

### Rights on the river Cam

44.—(1) Notwithstanding the licences which may have been granted pursuant to section 5 or 16 of the River Cam Conservancy Act 1922(a), the undertaker may for the purposes of the construction, operation, use and maintenance of the authorised development ~~—(a) temporarily suspend any rights of navigation or any other rights over the parts of the river Cam identified with blue hatching on sheet 2 of the rights of way plans (Document 4.6.2); and~~

~~(b) permanently extinguish any rights of navigation or other rights on any part of the river Cam permanently acquired by the undertaker in connection with Work no. 32.~~

~~(2) Notwithstanding the licences which may have been granted pursuant to section 5 or 16 of the River Cam Conservancy Act 1922(a), the undertaker may for the purposes of the construction, operation, use and maintenance of the authorised development (b) permanently extinguish any rights of navigation or other rights over the parts of the river Cam identified with [.....] on [.....] of the [.....] in connection with Work no. 32. on any part of the river Cam permanently acquired by the undertaker in connection with Work no. 32.~~

~~(23) Any rights of navigation over any other parts of the river Cam may be temporarily suspended with the written consent of the relevant navigation authority as provided in paragraph 4 of Part 8 of Schedule 15 (protective provisions).~~

~~(34) The undertaker must not exercise the powers in paragraph (1) or (2) unless it has:~~

~~(a) given not less than 2842 days' notice in writing of its intention to do so to the relevant navigation authority; and~~

~~(b) published notice of the temporary suspension or extinguishment and the date from which the temporary suspension or extinguishment is to have effect once in each of 2 successive weeks in a local newspaper published or circulating in the City of Cambridge; and~~

~~(c) displayed notice of the temporary suspension or extinguishment and the date from which the temporary suspension or extinguishment is to have effect in a conspicuous position adjacent to the river Cam from the date of the first notice published under sub-paragraph (b) above, until at least 7 days after the date on which the last notice is published under sub-paragraph (b).~~

~~— advertised its intention by way of:~~

~~— a notice erected in reasonable proximity to the river Cam on land on which the authorised; and~~

~~a. a notice in a locally circulated newspaper for two successive weeks prior to the exercise of the powers.~~

~~(5) The date that is notified, published and displayed under paragraph (4) as the date from which the suspension or extinguishment is to have effect must not be earlier than 14 days after the last date on which a notice is published under paragraph (3)(b).~~

~~(6) Before exercising its powers under paragraph (1), the undertaker must consult with the relevant navigation authority.~~

~~(457) The River Cam Navigation Act 1851(b), the River Cam Conservancy Act 1922(c) and the Cambridge City Council Act 1985(d) are disappplied in so far as their continuance is inconsistent with the construction, operation, use and maintenance of the authorised development.~~

~~(568) The Conservators of the River Cam Byelaws 19966 are disappplied in so far their continuance is inconsistent with the construction, operation, use and maintenance of the authorised development.~~

### FOR THE PROTECTION OF THE RELEVANT NAVIGATION AUTHORITY

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1. For the protection of the relevant navigation authority the following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the undertaker and the relevant navigation authority, have effect.

2. In this Part of this Schedule—

“river work” means ~~any works forming part of the construction or maintenance of those parts of~~ the authorised development which are in or over the river Cam or which require interference with the movement of river traffic on the river Cam;

“temporary river work” means those river works which ~~do not form part of the permanent works are temporary in nature and which do not form part of the permanent works in or over the river Cam required for the operation and maintenance of the authorised development.~~

3.—(1) Save in an emergency, the undertaker will not commence any river work until—  
(a) it has supplied to the relevant navigation authority plans of that river work showing the detailed design, work programme, any temporary river works and any associated temporary or permanent interference with rights of navigation pursuant to article 44(1) (rights on the river Cam); and

(b) it has provided ~~28-42~~ days’ written notice of the intention to commence such river work.

(2) ~~Before exercising its powers under paragraph (1), the undertaker must consult with the relevant navigation authority.~~

~~(3)~~ A river work must not be constructed except in accordance with such plans as have been provided to the relevant navigation authority.

~~(4)~~ The undertaker must carry out all river work

~~so that the movement of river traffic on the river Cam is not restricted more than is reasonably practicable in order to carry out the relevant river work.~~

~~(a) without unnecessary delay;~~

~~(b) in compliance with the reasonable requirements of the relevant navigation authority;~~

~~(c) in such a manner as to cause as little adverse effects as is reasonably practicable to the river;~~

~~(d) in such a manner as to cause no material adverse effects to the integrity of the walls or banks of the river; and~~

~~(5)~~ Upon completion of any river work, the undertaker must—

(a) remove as soon as is reasonably practicable any temporary river work and associated materials; and

~~(b) as soon as reasonably practicable following the removal of any temporary river work pursuant to paragraph 3(4)(a), to make good the site of any temporary river work so as not to cause any interference with the movement of river traffic.~~

~~(6)~~ In carrying out any river work, the undertaker must not—

(a) deposit in or allow to fall or be washed into the river Cam any gravel, soil or other material except to the extent permitted by this Order; and

(b) discharge or allow to escape either directly or indirectly into the river Cam any offensive or injurious matter.

4.—(1) The undertaker must provide for the approval of the relevant navigation authority together with the plans provided pursuant to paragraph 3(1)(a) details of the extent of any temporary suspension of rights of navigation required pursuant to article 44(2) in order to carry out the relevant river work and the undertaker must not interfere with any rights of navigation pursuant to article 44(2) except in accordance with this paragraph.

(2) The relevant navigation authority must respond in writing within ~~28-42~~ days of the request for

consent under sub-paragraph (1) to either give consent to the details as submitted or suggest amendments to the details provided, but any such amendment must not materially affect or delay the efficient delivery of the relevant river work.

(3) If the relevant navigation authority provides pursuant to sub-paragraph (2) any suggested amendments to the details provided, ~~the undertaker must within 14 days confirm whether those amendments are accepted and in the event the undertaker agrees to the amendments,~~ the undertaker must carry out the relevant river work in accordance with those amendments. In the event the undertaker does not agree to the amendment, ~~the dispute may be referred to and settled by arbitration in accordance with article 52 (arbitration) and~~ the relevant river work is to be undertaken in accordance with ~~the originally submitted details.~~ the terms of the final determination.

(4) If the relevant navigation authority fails to respond to the undertaker's request for consent pursuant to this paragraph (4) within 28 days, consent is deemed to have been given.

~~5. The undertaker will provide to the relevant navigation authority at least 42 days' written notice of the intention to commence Work No. 31 and Work No. 32.~~

~~56. Where reasonably required to do so by the relevant navigation authority for the purpose of ensuring the safety of the river the undertaker must, to the reasonable satisfaction of the relevant navigation authority, fence off any river work or take such steps as the relevant navigation authority may reasonably require to be taken for the purpose of separating any river work from the river, whether on a temporary or permanent basis or both.~~

~~7. Any reasonable and proper additional expenses not otherwise provided for in this Part of this Schedule which the relevant navigation authority may incur in maintaining the river under any powers existing at the making of this Order by reason of the existence of the authorised development and any river work or temporary river work must, be repaid by the undertaker to the relevant navigation authority (but subject to the submission to the undertaker, to its reasonable satisfaction, of demonstrable evidence that the additional expenses are a direct result of the construction of the specified work) so as to ensure that the relevant navigation authority has been reimbursed for all and any greater maintenance liability it incurs by reason of the existence of a specified work (on the proviso that there will be no double recovery)~~

~~8.(1) Subject to the provisions of this paragraph, the undertaker agrees to indemnify the relevant navigation authority from and against such charges, claims, demands, damages, expenses, liabilities and losses, (together, "losses") suffered or reasonably incurred by the relevant navigation authority to the extent that any losses are directly caused by—~~

~~(a) the construction, maintenance or failure of a river works or a temporary river work; or~~

~~(b) any act or omission of the undertaker or of its officers, employees, servants, contractors or agents whilst engaged in—~~

~~(i) the construction of the river work or a temporary river work; or~~

~~(ii) seeking to remedy any failure of the river work or a temporary river work.~~

~~(2) The relevant navigation authority must mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under sub-paragraph (1) and must, if requested by the undertaker, provide an explanation of how any claim under the indemnity in sub-paragraph (1) has been mitigated .~~

~~(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any losses referred to in that sub-paragraph to the extent that they are—~~

~~(a) attributable to the negligence or wilful misconduct of the relevant navigation authority or of its officers, employees, servants, contractors or agents; or~~

~~(b) not within the reasonable control of the undertaker or of its officers, employees, servants, contractors or agents.~~

(4) The relevant navigation authority must give to the undertaker notice in writing of any losses for which the undertaker may be liable under this paragraph as soon as reasonably possible and no settlement or compromise of them may be made without the prior written consent of the undertaker which, if it notifies the relevant navigation authority that it desires to do so, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand provided that no settlement or compromise of any such claim or demand shall be made without the consent of the relevant navigation authority (which shall not be unreasonably withheld). If consent is not given by the undertaker, the relevant navigation authority shall diligently defend such claim or demand.

9. Any difference arising between the undertaker and the relevant navigation authority under this Part of this Schedule (other than a difference as to the meaning or construction of this Part of this Schedule) must be referred to and settled by arbitration in accordance with article 52 (arbitration).