>(1)</u> The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—</p> <ul style="list-style-type: none"> (a) by reason of the construction or maintenance or operation of a specified work or a protective work or the failure of it; (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work or a protective work; <u>(c) by reason of any act or omission of the undertaker or any person in its employment or of its contractors or others whilst accessing to or egressing from the authorised development;</u> <u>(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;</u> <u>(e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development,</u> <p>and the undertaker indemnifies and must keep indemnified Network Rail in respect of such costs, from and against all claims and demands arising out of or in connection with a specified work or protective work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision does not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>(2) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand is to be made without the prior written consent of the undertaker.</p> <p>(3) The sums payable by the undertaker under sub-paragraph (1) if, relevant, include a sum equivalent to the relevant costs.</p> <p>(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.</p> <p>(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).</p> <p>(6) In this paragraph—</p> <p>“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work, <u>including but not limited to any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1);</u> and</p> <p>“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.</p> <p><u>69.—(1) The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—</u></p> <p><u>(a) any railway property shown on the works and land plans and described in the book of reference;</u></p> <p><u>(b) any lands, works or other property held in connection with any such railway property; and</u></p> <p><u>(c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>71.69. — sssss (1) The undertaker must give written notice to Network Rail where any application is proposed to be made by the undertaker for the Secretary of State's consent under article 46 (4) (benefit of Order), <u>except in respect of the deemed marine licence</u>, and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—</p> <ul style="list-style-type: none"> (a) the nature of the application to be made; (b) the extent of the geographical area to which the application relates; and (c) the name and address of the person acting for the Secretary of State to whom the application is to be made. 	
11.	Schedule 14, Protective Provisions, Part 8, For the Protection of Operators of Electronic Communications Code Networks, (paragraph 101)	This is a correction because the defined term in paragraph 100 (Interpretation) is "the electronic <u>communications code</u> " not "the electronic code".	101.99. The exercise of the powers of article 33 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic <u>communications code</u> .	Revision 7
12.	Schedule 14, Protective Provisions, Part 9, For the Protection of the North East Lindsey Drainage Board, (Heading, paragraph 112)	The protective provisions for the Board are in agreed form (see row 4 of the statement of common ground [TR030008/EXAM/9.18]) and the amendments shown in the column to the right reflect those which needed to be made to the dDCO to reflect that.	<p>PART 9</p> <p>FOR THE PROTECTION OF THE INTERNAL<u>NORTH EAST LINDSEY</u> DRAINAGE BOARD</p>	Revision 7

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>112.110. — iiiii) — (1) Without limiting the other provisions of this Part of this Schedule, the undertaker must make reasonable compensation to compensate the Board in respect of all claims, demands, proceedings, costs, damages, expenses or loss that are properly made or taken against, reasonably recovered from or reasonably incurred by the Board by reason of—</p> <ul style="list-style-type: none"> (a) any damage to any drainage work arising out of construction of the specified work <u>or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the work</u> so as to impair its efficiency for the purposes of flood defence; and (b) any flooding or increased flooding of any such land which is caused by, or results from, the construction of the specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the work. <p>(2) The Board must give to the undertaker reasonable notice of any such claims, demands, proceedings, costs, damages, expenses or loss and no settlement or compromise may be made without the agreement of the undertaker, which agreement must not be unreasonably withheld or delayed.</p> <p>(3) The Board must at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses and losses. <u>For the avoidance of doubt, any costs, expenses, losses or liabilities reasonably incurred by the Board arising out of or relating to its taking of such reasonable steps will be recoverable from the undertaker on the terms of paragraph 109(1) (and, where any such reasonable step is considered by the Board (acting reasonably) to have the potential to cause significant cost, liability, expense or loss recoverable from the undertaker on the terms of paragraph 109(1), the Board may require prepayment by the undertaker of its reasonable estimate of such prior to taking the relevant step but this does not relieve the Board of its obligation under this sub-paragraph at all times to take reasonable steps to prevent and mitigate the claims, demands, proceedings, costs, damages, expenses and losses to which this paragraph refers).</u></p> <p>(4) In no circumstances will the undertaker be liable to the Board under or in connection with this Part of this Schedule for loss of profit or for any indirect or consequential loss howsoever arising.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
13.	Schedule 14, Protective Provisions, Part 10, For the Protection of the CLdN Ports Killingholme Limited	Protective provisions for CLdN Ports Killingholme Limited are in agreed form, as set out in the column to the right, subject to the completion of certain internal administrative steps on both sides.	<p style="text-align: center;"><u>PART 10</u></p> <p style="text-align: center;"><u>[FOR THE PROTECTION OF CLDN PORTS KILLINGHOLME LIMITED]</u></p> <p><u>Application</u></p> <p><u>115. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and CLdN, for the protection of CLdN during the construction and operation of the authorised development.</u></p> <p><u>Interpretation</u></p> <p><u>116.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2), the latter prevail.</u></p> <p><u>(2) In this Part of this Schedule—</u></p> <p><u>“CLdN” means CLdN Ports Killingholme Limited, company number 00278815, whose principal office is at 130 Shaftesbury Avenue, 2nd Floor, London, W1D 5EU as statutory harbour authority for and operator of the Port and any successor in title or function to the Port;</u></p> <p><u>“operation” means the commencement of the import or export of liquid bulk products through Work No.1 for commercial purposes (as opposed to commissioning or testing of Work No.1) as notified to CLdN by the undertaker in writing not later than 10 business days after this definition is satisfied;</u></p> <p><u>“the Port” means any land (including land covered by water) at Killingholme for the time being owned or used by CLdN for the purposes of its statutory undertaking, together with any quays, jetties, docks, river walls or works held in connection with that undertaking; and</u></p> <p><u>“specified work” means Work No. 1 or any activity or operation authorised by this Order related to the construction of Work No. 1 and any related vessel movements which may interfere with:</u></p> <p><u>(a) the Port or access (including over water) to and from the Port; or</u></p> <p><u>(b) the functions of CLdN as the statutory harbour authority for the Port.</u></p>	Revision 7

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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>Co-operation</u></p> <p><u>117. The undertaker and CLdN must each act in good faith and use reasonable endeavours to co-operate with and provide assistance to each other as may be required to give effect to the provisions of this Part of this Schedule.</u></p>	

			<p><u>Notice and undue interference</u></p> <p><u>118. The undertaker must inform CLdN in writing of the intended start date and the likely duration of the carrying out of the specified work at least 20 business days prior to the commencement of the specified work.</u></p> <p><u>119. Any operations for the construction of the specified work must be carried out by the undertaker so that CLdN does not suffer undue interference with its own operations to and from the Port and, in so doing the undertaker—</u></p> <ul style="list-style-type: none"> <u>(a) must have reasonable regard, amongst other things, to scheduled vessel services to and from the Port notified to the undertaker; and</u> <u>(b) is not required to carry out any such operations otherwise than in a safe, efficient and economic manner.</u> <p><u>Indemnity</u></p> <p><u>120.—(45) During the construction of the specified work, the undertaker must indemnify CLdN against all financial losses, costs, charges, damages, expenses, claims and demands which may reasonably be incurred or occasioned to CLdN by reason or arising in connection with—</u></p> <ul style="list-style-type: none"> <u>(a) any obstruction which prevents, restricts or materially hinders access into or out of the Port, which is caused by or attributable to the undertaker or its agents or contractors in exercising the powers of this Order in respect of the specified work, save for where such an obstruction is as a result of the lawful actions of the Statutory Conservancy and Navigation Authority;</u> or <u>(b) the undertaking by CLdN of works or measures to prevent or remedy a danger or impediment to navigation or access to or from the Port arising from the exercise by the undertaker of its powers under this Order in respect of the specified work.</u> <p><u>(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of CLdN, its officers, servants, contractors or agents.</u></p> <p><u>(3) Without limiting the generality of sub-paragraph (1), the undertaker must indemnify CLdN from and against all financial losses, costs, charges, damages, expenses, claims and demands to which that sub-paragraph refers until the commencement of the operation of the specified work and the undertaker must use its reasonable endeavours to give at least 20 business days' notice of the date on which operation of the specified work is anticipated to commence.</u></p>	
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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>Statutory powers</u></p> <p><u>121. Save to the extent expressly provided for, nothing in this Order affects prejudicially any statutory or other rights, powers or privileges vested in or enjoyed by CLdN at the date of this Order coming into force.</u></p> <p><u>122. With the exception of any duty owed by CLdN to the undertaker which is expressly provided for in this Part of this Schedule, nothing in this Order is to be construed as imposing upon CLdN either directly or indirectly, any duty or liability to which CLdN would not otherwise be subject and which is enforceable by proceedings before any court.</u></p> <p><u>Arbitration</u></p> <p><u>123. Unless otherwise agreed in writing, any dispute arising between the Undertaker and CLdN under this Part of this Schedule is to be determined by arbitration as provided in article 62 (arbitration) of this Order. (a)</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO								
			<p><u>Statutory powers</u></p> <p><u>121. Save to the extent expressly provided for, nothing in this Order affects prejudicially any statutory or other rights, powers or privileges vested in or enjoyed by CLdN at the date of this Order coming into force.</u></p> <p><u>122. With the exception of any duty owed by CLdN to the undertaker which is expressly provided for in this Part of this Schedule, nothing in this Order is to be construed as imposing upon CLdN either directly or indirectly, any duty or liability to which CLdN would not otherwise be subject and which is enforceable by proceedings before any court.</u></p> <p><u>Arbitration</u></p> <p><u>123. Unless otherwise agreed in writing, any dispute arising between the Undertaker and CLdN under this Part of this Schedule is to be determined by arbitration as provided in article 62 (arbitration) of this Order.](a)</u></p> <p>(a) <u>[Note to Examining Authority: Protective provisions for CLdN Ports Killingholme Limited are in agreed form, subject to the completion of certain internal administrative steps on both sides.]</u></p>									
14.	Schedule 15, Documents and Plans to be Certified, Part 10, For the Protection of the CLdN Ports Killingholme Limited	This definition reflects drafting proposed in the Applicant's response to DAS 2.1 of its Responses to the Examining Authority's Second Round of Written Questions [REP4-047].	<p><u>hydrogen production facility building design code</u> TR030008/EXAM/9.76 1 4 June 2024</p>	Revision 7								
		Updated for Proposed Further Change Application and to reflect updated revisions of relevant documents submitted during Examination.	<table border="1"> <tr> <td>book of reference</td> <td>TR030008/APP/3.1</td> <td>1[3](a) [2](b)</td> <td>21 September 2023[26 June 2024](c) [3 May 2024](d)</td> </tr> <tr> <td>land plans</td> <td>TR030008/APP/4.5</td> <td>1[3](e) [2](f)</td> <td>21 September 2023[26 June 2024](g) [3 May 2024](h)</td> </tr> </table>	book of reference	TR030008/APP/3.1	1 [3](a) [2](b)	21 September 2023 [26 June 2024](c) [3 May 2024](d)	land plans	TR030008/APP/4.5	1 [3](e) [2](f)	21 September 2023 [26 June 2024](g) [3 May 2024](h)	Revision 7
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			<p>(a) [Note to Examining Authority: reference to revision 3 of the book of reference to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to and additions of new plots in the book of reference. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 2 be retained.]</p> <p>(b) [Note to Examining Authority: reference to revision 2 of the book of reference to be retained if the Examining Authority does not accept the Applicant's Proposed further Change Application into the Examination.]</p> <p>(c) [Note to Examining Authority: reference to 26 June 2024 date of book of reference revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the applicant result in amendments to and additions of new plots in the land plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2023 wording be retained.]</p> <p>(d) [Note to Examining Authority: reference to 3 May 2023 date of the land plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(e) [Note to Examining Authority: reference to revision 3 of the land plans to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to and additions of new plots in the land plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 1 be retained.]</p> <p>(f) [Note to Examining Authority: reference to revision 1 of the land plans to be retained if the Examining Authority does not accept the Applicant's Proposed further Change Application into the Examination.]</p> <p>(g) [Note to Examining Authority: reference to 26 June 2024 date of land plans revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the applicant result in amendments to and additions of new plots in the land plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 21 September wording be retained.]</p> <p>(h) [Note to Examining Authority: reference to 21 September 2023 date of the land plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p>	

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			<p>(a) [Note to Examining Authority: reference to revision 5 of the outline construction environmental management plan to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the outline construction environmental management plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 1 be retained.]</p> <p>(b) [Note to Examining Authority: reference to revision 4 of the outline construction environmental management plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(c) [Note to Examining Authority: reference to 26 June 2024 date of land plans revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the applicant result in amendments to and additions of new plots in the land plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 21 September wording be retained.]</p> <p>(d) [Note to Examining Authority: reference to 21 September 2023 of the outline construction environmental management plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(e) [Note to Examining Authority: reference to revision 4 of the plan of potentially affected hedgerows and trees subject to preservation orders to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the plan of potentially affected hedgerows and trees subject to preservation orders. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 3 be retained.]</p> <p>(f) [Note to Examining Authority: reference to revision 3 of the plan of potentially affected hedgerows and trees subject to preservation orders to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(g) [Note to Examining Authority: reference to 26 June 2024 date of the plan of potentially affected hedgerows and trees subject to preservation orders revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the applicant result in amendments to the plan of potentially affected hedgerows and trees subject to preservation orders. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2023 wording be retained.]</p> <p>(h) [Note to Examining Authority: reference to 3 May 2023 of the plan of potentially affected hedgerows and trees subject to preservation orders to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p>	

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			<p>(a) [Note to Examining Authority: reference to revision 3 of the stopping up and restriction of use of streets and public rights of way plan to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the stopping up and restriction of use of streets and public rights of way plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 2 be retained.]</p> <p>(b) [Note to Examining Authority: reference to revision 2 of the land plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(c) [Note to Examining Authority: reference to June 26 2024 date of the stopping up and restriction of use of streets and public rights of way plan revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the stopping up and restriction of use of streets and public rights of way plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2024 wording be retained.]</p> <p>(d) [Note to Examining Authority: reference to 3 May 2024 date of the stopping up and restriction of use of streets and public rights of way plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(e) [Note to Examining Authority: reference to revision 3 of the street works and access plans to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the street works and access plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 1 be retained.]</p> <p>(f) [Note to Examining Authority: reference to revision 2 of the street works and access plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(g) [Note to Examining Authority: reference 26 June 2024 date of the street works and access plans revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the street works and access plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2024 wording be retained.]</p> <p>(h) [Note to Examining Authority: reference to 21 September 2023 date of the street works and access plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(i) [Note to Examining Authority: reference to revision 4 of the traffic regulation measures plan to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the traffic regulation measures plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 3 be retained.]</p> <p>(j) [Note to Examining Authority: reference to revision 3 of the traffic regulation measures plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(k) [Note to Examining Authority: reference 26 June 2024 date of the traffic regulation measures plan revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the traffic regulation measures plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2024 wording be retained.]</p> <p>(l) [Note to Examining Authority: reference to 3 May 2024 date of the traffic regulation measures plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(m) [Note to Examining Authority: reference to revision 4 of the works plans to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the works plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 3 be retained.]</p> <p>(n) [Note to Examining Authority: reference to revision 3 of the works plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(o) [Note to Examining Authority: reference 26 June 2024 date of the works plans revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the works plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 26 June 2024 wording be retained.]</p> <p>(p) [Note to Examining Authority: reference to 3 May 2024 date of the works plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p>	
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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
15.	Schedule 17, Procedure Regarding Certain Approvals, etc., (Paragraph 5)	This reflects wording requested by NELC and agreed by the Applicant.	<p><u>Fees</u></p> <p><u>5. —(1) Where an application is made to the relevant planning authority for the discharge of a requirement in Schedule 2 (requirements), a fee is to apply and must be paid to the relevant planning authority in accordance with sub-paragraph (2).</u></p> <p><u>(2) The fee payable for each application under sub-paragraph (1) is as follows—</u></p> <p><u>(a) a fee of £2,535 for the first application for the discharge by the relevant planning authority of each of the requirements in paragraphs 4 (detailed approval), 5(2) (phasing), 6 (construction environmental management plan), 7 (construction traffic management plan), 8 (highway works), 10 (landscape and ecology management plan), 11 (woodland compensation plan), 12 (surface water drainage), 15 (contaminated land), 16 (external lighting), 17 (control of noise during operational use), 18 (decommissioning environmental management plan) and 19 (operational travel plan);</u></p> <p><u>(b) a fee of £578 for each subsequent application for the discharge by the relevant planning authority of each of the requirements listed in paragraph (a) (whether that subsequent application is in respect of the same part of the authorised project or a different part of it); and</u></p> <p><u>(c) a fee of £145 for any application for the agreement of the relevant planning authority pursuant to any “unless otherwise agreed” provision of any requirement in Schedule 2 (requirements).</u></p> <p><u>(3) Any fee paid under this Schedule must be refunded by the relevant planning authority to the undertaker who paid it within four weeks of—</u></p> <p><u>(a) the application being rejected as invalidly made; or</u></p> <p><u>(b) the relevant planning authority failing to determine the application within the relevant period in paragraph 2(1) of this Schedule unless within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application.</u></p>	Revision 7

7 Schedule of Changes as updated at Deadline 6 (2 August 2024)

Table 6: Schedule of Changes to Revision 8 of the dDCO [REP6-015]

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Definition of "main river"	Term is no longer used in the dDCO. It is likely to be used in the proposed protective provisions being progressed between the Environment Agency and the Applicant but will in that case be defined in the Part 2 of Schedule 14 (Protective provisions) comprising those revised protective provisions.	"main river" has the same meaning as in Part 4 of the Water Resources Act 1991(a);	Revision 8
2.	Article 7 (Street works)	NELC requested, and the Applicant is content to include, clarity that it must comply with reasonable conditions attached to the consent.	(3) The undertaker must not construct works to any street under paragraph (1) for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent <u>and the undertaker must comply with any reasonable conditions so attached</u> .	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
3.	Article 10 (Construction and maintenance of new, altered or diverted streets)	Further to discussions with NELC, the Applicant is content to include clarity that the maintenance to which these provisions refer must be to the reasonable satisfaction of the street authority.	<p>10.—(1) Subject to paragraph (5), any street constructed under this Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained by and at the expense of the undertaker <u>to the reasonable satisfaction of the street authority</u> for a period of 12 months from its completion and thereafter by the street authority.</p> <p>(2) Subject to paragraph (5), where a street is permanently altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed in writing with the street authority, that part of the street must be maintained by and at the expense of the undertaker <u>to the reasonable satisfaction of the street authority</u> for a period of 12 months from its completion and thereafter by the street authority.</p> <p>(3) Subject to paragraph (5), where a street is temporarily altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and the temporary alterations must be maintained by and at the expense of the undertaker.</p> <p>(4) Where land not previously part of the public highway comes to form part of the public highway by virtue of the construction, diversion or alteration of streets under this Order, unless otherwise agreed in writing with the street authority, the land is deemed to have been dedicated as public highways on the expiry of a period of 12 months from completion of the street that has been constructed, altered or diverted <u>and is thereafter to be maintained by and at the expense of the street authority.</u></p> <p>(5) In the case of any bridge or any other structure constructed under this Order to carry a street, both the street surface and structure of the bridge or other structure must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed in writing with the street authority, must be maintained by and at the expense of the undertaker <u>to the reasonable satisfaction of the street authority</u> for a period of 24 months from its completion and thereafter by the street authority.</p>	Revision 8
4.	Article 11 (Permanent stopping up of streets)	Further to discussions with NELC, the Applicant is content to communicate the occurrence of stopping up authorised by the Secretary of State.	<p><u>(7) The undertaker must give the highway authority notice of any street having been stopped up under paragraph (1) specifying the date of such stopping up and providing a plan of the extent of the street which has been stopped up.</u></p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
5.	Article 20 (Protective works)	Further to discussions with NELC, the Applicant is content to include clarity that protective works cannot be carried out within its highway without its consent.	<u>(14) No protective works may be carried out under this article in land located within the boundary of any highway for which the highway authority is responsible without its consent but such consent must not be unreasonably withheld or delayed.</u>	Revision 8
6.	Article 32 (Temporary use of land for maintaining the authorised project)	Paragraph (2) has been supplemented to clarify for the benefit of NELC that the power cannot be used in relation to its public highway.	(2) Paragraph (1) does not authorise the undertaker to take temporary possession of— (a) any house or garden belonging to a house; (b) any building (other than a house) if it is for the time being occupied; or (c) any land shaded yellow on the land plans; <u>or</u> (d) <u>any land located within the boundary of any highway for which the highway authority is responsible.</u>	Revision 8
7.	Schedule 2, Requirements, (paragraph 1, Interpretation)	Amended to reflect updates to timeline of clearance works of trees and vegetation present in the Long Strip (being the area shown edged blue and labelled “Tree Preservation Order” on the Plan of Potentially Affected Hedgerows and Trees Subject to Tree Preservation Orders [AS-064]) primarily to avoid undertaking works in the bird nesting season (where possible). This will require the submission in advance of the making of the DCO of a final Woodland Compensation Plan [TR030008/EXAM/9.34] and a	<u>“Long Strip construction environmental management plan” means the document of that name identified in the table at Schedule 15 (documents and plans to be certified) and which has been certified by the Secretary of State as the Long Strip construction environmental management plan for the purposes of this Order;</u> “outline woodland compensation strategy” means the document of that name identified in the table at Schedule 15 (documents and plans to be certified) and which has been certified by the Secretary of State as the outline woodland compensation strategy for the purposes of this Order; “residential purposes” means any use falling within a class set out in Part C of Schedule 1 to the Town and Country Planning (Use Classes) Order 1987 (as in force at the date of this Order) or any other use for residential purposes; ; <u>“woodland compensation plan” means the document of that name identified in the table at Schedule 15 (documents and plans to be certified) and which has been certified by the Secretary of State as the woodland compensation plan for the purposes of this Order.</u>	Revision 8

Immingham Green Energy Terminal
 Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		<p>Construction Environmental Management Plan (“CEMP”) relating to those works in the Long Strip (the Long Strip CEMP [TR030008/EXAM/9.90]).</p> <p>The previous versions of the dDCO involved the certification of an outline Woodland Compensation Strategy [APP-224], in accordance with which a woodland compensation plan would be produced in consultation with Natural England and approved by NELC, under Requirement 11 of Schedule 2 (Requirements).</p> <p>In order to allow the Long Strip vegetation works to progress early in the construction programme after the grant of the DCO which the Applicant intends to take place in advance of the bird nesting season (where possible), the Applicant is seeking to agree with NELC and Natural England the Woodland Compensation Plan and the Long Strip CEMP in advance of the making of the DCO, and has proposed amendments to</p>		

Immingham Green Energy Terminal
 Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		<p>Schedule 2 (Requirements) to reflect this.</p> <p>The definition of Woodland Compensation Strategy has been deleted, and the definition of Woodland Compensation Plan has been inserted, as the production of the draft Woodland Compensation Plan for approval under Requirement 11 of Schedule 2 is no longer required. Instead, Revision 8 of the dDCO now incorporates reference to the final Woodland Compensation Plan, which, if agreement on its contents is reached with NELC and Natural England, will be certified pursuant to Article 64 (Certification of documents, public register, etc.) and Schedule 15 (Documents and plans to be certified). Requirement 11 has also been updated to require compliance with the final Woodland Compensation Plan as certified, as opposed to requiring submission of a draft of that plan for approval, if the DCO is granted.</p>		

Immingham Green Energy Terminal
 Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		<p>The definition of the Long Strip CEMP has been inserted as, in order to enable carrying out the relevant Long Strip clearance works early in the construction programme, the environmental management specifically relating to these works will be addressed in a CEMP specific to these works which the Applicant intends to agree with NELC and Natural England prior to the grant of the DCO. This Long Strip CEMP will then be certified pursuant to Article 64 and Schedule 15 of the DCO (if made), and further changes to the Requirements in Schedule 2 will enable the Long Strip clearance works to be carried out without depending on the discharge of other requirements which do not relate to these works.</p>		

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
8.	Schedule 2, Requirements, (paragraph 6, Construction environmental management plan)	<p>As referred to in Row 7 above, the environmental management relating to the Long Strip vegetation and tree clearance works is intended to be governed by the Long Strip CEMP (which, if the DCO were made, is included in the list of documents in Schedule 15 to be certified by the Secretary of State pursuant to Article 64 of the DCO). This is reflected in the insertion of sub-paragraph (5).</p> <p>The carve out of the Long Strip tree and vegetation clearance at sub-paragraphs (1) and (2) is on the basis that the environmental management pertaining to the Long Strip clearance works will be managed under the Long Strip CEMP following the making of the DCO, and as such, carrying out these works does not depend on the approval of the final CEMP relating to the Project as a whole. As a result, the Applicant could carry out the relevant Long Strip clearance works independently from the approval of the final</p>	<p>Construction environmental management plan</p> <p>6. —(1) No works forming part of Work No. 1 outside of the UK marine area (<u>except the clearance of trees or other vegetation from Long Strip</u>) may be commenced until a construction environmental management plan for that part of the works has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency on matters related to its function; and it is agreed that any such construction environmental management plan and the construction environmental management plan submitted pursuant to paragraph 8 of Part 2 (conditions applying to all licensable activities) of Schedule 3 (deemed marine licence) may be comprised in the same document.</p> <p>(2) No works forming part of Work No. 2 (<u>except clearance of trees or other vegetation from Long Strip</u>), Work No. 3, Work No. 4, Work No. 5, Work No. 6, Work No. 7, Work No. 8 or Work No. 9 may be commenced until a construction environmental management plan for those works has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency and Natural England on matters related to their function.</p> <p>(3) Any construction environmental management plan submitted and approved under sub-paragraph (1) and (2) must be in general accordance with the outline construction environmental management plan.</p> <p>(4) Any works forming part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6, Work No. 7, Work No. 8 and Work No. 9 must be carried out in accordance with the approved construction environmental management plan for those works, unless otherwise approved by the relevant planning authority.</p> <p>(5) <u>The clearance of trees or other vegetation from Long Strip must be carried out in accordance with the Long Strip construction environmental management plan, unless otherwise approved by the relevant planning authority.</u></p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		CEMP, enabling the carrying out of these works after the making of the DCO and the certification of the Long Strip CEMP.		
9.	Schedule 2, Requirements, (paragraph 7, Construction traffic management plan)	As with Row 8 above, as the Applicant intends to carry out the relevant Long Strip vegetation and tree clearance work early in the Project construction programme with the intention of avoiding the bird nesting season (where possible), these works have been carved out from Requirement 7. The Long Strip CEMP will contain all necessary measures to mitigate the impact of these works to enable the relevant clearance works to be carried out early in the Project construction programme without awaiting approval of the construction traffic management plan.	<p>Construction traffic management plan</p> <p>7. —(1) No part of the authorised project outside of the UK marine area (<u>except the clearance of trees or other vegetation from Long Strip</u>) may be commenced until the construction traffic management plan for that part has been submitted to and approved by the relevant planning authority.</p> <p>(2) Any construction traffic management plan submitted and approved under sub-paragraph (1) must be in general accordance with the outline construction traffic management plan.</p> <p>(3) Each part of the authorised project outside of the UK marine area must be carried out in accordance with any approved construction traffic management plan for that part, unless otherwise approved by the relevant planning authority.</p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
10.	Schedule 2, Requirements, (paragraph 8, Highway works)	These changes have been made to provide NELC with comfort that it will be able to approve the detailed design of works to its public highway authorised by the draft Order and which of these are to become maintainable at the public expense, following the mechanisms for such adoption set out in the draft Order.	<p>Highway works</p> <p>8. —(1) Before the construction of any permanent access or permanent alteration to an existing means of access to a highway used by vehicular traffic in order to provide access to Work No. 2, Work No. 3, Work No. 5 or Work No. 7 works to a highway maintainable at the public expense begins, written details of the design and layout of such means of access or alteration those works, including a plan of any land which is not such highway but which it is proposed for the purposes of article 10 (construction and maintenance of new, altered or diverted streets) is to become such highway on completion of those works, must be submitted to and approved by the relevant planning authority following consultation with the highway authority on matters related to its functions.</p> <p>(2) Before the construction of the underground culvert forming part of Work No. 4 begins, written details of the design of such underground culvert, back-filling and making good to the highway and the construction methodology for its installation must be submitted to and approved by the relevant planning authority following consultation with the highway authority on matters related to its functions.</p> <p>(3) The permanent accesses and alterations works referred to in sub-paragraph (1) and the underground culvert, back-filling and making good referred to in sub-paragraph (2) must be constructed in accordance with the approved details, unless otherwise approved by the relevant planning authority following consultation with the highway authority on matters related to its function.</p>	Revision 8
11.	Schedule 2, Requirements, (paragraph 11, Woodland compensation plan)	As referred to in Row 7 above, Requirement 11 has been updated to reflect the Applicant's intention that the Woodland Compensation Plan is agreed in advance of the determination of the DCO application, rather than requiring the Applicant to submit a draft Woodland Consultation Plan produced in consultation with Natural England and in accordance	<p>Woodland compensation plan</p> <p>11. — hhh) No clearance of trees or other vegetation within that part of Long Strip comprised in that part of Work No. 1 outside of the UK marine area or comprised in Work No. 2 may take place until a woodland compensation plan has been submitted to and approved by the relevant planning authority, following consultation with Natural England on matters related to their function.</p> <p>(1) Any woodland compensation plan submitted and approved under sub-paragraph (1) must be in accordance with the outline woodland compensation strategy.</p> <p>11.(2)- The approved woodland compensation plan must be complied with, unless otherwise approved by the relevant planning authority.</p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		with the Woodland Compensation Strategy, for approval after the grant of the DCO. The agreed Woodland Compensation Plan would then be submitted to the Secretary of State for certification in accordance with Article 64, enabling the relevant works to be carried out earlier in the construction programme.		
12.	Schedule 2, Requirements, (paragraph 12, Surface water drainage)	As with Row 8 above, as the Applicant intends to carry out the relevant Long Strip vegetation and tree clearance work early in the Project construction programme with the intention of avoiding the bird nesting season (where possible), these works have been carved out from Requirement 12. The Long Strip CEMP will contain all necessary measures to mitigate the impact of these works to enable the relevant clearance works to be carried out early in the Project construction programme without awaiting approval of the drainage strategy.	<p>Surface water drainage</p> <p>12.—iii <u>(1)</u> No part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 5 or Work No. 7 <u>(except the clearance of trees or other vegetation from Long Strip)</u> may be commenced until the drainage strategy for that part has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency and the Board on matters related to their respective functions.</p> <p>(2) Any drainage strategy submitted and approved under sub-paragraph (1) must (so far as applicable) be in general accordance with the outline drainage strategy contained in appendix 18.B of the environmental statement.</p> <p>(3) Each part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 5 and Work No. 7 must be carried out in accordance with the approved drainage strategy for that part, unless otherwise approved by the relevant planning authority.</p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
13.	Schedule 2, Requirements, (paragraph 15, Contaminated land)	As with Row 8 above, as the Applicant intends to carry out the relevant Long Strip vegetation and tree clearance work early in the Project construction programme with the intention of avoiding the bird nesting season (where possible), these works have been carved out from Requirement 15. The Long Strip CEMP will contain all necessary measures to mitigate the impact of these works to enable the relevant clearance works to be carried out early in the Project construction programme without awaiting approval of the remediation strategy.	<p>Contaminated land</p> <p>15.—(1) <u>(1)</u> No part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7 <u>(except the clearance of trees or other vegetation from Long Strip)</u> may be commenced until a written remediation strategy applicable to that part to deal with any contamination of that part which is likely to cause significant harm to persons or pollution of controlled waters or the environment has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency on matters related to its function.</p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
14.	Schedule 2, Requirements, (paragraph 20, Construction phase flood emergency response plans)	<p>Apologies that the comparison software has blended this paragraph with its footnote. For the reasons more particularly set out in the Applicant's response to FR 3.2 of the Examining Authority's Third Round of Written Questions (WQ3) [PD-017] the Applicant submits that the CEMP(s), by way of Requirement 6, appropriately secure the position during construction, and this additional requirement would be unnecessary and unreasonable. If the Examining Authority agrees in advance of Deadline 7, the Applicant would welcome this confirmation so that this Requirement may be deleted. Alternatively, this Requirement will be left in square brackets for the Examining Authority to determine the matter following the close of the Examination.</p>	<p><u>[Construction phase flood emergency response plans]</u></p> <p><u>20.—(1) [No part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 5 or Work No. 7 (except the clearance of trees or other vegetation from Long Strip) may be commenced until a flood emergency response plan to apply during construction of that part has been submitted to and approved by the relevant planning authority, following consultation with North East Lincolnshire Council in its capacity as lead local flood authority (within the meaning of the Flood and Water Management Act 2010) and the Environment Agency on matters related to their respective functions.</u></p> <p><u>(2) Any flood emergency response plan submitted and approved under sub-paragraph (1) must (so far as applicable) be in general accordance with the flood risk assessment contained in appendix 18.A of the environmental statement.</u></p> <p><u>(3) Any works forming part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 5 and Work No. 7 (except the clearance of trees or other vegetation from Long Strip) must be carried out in accordance with the approved flood emergency response plan for that part, unless a the</u> <small>(Note to the Examining Authority: for the reasons more particularly set out in the Applicant's response to FR 3.2 of the Examining Authority's Third Round of Written Questions the Applicant submits that the CEMP(s), by way of Requirement</small></p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
15.	Schedule 2, Requirements, (paragraph 21, Operational phase flood emergency response plans)	This Requirement has been proposed by the Applicant for the reasons more particularly set out in the Applicant's response to FR 3.2 of the Examining Authority's Third Round of Written Questions (WQ3) [PD-017], and the Applicant is content for it to be included on the face of the draft Order in this form.	<p><u>Operational phase flood emergency response plans</u></p> <p><u>21.—(1) No part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 5 or Work No. 7 may be brought into operational use until a flood emergency response plan to apply during operation of that part has been submitted to and approved by the relevant planning authority following consultation with North East Lincolnshire Council in its capacity as lead local flood authority (within the meaning of the Flood and Water Management Act 2010) and the Environment Agency on matters related to their respective functions.</u></p> <p><u>(2) Any flood emergency response plan submitted and approved under sub paragraph (1) must (so far as applicable) be in general accordance with the flood risk assessment contained in appendix 18.A of the environmental statement.</u></p> <p><u>(3) Each part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 5 and Work No. 7 must be operated in accordance with the plan approved under sub-paragraph (1) for that part, unless otherwise approved by the relevant planning authority.</u></p>	Revision 8
16.	Schedule 3, Deemed marine licence, Part 1 (General), Paragraph 1 (Interpretation) and Paragraph 14 (Flood Risk Assessment)	For the reasons more particularly set out in the Applicant's response to FR 3.2 of the Examining Authority's Third Round of Written Questions (WQ3) [PD-017] the Applicant submits that the CEMP(s), by way of paragraphs 8 and 15 of the Deemed Marine Licence, appropriately secure the position during construction, and the additional deemed marine licence conditions in paragraph 14, sub-paragraphs (2) – (4) would be unnecessary and unreasonable. If the Examining Authority agrees in advance of	<p><u>"flood risk assessment" means the flood risk assessment contained in appendix 18A of the environmental statement.</u></p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		<p>Deadline 7, the Applicant would welcome this confirmation so that sub-paragraphs (2) – (4) may be deleted. Alternatively, these sub-paragraphs will be left in square brackets for the Examining Authority to determine the matter following the close of the Examination. Paragraph 14, sub-paragraphs (5) – (7) provide for approval of and compliance with operational phase flood emergency response plans and, as set out in the Applicant's response to FR 3.2, the Applicant is content for those sub-paragraphs to be included in the deemed marine licence. A definition of flood risk assessment is inserted in paragraph 1 to avoid repeating its location in the environmental statement.</p>	<p>Flood risk assessment</p> <p>14. (1) All licensed activities must be carried out in accordance with the approved flood risk assessment contained in appendix 18A of the environment statement, unless otherwise approved by the MMO.</p> <p><u>(2) [No part of the licensed activities may be commenced until a flood emergency response plan to apply during construction of that part has been submitted to and approved by the MMO, following consultation with the Environment Agency on matters related to its functions.]</u></p> <p><u>(3) Any flood emergency response plan submitted and approved under sub-paragraph (2) must (so far as applicable) be in general accordance with the flood risk assessment.</u></p> <p><u>(4) Any licensed activities must be carried out in accordance with the approved flood emergency response plan for that part, unless otherwise approved by the MMO.]a</u></p> <p><u>(5) No part of the licensed activities may be brought into operational use until a flood emergency response plan to apply during operation of that part has been submitted to and approved by the MMO, following consultation with the Environment Agency on matters related to its functions.</u></p> <p><u>(6) Any a flood emergency response plan submitted and approved under sub-paragraph (5) must (so far as applicable) be in general accordance with the flood risk assessment.</u></p> <p><u>(7) Each part of the licensed activities must be operated in accordance with the plan approved under sub-paragraph (5) for that part, unless otherwise approved by the MMO.</u></p> <p><u>a. [Note to the Examining Authority: for the reasons more particularly set out in the Applicant's response to FR 3.2 of the Examining Authority's Third Round of Written Questions the Applicant submits that the CEMP(s), by way of paragraphs 8 and 15 of the deemed marine licence, appropriately secure the position during construction, and this additional deemed marine licence condition would be unnecessary and unreasonable. If the Examining Authority agrees in advance of Deadline 7, the Applicant would welcome this confirmation so that sub-paragraphs (2) – (4) may be deleted. Alternatively, these sub-paragraphs will be left in square brackets for the Examining Authority to determine the matter following the close of the Examination.]</u></p>	

Immingham Green Energy Terminal
 Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
17.	Schedule 5, Alterations of Streets, Part 1, Permanent Alteration of Layout	These changes reflect the Examining Authority's decision dated 12 July 2024 to accept the Applicant's Further Change Application [PD-016], and incorporate into the dDCO the accepted changes, described in more detail in the Proposed Further Change Application Report [AS-144].	<p>North East Lincolnshire Laporte Road</p> <p>Works for the provision of an altered layout and revised signage and markings in relation to the provision of the permanent speed limit change to which Part 1 (permanent speed limits) of Schedule 10 (traffic regulation measures) refers within the area shaded blue between the points marked D on sheets 4 and 5 and {BC}{(a)} {E}{(a)} on sheet 4 of the street works and accesses plan {and the area shaded yellow between the points marked BC on sheet 4 of the street works and accesses plan and point E on inset 1 of that plan}{(a)}.</p> <p>(X) [Note to Examining Authority: reference to BC is to be retained if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is not accepted, then reference to E should be retained].</p> <p>(X) [Note to Examining Authority: reference to E is to be deleted if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is rejected, then reference to E should be retained.]</p> <p>(X) [Note to Examining Authority: reference to the amended speed limit between points BC and E is to be retained if the Examining Authority accepts Proposed Change 5(c) into the Examination, as Proposed Change 5(c) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(c) is not accepted, then this wording should be deleted].</p>	Revision 8

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 Applicant's Schedule of Changes to the draft Development Consent Order

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO									
18.	Schedule 6, Permanent Stopping Up of Highways	These changes reflect the Examining Authority's decision dated 12 July 2024 to accept the Applicant's Further Change Application [PD-016], and incorporate into the dDCO the accepted changes, described in more detail in the Proposed Further Change Application Report [AS-144].	<p>North East Lincolnshire Kings Road</p> <p>All of the area hatched pink (including any area shaded green which underlies the area hatched pink) marked AX on sheets 6 and 7 of the stopping up and restriction of use of streets and public rights of way plan. (a)</p> <p>(X) [Note to Examining Authority: reference to additional permanent stopping up at the area marked AX is to be retained if the Examining Authority accepts Proposed Change 6, as Proposed Change 6 as requested by the Applicant consists of an additional area of stopping up. If Proposed Change 6 is not accepted, then this wording should be deleted.]</p>	Revision 8									
19.	Schedule 10, Traffic Regulation Measures, Part 1, Permanent Speed Limits	These changes reflect the Examining Authority's decision dated 12 July 2024 to accept the Applicant's Further Change Application [PD-016], and incorporate into the dDCO the accepted changes, described in more detail in the Proposed Further Change Application Report [AS-144].	<table border="1"> <thead> <tr> <th><i>(1)</i> <u>Area</u></th> <th><i>(2)</i> <u>Road name and length</u></th> <th><i>(3)</i> <u>Permanent speed limit</u></th> </tr> </thead> <tbody> <tr> <td>North East Lincolnshire</td> <td>That part of Laporte Road shaded blue and between the point marked D on sheets 4 and 5 of the traffic regulation measures plan and the point marked {BC}{(a)}{E}{(a)} on sheet 4 of that plan, a distance of approximately {365}{(a)}{660}{(a)} metres.</td> <td>30 miles per hour</td> </tr> <tr> <td>North East Lincolnshire</td> <td>That part of Laporte Road shaded yellow and between the point marked BC on sheet 4 of the traffic regulation measures plan and the point marked E on inset 1 of that plan, a distance of approximately 545 metres</td> <td>40 miles per hour (a)</td> </tr> </tbody> </table>	<i>(1)</i> <u>Area</u>	<i>(2)</i> <u>Road name and length</u>	<i>(3)</i> <u>Permanent speed limit</u>	North East Lincolnshire	That part of Laporte Road shaded blue and between the point marked D on sheets 4 and 5 of the traffic regulation measures plan and the point marked {BC}{(a)}{E}{(a)} on sheet 4 of that plan, a distance of approximately {365}{(a)}{660}{(a)} metres.	30 miles per hour	North East Lincolnshire	That part of Laporte Road shaded yellow and between the point marked BC on sheet 4 of the traffic regulation measures plan and the point marked E on inset 1 of that plan, a distance of approximately 545 metres	40 miles per hour (a)	Revision 8
<i>(1)</i> <u>Area</u>	<i>(2)</i> <u>Road name and length</u>	<i>(3)</i> <u>Permanent speed limit</u>											
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Immingham Green Energy Terminal
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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>(X) [Note to Examining Authority: reference to BC is to be retained if the Examining Authority accepts Proposed Change 5(e) into the Examination, as Proposed Change 5(e) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(e) is not accepted then reference to E should be retained.]</p> <p>(X) [Note to Examining Authority: reference to E is to be deleted if the Examining Authority accepts Proposed Change 5(e) into the Examination, as Proposed Change 5(e) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(e) is not accepted, then reference to E should be retained.]</p> <p>(X) [Note to Examining Authority: reference to 265m is to be retained if the Examining Authority accepts Proposed Change 5(e) into the Examination, as Proposed Change 5(e) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(e) is not accepted, then reference to 265m should be deleted.]</p> <p>(X) [Note to Examining Authority: reference to 660m is to be deleted if the Examining Authority accepts Proposed Change 5(e) into the Examination, as Proposed Change 5(e) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Change 5(e) is rejected, then reference to 660m should be retained.]</p> <p>(X) [Note to Examining Authority: a new row relating to the permanent speed limit change to 40mph is to be retained if the Examining Authority accepts Proposed Change 5(e) into the Examination, as Proposed Change 5(e) as requested by the Applicant consists of a change to the proposed speed limit revisions along Laporte Road. If Proposed Change 5(e) is not accepted, then this wording should be deleted.]</p>	
20.	Schedule 14, Protective Provisions, Part 3, for the protection of Northern Powergrid (paragraphs 27, 29, 30, 31, 33, 34, 35, 37 and 38)	Protective provisions in favour of Northern Powergrid are not yet in agreed form and discussions are ongoing between the respective solicitors for the parties. At this stage of the Examination, the Applicant considers it sensible to place on the face of the draft DCO submitted at Deadline 6 amendments arising from the set last provided to Northern Powergrid seeking to address its comments. It is understood that they might be wholly in agreed form but confirmation is awaited. The protective provisions are square	<p>Application</p> <p>27. <u>[For the protection of Northern Powergrid the following provisions have effect, unless otherwise agreed in writing between the undertaker and Northern Powergrid, the following provisions have effect for the duration of the construction of the authorised works, including (for the avoidance of doubt) —</u></p> <p><u>(a) where a diversion or replacement of Northern Powergrid’s apparatus directly related to the authorised project is required during the construction phase of this Order and is undertaken pursuant to this Order (or any related correction or non-material amendment order);</u></p> <p><u>(b) where decommissioning works of Northern Powergrid’s apparatus directly related to the authorised project are required and are undertaken pursuant to this Order (or any related correction or non-material amendment order),</u></p> <p><u>the following provisions have effect for as long as it takes for the diversion, replacement or decommissioning to be completed.</u></p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
		<p>bracketed to indicate to the Examining Authority that these remain under discussion. A further update will be provided at Deadline 7 as to progress between the parties, updating the dDCO where appropriate or identifying reasons why any proposed amendments are not considered appropriate.</p>	<p>Acquisition of land</p> <p>29.—zzzz (6) Regardless of any provision in this Order or anything shown on the land plans the undertaker must not acquire any apparatus <u>or override any easement or other interest of Northern Powergrid</u> otherwise than by agreement with Northern Powergrid, such agreement not to be unreasonably withheld or delayed.</p> <p>Removal of Apparatus</p> <p>30.—aaaaa (1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or <u>over which access to any apparatus is enjoyed or</u> requires that Northern Powergrid's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Northern Powergrid to maintain that apparatus in that land <u>and gain access to it</u> must not be extinguished, until alternative apparatus has</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>been constructed and is in operation, <u>and access to it has been provided pursuant to a completed easement which must include rights to retain and subsequently maintain the apparatus being replaced or diverted and any access rights to it for the lifetime of that alternative apparatus all</u> to the reasonable satisfaction of Northern Powergrid in accordance with sub-paragraphs 30(2) to 30(5).</p> <p>(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Northern Powergrid 28<u>42</u> days' advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order the undertaker<u>Northern Powergrid</u> reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Northern Powergrid the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.</p> <p>(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Northern Powergrid must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible and at the cost of the undertaker (subject to prior approval by the undertaker of its estimate of costs of doing so) use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed. <u>For the avoidance of doubt this sub-paragraph only applies in relation to the voluntary acquisition of the other land or rights and does not include or require the use of Northern Powergrid's compulsory purchase powers.</u></p> <p>Facilities and rights for alternative apparatus</p> <p>31.—<u>(1)</u> Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker<u>Northern Powergrid</u> facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Northern Powergrid or in default of agreement settled by arbitration in accordance with paragraph 30<u>(removal of apparatus article 62 (arbitration))</u>.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Expenses and costs</p> <p>33.—dddd(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid within 30<u>50</u> days of receipt of a valid VAT invoice all reasonable and proper expenses costs or charges incurred by Northern Powergrid—</p> <p>(a) in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 30(3) (removal of apparatus) including without limitation—</p> <p>(i) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that it is agreed Northern Powergrid elects to use compulsory purchase powers to acquire any necessary rights under paragraph 30(4) removal of apparatus) all costs reasonably incurred as a result of such action;</p> <p>(ii) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;</p> <p>(iii) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;</p> <p>(iv) the approval of plans;</p> <p>(v) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;</p> <p>(vi) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule); and</p> <p>(b) in assessing and preparing a design for its apparatus to address and accommodate the proposals of the undertaker whether or not the undertaker proceeds to implement those proposals or alternative or none at all,</p> <p>provided that if it so prefers Northern Powergrid may abandon apparatus that the undertaker does not seek to remove in accordance with paragraph 30(2) (removal of apparatus) having first decommissioned such apparatus.</p> <p><u>(2) Where any payment falls due pursuant to sub-paragraph (1) Northern Powergrid—</u></p> <p><u>(a) must provide an itemised invoice or reasonable expenses claim to the undertaker; and</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>(b) must provide 'reminder letters' to the undertaker for payment to be made within the 50 days on the following days after the invoice or reasonable expenses claim to the undertaker—</u></p> <p><u>(i) 15 days ('reminder letter 1');</u></p> <p><u>(ii) 29 days ('reminder letter 2');</u></p> <p><u>(iii) 43 days ('reminder letter 3');</u></p> <p><u>(c) may commence debt proceedings to recover any unpaid itemised invoice or reasonable expenses claim on the fifty first day of receipt of the same where payment has not been made.</u></p> <p><u>(5) (4) For the purposes of sub-paragraph (34)—</u></p> <p>(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such an extension is required in consequence of the execution of any such works as are referred to in paragraph 30(2) (removal of apparatus); and</p> <p>(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.</p> <p><u>(6) (5) The undertaker will not be liable for any claim by Northern Powergrid for charges, costs or expenses under this paragraph 33 unless prior to Northern Powergrid undertaking the relevant works and or incurring those charges, costs or expenses, the undertaker has—</u></p> <p>(a) received an estimate of that charge, cost or expense along with all necessary supporting information required to evidence the amount and reasonableness of, and the reasonable steps taken to minimise, the charge, cost or expense and a timescale in which the undertaker will be required to make payment, and</p> <p>(b) approved the estimate in writing (<u>such approval not to be unreasonably withheld or delayed</u>); <u>and Northern Powergrid must not commence any work in relation to which an estimate is submitted until it has been agreed in writing by the undertaker.</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>(7)</u> (6) The undertaker will use reasonable endeavours to agree the amount of any estimates submitted to it under sub-paragraph (56) within 15 working days of receipt, and must acknowledge as part of its approval that any estimate is only an estimate and may be subject to change.</p> <p><u>(8)</u> (7) Subject to Northern Powergrid updating the undertaker by way of submission of an updated estimate for approval under sub-paragraph (56) where any charges, costs or expenses are anticipated to exceed an approved estimate, the undertaker's approval of an estimate must in no way limit National Powergrid's recovery under this paragraph 33, and the undertaker must pay the actual costs incurred by Northern Powergrid and submitted for payment whether such costs are above or below the estimate provided and upon making payment under this paragraph, the undertaker may—</p> <ul style="list-style-type: none"> (a) confirm to Northern Powergrid that the charge, cost or expense is accepted; or (b) confirm to Northern Powergrid that the charge, cost or expense is not accepted and the reasons why it considers this to be the case, <p>and Northern Powergrid must take in to account any representations made by the undertaker in accordance with sub-paragraph 33(78)(b) and must following receipt of such representations confirm whether or not the requested refund, or any part thereof, is accepted or rejected, and the reasons why it considered this to be the case; and make payment of the requested refund, or part thereof <u>of it</u> which is not rejected, as applicable (such confirmation or payment not to be unreasonably withheld or delayed).</p> <p><u>(9)</u> (8) Either party may refer any difference or dispute arising out of sub-paragraph 33(78) above <u>(b)</u> to arbitration in accordance with article 62 (arbitration) of the Order.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Damage to property and other losses</p> <p>34.—eeeeee<u>(1)</u> Subject to sub-paragraphs (2) to (5), if by reason or in consequence of the construction of any of the works referred to in paragraph 30(3) (removal of apparatus),— or in consequence of the— maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Schedule any subsidence resulting from any of these works, any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Northern Powergrid, or there is any interruption in any service provided by Northern Powergrid, or Northern Powergrid becomes liable to pay any amount to a third party as a consequence of any default, negligence or omission by the undertaker in carrying out the authorised works, the undertaker must—</p> <ul style="list-style-type: none"> (a) bear and pay the cost reasonably incurred by Northern Powergrid in making good such damage or restoring the supply; and (b) indemnify Northern Powergrid for any other expenses, loss, damages, penalty, proceedings, claims or costs incurred by or recovered from Northern Powergrid;; <p><u>by reason or in consequence of any such damage or interruption or Northern Powergrid becoming liable to any third party.</u></p> <p><u>Enactments and agreements</u></p> <p>35. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Northern Powergrid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of—</p> <p>37. If in consequence of an agreement reached in accordance with paragraph 29 (acquisition of land) or the powers granted under this Order the access to any apparatus or alternative apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus or alternative apparatus as will enable Northern Powergrid to maintain or use the said apparatus no less effectively than was possible before such obstruction.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>38. Where practicable, the undertaker and Northern Powergrid will make reasonable efforts to liaise and co-operate in respect of information that is relevant to the safe and efficient construction of the authorised development. Such liaison must be carried out where any works are—</u></p> <p><u>(a) within 15 m of any above ground apparatus; or</u></p> <p><u>(b) are to a depth of between 0-4 m below ground level.]</u></p>	
21.	Schedule 14, Protective Provisions, Part 4, For the protection of Anglian Water (paragraphs 50 and 51)	Headings to these paragraphs have been inserted to accord with convention and are not a material amendment.	<p><u>Enactments and agreements</u></p> <p>50. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made; except that in the event of an inconsistency between a term of this Part of this Schedule and a term of—</p> <p>(a) the licence between (1) Humber Conservancy Board and (2) Grimsby Rural District Council dated 1 July 1920;</p> <p>(b) the licence between (1) British Transport Docks Board and (2) Grimsby Rural District Council dated 28 March 1969; and</p> <p>(c) the licence between (1) British Transport Docks Board and (2) North East Lincolnshire Water Board dated 18 May 1970,</p> <p>the term of this Part of this Schedule applies.</p> <p><u>Substitution of agreed periods of time</u></p> <p>51. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.</p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
22.	Schedule 14, Protective Provisions, Part 7, For the Protection of Cadent Gas Limited as Gas Undertaker (paragraphs 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 99, 100)	Protective provisions in favour of Cadent are not yet in agreed form and discussions are ongoing between the respective solicitors for the parties. At this stage of the Examination, the Applicant considers it sensible to place on the face of the dDCO submitted at Deadline 6 amendments arising from the set last provided to Cadent seeking to address its comments. It is understood that those in favour of Cadent might be in substantially agreed form but a number of specific and material matters are not yet agreed and confirmation is awaited. The protective provisions are square bracketed to indicate to the Examining Authority that these remain under discussion. A further update will be provided at Deadline 7 as to progress between the parties, updating the dDCO where appropriate or identifying reasons why any proposed amendments are not considered appropriate.	<p>Application</p> <p>84. <u>For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect during the construction of the authorised works (as defined in this Part of this Schedule) and for a further period of 18 months from completion of the authorised works (as defined in this Part of this Schedule).</u></p> <p>Interpretation</p> <p>85. In this Part of this Schedule—</p> <p>“alternative apparatus” means appropriate alternative apparatus to the satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;</p> <p>“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus <u>(including transformed rectifiers and any associated groundbeds or cables)</u> belonging to or maintained by Cadent for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of Cadent for the purposes of transmission, distribution and or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;</p> <p>“authorised works” has the same meaning as is given to the term “authorised development” in article 2 (interpretation) of this Order and includes any associated development authorised by the<u>this</u> Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;</p> <p>“Cadent” means Cadent Gas Limited and or <u>includes</u> its successors in title and or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986.</p> <p>“commence” has the same meaning as in article<u>Schedule 2 (interpretation requirements)</u> of this Order and “commencement” is to be construed to have the same meaning save that for the purposes of this Part of the<u>this</u> Schedule the terms “commence” and “commencement” include <u>any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground</u> operations for the purposes of archaeological or ecological investigations and investigations of the existing condition of the ground or of structures <u>and the diversion, laying and construction of services;</u></p>	Revision 8

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;</p> <p>“functions” includes powers and duties;</p> <p><u>“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed and setting out the necessary measures (if any) for a ground subsidence event);</u></p> <p><u>“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, will require the undertaker to submit for Cadent's approval a ground mitigation scheme;</u></p> <p><u>“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;</p> <p>“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;</p> <p>“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;</p> <p>“rights” includes rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and</p> <p>“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—</p> <ul style="list-style-type: none"> (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 8890(32) or otherwise; (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 8790(2) (acquisition of land) or otherwise; and/or (c) include any of the activities that are referred to in paragraph 8 of TCD/SP/SSW/22 (Cadent's Cadent's policies for safe working in proximity to gas apparatus) “Specification for safe working in the vicinity of Cadent High pressure Gas pipelines and associated installation requirements for third parties GD/SP/SSW/22” <u>Cadent's Assets</u>). 	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>On street apparatus</u></p> <p><u>86.—(1) Except for paragraphs 87 (apparatus of Cadent in stopped up streets), 90 (removal of apparatus) in so far as sub-paragraph 90(2) applies, 91 (facilities and rights for alternative apparatus) in so far as its sub-paragraph 91(1) applies, 92 (retained apparatus: protection of Cadent), 93 (expenses) and 94 (indemnity) which will apply in respect of the exercise of all or any powers under this Order affecting the rights and apparatus of Cadent, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act.</u></p> <p><u>(2) Paragraphs 90 (removal of apparatus) and 91 (facilities and rights for alternative apparatus) of this Agreement will apply to diversions even where carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.</u></p> <p><u>(3) Notwithstanding article 8 (application of the 1991 Act) or any other powers in the Order generally, section 85 of the 1991 Act in relation to cost sharing and the regulations made under it will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.</u></p> <p><u>Apparatus of Cadent in stopped up streets</u></p> <p><u>87.—(1) Without prejudice to the generality of any other protection afforded to Cadent elsewhere in this Order, where any street is stopped up under article 11 (permanent stopping up of streets), if Cadent has any apparatus in the street or accessed via that street Cadent will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to Cadent, or will procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 90 (removal of apparatus).</u></p> <p><u>(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 13 (temporary stopping up and prohibition or restriction of use of streets and public rights of way), Cadent will be at liberty at all times to take all necessary access across any such stopped up highway or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary stopping up or diversion in respect of any apparatus which at the time of the stopping up or diversion was in that highway.</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Protective works to buildings</p> <p>88.86. bbbbbb <u>(1)</u> The undertaker, in the case of the powers conferred by article 1920 (protective works), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), must—</p> <ul style="list-style-type: none"> (a) pay compensation to Cadent for any loss sustained by it; and (b) indemnify Cadent against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption. <p>(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent must give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof <u>of it</u> must be made by Cadent, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.</p>	

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			<p>Acquisition of land</p> <p>89.87. eeeee (1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of Cadent otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).</p> <p>(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.</p> <p>(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus, and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent or other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.</p> <p>(4) Any agreement or consent granted by Cadent under paragraph 9092 <u>(Retained apparatus: protection of Cadent)</u> or any other paragraph of this Part of this Schedule, must not be taken to constitute agreement under sub-paragraph (1).</p> <p>(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves decommissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement and/or <u>any</u> other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.</p>	

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			<p>Removal of apparatus</p> <p>90.88. — dddddd (1) If, in the exercise of the agreement reached in accordance with paragraph 8789 (acquisition of land) or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the satisfaction of Cadent and in accordance with sub-paragraphsub-paragraphs (2) to (5) inclusive.</p> <p>(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account sub-paragraph <u>91</u>(1) (facilities and rights for alternative apparatus) below) the necessary facilities and rights—</p> <ul style="list-style-type: none"> (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus). <p>(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation mustdoes not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to do so.</p>	

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			<p>(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.</p> <p>(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraphsub-paragraphs (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.</p> <p>Facilities and rights for alternative apparatus</p> <p>91.89. — eeeee)-(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.</p> <p>(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph 90(2) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's reasonable opinion) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 97.99 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Retained apparatus: <u>protection of Cadent</u></p> <p>92.90. — ffffff <u>(1)</u> Not less than 28<u>56</u> days before the commencement of any specified works the undertaker must submit to Cadent a plan <u>and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.</u></p> <p>(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—</p> <p>(5) In relation to any work to which sub-paragraphs (1) and or (2) apply, Cadent may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.</p> <p>(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph <u>sub-paragraphs</u> (1) and (2) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.</p> <p>(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's <u>reasonable</u> satisfaction prior to the commencement of any authorised <u>specified</u> works (or any relevant part thereof <u>of them</u>) for which protective works are required prior to commencement.</p> <p>(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs <u>90 (1) to (3) and (6) to (8) (removal of apparatus), 91 (facilities and rights for alternative apparatus), 93 (expenses), 94 (indemnity) and 96 (co-operation)</u> apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 88<u>90</u>(2) (removal of apparatus).</p>	

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			<p>(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of the authorised<u>specified</u> works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.</p> <p><u>(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works must comply with—</u></p> <p><u>(a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and</u></p> <p><u>(b) sub-paragraph (11) at all times.</u></p> <p><u>(11) (9)–At all times when carrying out any works authorised under the Order the undertaker must comply with the Cadent’s<u>Cadent’s</u> policies for safe working in proximity to gas apparatus “Specification CD/SP/SSW/22 (Cadent’s policies for safe working in the vicinity of Cadent High pressure Gas pipelines and associated installation requirements for third parties SPGD/SP/SSW22<u>Cadent’s Assets</u>” and HSE’s “HS(~G)47 Avoiding Danger from underground services”.</u></p> <p><u>(12) (10)–As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line<u>accordance</u> with paragraph 9293<u>9293</u>. (expenses).</u></p>	

			<p>Expenses</p> <p>93.91. gggggg (1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand all charges, costs and expenses reasonably anticipated or incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—</p> <ul style="list-style-type: none"> (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent— <ul style="list-style-type: none"> (i) using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 8890(3) (removal of apparatus) if it elects to do so; and/or (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent; (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus; (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus; (d) the approval of plans; (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule; and (g) any watching brief pursuant to sub-paragraph 9092(6) (retained apparatus). <p>(2) Nothing in sub-paragraph (1) requires the undertaker to repay any charge, cost or expense for which Cadent is liable to a third party or the undertaker as a consequence of any default, negligence or omission by Cadent, its officers, employees, servants, contractors or agents: <u>except insofar as such default or omission is caused by a breach of this Part of this Schedule by the undertaker or is in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker.</u></p>	
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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Indemnity</p> <p>94.92. hhhhhh <u>(1)</u> Subject to sub-paragraphs (2) and to <u>(3)</u> if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will <u>—</u></p> <p>(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—</p> <ul style="list-style-type: none"> (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and (b) any authorised works or any other works authorised by this Part of this Schedule carried out by Cadent with the benefit of this Order pursuant to section 156 of the Planning Act 2008 or article <u>946</u> (benefit of Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-paragraph (b) will be subject to the full terms of this Part of this Schedule including this paragraph 9294; <u>and</u> (c) any indirect or consequential loss of any third party (including but not limited to loss of use revenue profit contract production increased cost of working or business interruption arising from any such damage or interruption, which is not reasonably foreseeable at the commencement of the relevant works referred to in sub-paragraph (1)). 	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p>Arbitration</p> <p>99.97. Save for differences or disputes arising under sub-paragraphs 88(3), 88(5) and paragraph 91 any Any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 62 (arbitration) and in settling any difference or dispute, the arbitrator must have regard to the <u>reasonable</u> requirements of Cadent for ensuring the safety, <u>and</u> economic and efficient operation of Cadent's apparatus <u>and of the authorised development</u>.</p> <p>Notices</p> <p>100.98. The plans submitted to Cadent by the undertaker pursuant to sub-paragraph 9092(1) (retained apparatus) must be sent to Cadent Gas Limited Plant Protection by e-mail to plantprotection@cadentgas.com copied by e-mail to wieky.eashman@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker.]</p>	
23.	Schedule 14, Protective Provisions, Part 10, For the Protection of CLdN Ports Killingholme Limited	In light of the email dated 17 July 2024 sent to the Examining Authority by Alex Tresadern at Pinsent Masons Solicitors on behalf of CLdN Ports Killingholme Limited ("CLdN") withdrawing CLdN's objection to the DCO application and the agreed position reached between the Applicant and CLdN as confirmed by Mr Tresadern, the square brackets around the protective provisions in favour of CLdN and footnote have been removed.	<p style="text-align: center;">PART 10</p> <p style="text-align: center;">[FOR THE PROTECTION OF CLDN PORTS KILLINGHOLME LIMITED</p> <p>Application</p> <p>117.115. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and CLdN, for the protection of CLdN during the construction and operation of the authorised development.</p> <p>Arbitration</p> <p>125.123. Unless otherwise agreed in writing, any dispute arising between the Undertaker and CLdN under this Part of this Schedule is to be determined by arbitration as provided in article 62 (arbitration) of this Order. (a)</p> <p>(X) (Note to Examining Authority: Protective provisions for CLdN Ports Killingholme Limited are in agreed form, subject to the completion of certain internal administrative steps on both sides.)</p>	Revision 8

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Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO																	
24.	Schedule 15, Documents and plans to be certified	For the reasons further described above in Row 7, reference to the Long Strip CEMP and the Woodland Compensation Plan have been inserted, and reference to the outline woodland compensation strategy have been removed, from Schedule 15.	<table border="1"> <tr> <td>Long Strip construction environmental management plan</td> <td>TR030008/EXAM/9.90</td> <td>1</td> <td>2 August 2024 2 August 2024</td> </tr> <tr> <td>outline woodland compensation strategy</td> <td>TR030008/APP/6.8</td> <td>+</td> <td>21 September 2023</td> </tr> <tr> <td>woodland compensation plan</td> <td>TR030008/EXAM/9.34</td> <td>4</td> <td>2 August 2024</td> </tr> </table>	Long Strip construction environmental management plan	TR030008/EXAM/9.90	1	2 August 2024 2 August 2024	outline woodland compensation strategy	TR030008/APP/6.8	+	21 September 2023	woodland compensation plan	TR030008/EXAM/9.34	4	2 August 2024	Revision 8					
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In light of the Examining Authority's decision dated 12 July 2024 to accept the Applicant's Further Change Application [PD-016], Examining Authority's acceptance of the Further Change Application, the square brackets and footnotes around the revisions and dates of documents and plans which had been updated to reflect the Further Changes which comprised the Further Changes Application (described further in the Proposed Further Changes Application Report [AS-144]) have been removed. The updated revision number of the Land Plans reflects the	<table border="1"> <thead> <tr> <th>(1) Document</th> <th>(2) Document reference</th> <th>(3) Revision number</th> <th>(4) Date</th> </tr> </thead> <tbody> <tr> <td>book of reference</td> <td>TR030008/APP/3.1</td> <td>{3}(a) {2}(a)</td> <td>{26 June 2024}(a) {3-May-2024}(a)</td> </tr> <tr> <td>environmental statement (comprising environmental statement non-technical summary, environmental statement main report, environmental statement figures and environmental statement appendices)</td> <td>TR030008/APP/6.1, TR030008/APP/6.2, TR030008/APP/6.3, TR030008/APP/6.4</td> <td>1</td> <td>21 September 2023</td> </tr> <tr> <td>hydrogen production facility building design code</td> <td>TR030008/EXAM/9.76</td> <td>1</td> <td>4 June 2024</td> </tr> <tr> <td>land plans</td> <td>TR030008/APP/4.5</td> <td>{3}(a) {2}(a) 4</td> <td>{26 June 2024}(a) {3-May-2024}(a) 2 August 2024</td> </tr> </tbody> </table>	(1) Document	(2) Document reference	(3) Revision number	(4) Date	book of reference	TR030008/APP/3.1	{3}(a) {2}(a)	{26 June 2024}(a) {3-May-2024}(a)	environmental statement (comprising environmental statement non-technical summary, environmental statement main report, environmental statement figures and environmental statement appendices)	TR030008/APP/6.1, TR030008/APP/6.2, TR030008/APP/6.3, TR030008/APP/6.4	1	21 September 2023	hydrogen production facility building design code	TR030008/EXAM/9.76	1	4 June 2024	land plans	TR030008/APP/4.5	{3}(a) {2}(a) 4	{26 June 2024}(a) {3-May-2024}(a) 2 August 2024
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Applicant's Schedule of Changes to the draft Development Consent Order

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		version submitted at Deadline 6 (TR030008/APP/4.5 (Revision 4)).	<table border="0"> <tr> <td>outline construction environmental management plan</td> <td>TR030008/APP/6.5</td> <td>[5](a)[4](a)</td> <td>[26 June 2024](a)[4-June-2024](a)</td> </tr> <tr> <td>plan of potentially affected hedgerows and trees subject to preservation orders</td> <td>TR030008/APP/4.9</td> <td>[4](a)[3](a)</td> <td>[26 June 2024](a)[3-May-2024](a)</td> </tr> <tr> <td>sediment sampling plan</td> <td>TR030008/APP/7.1</td> <td>SAM/2022/00110</td> <td>6 February 2023</td> </tr> <tr> <td>stopping up and restriction of use of streets and public rights of way plan</td> <td>TR030008/APP/4.7</td> <td>[3](a)[2](a)</td> <td>[26 June 2024](a)[3-May-2024](a)</td> </tr> <tr> <td>street works and accesses plan</td> <td>TR030008/APP/4.6</td> <td>[3](a)[2](a)</td> <td>[26 June 2024](a)[3-May-2024](a)</td> </tr> <tr> <td>traffic regulation measures plans</td> <td>TR030008/APP/4.8</td> <td>[4](a)[3](a)</td> <td>[26 June 2024](a)[3-May-2024](a)</td> </tr> <tr> <td>works plans</td> <td>TR030008/APP/4.1</td> <td>[4](a)[3](a)</td> <td>[26 June 2024](a)[3-May-2024](a)</td> </tr> </table>	outline construction environmental management plan	TR030008/APP/6.5	[5](a) [4](a)	[26 June 2024](a) [4-June-2024](a)	plan of potentially affected hedgerows and trees subject to preservation orders	TR030008/APP/4.9	[4](a) [3](a)	[26 June 2024](a) [3-May-2024](a)	sediment sampling plan	TR030008/APP/7.1	SAM/2022/00110	6 February 2023	stopping up and restriction of use of streets and public rights of way plan	TR030008/APP/4.7	[3](a) [2](a)	[26 June 2024](a) [3-May-2024](a)	street works and accesses plan	TR030008/APP/4.6	[3](a) [2](a)	[26 June 2024](a) [3-May-2024](a)	traffic regulation measures plans	TR030008/APP/4.8	[4](a) [3](a)	[26 June 2024](a) [3-May-2024](a)	works plans	TR030008/APP/4.1	[4](a) [3](a)	[26 June 2024](a) [3-May-2024](a)	
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			<p>(X) [Note to Examining Authority: reference to revision 3 of the book of reference to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to and additions of new plots in the book of reference. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 2 be retained.]</p> <p>(X) [Note to Examining Authority: reference to revision 2 of the book of reference to be retained if the Examining Authority does not accept the Applicant's Proposed further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to 26 June 2024 date of book of reference revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the applicant result in amendments to and additions of new plots in the land plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2023 wording be retained.]</p> <p>(X) [Note to Examining Authority: reference to 3 May 2023 date of the land plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to revision 3 of the land plans to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to and additions of new plots in the land plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 1 be retained.]</p> <p>(X) [Note to Examining Authority: reference to revision 1 of the land plans to be retained if the Examining Authority does not accept the Applicant's Proposed further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to 26 June 2024 date of land plans revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the applicant result in amendments to and additions of new plots in the land plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 21 September wording be retained.]</p> <p>(X) [Note to Examining Authority: reference to 21 September 2023 date of the land plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to revision 5 of the outline construction environmental management plan to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the outline construction environmental management plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 1 be retained.]</p> <p>(X) [Note to Examining Authority: reference to revision 4 of the outline construction environmental management plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to 26 June 2024 date of land plans revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further</p>	

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			<p>Changes as requested by the applicant result in amendments to and additions of new plots in the land plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 21 September wording be retained.</p> <p>(X) [Note to Examining Authority: reference to 21 September 2023 of the outline construction environmental management plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to revision 4 of the plan of potentially affected hedgerows and trees subject to preservation orders to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the plan of potentially affected hedgerows and trees subject to preservation orders. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 3 be retained.]</p> <p>(X) [Note to Examining Authority: reference to revision 3 of the plan of potentially affected hedgerows and trees subject to preservation orders to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to 26 June 2024 date of the plan of potentially affected hedgerows and trees subject to preservation orders revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the applicant result in amendments to the plan of potentially affected hedgerows and trees subject to preservation orders. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2023 wording be retained.]</p> <p>(X) [Note to Examining Authority: reference to 3 May 2023 of the plan of potentially affected hedgerows and trees subject to preservation orders to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to revision 3 of the stopping up and restriction of use of streets and public rights of way plan to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the stopping up and restriction of use of streets and public rights of way plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 2 be retained.]</p> <p>(X) [Note to Examining Authority: reference to revision 2 of the land plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to June 26 2024 date of the stopping up and restriction of use of streets and public rights of way plan revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the stopping up and restriction of use of streets and public rights of way plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2024 wording be retained.]</p> <p>(X) [Note to Examining Authority: reference to 3 May 2024 date of the stopping up and restriction of use of streets and public rights of way plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to revision 3 of the street works and access plans to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the street works and access plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 1 be retained.]</p> <p>(X) [Note to Examining Authority: reference to revision 2 of the street works and access plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p>	

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			<p>(X) [Note to Examining Authority: reference 26 June 2024 date of the street works and access plans revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the street works and access plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2024 wording be retained.]</p> <p>(X) [Note to Examining Authority: reference to 21 September 2023 date of the street works and access plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to revision 4 of the traffic regulation measures plan to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the traffic regulation measures plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 3 be retained.]</p> <p>(X) [Note to Examining Authority: reference to revision 3 of the traffic regulation measures plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference 26 June 2024 date of the traffic regulation measures plan revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the traffic regulation measures plan. If the Proposed Further Changes are not accepted, then this wording should be deleted and 3 May 2024 wording be retained.]</p> <p>(X) [Note to Examining Authority: reference to 3 May 2024 date of the traffic regulation measures plan to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference to revision 4 of the works plans to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the works plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and revision 3 be retained.]</p> <p>(X) [Note to Examining Authority: reference to revision 3 of the works plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p> <p>(X) [Note to Examining Authority: reference 26 June 2024 date of the works plans revision to be retained if the Examining Authority accepts the Applicant's Proposed Further Change Application into the Examination, as the Proposed Further Changes as requested by the Applicant result in amendments to the works plans. If the Proposed Further Changes are not accepted, then this wording should be deleted and 26 June 2024 wording be retained.]</p> <p>(X) [Note to Examining Authority: reference to 3 May 2024 date of the works plans to be retained if the Examining Authority does not accept the Applicant's Proposed Further Change Application into the Examination.]</p>	
25.	Schedule 17, Procedure regarding certain approvals, etc., (paragraph 5, (Fees))	Requirement 11 no longer requires submission of any applications but simply compliance with the woodland compensation plan identified in the table at Schedule 15 (Documents and plans to be certified).	<p>(2) The fee payable for each application under sub-paragraph(1) is as follows—</p> <p>(a) a fee of £2,535 for the first application for the discharge by the relevant planning authority of each of the requirements in paragraphs 4 (detailed approval), 5(2) (phasing), 6 (construction environmental management plan), 7 (construction traffic management plan), 8 (highway works), 10 (landscape and ecology management plan), 11 (woodland compensation plan), 12 (surface water drainage), 15 (contaminated land), 16 (external lighting), 17 (control of noise during operational use), 18 (decommissioning environmental management plan) and 19 (operational travel plan);</p>	Revision 8

8 Schedule of Changes as updated at Deadline 7 (15 August 2024)

Table 7: Schedule of Changes to Revision 8 of the dDCO (TR030008/APP/2.1 (Revision 9))

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
1.	Article 2, Interpretation	This definition is required for article 55(11) and was omitted in error.	<u>“the 2010 Regulations” means the Community Infrastructure Levy Regulations(p)</u> <u>(p) S.I. 2010/948 Regulation 6 was amended by SI 2011/987.</u>	Revision 9
2.	Article 2, Interpretation	Omission identified in final proof-read of footnotes.	“business day” means a day other than a Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971 <u>(a)</u> ; <u>(a) 1971 c. 80.</u>	Revision 9
3.	Article 2, Interpretation	Footnote updated to reflect that the Applicant will update the Examining Authority and Secretary of State with the relevant dates and references once these applications are granted, in advance of the making of the DCO.	“existing early works planning permission” means the planning permission granted by the relevant planning authority on [●] <u>(b)</u> with reference number [●] and any amendments or variations made or granted in respect of it pursuant to section 96A, section 73, section 73 A or section 73B of the 1990 Act; <u>(b) [Note to the Examining Authority: this will be updated prior to the end of the Examination]; the applications for the existing early works planning permissions have been made but not yet granted by NEL C. The Applicant will update the Examining Authority and Secretary of State with the relevant dates once these are granted, so the draft Order contains the relevant details before it is made.]</u>	Revision 9

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
4.	Article 2, Interpretation	A final proof-read of the dDCO identified that this addition is needed to prevent “new early works planning permissions” overlapping with “existing early works planning permissions”. In article 55 (“planning legislation”) provisions relating to existing early works planning permissions and new early works planning permissions apply to both, so the distinction is more from a common sense timing perspective than any distinction of legal effect.	“new early works planning permission” means any planning permission granted under the 1990 Act prior to service of notice under article 55(3) for works also comprised in Work No. 2, Work No. 3, Work No 5 or Work No. 7 (including any further associated development to which paragraph 11 of Part 1 (authorised development) of Schedule 1 (authorised project) refers) or any part of them, and any amendments or variations made or granted in respect of such planning permission pursuant to section 96A, section 73, section 73A or section 73B of the 1990 Act, <u>except an existing early works planning permission</u> ;	Revision 9
5.	Article 2, Interpretation	Typographical error.	“tidal works” means so much of the authorised project as is on, under or over tidal waters or tidal lands below the level of high water ²² ;	Revision 9
6.	Article 2, Interpretation	Typographical error.	“the works plans” means the plans of that name identified in the table at Schedule 15 (documents and plans to be certified) and which <u>is/are</u> certified by the Secretary of State as the works plans for the purposes of this Order.	Revision 9

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
7.	Article 3, Disapplication of legislative provisions	Omissions identified in final proof-read of footnotes.	<p>Disapplication of legislative provisions</p> <p>3. —(1) The following provisions do not apply in relation to activities carried out for the purpose of, or in connection with, the construction, maintenance, use or decommissioning of the authorised project—</p> <ul style="list-style-type: none"> (a) Section 23 (prohibition on obstructions, etc. in watercourses) of the Land Drainage Act 1991(a); (b) The provisions of any byelaws made under section 66 (e) (powers to make byelaws) of the Land Drainage Act 1991(b); (c) The provisions of any byelaws made under, or having effect as if made under, paragraph 5 of Schedule 25 (byelaw – making powers of the appropriate agency) to the Water Resources Act 1991(c); (d) Regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(d) in respect of a flood risk activity only; and (e) The provisions of the Neighbourhood Planning Act 2017(e) insofar as they relate to temporary possession of land under articles 3431 (temporary use of land for carrying out the authorised project) and 3232 (temporary use of land for maintaining the authorised project) of this Order. <p>(a) 1991 c. 59. (b) Section 66 was amended by paragraphs 25 and 38 of Schedule 2 of the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 (c.21). (c) 1991 c. 57. Paragraph 5 was amended by section 100 (and (2)) of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the Marine Coastal Access Act 2009 (c. 23), paragraphs 40 and 49 of Schedule 25 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c. 25), section 224 of, and paragraphs 20 and 24 of Schedule 16, and Part 5(B) of Schedule 22 to the Marine and Coastal Access Act 2009 and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995. (d) S.I. 2016/1154, amended by S.I. 2017/1012, S.I. 2017/1075, S.I. 2018/110, S.I. 2018/428, S.I. 2018/575, S.I. 2018/721, S.I. 2018/1216, S.I. 2018/1227, S.I. 2019/39, S.I. 2020/904, S.I. 2021/77 and S.I. 2023/149. (e) 2017 c. 20.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
8.	Article 6, Extent of certain works	Typographical errors.	<p>6. —(1) Subject to paragraph (4)(2), in carrying out the authorised project comprising the works numbered in Part 1 (authorised development) inof Schedule 1 (authorised project) the undertaker must, where the works plans set out the lateral extent of the area in which the numbered work comprised in the authorised project is to be located, carry out, maintain, use or decommission the numbered work within the lateral extent of the area set out for it on those plans.</p>	Revision 9
9.	Article 8, Application of the 1991 Act	Typographical error.	<p>(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major highway works by virtue of paragraph (1) <u>to be construed as references to the undertaker.</u></p>	Revision 9
10.	Article 8, Application of the 1991 Act	Addition provided further to NELC request that it be clarified that the specified provisions of the 1991 Act apply also to Article 9 (power to alter layout, etc., of streets). The Applicant is content to add this clarification.	<p>(4) The provisions of the 1991 Act mentioned in paragraph (5)(2) (which, together with other provisions of that Act, apply in relation to the construction of street works) and any regulations made, or code of practice issued or approved under those provisions, apply (with necessary modifications) in relation to—</p> <p><u>(a) any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 1313 (temporary stopping up and prohibition or restriction of use of streets and public rights of way) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act; and</u></p> <p><u>(b) any alteration of the layout of or the carrying out of any works in the street by the undertaker under the powers conferred by article 9 (power to alter layout, etc., of streets) whether or not the alteration of the layout of or the carrying out of the works constitutes street works within the meaning of that Act.</u></p>	Revision 9
11.	Article 8, Application of the 1991 Act	Cross-referencing error.	<p>(5) The provisions of the 1991 Act(a) referred to in paragraph (4) are—</p> <p>(a) section 54(b) (advance notice of certain works), subject to paragraph (d)(6);</p> <p>(b) section 55(c) (notice of starting date of works), subject to paragraph (d)(6);</p>	Revision 9

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12.	Article 9, Power to alter layout, etc., of streets	Reference should be to both columns, consistent with how similar cross-references in other highways powers are made.	<p>9. —(1) The undertaker may for the purposes of the authorised project alter the layout of or carry out any works in the street—</p> <p>(a) in the case of the streets specified in columncolumns 1 and 2 of the table in Part 1 (permanent alteration of layout) of Schedule 5 (alteration of streets) permanently in the manner specified in relation to that street in column 3; and</p> <p>(b) in the case of the streets specified in columncolumns 1 and 2 of the table in Part 2 (temporary alteration of layout) of Schedule 5 (alteration of streets) temporarily in the manner specified in relation to that street in column 3.</p>	Revision 9
13.	Article 10, Construction and maintenance of new, altered or diverted streets	NELC correctly identified that “public highway” is a tautology because all “highway”, as per the definition from the Highways Act 1980 (incorporated into Article 2 (Interpretation)) is public highway. The Applicant is content to make the changes.	<p>(4) Where land not previously part of the public-highway comes to form part of the public-highway by virtue of the construction, diversion or alteration of streets under this Order, unless otherwise agreed in writing with the street authority, the land is deemed to have been dedicated as public highwayshighway on the expiry of a period of 12 months from completion of the street that has been constructed, altered or diverted and is thereafter to be maintained by and at the expense of the street authority.</p>	Revision 9
14.	Article 11, Permanent stopping up of streets	Correction of reference to heading of Schedule.	<p>11.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised project, stop up each of the streets specified in columns (1) and (2) of Schedule 6 (permanent stopping up of streetshighways) and identified on the stopping up and restriction of use of streets and public rights of way plan to the extent specified and described in column (3) of that Schedule.</p>	Revision 9

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15.	Article 13, Temporary stopping up and prohibition or restriction of use of streets and public rights of way	Reference should be made to both columns, as it has been in paragraph 4(a).	<p>(4) Without limitation on the scope of paragraph (1) the undertaker may temporarily prohibit the use of, use, restrict the use of, alter or divert—</p> <p>(a) the streets or public rights of way specified in columns (1) and (2) of the table in Part 1 (temporary prohibition or restriction of the use or diversion of streets or public rights of way) of Schedule 8 (temporary restriction or alteration, etc. of the use of streets or public rights of way) in the manner specified in column (3) of that table; and</p> <p>(b) the public rights of way specified in column <u>columns 1 and 2</u> of the table in Part 2 (temporary use of motor vehicles on public rights of way) of Schedule 8 (temporary restriction or alteration, etc. of the use of streets or public rights of way) in the manner specified in column 3 of that table.</p>	Revision 9
16.	Article 13, Temporary stopping up and prohibition or restriction of use of streets and public rights of way	NELC requested clarification that the Applicant would make good any damage calls to the bridleway during construction. The Applicant is content to include provision to that effect.	<p><u>(7) The undertaker must make good to the reasonable satisfaction of the highway authority any damage caused to any part of Bridleway Number 36 to which columns 1, 2 and 3 of the table in Part 1 (temporary prohibition or restriction of the use or diversion of streets or public rights of way) of Schedule 8 (temporary restriction or alteration, etc. of the use of streets or public rights of way) refer by the exercise of the undertaker of any powers conferred by this article.</u></p>	Revision 9
17.	Article 13, Temporary stopping up and prohibition or restriction of use of streets and public rights of way	Reference should be made to all three columns because the part of the bridleway in question is most particularly described in the third column.	<p>(6) If the undertaker temporarily closes under the powers conferred by this article any part of Bridleway Number 36 to which columns 1 and 2 <u>and 3</u> of the table in Part 1 (temporary prohibition or restriction of the use or diversion of streets or public rights of way) of Schedule 8 (temporary restriction or alteration, etc. of the use of streets or public rights of way) refer it must provide the temporary diversion specified in column 3 of that table but the temporary diversion is not required to be of a higher standard than the temporarily closed Bridleway Number 36.</p>	Revision 9

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18.	Article 15, Access to works	The Schedule in question refers to more than one location.	(b) form and lay out the temporary means of access in the location <u>locations</u> specified in Part 2 (temporary means of access to works) of Schedule 9; and	Revision 9
19.	Article 18, Discharge of water	Unnecessary wording.	(7) A person who receives an application for consent or approval under paragraph (3) or under paragraph (4)(a) and fails to notify the undertaker which made the application of a decision within 28 days of receiving the application that person is deemed to have granted consent or given approval, as the case may be.	Revision 9
20.	Article 19, Authority to survey and investigate the land	The statutory drafting guidance preference is not to have forward slashes.	(c) without limitation on the scope of sub-paragraph (a) — (i) make trial holes, boreholes, excavations or take horizontal cores in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil, groundwater and other materials below ground level and or remove soil, rock, water and or other material samples and discharge water from sampling operations on to the land; (d) place on, leave on and remove from the land apparatus (including but not limited to welfare facilities and apparatus attached to buoys) for use in connection with the survey, monitoring or investigation of land, making of trial holes, boreholes, excavations; <u>and</u> cores; and or the carrying out of ecological or archaeological investigations or monitoring.	Revision 9
21.	Article 19, Authority to survey and investigate the land	NELC requested clarity that the power as a whole could not be exercised without its consent on the publicly maintainable highway. Notwithstanding precedent, the applicant is content in this	(5) No trial holes, boreholes, excavations or horizontal cores may be made <u>surveying, monitoring or investigation to which paragraph (1) refers may be carried out</u> under this article— (a) in land located within the boundary of any highway for which the highway authority is responsible without its consent; or (b) in a private street without the consent of the street authority, but such consent must not be unreasonably withheld or delayed.	Revision 9

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		instance to include provision to that effect.		
22.	Article 20, Protective works	The term "land" from paragraphs (3)(a) and (b) was omitted from the coda in error.	<p>(3) For the purpose of determining how the functions under this article are to be exercised, the undertaker may enter and survey—</p> <p>(a) any land, building, structure, apparatus or equipment, falling within paragraph (1) and any land within its curtilage; and</p> <p>(b) where reasonably necessary, any land which is adjacent to the land, building, structure, apparatus or equipment, whether or not within Order limits,</p> <p>and place on, leave on and remove from the <u>land</u>, building, structure, apparatus or equipment any apparatus and equipment for use in connection with the survey.</p>	Revision 9
23.	Article 26, Private rights	Use of clearer, less antiquated language.	<p>(2) Subject to the provisions of this article, all private rights or restrictive covenants over land owned by the undertaker which—</p> <p>(a) being is within the Order limits except the land shaded yellow on the land plans; and</p> <p>(b) is required for the purposes of this Order,</p> <p>cease to have effect in so far as their continuance would be inconsistent with any activity authorised by this Order which interferes with or breaches such rights or such restrictive covenants as from the date on which that activity has begun.</p>	Revision 9

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24.	Article 31, Temporary use of land for constructing the authorised project	Punctuation.	<p>31.—(1) The undertaker may, in connection with the carrying out of the authorised project but subject to article 23 (time limit for exercise of powers to acquire land compulsorily or to possess land temporarily)—</p> <p>(a) enter on and take temporary possession of—</p> <p>(i) the land shown shaded green on sheets 3, 4, 5, 6 and 7 of the land plans, described in the book of reference and specified in columns (1) and (2) of Schedule 13 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and</p> <p>(ii) any other Order land shown shaded pink, blue or shown shaded and hatched blue on the land plans and described in the book of reference in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4(a) (execution of declaration) of the 1981 Act; except that in respect of the land shaded and hatched blue on the land plans and described in the book of reference such entry and temporary possession pursuant to this paragraph (1)(a)(ii) may only be taken of the subsoil of that land;</p>	Revision 9
25.	Article 33, Statutory undertakers	The Applicant has identified in proof-reading that this provision was incorrectly transposed from Article 36(2) of The A47 Wansford to Sutton Development Consent Order 2023, the precedent from which it was taken and an extract of which is provided below the comparison dDCO extract in the column to the right. It should state “and”. The purpose is to preserve the rights of statutory undertakers in streets where standard public access rights are being	<p>dDCO extract:</p> <p>(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—</p> <p>(a) Part 3 (street works in England and Wales) of the 1991 Act; orand</p> <p>(b) Article 17 (apparatus and rights of statutory undertakers in stopped up streets).</p> <p>A47 Wansford to Sutton Development Consent Order 2023 extract:</p> <p>(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—</p> <p>(a) Part 3 (street works in England and Wales) of the 1991 Act; and</p> <p>(b) article 37 (apparatus and rights of statutory undertakers in stopped up streets).</p>	Revision 9

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		interfered with under powers of the Order, as per Article 17 of the dDCO, not just any streets to which the 1991 Act applies. The matter of extinguishment of rights is in any event more particularly regulated by the preferences of each entity in their protective provisions at Schedule 14 of the dDCO.		
26.	Article 41, Maintenance of authorised project	To ensure environmental information submitted under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 is captured in the test and for consistency with the Articles 63(2)(b) and Articles 63(3)(b).	<p>(2) This article does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement <u>or in any updated environmental information supplied under the 2017 Regulations</u>.</p>	Revision 9
27.	Article 46, Benefit of Order	Reference to plot 7/7 was duplicated in error.	<p>(4) Air Products has the benefit of the provisions to which paragraph (3) refers solely so far as they relate to the land shown as plots 3/2, 4/5, 4/7, 4/8, 4/9, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/26, 4/28, 4/29, 4/30, 4/32, 5/3, 5/4, 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/18, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/36, 5/37, 5/38, 5/39, 5/45, 6/6, 6/14, 6/15, 6/16, 6/18, 6/19, 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 and 7/23 on the land plans and described in the book of reference and (where applicable on the terms of those provisions) land outside the Order limits except (in each aforementioned case) in respect of any interests of the Company.</p>	Revision 9

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28.	Article 46, Benefit of Order	The former paragraph 11(g) was not in correct sequential order.	<p>(11) The list of provisions in this paragraph to which paragraphs (9) and (10) refer is as follows-</p> <ul style="list-style-type: none"> (a) article 19 (authority to survey and investigate the land); (b) article 20 (protective works); (c) article 22 (compulsory acquisition of land); (d) article 24 (compulsory acquisition of rights); (e) article 25 (acquisition of subsoil or airspace only); (f) article 31 (temporary use of land for constructing the authorised project); (g) articles 33(1)(a) and (b) (statutory undertakers); <u>(g)</u> (h) article 32 (temporary use of land for maintaining the authorised project); and <u>(h)</u> articles 33(1)(a) and (b) (statutory undertakers); 	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
29.	Article 46, Benefit of Order	The changes made to paragraphs (12) and (13) reflect the Applicant's Responses to Documentation Received at Deadline 6, namely the MMO's [REP6-029]. As more particularly set out in that document, and in footnote (a), the Applicant resists the change at paragraph (12) but is content to make the change at paragraph (13).	<p>(12) [An undertaker with the benefit of any provision of the deemed marine licence may pursuant to this sub-paragraph, with the consent of the Secretary of State—</p> <p>(a) transfer to any person any or all of the benefit of the provision and such related statutory rights as may be agreed between the undertaker and that person;</p> <p>(b) grant to any person for a period agreed between the undertaker and that person any or all of the benefit of the provision and such related statutory rights as may be so agreed between the undertaker and that person,</p> <p>but the Secretary of State must consult the MMO <u>[and have due regard to any response received](a)</u> before giving such consent to the transfer or grant to another person of the benefit of the provision and such related statutory rights.</p> <p>(13) Any transfer or grant under paragraph (12) does not take effect until the undertaker has given notice to the MMO stating—</p> <p>(a) the name and contact details of the person to whom the benefit of the provision will be transferred or granted;</p> <p>(b) the date on which the transfer or grant will take effect <u>(which must be at least 28 days after the date on which the notice is given)</u>; and</p> <p>(c) the provision to be transferred or granted,</p> <p>and providing a copy of the consent given by the Secretary of State to the transfer or grant and a copy of the transfer or grant itself; and the MMO may update its records in respect of the deemed marine licence accordingly.</p> <p><u>(a) [Note to Examining Authority: The MMO is seeking inclusion of the words "and have due regard to any response received" but the Applicant proposes this be deleted in any made DCO. Examining Authorities tend to be highly resistant to including obligations of any nature on the Secretary of State in DCOs, which are pieces of legislation. The term "due regard" also fetters the Secretary of State's discretion. "Due regard" is not simply "regard". Section 104(2)(a) of the 2008 Act, for example, requires the Secretary of State only to "have regard" to national policy statements in deciding DCO applications. The MMO is seeking a higher level of obligation on the Secretary of State in a manner which substantially substitutes an MMO decision on transfers for that of the Secretary of State.]</u></p>	Revision 9
30.	Article 53, Felling or lopping of trees and	The amendment reflects the desire of NELC for this provision to be clearer that it means the publicly maintainable highway of	<p>(6) The undertaker may not pursuant to paragraph (1) fell or lop a tree within or overhanging the extent of <u>highway maintainable at the public highway expense</u> without the consent of the highway authority.</p>	Revision 9

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	removal of hedgerows	NELC, and the Applicant is content to make the amendment.		
31.	Article 55, Planning legislation	The relevant defined terms were not set out in full, in error.	<p>(4) From the date of service of any notice pursuant to paragraph (3)—</p> <p>(a) the undertaker must cease to carry out development under any existing early works planning permission or new early works planning permission specified in that notice; and</p> <p>(b) the conditions to which an existing early works planning permission or new early works planning permission specified in that notice are subject will be unenforceable except in respect of—</p> <p>(i) any breach that occurred prior to the undertaker serving notice pursuant to paragraph (3); and</p> <p>(ii) any conditions of the existing early works <u>planning</u> permission or new early works <u>planning</u> permission that relate to the statutory requirement under the 1990 Act for biodiversity net gain.</p>	Revision 9
32.	Article 56, Traffic regulation measures	Only one regulation is referred to. Typographical error.	<p>(2) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) (regulations in relation to orders and notices under the 1984 Act) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(b) when used in accordance with regulations<u>regulation</u> 3(5) of those regulations.</p>	Revision 9

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33.	Article 57, Defence to proceedings in respect of statutory nuisance	<p>Paragraphs 1(a)(iii) and 3(a)(iii) needed to be updated to reflect that the Long Strip construction environmental management plan, to be approved at the DCO stage rather than later under Requirements, is also a document which should act as part of a defence to the actions to which the provisions refer.</p> <p>Paragraph 3(a)(iii) omitted reference to the decommissioning environmental management plan in error because when this was introduced it was included only in paragraph 1(a)(iii) when it should have been in both paragraphs.</p> <p>Reference is made to applicable documents approved by the MMO pursuant to marine licences because the actions to which the provisions refer may apply <u>below</u> the mean high water mark and the relevant planning authority is only approving</p>	<p>(iii) the applicable controls and measures relating to smoke, dust, accumulations, deposits, light, noise, vibration, lighting or ponds, pools, ditches, gutters or watercourses described in the relevant construction environmental management plan, construction traffic management plan, drainage strategy, lighting strategy, noise management scheme or decommissioning environmental management plan approved <u>(as applicable)</u> by the relevant planning authority pursuant to the relevant provision of Schedule 2 (requirements) or <u>by the MMO pursuant to the relevant term of the deemed marine licence or of any marine licence granted or varied pursuant to the 2009 Act (including any variation of the deemed marine licence) or in the Long Strip construction environmental management plan</u> or in accordance with noise and lighting levels set out in an environmental permit relating to the <u>construction, maintenance, operation or decommissioning</u> of the relevant part of the authorised project; or</p> <p>(iii) the applicable controls and measures relating to smoke, dust, accumulations, deposits, light, noise, vibration, lighting or ponds, pools, ditches, gutters or watercourses described in the relevant construction environmental management plan, construction traffic management plan, drainage strategy, lighting strategy-or, noise management scheme <u>or decommissioning environmental management plan</u> approved by the relevant planning authority pursuant to the relevant provision of Schedule 2 (requirements) or <u>by the MMO pursuant to the relevant term of the deemed marine licence or of any marine licence granted or varied pursuant to the 2009 Act (including any variation of the deemed marine licence) or in the Long Strip construction environmental management plan</u> or in accordance with noise and lighting levels set out in an environmental permit relating to the construction, maintenance, operation or decommissioning of the <u>relevant part of</u> authorised project; or</p>	Revision 9

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		applicable documents <u>above</u> the mean high water mark.		
34.	Article 58, Procedure in relation to appeals under Control of Pollution Act 1974	Reference is made to applicable CEMP approved by the MMO pursuant to marine licences because the actions to which the provision refers may apply <u>below</u> the mean high water mark and the relevant planning authority is only approving applicable documents <u>above</u> the mean high water mark.	<p>(2) Where a local authority is acting further to section 60(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised project it must also have regard to relevant noise levels referred to in the environmental statement and <u>—</u></p> <p>(a) the applicable construction environmental management plan or noise management scheme approved by the relevant planning authority pursuant to the relevant provision of Schedule 2 (requirements);</p> <p>(b) <u>the applicable construction environmental management plan approved by the MMO pursuant to the relevant term of the deemed marine licence or of any marine licence granted or varied pursuant to the 2009 Act (including any variation of the deemed marine licence).</u></p>	Revision 9
35.	Article 60, Crown rights	Preliminary correspondence with the Crown Estate's solicitors, Town Legal, suggests that they are minded for this wording to be deleted. The Applicant is content to do so. The Applicant is in the process of providing Town Legal with the information required to inform the wording of the section 135(2) consent from the Crown Estate. Confirmation as to the overall wording of this article will	<p>(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227 of the 2008 Act) that is for the time being held otherwise than by or on behalf of the Crown, without the consent in writing of the appropriate Crown authority (as defined in that section).</p>	Revision 9

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		follow from Town Legal at that stage.		
36.	Article 63, Procedure regarding certain approvals, etc.	Deletion of superfluous word – the information must be <u>supplied</u> under the 2017 Regulations for it to be relevant.	<p>(2) When any consent, agreement or approval is required of, or with, the relevant planning authority pursuant to a requirement set out in Schedule 2 (requirements) such consent agreement or approval must not be given if it would—</p> <p>(a) permit development (so far as the development falls within a Work No.)—</p> <ul style="list-style-type: none"> (i) outside of the extent of the area shown on the works plans for the Work No. in which that development is comprised; or (ii) exceeding the maximum built element height set out in column (2) of the table at paragraph 4(5) of Schedule 2 (requirements) for development comprised in the corresponding Work No. set out in column (1) of that table; or (iii) below the minimum built element height set out in column (5) of the table at paragraph 4(5) of Schedule 2 (requirements) for the corresponding built element set out in column (4) of that table; or <p>(b) give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 Regulations.</p>	

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37.	Article 63, Procedure regarding certain approvals, etc.	Deletion of superfluous word – the information must be <u>supplied</u> under the 2017 Regulations for it to be relevant.	<p>(3) When any details, plans or other matters have been consented, agreed or approved by the relevant planning authority pursuant to a requirement set out in Schedule 2 (requirements), then they may subsequently be amended by agreement with the relevant planning authority provided that no amendments to those details, plans or other matters may be approved where such amendments would—</p> <p>(a) permit development (so far as the development falls within a Work No.)—</p> <p>(i) outside of the extent of the area shown on the works plans for the Work No. in which that development is comprised; or</p> <p>(ii) exceeding the maximum built element height set out in column (2) of the table at paragraph 4(5) of Schedule 2 (requirements) for development comprised in the corresponding Work No. set out in column (1) of that table; or</p> <p>(iii) below the minimum built element height set out in column (5) of the table at paragraph 4(5) of Schedule 2 (requirements) for the corresponding built element set out in column (4) of that table; or</p> <p>(b) give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 Regulations.</p>	
38.	Article 63, Procedure regarding certain approvals, etc.	Cross referencing error.	<p>(5) Schedule 17 (procedure regarding certain approvals, etc.) does not apply—</p> <p>(a) in respect of any consents, agreements or approvals contemplated by the provisions of Schedule 14 (protective provisions) or any difference or dispute under article 20(7) (protective works) to which, in each case, article 62 (arbitration) instead applies;</p>	Revision 9
39.	Article 65, Service of notices	The Applicant understands this to be the position as to which Secretary of State would make the DCO.	<p>Signed by authority of the Secretary of State for Business, Energy and Industrial Strategy <u>Transport</u></p> <p style="text-align: right;"><i>Name</i></p> <p>Address Parliamentary Under Secretary of State</p> <p>Date Department of Business, Energy and Industrial Strategy <u>for Transport</u></p>	Revision 9
40.	Schedule 1, Authorised project	NELC correctly identified that “public highway” is a tautology because all “highway”, as per the definition from the Highways Act 1980	<p>(f) road access from the public highway at two locations from Laporte Road and one location from an unnamed private road off Queens Road;</p>	Revision 9

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		(incorporated into Article 2 (Interpretation)) is public highway. The Applicant is content to make the changes.	<p>(f) road access from the public-highway at two locations on Laporte Road;</p> <p>(j) road access from the public-highway to the site at two locations from Kings Road and two locations from the A1173;</p>	
41.	Schedule 1, Authorised project	Statutory drafting convention requires that paragraph numbering runs sequentially across differing parts of the same Schedule.	<p style="text-align: center;">PART 2 ANCILLARY WORKS</p> <p>12.1 Generally, works within the Order limits comprised in—</p> <ul style="list-style-type: none"> (a) surveying and setting-out; (b) vegetation removal; (c) planting; (d) installation of demarcation fencing, stockproof fencing and heras fencing or similar to enable the establishment of construction areas; (e) survey trenches and pits; and (f) demobilisation of construction works. 	Revision 9
42.	Schedule 1, Authorised project	To ensure environmental information submitted under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 is captured in the test and for consistency with the Articles 63(2)(b) and Articles 63(3)(b).	<p>11. In connection with such Work Nos. 1 to 10 and to the extent that they do not otherwise form part of any such work, further associated development within the Order limits comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project which do not give rise to any materially new or materially different significant effects from those assessed in the environmental statement <u>or in any environmental information supplied under the 2017 Regulations</u> including—</p>	Revision 9

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43.	Schedule 2, Requirements (Paragraph 1)	There is no change to this defined term but it has been moved to the alphabetically correct place within the paragraph.	<p>“Queens Road residential properties” means the land comprised in plots 5/3, 5/4, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 or 7/23 shown on the land plans and described in the book of reference;</p> <p><u>“Queens Road residential properties” means the land comprised in plots 5/3, 5/4, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22 or 7/23 shown on the land plans and described in the book of reference;</u></p>	Revision 9
44.	Schedule 2, Requirements (Paragraph 5)	Typographical error.	<p>(2) No works forming part of Work No. 2 (except <u>the</u> clearance of trees or other vegetation from Long Strip), Work No. 3, Work No. 4, Work No. 5, Work No. 6, Work No. 7, Work No. 8 or Work No. 9 may be commenced until a construction environmental management plan for those works has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency and Natural England on matters related to their function.</p>	Revision 9
45.	Schedule 2, Requirements (Paragraph 9)	To ensure environmental information submitted under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 is captured in the test and for consistency with the Articles 63(2)(b) and Articles 63(3)(b).	<p>(2) The following works comprised in Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7 are permitted outside the hours stated in sub-paragraph (1) provided such works do not give rise to any materially new or materially different effects than those assessed in the environmental statement <u>or in any updated environmental information supplied under the 2017 Regulations</u> —</p> <ul style="list-style-type: none"> (a) works that cannot be interrupted, including concrete pours, or that need to be conducted outside of normal work hours for safety reasons, including radiographic testing; (b) emergency works; (c) works that are carried out with the prior approval of the relevant planning authority; 	Revision 9
46.	Schedule 2, Requirements (Paragraph 20)	Typographical error – inserting missing brackets	<p>(3) Any works forming part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 5 and Work No. 7 (except the clearance of trees or other vegetation from Long Strip) must be carried out in accordance with the approved flood emergency response plan for that part, unless otherwise approved by the relevant planning authority. <u>[a]</u></p>	Revision 9

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			<p>^(a) [Note to the Examining Authority: for the reasons more particularly set out in the Applicant's response to FR 3.2 of the Examining Authority's Third Round of Written Questions the Applicant submits that the CEMP(s), by way of Requirement 6, appropriately secure the position during construction, and this additional requirement would be unnecessary and unreasonable. If the Examining Authority agrees in advance of Deadline 7, the Applicant would welcome this confirmation so that this Requirement may be deleted. Alternatively, this Requirement will be left in square brackets for the Examining Authority to determine the matter following the close of the Examination.]</p>	
47.	Schedule 3, Deemed marine licence (Paragraph 1)	Reference to vibro-driving of piles must be consistent in both definitions.	<p>"percussive piles" means driven piles but excludes the handling, placing and vibro-driving of piles;</p> <p>"percussive piling" for the purposes of this licence means the driving of piles by percussive means but does not include the handling, placing or vibro-pilingvibro-driving of piles and a "marine pile" means a pile which will, during construction, be in a free-water state;</p>	Revision 9
48.	Schedule 3, Deemed marine licence (Paragraph 6)	Deletion of superfluous word – the information must be <u>supplied</u> under the 2017 Regulations for it to be relevant.	<p>6. —(1) With respect to any provision of this Schedule which requires the licensed activities to be carried out in accordance with documents, strategies, information, plans, protocols or statements approved by the MMO prior to or under this licence, the documents, strategies, information, plans, protocols or statements so approved are taken to include amendments approved in writing by the MMO subsequent to the first approval of those documents, strategies, information, plans, protocols or statements provided it has been demonstrated to the satisfaction of the MMO that the subject matter of the relevant amendments does not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement or in any updated-environmental information supplied under the 2017 Regulations.</p> <p>(2) When any approval or agreement is required of, or with, the MMO pursuant to this Schedule such approval or agreement must not be given if it would give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated-environmental information supplied under the 2017 Regulations.</p>	
49.	Schedule 3, Deemed marine licence (Paragraph 8)	The MMO required this amendment in its representation with reference [REP6-029], and the Applicant is content to make it.	<p>8. —(1) No licensed activities may be commenced until a construction environmental management plan for them has been submitted to and approved by the MMO following consultation with the relevant planning authority, the Environment Agency and Natural England on matters related to their</p>	Revision 9

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			function; and the submitted construction environmental management plan must be in accordance with the outline construction environmental management plan, unless otherwise approved <u>in writing</u> by the MMO.	
50.	Schedule 3, Deemed marine licence (Paragraph 10)	Incorrect term for the provision in question.	10.—(1) The undertaker must notify the MMO in writing of any agents, contractors or sub-contractors that will carry on any licensed activity listed in section <u>paragraph</u> 3 of this licence on behalf of the undertaker. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity.	Revision 9
51.	Schedule 3, Deemed marine licence (Paragraph 11)	Refinement and addition to mitigation measure which the Applicant is content to include.	(a) A provision that no construction operations (other than to finish driving any pile that is in the process of being driven at the point that the cold weather restriction comes into force) within 200 metres of <u>exposed mudflat and at least 200 metres seaward of</u> mean low water springs may take place following seven consecutive days of zero or sub zero temperatures (where the temperature does not exceed zero degrees centigrade for more than six hours in any day or any other formula as may be agreed with the MMO to define short periods of thaw);	Revision 9
52.	Schedule 3, Deemed marine licence (Paragraph 12)	The statutory drafting guidance preference is not to have forward slashes, so these have been removed from paragraph 12 (1). The MMO required the amendment to paragraph 12(2) in its representation with reference [REP6-029], and the Applicant is content to make it.	Marine Noise Registry 12.—(1) Only when impact driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry— (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving ^ <u>or</u> detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements; and (b) within 12 weeks of completion of impact pile driving ^ <u>or</u> detonation of explosives, information on the exact locations and specific dates of impact pile driving ^ <u>or</u> detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements.	Revision 9

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			(2) The undertaker must notify the MMO of the successful submission <u>provision to the Marine Noise Registry</u> of Forward Look and Close-out requirements <u>within 7 days of the submission</u> .				
53.	Schedule 3, Deemed marine licence (Paragraph 16)	The MMO required the amendment in its representation with reference [REP6-029], and the Applicant is content to make it.	(6) Subject to sub-paragraph (7) <u>(7)</u> below, the undertaker must ensure that no construction activity for the approach jetty or decommissioning of topsides <u>located within 200 metres of mean low water springs</u> takes place between 1 October and 31 March inclusive in any year located within 200 metres of mean low water springs .	Revision 9			
54.	Schedule 4, Streets subject to street works	The location of the point marked E changed in the Further Change Application, accepted by the Examining Authority.	<table border="1"> <tr> <td>North East Lincolnshire</td> <td>Laporte Road</td> <td>Works set out in article 7(1) <u>7(1)</u> for the placing and connecting of apparatus and associated works in the area between the point marked E on sheet 4 <u>inset 1</u> of the street works and accesses plan and the point marked D on sheets 4 and 5 of that plan.</td> </tr> </table>	North East Lincolnshire	Laporte Road	Works set out in article 7(1) <u>7(1)</u> for the placing and connecting of apparatus and associated works in the area between the point marked E on sheet 4 <u>inset 1</u> of the street works and accesses plan and the point marked D on sheets 4 and 5 of that plan.	Revision 9
North East Lincolnshire	Laporte Road	Works set out in article 7(1) <u>7(1)</u> for the placing and connecting of apparatus and associated works in the area between the point marked E on sheet 4 <u>inset 1</u> of the street works and accesses plan and the point marked D on sheets 4 and 5 of that plan.					


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55.	Schedule 4, Streets subject to street works	Consistency.	North East Lincolnshire	Kings Road	Works set out in article 7(1) for the placing and connecting of apparatus and associated works in each of the area between the point marked V on sheets 6 and 7 of the street works and accesses plan and the point marked W on sheet 7 of that plan, the area between the point marked AI on sheets 6 and 7 of the street works and accesses plan and the points marked AH and AJ on sheet 7 of that plan, the area between the points marked AK and AL on sheet 7 of the street works and accesses plan, the area between the points marked AM and AN on	Revision 9
56.	Schedule 5, Alteration of streets	The areas in question no longer appear on sheets 5 or 6.	North East Lincolnshire	Kings Road	Works to enable the passage of abnormal indivisible loads including the removal of signage and street furniture within the area shaded red and marked AI, AD, AH and AJ on sheets 6 and sheet 7 of the street	Revision 9

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			North East Lincolnshire	Laporte Road	Works for the provision of a temporary means of access, altered layout and revised signage and markings within each of the areas shaded orange and marked respectively N and P on sheet 4 of the street works and accesses plan and the area shaded orange and marked O on sheets sheet 4 and 5 of that plan.	
57.	Schedule 8, Temporary restriction or alteration, etc. of the use of streets or public rights of way	Consistency.	North East Lincolnshire	Laporte Road	Temporary closure to all traffic save for traffic under the direction of the undertaker of the area shaded green between the point marked S on sheets 4 and 5 of the stopping up and restriction of use of streets and public rights of way plan and the point marked T on sheet 4 of that plan.	Revision 9
58.	Schedule 8, Temporary restriction or alteration, etc. of the use of streets or public rights of way	The relevant area to be temporarily closed has always been shown on the plan as such (see extract provided to the right) but a proof-read has identified that the accompanying wording was omitted from the Schedule in error.	North East Lincolnshire	Unnamed access road	Temporary closure of the area shaded green and marked A on sheets 4 and 5 of the stopping up and restriction of use of streets and public rights of way plan.	

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59.	Schedule 12, Land in which only new rights and restrictive covenants, etc. may be acquired	References were made to “authorised development” in error. The references should include “ancillary works”, and thus should be to the “authorised project”.	<table border="1"> <thead> <tr> <th>(1) <i>Land Plans - Sheet</i></th> <th>(2) <i>Plot reference number shown on land plans</i></th> <th>(3) <i>Purpose for which rights over land may be acquired or restrictive covenants imposed</i></th> <th>(4) <i>Relevant part of the authorised development</i></th> </tr> </thead> <tbody> <tr> <td>4</td> <td>4/17</td> <td> <p>The right to enter and remain upon the land for the purposes of the installation, operation, use, maintenance and decommissioning of the authorised development<u>project</u> and to—</p> <ul style="list-style-type: none"> (a) pass re-pass with or without vehicles machinery plant and equipment to construct lay maintain retain and use apparatus; (b) break up or open the surface construct, lay maintain retain and use apparatus together with ancillary equipment including cathodic protection to include installation by way of directional drilling; (c) construct maintain retain and use matting, trackways; <u>and</u> hard standings for the purposes of access to construct lay and maintain apparatus and associated works, plant and equipment, and to restore and re-instate the land to its prior condition following the use of </td> <td> <p>Work No. 4 and the further associated development to which paragraph 11<u>11</u> of Part 1 (authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) of Schedule 1 (authorised project) refers</p> </td> </tr> </tbody> </table>	(1) <i>Land Plans - Sheet</i>	(2) <i>Plot reference number shown on land plans</i>	(3) <i>Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	(4) <i>Relevant part of the authorised development</i>	4	4/17	<p>The right to enter and remain upon the land for the purposes of the installation, operation, use, maintenance and decommissioning of the authorised development<u>project</u> and to—</p> <ul style="list-style-type: none"> (a) pass re-pass with or without vehicles machinery plant and equipment to construct lay maintain retain and use apparatus; (b) break up or open the surface construct, lay maintain retain and use apparatus together with ancillary equipment including cathodic protection to include installation by way of directional drilling; (c) construct maintain retain and use matting, trackways; <u>and</u> hard standings for the purposes of access to construct lay and maintain apparatus and associated works, plant and equipment, and to restore and re-instate the land to its prior condition following the use of 	<p>Work No. 4 and the further associated development to which paragraph 11<u>11</u> of Part 1 (authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) of Schedule 1 (authorised project) refers</p>	Revision 9
(1) <i>Land Plans - Sheet</i>	(2) <i>Plot reference number shown on land plans</i>	(3) <i>Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	(4) <i>Relevant part of the authorised development</i>									
4	4/17	<p>The right to enter and remain upon the land for the purposes of the installation, operation, use, maintenance and decommissioning of the authorised development<u>project</u> and to—</p> <ul style="list-style-type: none"> (a) pass re-pass with or without vehicles machinery plant and equipment to construct lay maintain retain and use apparatus; (b) break up or open the surface construct, lay maintain retain and use apparatus together with ancillary equipment including cathodic protection to include installation by way of directional drilling; (c) construct maintain retain and use matting, trackways; <u>and</u> hard standings for the purposes of access to construct lay and maintain apparatus and associated works, plant and equipment, and to restore and re-instate the land to its prior condition following the use of 	<p>Work No. 4 and the further associated development to which paragraph 11<u>11</u> of Part 1 (authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) of Schedule 1 (authorised project) refers</p>									

Ref.	dDCO Ref.	Rationale for Change	Change Made			Version of dDCO
					<p>the new rights;</p> <ul style="list-style-type: none"> (d) remove, store and stockpile topsoil and subsoil, employ water barriers and pumping equipment, remove materials and to restore and re-instate the land to its prior condition; (e) erect, maintain and remove temporary fencing for site safety and to create, retain and remove temporary secure works compounds within that part of the land over which the new rights are acquired; (f) erect permanent fencing as is reasonably necessary for the purposes of security and protection of the authorised development <u>project</u>; (g) benefit from continuous vertical and lateral support for the apparatus installed as part of the authorised development <u>project</u>; (h) erect temporary signage and provide measures for benefit of public and personnel safety. 	

Ref.	dDCO Ref.	Rationale for Change	Change Made			Version of dDCO
					<p>A restrictive covenant over the land for the benefit of the remainder of the Order land—</p> <ul style="list-style-type: none"> (a) not to undermine or damage the apparatus installed as part of the authorised development <u>project</u> nor to do anything which may interfere with apparatus or support for the apparatus within that part of the land over which the new rights are acquired; (b) not to alter or permit or allow to be altered the then existing level of the land nor to cover or permit or allow to be covered the surface of the land over which the new rights are acquired in such manner as to render the access to apparatus impracticable or more difficult or which may damage it within that part of the land over which the new rights are acquired; (c) not to erect construct or place or suffer to be erected constructed or placed any building or structure or carry out or suffer to be carried out any excavation or plant or suffer to be planted any trees on or within that part of the land without the previous consent in writing of the undertaker such consent not to be unreasonably withheld or delayed. 	
			5	5/23, 5/24, 5/25	<p>The right to enter and remain upon the land for the purposes of the installation, operation, use, maintenance and decommissioning of the authorised development <u>project</u> and to—</p> <ul style="list-style-type: none"> (a) pass re-pass with or without vehicles 	Work No. 6 and the further associated development to which paragraph 11 of Part 1

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					<p>machinery plant and equipment to construct lay maintain retain and use apparatus;</p> <p>(b) break up or open the surface construct, lay maintain retain and use apparatus together with ancillary equipment including cathodic protection to include installation by way of directional drilling;</p> <p>(c) construct maintain retain and use matting, trackways, hard standings for the purposes of access to construct lay and maintain apparatus and associated works, plant and equipment, and to restore and re-instate the land to its prior condition following the use of the new rights;</p> <p>(d) remove, store and stockpile topsoil and subsoil, employ water barriers and pumping equipment, remove materials and to restore and re-instate the land to its prior condition;</p> <p>(e) erect, maintain and remove temporary fencing for site safety and to create, retain and remove temporary secure works compounds within that part of the land over which the new rights are acquired;</p> <p>(f) erect permanent fencing as is reasonably necessary for the purposes of security and protection of the authorised developmentproject;</p> <p>(g) benefit from continuous vertical and lateral support for the apparatus installed as part of the authorised developmentproject;</p> <p>(h) erect temporary signage and provide measures for benefit of public and personnel safety.</p>	<p>(authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) of Schedule 1 (authorised project) refers</p>		
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Ref.	dDCO Ref.	Rationale for Change	Change Made				Version of dDCO
					<p>A restrictive covenant over the land for the benefit of the remainder of the Order land—</p> <ul style="list-style-type: none"> (a) not to undermine or damage the apparatus installed as part of the authorised development <u>project</u> nor to do anything which may interfere with apparatus or support for the apparatus within that part of the land over which the new rights are acquired; (b) not to alter or permit or allow to be altered the then existing level of the land nor to cover or permit or allow to be covered the surface of the land over which the new rights are acquired in such manner as to render the access to apparatus impracticable or more difficult or which may damage it within that part 		

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				5, 6 5/7, 5/8, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/20, 5/22, 5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/34, 5/38, 6/14, 6/15	<p>The right to enter and remain upon the land for the purposes of the installation, operation, use, maintenance and decommissioning of the authorised development <u>project</u> and to—</p> <ul style="list-style-type: none"> (a) pass re-pass with or without machinery plant and equipment to construct at a depth no less than 3 metres maintain retain and use apparatus; (b) construct and lay at a depth no less than 3 metres maintain retain and use apparatus together with ancillary equipment including cathodic protection to include installation by way of directional drilling; (c) benefit from continuous vertical and lateral support for the apparatus installed as part of the authorised project; (d) erect temporary signage and provide measures for benefit of public and personnel safety. 	<p>Work No. 6 and the further associated development to which paragraph 11 of Part 1 (authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) of Schedule 1 (authorised project) refers</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made		Version of dDCO	
			4, 6, 7	4/8, 4/17, 4/22, 4/23, 5/37, 7/12	<p>The right to enter and remain within the land for the purposes of the installation, operation, use, maintenance and decommissioning of the authorised developmentproject and to—</p> <ul style="list-style-type: none"> (a) pass re-pass with or without machinery plant and equipment to construct lay maintain retain and use apparatus; (b) construct, lay maintain, retain and use apparatus together with ancillary equipment including cathodic protection to include installation by way of directional drilling; (c) benefit from continuous vertical and lateral support for the apparatus installed as part of the authorised developmentproject; (d) provide measures for benefit of public and personnel safety. <p>The further associated development to which paragraph 11 of Part 1 (authorised development) of Schedule 1 (authorised project) refers and the ancillary works to which Part 2 (ancillary works) of Schedule 1 (authorised project) refers</p>	
60.	Schedule 14, Protective Provisions, Part 1, For the Protection of the Statutory Conservancy and Navigation Authority for the Humber	The relevant footnote was omitted in error, as identified in a proof-read of the footnotes.	<p>(4) If a tidal work gives rise to environmental impacts over and above those anticipated by any environmental document, the undertaker, in compliance with its duties under any enactment and, in particular, under section 48A of the Harbours Act 1964(a), must take such action as is necessary to prevent or mitigate those environmental impacts and in doing so must consult and seek to agree the necessary measures with the Statutory Conservancy and Navigation Authority.</p> <p>(a) 1964.c.40.</p>		Revision 9	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
61.	Schedule 14, Protective Provisions, Part 1, For the Protection of the Statutory Conservancy and Navigation Authority for the Humber	Typographical error.	<p>(4) the<u>The</u> Statutory Conservancy and Navigation Authority must consult the undertaker before making any byelaw which directly applies to or which could directly affect the construction, operation or maintenance of the authorised development.</p> <p>(5) the<u>The</u> Statutory Conservancy and Navigation Authority or the harbour master (as appropriate) must consult the undertaker before giving any general direction which directly affects the construction, operation or maintenance of the authorised development.</p>	
62.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 20	The protective provisions have been updated to reflect the most recent set provided to the Environment Agency by the Applicant. They are still being negotiated but the parties do not anticipate any particular impediment to agreeing them before the close of the Examination.	<p>“the Agency” means the Environment Agency and any successor to its statutory functions;</p> <p>“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” are to be construed accordingly;</p> <p>“environmental duties” means the Agency’s duties in the Environment Act 1995(a), the Natural Environment and Rural Communities Act 2006(a)) and the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (a);</p> <p>“drainage work” means—</p> <p><u>(a) any main river;</u></p> <p><u>(b) any land which provides or is expected to provide flood storage capacity for any main river;</u></p> <p><u>(c) “flood management infrastructure” includes any bank, wall, embankment or other structure, or any appliance; (in each aforementioned case) constructed or used for land drainage, flood defence for which (in each case) the Agency has statutory responsibility or tidal monitoring in connection with a main river;</u></p>	Revision 9

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>“emergency” means an occurrence which presents a risk of —</u></p> <p>(a) <u>serious flooding</u></p> <p>(b) <u>serious detrimental impact on drainage</u></p> <p>(c) <u>serious harm to the environment</u></p> <p><u>“fishery” means any waters containing fish and fish in, or mitigating to or from, such waters and the spawn, spawning ground, habitat or food or such fish;</u></p> <p><u>“Habrough Marsh Drain outfall channel” means the naturally scoured channel over the intertidal area fronting the outfall structure marked ‘Structure A’, being the Habrough Marsh Drain, on the plan of Habrough Marsh Drain and Stallingborough North Beck which provides passive gravity drainage during favourable tidal conditions;</u></p> <p><u>“licences” means—</u></p> <p>(d) <u>the licence with reference 35/Licence/10300 granted by the British Transport Docks Board to Anglian Water Authority on 18 January 1980;</u></p> <p>(e) <u>the licence with reference 35/Licence/10406 granted by the Company to the Agency on 26 November 1999; and</u></p> <p>(f) <u>the licence with reference 35/Licence/10408 granted by the Company to the Agency on 26 November 1999;</u></p> <p><u>“main river” has the same meaning given in section 113 of the Water Resources Act 1991;</u></p> <p><u>“non-tidal main river” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25 to the Environmental Permitting (England and Wales) Regulations 2016;</u></p> <p><u>“the plan of Habrough Marsh Drain and Stallingborough North Beck” means the plan of that name identified in the table at Schedule 15 (documents and plans to be certified) and which is certified</u></p> <p>(X) 1995 c. 25. (X) 2006 c. 16. (X) S.I. 2017/407.</p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>by the Secretary of State as the plan of Habrough Marsh Drain and Stallingborough North Beck for the purposes of the Order.</u></p> <p>“plans” includes <u>plans, sections, elevations, drawings, specifications, programmes, proposals, calculations and, method statements, and descriptions.</u></p> <p>“specified work” means any part of the authorised project that crosses, intersects with or sits over or above, touches or otherwise interferes with the flood management infrastructure (including its maintenance and inspection).</p> <p><u>“protected site” means a site of special scientific interest, a special area of conservation, a special protection area, a Ramsar wetland or a marine conservation zone or legal equivalent.</u></p> <p><u>“remote defence” means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river.</u></p> <p><u>“sea defence” means any bank, wall, embankment (any berm, counterwall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the Agency’s area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949 or by any local authority or any navigation, harbour or conservancy authority.</u></p>	

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			<p><u>“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within—</u></p> <p><u>(a) 16 metres of the base of a sea defence which is likely to—</u></p> <p><u>(i) endanger the stability of, cause damage or reduce the effectiveness of that sea defence;</u> <u>or</u></p> <p><u>(ii) interfere with the Agency’s access to or along that sea defence;</u></p> <p><u>(b) 8 metres of the base of a remote defence which is likely to—</u></p> <p><u>(i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence; or</u></p> <p><u>(ii) interfere with the Agency’s access to or along that remote defence;</u></p> <p><u>(c) 16 metres of a drainage work involving a tidal main river;</u></p> <p><u>(d) 8 metres of a drainage work involving a non-tidal main river;</u></p> <p><u>(e) any distance of a drainage work and is otherwise likely to—</u></p> <p><u>(i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;</u></p> <p><u>(ii) cause obstruction to the free passage of fish or damage to the fishery;</u></p> <p><u>(iii) affect the conservation, distribution or use of water resources; or</u></p> <p><u>(iv) affect the conservation value of the main river and habitats in its immediate vicinity;</u></p> <p><u>or which involves—</u></p> <p><u>(f) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and</u></p> <p><u>(g) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work;</u></p>	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
			<p><u>“tidal main river” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25 to the Environmental Permitting (England and Wales) Regulations 2016;</u></p> <p><u>“Stallingborough North Beck outfall channel” means the naturally scoured channel over the intertidal area fronting the outfall structure marked ‘Structure B’, being the Stallingborough North Beck, on the plan of Habrough Marsh Drain and Stallingborough North Beck which provides passive gravity drainage during favourable tidal conditions;</u></p> <p><u>“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.</u></p>	
63.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 21	As above.	<p><u>Crossing flood management infrastructure</u></p> <p>21. The Agency agrees that development comprised in Work No. 1 may cross through the flood management infrastructure <u>go up and over the sea defences (and may be part of the same structure as any sea defences)</u> within the area shown on the works plans for Work No. 1 subject always to the terms of this Part of this Schedule.</p>	Revision 9
64.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 22	As above.	<p><u>Submission and approval of plans</u></p> <p>22.—www <u>(1)</u> Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars <u>available to it</u> as the Agency may within 28 days of receipt of the plans reasonably request.</p> <p>(2) Any submission made by the undertaker under sub-paragraph <u>(1)</u> and any approval given by the Agency under this paragraph, may be in respect of all or part of a specified work.</p> <p><u>(3) Any specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency under this paragraph or determined under paragraph 32 (disputes).</u></p>	Revision 9

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			<p>(4) (2) Any approval of the Agency required under this paragraph—</p> <ul style="list-style-type: none"> (a) must not be unreasonably withheld or delayed; (b) subject to sub-paragraph (6) is deemed to have been approvedrefused if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been reasonably requested by the Agency for approval; and (c) may be given subject to such reasonable requirements as the Agency may have for the protection of any flood management infrastructuredrainage work or the fishery or for the protection of water resources or for the prevention of flooding or pollution or <u>for nature conservation</u> in the discharge of its environmental duties. <p>(5) (3) The Agency must use its reasonable endeavours to approve or refuse approval pursuant to the submission of any plans <u>under this paragraph</u> before the expiration of the period mentioned in sub-paragraph (3)(b)(4)(b).</p> <p>(6) <u>Where the plans or any further particulars submitted to the Agency for approval under sub-paragraph (1) relate to activities which are situated within or might otherwise affect a protected site the period of time specified in sub-paragraph (4)(b) is extended to 3 months to allow the Agency to consult Natural England before responding to the request for approval and the Agency's response to that request for approval must take into account any comments received from Natural England.</u></p> <p>(7) (4) In the case of a refusal, if requested to do so, the Agency must provide a written statement of the reasons for the grounds of refusal.</p> <p>(8) (5) In the event that the Agency gives an approval under this paragraph in respect of a specified work, or part of it, that specified work, or the relevant part of it, may be constructed, maintained, used, operated or decommissioned by the undertaker <u>in accordance with the plans and particulars approved by the Agency or determined under paragraph 32 (disputes)</u> notwithstanding anything in the licences.</p>	

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			<p>(a) the licence with reference 35/Licence/10300 granted by the British Transport Docks Board to Anglian Water Authority on 18 January 1980;</p> <p>(b) the licence with reference 35/Licence/10406 granted by the Company to the Agency on 26 November 1999; or</p> <p>(c) the licence with reference 35/Licence/10408 granted by the Company to the Agency on 26 November 1999.</p> <p>(6) Any dispute in respect of any approval or refusal under this paragraph is subject to the dispute resolution procedure in paragraph 26.</p>	
65.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 23	As above.	<p>Construction and inspection of protective works</p> <p><u>23. Without limiting paragraph 22, the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—</u></p> <p><u>(a) to safeguard any drainage work against damage; or</u></p> <p><u>(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,</u></p> <p><u>(in each case) by reason of any specified work.</u></p>	Revision 9
66.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 24	As above.	<p>Timing of works and service of notices</p> <p><u>24.23. — xxxx Any (1) Subject to sub-paragraphs (2) and (3), once the construction of any specified work, and any protective work required by the Agency under paragraph 23 (construction of protective works), has begun it must be constructed—</u></p> <p><u>(a) without unreasonable delay in accordance with the plans and particulars approved or deemed to have been approved or settled under this Part of this Schedule <u>by the Agency or determined under paragraph 32 (disputes);</u> and</u></p> <p><u>(b) to the reasonable satisfaction of the Agency,</u></p> <p>and an officer of the Agency is entitled <u>by its officer</u> to watch and inspect the construction of such work<u>works</u>.</p>	Revision 9

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			<p>(2) The Company<u>undertaker</u> must give to the Agency not less than 10 business<u>14</u> days' notice in writing of its intention to begin construction of any specified work and notice in writing of its having been brought into use<u>completion</u> not later than five business<u>7</u> days after the date on which it has been completed.</p> <p>(3) On completion of the works, all debris and surplus material must be removed from the land adjacent to the<u>If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any</u> specified work to avoid erosion, to the satisfaction of the Agency<u>avoid erosion, to the satisfaction of the Agency</u>which the protective works relate.</p>	
67.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 25	As above.	<p><u>Works not in accordance with this Part of this Schedule</u></p> <p>25.—(1) <u>(1) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with this Part of this Schedule and where the Agency acting reasonably considers it necessary to avoid any of the risks specified in sub-paragraph (2) arising from the absence of such consent or from such non-compliance, the Agency may serve written notice requiring the undertaker to immediately cease all or part of the specified works to which the consent or conditions relate, as the same may be specified within the notice served, and the undertaker must immediately cease constructing such specified works or part of them until such time as it has obtained the consent or complied with the condition specified within the notice served unless the undertaker concludes, acting reasonably, that immediate cessation of the specified works or part of them would cause greater environmental damage than proceeding with the work in question and in those circumstances the undertaker must immediately serve a counter-notice on the Agency specifying its reasoning for reaching that conclusion.</u></p> <p>(2) <u>(2) The risks specified in sub-paragraph (1) are—</u></p> <ul style="list-style-type: none"> <u>(a) risk of flooding.</u> <u>(b) risk of harm to the environment.</u> <u>(c) risk of detrimental impact on drainage.</u> <p>(3) <u>(4) If any part of a specified work is completed, or any protective work required by the Agency pursuant to this Part of this Schedule, is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker,</u></p>	Revision 9

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			<p>at the undertaker's own expense, to comply with the requirements of this Part of this Schedule: <u>or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.</u></p> <p>(4)(5) Subject to sub-paragraph (6)(5) if, within a reasonable period, being not less than 5628 days from beginning with the date when a notice under sub-paragraph (4)(3) is served upon the undertaker, if the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently to makemade reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by theAgency in so doing is recoverable from the undertaker.</p> <p>(5)(6) In the event of any dispute as to whether sub-paragraph (5)(4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not except in <u>the case of</u> an emergency exercise the powers conferred by sub-paragraph (5)(4) until the dispute has been finally determined <u>in accordance with paragraph 32.</u></p>	
68.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 26	As above.	<p><u>Maintenance of works during construction</u></p> <p>26.—(1) <u>Notwithstanding anything in the licences, the undertaker must during the construction of any specified works maintain in good repair and condition and free from obstruction any drainage work to which all of the following paragraphs apply, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence—</u></p> <p>(a) <u>The drainage work is within the Order limits;</u></p> <p>(b) <u>The drainage work is one to which the specified works in question relate or which they affect (in each case) in the manner set out in the meaning given to “specified works” in paragraph 19 and.</u></p> <p>(c) <u>The drainage work in question falls within a temporary construction compound under the control of the undertaker.</u></p>	Revision 9

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			<p><u>(2) If a drainage work to which sub-paragraph (1) refers is not maintained to the reasonable satisfaction of the Agency on the terms of that sub-paragraph, the Agency may by notice in writing require the undertaker to repair and restore it, or any part of it, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove the drainage work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.</u></p> <p><u>(3) Subject to sub-paragraph (4) if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of a drainage work to which sub-paragraph (1) refers is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.</u></p> <p><u>(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (3) the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 32 (disputes).</u></p> <p><u>(5) This paragraph does not apply to any obstruction of a drainage work expressly authorised in plans or particulars approved in writing by the Agency or determined under paragraph 32 (disputes) and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.</u></p>	
69.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 27	As above.	<p><u>Remediating impaired drainage work</u></p> <p><u>27. If by reason of the construction of any specified work or of the failure of any such work, the efficiency for flood defence purposes of any drainage work within the Order limits is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.</u></p>	Revision 9

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70.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 28	As above.	<p>Agency access</p> <p>28.(7)–(1) If by reason of construction of any specified work <u>or the failure of such work</u>, the Agency's access <u>within the Order limits</u> to any flood management infrastructure defences or equipment maintained for flood defence purposes is materially obstructed, except in respect of any flood management infrastructure which is the subject of plans which the Agency has approved under paragraph 21, the undertaker must <u>notify the Agency immediately and</u> provide such <u>suitable</u> alternative means of access <u>within the Order limits</u> that will allow the Agency to maintain <u>the flood defence</u> or use the flood management infrastructure equipment no less effectively than was possible before the obstruction within 72 hours of the Company occurred and such alternative access must be made available as soon as reasonably practicable after the undertaker becoming aware of such obstruction, except in the case of an emergency in which case the undertaker must provide such alternative means of access on demand.</p> <p>Emergency powers</p> <p>(2) Sub-paragraph (1) does not apply to the extent that an alternative access arrangement has been agreed in writing between the undertaker and the Agency or determined in accordance with paragraph 32 (disputes).</p>	Revision 9
71.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 29	As above.	<p>Free passage of fish</p> <p>29.—(1) The undertaker must during the construction of any specified work take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery by reason of the construction of the specified work in question.</p> <p>(2) If by reason of—</p> <p>(a) the construction of any specified work; or</p> <p>(b) the failure of such work;</p> <p>damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage or, as the case may be, to protect the fishery against such damage.</p>	Revision 9

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			<p><u>(3) If within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any expenditure properly and reasonably incurred by the Agency in so doing is recoverable from the undertaker.</u></p> <p>(4) 24- In any case where immediate action by the Agency is reasonably required in order to secure that imminent floodthe risk or of damage to the environmentfishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker the reasonable cost of so doing<u>any expenditure properly and reasonably incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced taking, the steps specified in the notice.</u></p>	
72.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 30	As above.	<p>CompensationOutfall channels</p> <p><u>30.—(1) The undertaker must for a period of 10 years beginning with the date on which this Order comes into force monitor the paths of each of the Habrough Marsh Drain outfall channel and the Stallingborough North Beck outfall channel and report to the Agency annually whether any substantial changes to the flow or path of either such outfall channel have occurred as a result of the authorised project, such monitoring to be based on appropriate methods.</u></p> <p><u>(2) In the event that, during the period of 10 years beginning with the date on which this Order comes into force, as a direct result of the construction or operation of the authorised project either of the Habrough Marsh Drain outfall channel or the Stallingborough North Beck outfall channel have been obstructed or impaired and either—</u></p> <p><u>(a) the obstruction or impairment has the potential to impede or affect the flow of water from the outfall channel into the River Humber; or</u></p> <p><u>(b) the efficiency of any ordinary watercourse for flood defence or land drainage purposes is impaired, or that watercourse is otherwise damaged, so as to require remedial action,</u></p> <p><u>the undertaker must as soon as reasonably practicable (and in any event within 28 days, unless otherwise agreed with the Agency in writing) set out in writing for approval by the Agency the steps it proposes for making good such obstruction or impairment to the outfall channel and the timescales for it doing so.</u></p>	Revision 9

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			<p><u>(3) The undertaker must carry out the steps approved by the Agency within the timescales it has approved (in each case) pursuant to sub-paragraph (2) to the reasonable satisfaction of the Agency and, if the undertaker fails to do so, the Agency may carry them out and recover from the undertaker the expense reasonably incurred by it in so doing.</u></p>	
73.	Schedule 14, Protective Provisions, Part 2, For the Protection of the Environment Agency, paragraph 31	As above.	<p><u>Costs and indemnity</u></p> <p>31.25. — yyy) (1) The undertaker must compensate the Agency for all legally sustainable claims, demands, proceedings, costs, damages, expenses or loss, which may be reasonably made or taken against, recovered from, or reasonably incurred by, the Agency by reason of— <u>repay the Agency all proper and reasonable costs, charges and expenses which the Agency reasonably incurs—</u></p> <p>(a) any damage to any flood management infrastructure so as to impair its efficiency for the purposes of flood defence;</p> <p><u>(a) in the examination or approval of plans under this Part of this Schedule;</u></p> <p>(b) any flooding or increased flooding of any land adjoining the authorised project or any sewers, drains and watercourses; or <u>in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and</u></p> <p>(c) inadequate water quality in any water in any watercourse or other surface waters or in any groundwater in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works or any protective works,</p> <p>(d) which is caused directly by the construction of any of the specified works or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the work but in no circumstances will the undertaker be liable to the Agency under or in connection with this Part of this Schedule for loss of profit or for any indirect or consequential loss howsoever arising.</p> <p><u>and, for the avoidance of doubt, sub-paragraph (2) does not apply to the costs, charges and expenses to which this sub-paragraph refers</u></p> <p><u>(2) Subject always to sub-paragraphs (3) to (7) (inclusive), the undertaker is responsible for and indemnifies the Agency against all costs and losses, liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of, or arising out of—</u></p>	Revision 9

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			<p><u>(a) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or</u></p> <p><u>(b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.</u></p> <p><u>(3) For the avoidance of doubt, but subject always to sub-paragraphs (4) to (7) (inclusive), in sub-paragraph (2) —</u></p> <p><u>(a) “costs” includes—</u></p> <p style="padding-left: 20px;"><u>(i) expenses and charges;</u></p> <p style="padding-left: 20px;"><u>(ii) staff costs and overheads;</u></p> <p style="padding-left: 20px;"><u>(iii) legal costs;</u></p> <p><u>(b) “losses” includes physical damage.</u></p> <p><u>(c) “claims” and “demands” include as applicable—</u></p> <p style="padding-left: 20px;"><u>(i) costs (within the meaning of paragraph (a)) incurred in connection with any claim or demand;</u></p> <p style="padding-left: 20px;"><u>(ii) any interest element of sums claimed or demanded;</u></p> <p><u>(d) “liabilities” includes—</u></p> <p style="padding-left: 20px;"><u>(i) contractual liabilities;</u></p> <p style="padding-left: 20px;"><u>(ii) tortious liabilities (including liabilities for negligence or nuisance);</u></p> <p style="padding-left: 20px;"><u>(iii) liabilities to pay statutory compensation or for breach of statutory duty;</u></p> <p style="padding-left: 20px;"><u>(iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).</u></p>	

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			<p>(4) (2) The Agency must give to the undertaker reasonable notice of any such claim or demand and no settlement costs or losses, liabilities, claims or demands and must not settle or compromise may be made any of them without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.</p> <p>(5) (3) The Agency and the undertaker must at all times take all reasonable steps to prevent and mitigate any loss, damage, liability, claim, cost or expense (whether compensated or not) which either suffers as a result of the other's negligence or breach of this Part of this Schedule.</p> <p>(4) such The undertaker will not be liable for any claims, demands, proceedings, <u>liabilities</u>, costs, damages, expenses or losses suffered or incurred to the extent that these are incurred as a result of or in connection with the sole, partial or complete breach of this Part of this Schedule, act, omission, negligence, default or works of the Agency, its officers, servants, contractors or agents but the,</p> <p>(6) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under the provisions of this Part of this Schedule.</p> <p>(7) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any costs or losses, liabilities, claims or demands to the extent that they are attributable to the neglect, default or wilful misconduct of the Agency, its officers, servants, contractors or agents.</p> <p>Dispute resolution <u>Disputes</u></p> <p>32.26- Any dispute arising between the undertaker and the Agency under this Part of this Schedule is to must if the parties agree, be determined by arbitration under article 62.62 (arbitration) unless otherwise agreed in writing between the undertaker and the Agency, except that where there is no agreement between the parties the arbitrator is to be appointed on the application of either party (after giving notice in writing to the other), but failing agreement be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Transport or its successor acting jointly <u>on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.</u></p>	
74.	Schedule 14 - general	<u>Following inclusion of the protective provisions in favour of the Environment Agency, the numbering in</u>	N/A	Revision 9

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		<p><u>the remainder of the Schedule has moved on, which necessitated consequential cross referencing amendments. This Schedule of Changes does not provide extracts and explanations for the individual consequential cross referencing amendments.</u></p>		
75.	Schedule 14, Protective Provisions, Part 3, For the Protection of Northern Powergrid,	The form of Protective Provisions and side agreement were agreed by the solicitors for Northern Powergrid on 2 August 2024. Accordingly, the square brackets have been removed.	<p>Application</p> <p>33.27- For the protection of Northern Powergrid, unless otherwise agreed in writing between the undertaker and Northern Powergrid, the following provisions have effect for the duration of the construction of the authorised works, including (for the avoidance of doubt)—</p> <ul style="list-style-type: none"> (a) where a diversion or replacement of Northern Powergrid's apparatus directly related to the authorised project is required during the construction phase of this Order and is undertaken pursuant to this Order (or any related correction or non-material amendment order); (b) where decommissioning works of Northern Powergrid's apparatus directly related to the authorised project are required and are undertaken pursuant to this Order (or any related correction or non-material amendment order), <p>the following provisions have effect for as long as it takes for the diversion, replacement or decommissioning to be completed.</p> <p>44.38- Where practicable, the undertaker and Northern Powergrid will make reasonable efforts to liaise and co-operate in respect of information that is relevant to the safe and efficient construction of the authorised development. Such liaison must be carried out where any works are—</p> <ul style="list-style-type: none"> (a) within 15 m of any above ground apparatus; or (b) are to a depth of between 0-4 m below ground level.] 	Revision 9

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76.	Schedule 14, Protective Provisions, Part 7, For the Protection of Network Rail	Cross-referencing error	<p>63.57. — ppppp) (1) Any specified work and any protective works to be constructed by virtue of paragraph 5662 must, when commenced, be constructed—</p> <p>(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 56 article 62 (arbitration);</p>	Revision 9
77.	Schedule 14, Protective Provisions, Part 7, For the Protection of Cadent Gas Limited as Gas Undertaker, paragraphs 90 - 93	<p>An all parties call was held on 8 August with the solicitors for Cadent and negotiations in relation to the protective provisions in its favour are ongoing. The set currently on the face of the dDCO reflects that most recently provided to Cadent by the Applicant and, given Deadline 7, the square brackets have been removed. There may therefore be further amendments but the Applicant does not anticipate there will be an impediment to agreeing the protective provisions prior to the close of the Examination.</p> <p>The amendments to paragraph 93 reflect a typographical error being corrected and that statutory drafting convention</p>	<p>Application</p> <p>90.84. — [For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect during the construction of the authorised works (as defined in this Part of this Schedule) and for a further period of 18 months from completion of the authorised works (as defined in this Part of this Schedule).</p> <p>93.87. — eeeee) (1) Without prejudice to the generality of any other protection afforded to Cadent elsewhere in this Order, where any street is stopped up under article 11 (permanent stopping up of streets), if Cadent has any apparatus is in the street or accessed via that street Cadent will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to Cadent, or will procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph shall affect affects any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 9096 (removal of apparatus).</p>	Revision 9

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		considers "shall" to be antiquated.																														
78.	Schedule 15	The Schedule has been updated to reflect the most recent versions of documents submitted to the Examination.	<table border="1"> <thead> <tr> <th>(1) <i>Document</i></th> <th>(2) <i>Document reference</i></th> <th>(3) <i>Revision number</i></th> <th>(4) <i>Date</i></th> </tr> </thead> <tbody> <tr> <td>book of reference</td> <td>TR030008/APP/3.1</td> <td>3<u>4</u></td> <td>26 June<u>15 August</u> 2024</td> </tr> <tr> <td>environmental statement (including environmental statement non-technical summary, environmental statement main report, environmental statement figures and environmental statement appendices)</td> <td>TR030008/APP/6.1 TR030008/APP/6.2 TR030008/APP/6.3 TR030008/APP/6.4</td> <td><u>0</u></td> <td><u>21 September 2023</u></td> </tr> <tr> <td>environmental statement (non-technical summary)</td> <td>TR030008/APP/6.1</td> <td><u>1</u></td> <td><u>21 September 2023</u></td> </tr> <tr> <td>environmental statement (chapter 1)</td> <td>TR030008/APP/6.2</td> <td><u>1</u></td> <td><u>21 September 2023</u></td> </tr> <tr> <td>environmental statement (figure 1.1)</td> <td>TR030008/APP/6.3</td> <td><u>3</u></td> <td><u>26 June 2024</u></td> </tr> <tr> <td>environmental statement (appendices 1A – 1E)</td> <td>TR030008/APP/6.4</td> <td><u>1</u></td> <td><u>21 September 2023</u></td> </tr> </tbody> </table>	(1) <i>Document</i>	(2) <i>Document reference</i>	(3) <i>Revision number</i>	(4) <i>Date</i>	book of reference	TR030008/APP/3.1	3 <u>4</u>	26 June <u>15 August</u> 2024	environmental statement (including environmental statement non-technical summary, environmental statement main report, environmental statement figures and environmental statement appendices)	TR030008/APP/6.1 TR030008/APP/6.2 TR030008/APP/6.3 TR030008/APP/6.4	<u>0</u>	<u>21 September 2023</u>	environmental statement (non-technical summary)	TR030008/APP/6.1	<u>1</u>	<u>21 September 2023</u>	environmental statement (chapter 1)	TR030008/APP/6.2	<u>1</u>	<u>21 September 2023</u>	environmental statement (figure 1.1)	TR030008/APP/6.3	<u>3</u>	<u>26 June 2024</u>	environmental statement (appendices 1A – 1E)	TR030008/APP/6.4	<u>1</u>	<u>21 September 2023</u>	Revision 9
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			environmental statement (chapter 2)	TR030008/APP/6.2	3	26 June 2024	
			environmental statement (figures 2.1 – 2.5)	TR030008/APP/6.3	3	26 June 2024	
			environmental statement (figure 2.6)	TR030008/APP/6.3	2	26 June 2024	
			environmental statement (figure 2.7)	TR030008/APP/6.3	1	21 September 2023	
			environmental statement (appendices 2A – 2C)	TR030008/APP/6.4	1	21 September 2023	
			environmental statement (chapter 3)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (figure 3.1)	TR030008/APP/6.3	1	21 September 2023	
			environmental statement (chapter 4)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (chapter 5)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (chapter 6)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (figures 6.1 –	TR030008/APP/6.3	2	26 June 2024	

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			environmental statement (chapter 10)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (figures 10.1 – 10.5)	TR030008/APP/6.3	2	26 June 2024	
			environmental statement (figure 10.6)	TR030008/APP/6.3	1	21 September 2023	
			environmental statement (appendix 10A)	TR030008/APP/6.4	1	21 September 2023	
			environmental statement (chapter 11)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (figures 11.1 – 11.5)	TR030008/APP/6.3	2	26 June 2024	
			environmental statement (appendices 11A – 11B)	TR030008/APP/6.4	1	21 September 2023	
			environmental statement (chapter 12)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (figures 12.1 – 12.5)	TR030008/APP/6.3	1	21 September 2023	
			environmental statement (appendices	TR030008/APP/6.4	1	21 September 2023	

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			environmental statement (figure 15.5)	TR030008/APP/6.3 1 21 September 2023
			environmental statement (appendix 15A – 5B)	TR030008/APP/6.4 1 21 September 2023
			environmental statement (chapter 16)	TR030008/APP/6.2 1 21 September 2023
			environmental statement (figures 16.1 – 16.17)	TR030008/APP/6.3 1 21 September 2023
			environmental statement (appendix 16A – 16C)	TR030008/APP/6.4 1 21 September 2023
			environmental statement (chapter 17)	TR030008/APP/6.2 1 21 September 2023
			environmental statement (figures 17.1 – 17.3)	TR030008/APP/6.3 2 26 June 2024
			environmental statement (appendix 17A)	TR030008/APP/6.4 1 21 September 2023
			environmental statement (chapter 18)	TR030008/APP/6.2 1 21 September 2023
			environmental statement (figures 18.1 – 18.5)	TR030008/APP/6.3 2 26 June 2024

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			environmental statement (chapter 22)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (chapter 23)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (figures 23.1 – 23.4)	TR030008/APP/6.3	3	26 June 2024	
			environmental statement (figure 23.5)	TR030008/APP/6.3	2	26 June 2024	
			environmental statement (figure 23.6)	TR030008/APP/6.3	1	21 September 2023	
			environmental statement (chapter 24)	TR030008/APP/6.2	1	21 September 2023	
			environmental statement (chapter 25)	TR030008/APP/6.2	2	11 July 2024	
			environmental statement (figures 25.1 – 25.2)	TR030008/APP/6.3	2	26 June 2024	
			environmental statement (appendices 25A – 25C)	TR030008/APP/6.4	2	11 July 2024	
			environmental statement (chapter 26)	TR030008/APP/6.2	2	26 June 2024	
			hydrogen production facility building design code	TR030008/EXAM/9.76	1	4 June 2024	

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			land plans	TR030008/APP/4.5	4	2 August 2024	
			Long long Strip construction environmental management plan	TR030008/EXAM/9.90 90	1	2 August 2024	
			outline construction environmental management plan	TR030008/APP/6.5	5 8	26 June 15 August 2024	
			outline construction traffic management plan	TR030008/APP/6.7	4	4 June 2024	
			outline decommissioning environmental management plan	TR030008/APP/6.6	1 2	21 September 2023 11 July 2024	
			outline landscape and ecology management plan	TR030008/APP/6.9	2	4 June 2024	
			outline operational travel plan	TR030008/EXAM/9.3	2	4 June 2024	

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			the plan of Habrough Marsh Drain and Stallingborough North Beck	TR030008/EXAM/9.99	1	15 August 2024	
			plan of potentially affected hedgerows and trees subject to preservation orders	TR030008/APP/4.9	4	26 June 2024	
			sediment sampling plan	TR030008/APP/ 7.1 7.1	SAM/2022/00110 1	6 February 21 September 2023	
			stopping up and restriction of use of streets and public rights of way plan	TR030008/APP/4.7	3	26 June 2024	
			street works and accesses plan	TR030008/APP/4.6	3	26 June 2024	
			traffic regulation measures plans	TR030008/APP/4.8	4	26 June 2024	
			works plans	TR030008/APP/4.1	4	26 June 2024	
			woodland compensation plan	TR030008/EXAM/9.34	4	21 15 August 2024	
			works plans	TR030008/APP/4.1	4	26 June 2024	

Ref.	dDCO Ref.	Rationale for Change	Change Made	Version of dDCO
79.	Schedule 17, Procedure regarding certain approvals, etc. (paragraph 2)	To ensure environmental information submitted under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 is captured in the test and for consistency with the Articles 63(2)(b) and Articles 63(3)(b).	<p>(4) Where an application has been made to the relevant authority for any consent, agreement or approval required by any of the provisions of this Order (except as provided in article 63(5)), and—</p> <p>(a) the relevant authority does not determine the application within the period set out in sub-paragraph (1) and such application is accompanied by a report which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement <u>or in any environmental information supplied under the 2017 Regulations</u>; or</p> <p>(b) the relevant authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement <u>or in any environmental information supplied under the 2017 Regulations</u>,</p> <p>then the application is to be taken to have been refused by the relevant authority at the end of that</p>	Revision 9
80.	Schedule 17, Procedure regarding certain approvals, etc. (paragraph 3)	The term “additional further information” in sub-paragraph (2) – (4) has been aligned with the term “further information” in sub-paragraph (1) because they all relate to the same “further information” which the relevant authority is entitled to request and two differing terms were used in error.	<p>Further information and consultation</p> <p>3. —3.3.3.3.3 (1) In relation to any application submitted pursuant to a requirement in Schedule 2 (requirements) [or condition in schedule 3 (deemed marine licence)](a), the relevant authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.</p> <p>(2) In the event that the relevant authority considers additional further information to be necessary and the provision governing or requiring the application does not specify that consultation with a consultee is required the relevant authority must, within 10 business days of receipt of the application, notify the undertaker in writing specifying the additional further information required.</p> <p>(3) If the provision governing or requiring the application specifies that consultation with a consultee is required, the relevant authority must issue the consultation to the consultee within five business days of receipt of the application, and must notify the undertaker in writing specifying any additional further information requested by the consultee within 20 business days of receipt of the application.</p> <p>(4) In the event that the relevant authority does not give notification as specified in sub-paragraph (2) or (3) it is to be deemed to have sufficient information to consider the application and is not thereafter entitled to request additional further information without the prior agreement of the undertaker.</p>	Revision 9

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81.	Schedule 17, Procedure regarding certain approvals, etc. (paragraph 5)	<p>References to Requirements in relation to which fees are payable have been updated given the additional Requirements 20 and 21, noting that the Applicant submits that Requirement 20 is not necessary.</p> <p>Note that the comparison software does not show the footnote properly and it appears as shown to the right.</p>	<p>(a) a fee of £2,535 for the first application for the discharge by the relevant planning authority of each of the requirements in paragraphs 44 (detailed approval), 5(2) <u>5(1)</u> (phasing), 66 (construction environmental management plan), 77 (construction traffic management plan), 88 (highway works), 1010 (landscape and ecology management plan), 1212 (surface water drainage), 1515 (contaminated land), 1616 (external lighting), 1717 (control of noise during operational use), 1818 (decommissioning environmental management plan) and 19, 19 (operational travel plan), 20 (construction phase flood emergency response plans)(a)] and 21 (operational phase flood emergency response plans);</p> <p>(a) [Note to Examining Authority: reference to Requirement 20 should be deleted if the Examining Authority agrees that Requirement is not necessary for the reasons made particularly set out in the Applicant's response to FR 3.2 of the Examining Authority's third Round of Written Questions.]</p>	Revision 9