
S T A T U T O R Y I N S T R U M E N T S

2020 No. 474

INFRASTRUCTURE PLANNING

The Lake Lothing (Lowestoft) Third Crossing Order 2020

Made - - - - *30th April 2020*

Coming into force - - *21st May 2020*

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(b) a constable, Police Community Support Officer, an officer of the Driver and Vehicle Standards Agency, an officer of the Health and Safety Executive, person authorised for the purposes of section 44 (powers of fire-fighters etc in an emergency etc) of the Fire and Rescue Services Act 2004(a) or a person accredited by or under section 41 (accreditation under community safety accreditation schemes) of the Police Reform Act 2002(b), acting in the execution of that person's duties within the new bridge area;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development within the meaning of section 32 of the 2008 Act that is authorised by this Order;

“book of reference” means the document of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“business day” means a day other than a Saturday or Sunday, Good Friday, Christmas Day or a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act(c);

“Cadent” means Cadent Gas Limited (company number 10080864), whose registered office is at Ashbrook Court, Prologis Park, Central Boulevard, Coventry, CV7 8PE, or any successor in title or assign including a successor to their licence as a gas transporter within the meaning of Part 1 of the Gas Act 1986(d);

“capital dredge” means a dredge which comprises the excavation of the seabed, in an area or down to a level (relative to ordnance datum) not previously dredged during the preceding 10 years;

“carriageway” has the same meaning as in the 1980 Act;

“classification of roads plan” means the plans of that description as referenced in Schedule 14 (documents to be certified) certified by the Secretary of State as the classification of roads plan for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4)(e) (time when development begun) of the 1990 Act) forming part of the authorised development other than operations consisting of environmental surveys and monitoring, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions; receipt and erection of construction plant and equipment, erection of any temporary means of enclosure, the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“construct” includes carrying out, placing, altering, replacing, relaying and removal and “construction” is to be construed accordingly;

“cycleway” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way: a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988(f)) with a right of way on foot and a right of way on horseback or leading a horse;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but in an electronic form;

(a) 2004 c. 21. Section 44 was amended by section 6 of the Emergency Workers (Obstruction) Act 2006 (c. 39).

(b) 2002 c. 30. Section 41 was amended by section 52, and paragraph 42 of Schedule 14 to, the Police and Justice Act 2006 (c. 48).

(c) 1971 c. 80.

(d) 1986 c. 44.

(e) Section 56(4) was amended by paragraph 10(2) of Schedule 7 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 56 which are not relevant to this Order.

(f) 1988 c. 52.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the plan to which the reference applies.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

Disapplication of legislation, etc.

3.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purposes of, or in connection with, the construction of the authorised development and, within any maintenance period defined in article 34(12), any maintenance of any part of the authorised development—

- (a) byelaw 25 of the Lowestoft Harbour Byelaws 1993(a);
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the appropriate agency) to the Water Resources Act 1991(b);
- (c) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991(c);
- (d) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk activity only; and
- (e) the provisions of the Neighbourhood Planning Act 2017(d) insofar as they relate to temporary possession of land under articles 33 (temporary use of land for carrying out the authorised development) and 34 (temporary use of land for maintaining the authorised development) of this Order.

(2) Despite the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010(e) any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

(3) As from the date on which the authorised development is commenced any conditions of a planning permission granted under section 57(f) (requirement of planning permission) of the 1990 Act which relate to land within the Order limits or land adjacent to the Order limits cease to have effect to the extent they are inconsistent with the authorised development or with anything done or approved under the requirements in Schedule 2 (requirements).

(a) Byelaws for the Port of Lowestoft made by the harbour authority under section 83 of the Harbours, Docks and Piers Clauses Act 1847 (1847 c. 27) (incorporated by section 51 of the British Transport Docks Act 1964 (1964 c.38)) and by section 52 of the British Transport Docks Act 1964.

(b) 1991 c. 57. Paragraph 5 was amended by section 100(1) and (2) of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the 2009 Act (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 2009 Act and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

(c) 1991 c. 59. Section 23 was amended by paragraph 192(2) of Schedule 22 to the Environment Act 1995, paragraphs 25 and 32 to the Flood and Water Management Act 2010 and S.I. 2013/755.

(d) 2017 c. 20.

(e) S.I. 2010/948.

(f) Section 57 was amended by paragraphs 34 and 35 of Schedule 2 to the 2008 Act, paragraphs 1 and 3 of Schedule 2 to the Localism Act 2011 (c. 20) and paragraphs 2 and 4 of Part 2 of Schedule 4 to the Infrastructure Act 2015 (c. 7).

referred to in column (1) of the table below, where the extent of permitted downwards deviation for each such part is set out in the corresponding entry in column (3) of that table.

| <i>(1) Numbered Work</i> | <i>(2) Upwards vertical limit of deviation</i> | <i>(3) Downwards vertical limit of deviation</i> |
|------------------------------|--|--|
| Work No. 1A | 1 metre | 1.5 metres |
| Work No. 1B | 1 metre | 2.3 metres |
| Work No. 1C | 1 metre | 4 metres |
| Work No. 1D | 1 metre | 2.5 metres |
| Work No. 1E | 1 metre | 1.1 metres |
| Work No. 5 | 1.5 metres | - |
| Work No. 6 | 5 metres | 2.5 metres |

(7) Paragraph (6)(b)—

- (a) does not prevent the undertaker, in constructing the piles comprising part of each of Work Nos. 1B, 1C, 1D and 1E, from deviating to any extent downwards as the undertaker considers to be necessary or convenient;
- (b) does not permit the undertaker in constructing the bridge deck between piers within Lake Lothing, comprising part of Work No. 1D, to deviate downwards to a level which is less than 12 metres above Highest Astronomical Tide;
- (c) does not prevent the undertaker, in constructing the lifting elements of the superstructure of the new bridge, comprising part of Work No. 1D, from deviating by up to 2.5 metres above the levels shown on the engineering section drawings and plans (mainline long section sheet 2 of 2), and to any extent downwards as the undertaker considers to be necessary or convenient; and
- (d) does not permit the undertaker in constructing the bridge deck comprising part of Work No. 1B, to deviate downwards to a level which provides less than 4.9 metres headroom above the running rail of the railway.

(8) The undertaker must not undertake any capital dredge to a depth lower than—

- (a) 6.4m below chart datum in respect of works in Lake Lothing except Work No.7; and
- (b) 3m below chart datum in respect of Work No.7,

unless the undertaker has demonstrated to the MMO and the MMO has agreed in writing that dredging to a depth lower than those set out in sub-paragraphs (a) and (b) would not give rise to any materially new or materially different environmental effects than those assessed in the environmental statement.

(9) Without limitation on the scope of paragraphs (2) to (7) in constructing or maintaining the authorised development the undertaker may—

- (a) deviate by up to 3 metres from the points of commencement and termination of any of the linear works, except in the case of the coterminous point of termination and commencement of Work Nos 1A and 1B, from which the undertaker may deviate by up to 10 metres in a north-easterly direction following the centreline of Work No. 1A, and by up to 3 metres in a south-westerly direction following the centreline of Work No. 1B; and
- (b) deviate from the design of the new bridge or bridge structure shown on the engineering section drawings and plans, provided that any such deviation is in accordance with the final version of the design guidance manual approved under paragraph 3(2) of Schedule 2.

(10) In this article, references to—

- (a) “linear works” are references to any works shown on the works plans by way of centre lines; and

section 73B(a) (power to specify timing etc. of re-surfacing);
section 73C(b) (materials; workmanship and standard of re-surfacing);
section 78A(c) (contributions to costs of re-surfacing by undertaker); and
Schedule 3A(d) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 11 (temporary stopping up and restriction of use of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(e) referred to in paragraph (4) are—

section 54(f) (advance notice of certain works), subject to paragraph (6);
section 55(g) (notice of starting date of works), subject to paragraph (6);
section 57(h) (notice of emergency works);
section 59(i) (general duty of street authority to co-ordinate works);
section 60 (general duty of undertakers to co-operate);
section 68 (facilities to be afforded to street authority);
section 69 (works likely to affect other apparatus in the street);
section 75 (inspection fees);
section 76 (liability for cost of temporary traffic regulation); and
section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Section 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration, or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 8 (construction and maintenance of new, altered, or diverted streets)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and the undertaker is not by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

Construction and maintenance of new, altered or diverted streets and other structures

8.—(1) Any highway to be constructed altered or diverted under this Order including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a street which is not and is not intended to be a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when

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- (a) Section 73B was inserted by section 55(1) of the 2004 Act.
 - (b) Section 73C was inserted by section 55(1) of the 2004 Act.
 - (c) Section 78A was inserted by section 57(1) of the 2004 Act.
 - (d) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the 2004 Act.
 - (e) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the 2004 Act.
 - (f) Section 54 was also amended by section 49(1) of the 2004 Act.
 - (g) Section 55 was also amended by section 49(2) and 51(9) of the Traffic Management Act 2004 Act.
 - (h) Section 57 was also amended by section 52(3) of the 2004 Act.
 - (i) Section 59 was amended by section 42 of the 2004 Act.

completed to the reasonable satisfaction of the street authority, unless otherwise agreed in writing, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) The structure and highway surface of the new bridge must be maintained by and at the expense of the local highway authority from the date of the completion of the new bridge.

(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 the streets set out in Schedule 4 (permanent stopping up of highways and private means of access and provision of new highways and private means of access), unless otherwise agreed with the street authority, the land is deemed to have been dedicated as public highway on the expiry of a period of 12 months from completion of the works to the street that has been constructed, altered or diverted.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by the undertaker to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(7) The date of completion of any works to a highway pursuant to this article is to be agreed by the undertaker and the local highway authority.

(8) The date of completion of any works to a street which is not and is not intended to be a highway pursuant to this article is to be agreed by the undertaker and the street authority.

Classification of roads, etc.

9. On the date on which the roads described in Schedule 3 (classification of roads, etc) are completed and open for traffic—

- (a) the roads described in paragraphs 1 to 16 of Part 1 (A12 and A146) of Schedule 3 are to be classified as the A12, as if such classification had been made under section 12(3) (general provisions as to principal and classified roads) of the 1980 Act;
- (b) the roads described in paragraphs 17 to 24 of Part 1 of Schedule 3 are to be classified as the A146, as if such classification had been made under section 12(3) (general provisions as to principal and classified roads) of the 1980 Act; and
- (c) the roads described in Part 2 (other roads) of Schedule 3 are to be classified as set out in that Part and are, where specified in that Part, to be classified roads for the purpose of any enactment or instrument which refers to highways classed as classified roads, as if such classification had been made under section 12(3) of the 1980 Act.

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) Subject to paragraph (5) for the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey—

- (a) any building falling within paragraph (1) and any land within its curtilage; and
- (b) where necessary or expedient, land which is adjacent to the building falling within paragraph (1) but outside its curtilage (whether or not such adjacent land is inside or outside the Order limits),

and place on, leave on and remove from the land monitoring apparatus.

(4) For the purpose of carrying out protective works to a building under this article the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building (and any land within its curtilage); and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (whether or not such adjacent land is inside or outside the Order limits) but not any building erected on it,

and if it is reasonably required, the undertaker may enter and take possession, or exclusive possession, of the building and land or any part thereof for the purpose of carrying out the protective works.

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building (and land within its curtilage) or land;
- (c) a right under paragraph (4)(a) to enter and take possession of a building (and land within its curtilage); or
- (d) a right under paragraph (4)(b) to enter and take possession of land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c) specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5) the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 62 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Without affecting article 40 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Section 13(b) (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125(c) (application of compulsory acquisition provisions) of the 2008 Act.

(11) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(12) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or use of the authorised development;
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development; and
- (c) any works the purpose of which is to secure the safe operation of the authorised development or to prevent or minimise the risk to such operation being disrupted.

Authority to survey and investigate land

17.—(1) The undertaker may for the purposes of this Order enter on—

- (a) any land shown within the Order limits; and
- (b) where reasonably necessary, any land which is adjacent to but outside the Order limits, and—
 - (i) survey or investigate the land;
 - (ii) without limitation to the scope of paragraph (i), make any excavations or trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
 - (iii) without limitation to the scope of paragraph (i), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; and
 - (iv) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

(a) Section 152 was amended by S.I. 2009/1307.

(b) Section 13 was amended by sections 62(3) and 139(4) to (9) of, paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 223 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(c) Section 125 was amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

(b) the date by which the vessel specified in the notice must be removed from that part of Lake Lothing within the Order limits also specified in the notice.

(3) If the owner or master of any vessel within the Order limits does not remove that vessel from within the part of the Order limits specified in the notice before the date specified in accordance with paragraph (2)(b) the undertaker may, having first obtained consent from the harbour authority, cause that vessel to be removed.

(4) Paragraph (2) does not apply in the case of an emergency, when the undertaker must in consultation with the harbour master take such steps as it considers practicable in the circumstances to inform persons of the proposed removal of any vessel from any part of Lake Lothing within the Order limits.

(5) The undertaker may recover as a debt from the owner of any vessel removed pursuant to paragraph (3) all expenses incurred by the undertaker in respect of its removal.

PART 3

POWERS OF ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Compulsory acquisition of land

22.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or as is incidental to it.

(2) This article is subject to article 26 (compulsory acquisition of rights, etc) and article 27 (acquisition of subsoil and airspace only) and article 33 (temporary use of land for carrying out the authorised development).

Crown land

23. The undertaker may exercise any right under this Order to acquire compulsorily an interest in any land which is Crown land (as defined in the 2008 Act), provided that the interest to be acquired is—

- (a) identified in the book of reference;
- (b) for the time being held otherwise than by or on behalf of the Crown; and
- (c) in a plot that is expressly referred to in a consent in writing provided by the relevant Crown authority under section 135 (orders: Crown land) of the 2008 Act.

Compulsory acquisition of land – incorporation of the mineral code

24. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated into this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated; and
- (b) for the “acquiring authority” there is substituted “the undertaker”.

Time limit for exercise of powers to possess land temporarily or to acquire land compulsorily

25.—(1) After the end of the period of 5 years beginning with the day on which this Order comes into force—

- (a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act; and

(b) no declaration is to be executed under section 4(a) (execution of declaration) of the 1981 Act as applied by article 31 (application of the 1981 Act),
in relation to any part of the Order land.

(2) The authority conferred by article 33 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker from remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights, etc.

26.—(1) Subject to paragraph (2), the undertaker may acquire such rights over the Order land or impose such restrictive covenants affecting the Order land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, as may be required for any purpose for which that land may be acquired under article 22 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in columns (1) and (2) of Part 1 (land in which only new rights etc., may be acquired) and Part 2 (rights for the benefit of Cadent) of Schedule 6 (land in which only new rights etc., may be acquired), the undertaker's powers of compulsory acquisition under paragraph (1) are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of such restrictive covenants as the undertaker may require for or in connection with the authorised development for the purposes specified in the corresponding entry in column (3) of Part 1 and Part 2 of Schedule 6 in relation to that land.

(3) The power under paragraph (1) to acquire the rights and to impose the restrictive covenants described in Part 2 of Schedule 6 for the benefit of Cadent—

- (a) does not preclude the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land in accordance with Part 1 of Schedule 6 as may be required for the benefit of any other statutory undertaker; and
- (b) must not be exercised by the undertaker in a way that precludes the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land in accordance with Part 1 of Schedule 6 as are required for the benefit of any other statutory undertaker.

(4) Subject to section 8(b) (other provisions as to divided land) of, and Schedule 2A(c) (counter-notice requiring purchase of land) to, the 1965 Act (as substituted by paragraph 5(8) of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the undertaker acquires a right over land or the benefit of a restrictive covenant under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

Acquisition of subsoil and airspace only

27.—(1) The undertaker may acquire compulsorily so much of, or such rights over, the subsoil beneath, or the surface of, or the airspace above, the land referred to in paragraph (1) of article 22 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) In the case of the Order land specified in columns (1) and (2) of Schedule 8 (land in which only airspace and new rights may be acquired) the undertaker's powers of compulsory acquisition under article 22 are limited to—

(a) Section 4 was amended by sections 184, 185 and Schedule 18 paragraph 2 to the Housing and Planning Act 2016 (c. 22).
(b) Section 8 was amended by paragraphs 1 and 2 of Schedule 17 to the Housing and Planning Act 2016 and S.I. 2009/1307.
(c) Schedule 2A was inserted by paragraphs 1 and 3 of Schedule 17 to the Housing and Planning Act 2016.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or by the imposition of any restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 35 (statutory undertakers and utilities) applies.

(6) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given to the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry onto it; or
 - (iv) the undertaker's taking temporary possession of it,
- that any or all of those paragraphs do not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If any such agreement as is referred to in paragraph (6)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Power to override easements and other rights

29.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, regardless of if it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land).

(3) The interests and rights to which this article applies include any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by the virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or section 10 (further provision as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 16 (protective works to buildings), 33 (temporary use of land for carrying out the authorised development) or 34 (temporary use of land for maintaining the authorised development) of the Lake Lothing (Lowestoft) Third Crossing Order 2020.”

Temporary possession of land

Temporary use of land for carrying out the authorised development

33.—(1) The undertaker may, in connection with the carrying out of the authorised development but subject to article 25(2) (time limit for exercise of powers to possess land temporarily or to acquire land compulsorily)—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 9 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
 - (ii) any of the Order land in respect of which no notice of entry has been served under section 11(a) (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(b) (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from the land referred to in sub-paragraphs (a)(i) to (ii);
- (c) construct temporary works (including the provisions of means of access) and buildings on the land referred to in sub-paragraphs (a)(i) to (ii); and
- (d) construct any works on the land referred to in sub-paragraphs (a)(i) to (ii) as are mentioned in Schedule 1 (authorised development).

(2) Not less than three months (or such other period agreed in writing between the undertaker and the owner of the land) before entering on and taking temporary possession of land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land and that notice must state the works, facilities or other purpose for which the undertaker intends to take possession of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of any land specified in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 9;
- (b) in the case of any land referred to in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of completion of the works, use of facilities or other purpose for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land; or
- (c) in the case of any land referred to in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of completion of the authorised development.

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- (a) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing Consequential Provisions Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measures 2006 (No. 1) and S.I. 2009/1307.
 - (b) Section 4 was amended by sections 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016.

(4) 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—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development; or
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(5) Any person who suffers loss as a result of the suspension of any private right of navigation under this article is entitled to be paid compensation for such loss by the undertaker, to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of any works, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13(a) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions of the 2008 Act).

Temporary use of land for maintaining the authorised development

34.—(1) Subject to paragraph (3), at any time during the maintenance period relating to any of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than three months (or such other period agreed in writing between the undertaker and the owner of the land) before entering upon and taking temporary possession of land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of

(a) Section was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(8) In this article “relocation works” means work carried out, or apparatus provided, under paragraph (2).

Recovery of costs of new connection

37.—(1) Where any apparatus of a statutory utility is removed under article 35 (statutory undertakers and utilities) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 35, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 36 (apparatus and rights of statutory undertakers and utilities in stopped up streets) or Part 3 of the 1991 Act applies.

Compensation

Disregard of certain interests and improvements

38.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works carried out or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the carrying out of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1), “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works carried out or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

Set-off for enhancement in value of retained land

39.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 26 (compulsory acquisition of rights, etc.), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and

Maintenance of authorised development

43.—(1) The undertaker may at any time maintain the authorised development except to the extent that this Order, or an agreement made under this Order, provides otherwise.

(2) Paragraph (1) does not extend to any maintenance works which would give rise to any materially new or materially different environmental effects than those assessed in the environmental statement.

Subsidiary works and operations in Lake Lothing

44.—(1) Subject to the provisions of this Order, the undertaker may within the Order limits—

- (a) carry out and maintain works for the accommodation or convenience of vessels within Lake Lothing (including but not limited to berthing and mooring facilities, ladders, buoys, bollards, dolphins, fenders, rubbing strips and fender panels, fender units and pontoons) as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the operation or maintenance of the authorised development; and
- (b) deepen, widen, capital dredge, maintenance dredge, scour, cleanse, alter and improve the bed of Lake Lothing for the purposes of maintaining the authorised development.

(2) Paragraph (1) does not extend to any works which would give rise to any materially new or materially different environmental effects than those assessed in the environmental statement.

(3) Except in the case of emergency, before exercising the powers of paragraph (1), the undertaker must use reasonable endeavours to notify the owner of any mooring and the owner or master of any vessel that may be affected by works undertaken in the exercise of the powers under this article.

(4) The undertaker must pay compensation to any person entitled to compensation under Part 1 (determination of questions of disputed compensation) of the 1961 Act who suffers any loss or damage from the exercise of the powers conferred by paragraph (1).

(5) Any dispute as to a person's entitlement to compensation under paragraph (4) or as to the amount of the compensation must be determined under Part 1 of the 1961 Act.

(6) All materials dredged up or removed by the undertaker in exercise of the powers under this article are the property of the undertaker and may be used, sold, deposited or otherwise disposed of by the undertaker.

Protection against dredging by the harbour authority

45.—(1) The harbour authority must not undertake a capital dredge in Lake Lothing within the limits of dredging without first submitting the plans of the proposed dredging operation to the undertaker for its approval.

(2) Approval under paragraph (1) is not to be unreasonably withheld by the undertaker and approval is deemed to have been granted if the undertaker fails to notify the harbour authority of its decision within 28 days of the submission of the plans.

(3) The harbour authority must carry out the dredging in accordance with the plans approved under this article or settled by arbitration under article 62 (arbitration).

(4) The harbour authority must notify the undertaker at least 5 days before undertaking any maintenance dredge in Lake Lothing within the limits of dredging.

Byelaws

46.—(1) The undertaker may make byelaws regulating the use and operation of the new bridge and the new bridge infrastructure, the maintenance of order and the conduct of persons in the new bridge area and the mooring of vessels to, and the passage of vessels under, the new bridge.

(2) Without limiting the scope of paragraph (1), byelaws made under this article may make provision—

- (a) preventing interference with, or obstruction of, the operation of the new bridge, including from vessels or other facilities machinery apparatus tools or other things provided in connection with the operation of the new bridge;
- (b) preventing interference with the new bridge or the new bridge infrastructure;
- (c) preventing trespass in the new bridge area;
- (d) preventing nuisances on the new bridge or in the new bridge area;
- (e) requiring any person in charge of a motor vehicle which is at rest by reason of breakdown on any part of the new bridge or the new bridge approaches to report that fact and the position and circumstances in which the vehicle is at rest to the undertaker;
- (f) prohibiting any person, other than an appointed person—
 - (i) from carrying out, or attempting to carry out a repair, adjustment or refuelling of such a vehicle to which sub-paragraph (e) applies except with permission expressly given by an appointed person; and
 - (ii) from moving, or attempting to move, such a vehicle from the position in which it is at rest;
- (g) prohibiting a person from obstructing any action taken by an appointed person for the purpose of removing a vehicle;
- (h) ensuring the safety of vehicles passing over the new bridge and through the new bridge area; and
- (i) placing controls on the mooring and passage of vessels.

(3) The undertaker must consult the harbour authority before making byelaws under paragraph (1) and in the case of a byelaw the purpose of which is to control the navigation or mooring of vessels in the Order limits, must not make the byelaw without the consent of the harbour authority (such consent not to be unreasonably withheld).

(4) The byelaws in Schedule 10 (the Lowestoft Third Crossing Byelaws 2020) have effect until such time as they are amended or revoked by byelaws made under paragraph (1) and in the meantime they are to be treated as if they had been made by the undertaker under that paragraph and approved by the harbour authority under paragraph (3).

(5) From the date that this Order comes into force, the Lowestoft Harbour Byelaws 1993(a) are amended as follows—

- (a) in Byelaw 4 (interpretation) insert the following definitions in the appropriate places alphabetically—
 - ““the Order” means the Lake Lothing (Lowestoft) Third Crossing Order 2020”;
 - ““the new bridge” means the bridge authorised by Work No. 1 in Schedule 1 (authorised development) to the Order”;
 - ““the new bridge control building” means the bridge control building authorised by Work No. 6 in Schedule 1 (authorised development) to the Order”;
 - ““the new bridge infrastructure” means the infrastructure elements supporting the new bridge including (without limitation) the cables, drainage, electricity and water supplies, and fenders relating to the new bridge, as well as any plant and machinery and any emergency, safety or communications equipment required for the construction, maintenance or operation of the new bridge”;
 - ““the new bridge undertaker” means Suffolk County Council or a person to whom the benefit of the relevant provisions of the Order has been transferred under article 49 (transfer of benefit of Order, etc.) of the Order”; and

(a) Byelaws for the Port of Lowestoft made by the harbour authority under section 83 of the Harbours, Docks and Piers Clauses Act 1847 (1847 c. 27) (incorporated by section 51 of the British Transport Docks Act 1964 (1964 c. 38)) and by section 52 of the British Transport Docks Act 1964.

- ““the Scheme of Operation” means the Scheme of Operation having effect from time to time under article 41 (operation of the new bridge) of the Order”; and
- (b) after Part IV (Conduct of Persons on Harbour) insert—

“PART IVA NEW BRIDGE CONTROLS ON VESSELS

Mooring of vessels

- 37A.** A master of a vessel must not moor the vessel—
- (a) to any pier or any other part of the new bridge or the new bridge infrastructure; or
 - (b) in the vicinity of the new bridge if to do so might damage the new bridge or the new bridge infrastructure, or impede its operation in accordance with the Scheme of Operation,

without the prior consent of the new bridge undertaker.

Observation of signals and communications

- 37B.** A master of a vessel must observe and comply with the river traffic control signal lights exhibited from the new bridge and follow any instructions issued by the new bridge undertaker.

- 37C.** A master of a vessel approaching or departing the new bridge must make every reasonable effort to maintain continuous contact with the new bridge undertaker within the new bridge control building on VHF channel 14 or (if this becomes obsolete) such other means of communication instructed by the new bridge undertaker.

- 37D.** A master of a vessel awaiting passage under the new bridge must—
- (a) stay clear of the centre channel of Lake Lothing;
 - (b) give transiting vessels sufficient room to manoeuvre; and
 - (c) ensure that the vessel does not advance beyond the outer edge of the fenders surrounding the new bridge until instructed to proceed by the new bridge undertaker.

Passage of vessels under the new bridge

- 37E.** Unless otherwise directed by the harbour master, a master of a vessel must direct the vessel to pass under the new bridge by navigating between the two bridge piers which are within Lake Lothing, and must not allow the vessel to pass between a pier and the nearest quay wall of Lowestoft Harbour.

Collision with the new bridge

- 37F.** A master of a vessel which has been involved in a collision with the new bridge must, as soon as reasonably practicable, report the occurrence to the new bridge undertaker and as soon as reasonably practicable thereafter provide the new bridge undertaker with details of the collision in writing.”.

- (6) The harbour authority must not—
- (a) amend or revoke the byelaws inserted into the Lowestoft Harbour Byelaws 1993 by paragraph (5); or
 - (b) make byelaws which affect the new bridge, the new bridge infrastructure or impede operation of the new bridge in accordance with the Scheme of Operation,

- (b) particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence;
- (c) the time by which and the manner (including the number to be used for payments by credit or debit card) in which the fixed penalty must be paid; and
- (d) that proceedings may be instituted if payment is not made within the time specified in the fixed penalty notice.

(5) The amount of the fixed penalty is—

- (a) one fifth of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction provided that person pays the fixed penalty in full within 7 days of issue of the fixed penalty notice; or
- (b) one half of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction.

(6) An appointed person may require a person to whom this article applies to pay a deposit of one tenth of the maximum amount of the fine to which a person may be liable under level 3 on the standard scale on accepting a fixed penalty notice if that person fails to provide, when requested, a residential address in the United Kingdom.

(7) Payment of the deposit must be made—

- (a) in person to the appointed person by cash, credit or debit card, if the appointed person has the necessary means to accept payment in that manner;
- (b) by telephone by credit or debit card to the number stipulated in the fixed penalty notice for making payments; or
- (c) by App.

(8) The undertaker must apply the deposit towards payment of the fixed penalty.

(9) In any proceedings a certificate which—

- (a) purports to be signed on behalf an officer of the undertaker appointed under section 151 (financial administration) of the Local Government Act 1972; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) In this article—

“App” means a software application for use on an electronic device which provides for payment by credit or debit card and which is provided by the undertaker for that purpose;

“credit card” means a card or similar thing issued to any person, use of which enables the holder to defer payment of the deposit;

“debit card” means a card or similar thing issued by any person, use of which causes the deposit to be paid by the electronic transfer of funds from any current account of the holder at a bank or other institution providing banking facilities; and

“fixed penalty notice” means a notice offering the opportunity of the discharge of liability to conviction of an offence under byelaws made under article 46.

PART 5

MISCELLANEOUS AND GENERAL

Benefit of Order

48.—(1) Subject to article 49 (transfer of benefit of Order, etc.) and paragraph (2), the provisions of this Order conferring functions on the undertaker have effect solely for the benefit of the undertaker.

(2) Nothing in paragraph (1) applies—

- (a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—
 - (i) the removal of any obstruction to traffic;
 - (ii) the maintenance, improvement, reconstruction or operation of the road;
 - (iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity, or any electronic communications apparatus as defined in Schedule 3A (the Electronic Communications Code) to the Communications Act 2003(a); or
 - (iv) any building operation or demolition;
- (b) in relation to a vehicle being used—
 - (i) for police, ambulance, fire and rescue authority or traffic officer purposes;
 - (ii) in the service of a local authority, safety camera partnership or Drive and Vehicle Standards Agency in pursuance of statutory powers or duties;
 - (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(b); or
 - (iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Services Act 2000(c); or
- (c) in relation to a vehicle waiting when the person in control of it is—
 - (i) required by law to stop;
 - (ii) obliged to stop in order to avoid an accident; or
 - (iii) prevented from proceeding by circumstances outside the person's control.

(3) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraph (1) for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(4) Paragraphs (1), (2) and (3) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

(5) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the 2004 Act.

Deemed marine licence

55. The undertaker is granted a deemed marine licence under Part 4 (marine licensing) of the 2009 Act to carry out the activities specified in Part 1 of Schedule 12 (deemed marine licence), subject to the conditions set out in Parts 2 to 4 of that Schedule.

Defence to proceedings in respect of statutory nuisance

56.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisance) of the Environmental Protection Act 1990(d) in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

(a) 2003 c. 21. Schedule 3A was inserted by section 4 of, and Schedule 1 to, the Digital Economy Act 2017 (c. 30).

(b) 1991 c. 56.

(c) 2000 c. 26.

(d) 1990 c. 43. There are amendments to section 82(1) which are not relevant to this Order.

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(a); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Crown rights

57.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description—

- (a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of any interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent given under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Protective provisions

58. Schedule 13 (protective provisions) has effect.

Saving for Trinity House

59. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

Certification of documents

60.—(1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents identified in Schedule 14 (documents to be certified) must be certified by the Secretary of State as true copies of those documents.

(2) Where any document identified in Schedule 14 requires to be amended to reflect the terms of the Secretary of State's decision to make this Order, that document in the form amended to the

(a) 1974 c. 40. Section 61(9) was amended by paragraph 15(3) of Schedule 14 to the Environmental Protection Act 1990 (c. 43) and by Schedule 24 to the Environment Act 1995 (c. 25). There are other amendments to section 61 which are not relevant to this Order.

(7) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(8) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (9).

(9) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(10) This article must not be taken to exclude the employment of any method of service not expressly provided for by it.

(11) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

62.—(1) Except where otherwise expressly provided for in this Order and unless otherwise agreed in writing between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

(2) Subject to any other provision of this Order, any arbitration to be undertaken under paragraph (1) must be carried out using the same process as is set out in sub-paragraphs (2)(d) to (f), (4) to (8) and (12) of paragraph 19 of Schedule 2 subject to the modifications set out in paragraph (3).

(3) The modifications referred to in paragraph (2) are that references in those provisions of Schedule 2 to each of the terms set out in column (1) of the following table are replaced by the corresponding term in column (2) of the table—

| (1) | (2) |
|---------------------------|--|
| the adjudicator | the arbitrator appointed under article 62(1) |
| the appeal | the difference referred to arbitration |
| the discharging authority | the person or body with whom the difference with the undertaker referred to arbitration exists |

Consents, agreements, certifications and approvals

63.—(1) Where any application is made to a relevant authority, the consent, agreement or approval concerned must, if given, be given in writing and is not to be unreasonably withheld or delayed.

(2) If a relevant authority which has received an application fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was received, the relevant authority is deemed to have given its consent, certification, agreement or approval, as the case may be.

(3) Any application to which this article applies must include a written statement that the provisions of paragraph (2) apply to that application.

(4) In this article—

“application” means an application or request for any consent, agreement or approval required or contemplated by articles 6 (street works), 8 (construction and maintenance of new, altered or diverted streets), 11 (temporary stopping up and restriction of use of streets), 12 (access to works), 15 (discharge of water), 17 (authority to survey and investigate land) and 53 (traffic regulation measures); and

“relevant authority” means a planning authority, a traffic authority, a highway authority or a street authority.

Signed by authority of the Secretary of State for Transport

Susan Anderson

Head of the Transport and Works Orders Unit

30th April 2020

Department for Transport

SCHEDULES

SCHEDULE 1 AUTHORISED DEVELOPMENT

Articles 2 and 4

In the administrative area of East Suffolk Council

A development which, in accordance with a direction made by the Secretary of State for Transport on 22 March 2016 under section 35 of the 2008 Act, is development for which development consent is required, and associated development within the meaning of section 115(2) of the 2008 Act, comprising—

Work No. 1 – as shown on sheets 1 and 2 of the works plans and being the construction of new highway comprising—

- (a) Work No. 1A
 - (i) the construction of new highway comprising carriageway and cycleway and forming the new bridge northern approach;
 - (ii) the construction of a new roundabout, together with related approach roads and adjacent cycleways;
 - (iii) the construction of earth embankments supporting the new highway;
 - (iv) the construction of a building to accommodate electrical plant and the installation of electrical apparatus; and
 - (v) associated landscaping.
- (b) Work No. 1B
 - (i) the construction of new highway comprising carriageway and cycleway;
 - (ii) the construction of a bridge deck supporting the new highway;
 - (iii) the construction of an abutment and pier supporting the new bridge deck;
 - (iv) the construction of piles and pile caps supporting the abutment and pier; and
 - (v) the construction of new private means of access as shown on sheet 1 of the rights of way and access plans.
- (c) Work No. 1C
 - (i) the construction of new highway comprising carriageway and cycleway;
 - (ii) the construction of a bridge deck supporting the new highway;
 - (iii) the construction of piers supporting the new bridge deck;
 - (iv) the construction of piles and pile caps supporting the piers; and
 - (v) the construction of new private means of access as shown on sheet 1 of the rights of way and access plans.
- (d) Work No. 1D
 - (i) the construction of new highway comprising carriageway and cycleway;
 - (ii) the construction of a bridge deck supporting the new highway;
 - (iii) the construction of piers within the watercourse supporting the new bridge deck;
 - (iv) the construction of piles and pile caps within the watercourse supporting the piers and fendering;
 - (v) the construction of an opening section of bridge and associated barriers and signage; and

- (vi) the construction of fendering within the watercourse.
- (e) Work No. 1E
 - (i) the construction of new highway comprising carriageway and cycleway and forming the new bridge southern approach;
 - (ii) the construction of a bridge deck supporting the new highway;
 - (iii) the construction of abutments and piers supporting the new bridge deck;
 - (iv) the construction of piles and pile caps supporting the abutments and piers;
 - (v) the construction of earth embankment with retaining walls to support the new highway;
 - (vi) the construction of new private means of access as shown on sheet 2 of the rights of way and access plans; and
 - (vii) the improvement of existing highways, including realignment, to facilitate tie-ins to Work No. 2.

Work No. 2 – as shown on sheet 2 of the works plans and being the alteration of the existing highway comprising—

- (a) the construction of a new roundabout, together with related approach roads and adjacent cycleways;
- (b) the improvement of existing highways, including realignment, to facilitate tie-ins to the works referred to at paragraph (a) above and the construction of new private means of access to premises as shown on sheet 2 of the rights of way and access plans; and
- (c) construction of new turning head on Durban Road and provision of adjacent cycleway.

Work No. 3 – as shown on sheet 1 of the works plans and comprising—

- (a) the improvement of existing highways and the provision of new cycleways, including the realignment of existing highways to facilitate tie-ins to Work No. 1A; and
- (b) the construction of new private means of access as shown on sheet 1 of the rights of way and access plans.

Work No. 4 – as shown on sheet 2 of the works plans and being the construction of new highway comprising carriageway and cycleway and including the construction of a new turning head, to provide access to existing premises including the construction of new private means of access to premises as shown on sheet 2 of the rights of way and access plans.

Work No. 5 – as shown on sheet 2 of the works plans and comprising—

- (a) the construction of new highway comprising carriageway and cycleway to provide access to existing premises including the construction of new private means of access to premises as shown on sheet 2 of the rights of way and access plans; and
- (b) the improvement of existing highways, including realignment, to facilitate tie-ins to the existing highway network and Work No.4 and the construction of new private means of access to premises as shown on sheet 2 of the rights of way and access plans.

Work No. 6 – as shown on sheet 2 of the works plans and being the construction of a new control tower building area for the new bridge comprising—

- (a) the construction of a new control tower building for the operation of the lifting section of the new bridge;
- (b) the construction of a new electrical substation and plant room; and
- (c) the construction of new highway to provide a new access road and parking facilities for the new control tower building and electrical substation and plant room referred to in paragraphs (a) and (b), and to accommodate the new private means of access being as shown on sheet 2 of the rights of way and access plans.

Work No. 7 – as shown on sheet 2 of the works plans and being the construction of a new mooring within Lowestoft Harbour.

And for the purposes of or in connection with the construction of any of the works and other development mentioned above, ancillary or related development which does not give rise to any materially new or materially different effects than those assessed in the environmental statement, consisting of—

works within highways, including—

- (a) alteration of the layout of any street permanently or temporarily, including increasing the width of the carriageway of any street by reducing the width of any kerb, footway, cycleway, or verge within the street; and altering the level or increasing the width of any such kerb, footway, cycleway or verge within the street, works for the strengthening, improvement, repair, maintenance or reconstruction of any street;
- (b) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it, and tunnelling or boring under a street;
- (c) relocation or provision of new road traffic signs, signals, street lighting and carriageway lane markings; and
- (d) works to place, alter, remove or maintain street furniture or apparatus (including statutory undertakers' apparatus) in, under or above a street, including mains, sewers, drains, pipes, cables, cofferdams, lights, fencing and other boundary treatments;

works within Lake Lothing (to the extent they are situated within the Order limits) to—

- (e) alter, clean, modify, dismantle, refurbish, reconstruct, remove, relocate or replace any work or structure (including lake walls);
- (f) carry out excavations and clearance, deepening, scouring, cleansing, dumping and pumping operations;
- (g) carry out dredging, which may include such dredging works as may be required to provide side slopes or otherwise secure the dredged area against siltation, scouring or collapse;
- (h) use, appropriate, sell, deposit or otherwise dispose of any materials (including liquids but excluding any wreck within the meaning of the Merchant Shipping Act 1995(a)) obtained in carrying out any such operations;
- (i) remove and relocate any vessel or structure sunk, stranded, abandoned, moored or left (whether lawfully or not);
- (j) temporarily remove, alter, strengthen, interfere with, occupy and use the banks, bed, foreshore, waters and walls of the lake;
- (k) construct, place and maintain works and structures including piled fenders, protection piles and cofferdams; and
- (l) provide lighting, signage and aids to navigation;

other works and development—

- (m) for the strengthening, alteration or demolition of any building;
- (n) to place, alter, divert, relocate, protect, remove or maintain services, plant and other apparatus and equipment belonging to statutory undertakers, utility companies and others in, under or above land, including mains, sewers, drains, pipes, cables, lights, cofferdams, fencing and other boundary treatments including bollards;
- (o) ramps, steps, footpaths, footways, cycle tracks, cycleways, bridleways, equestrian tracks, non-motorised user routes or links, byways open to all traffic and crossing facilities;

(a) 1995 c. 21.

- (p) embankments, viaducts, bridges, aprons, abutments, shafts, foundations, retaining walls, drainage works, outfalls, pollution control devices, pumping stations, culverts, wing walls, fire suppression system water tanks and associated plant and equipment, highway lighting and fencing;
- (q) settlement mitigation measures for the benefit or protection of, or in relation to, any land, building or structure, including monitoring and safeguarding of existing infrastructure, utilities and services affected by the authorised development;
- (r) to alter the course of, or otherwise interfere with, navigable or non-navigable watercourses;
- (s) landscaping, noise barriers, works associated with the provision of ecological mitigation, and other works to mitigate any adverse effects of the construction, operation or maintenance of the authorised development;
- (t) areas of hard or soft landscaping works, or public realm, at various locations adjacent to the proposed highway and associated works;
- (u) site preparation works, site clearance (including fencing and other boundary treatments, vegetation removal, works of demolition, including demolition of existing structures, and the creation of alternative highways or footpaths) and earthworks (including soil stripping and storage and site levelling);
- (v) construction compounds and working sites, temporary structures, storage areas (including storage of spoil and other materials), temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction-related buildings, welfare facilities, office facilities, other ancillary accommodation, construction lighting, haulage roads and other buildings, machinery, apparatus, works and conveniences;
- (w) service compounds, plant and equipment rooms, offices, staff mess rooms, welfare facilities, and other ancillary and administrative accommodation;
- (x) for the benefit or protection of the authorised development; and
- (y) of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development.

Time limit for commencement of the authorised development

2. The authorised development must commence within 5 years of the date on which this Order comes into force.

Design of the authorised development

3.—(1) The authorised development must be designed and implemented in general accordance with the general arrangement plans.

(2) Prior to the commencement of the authorised development the undertaker must submit to the county planning authority a final version of the design guidance manual for approval.

(3) The county planning authority must consult the local planning authority before approving the final version of the design guidance manual under sub-paragraph (2).

(4) The final version of the design guidance manual submitted under sub-paragraph (2) must be in accordance with the interim design guidance manual.

(5) The authorised development must be designed and implemented in accordance with the final version of the design guidance manual approved under sub-paragraph (2).

(6) No part of the authorised development which comprises the construction or improvement of a highway may commence until written details of those works have been submitted to and approved by the county planning authority.

(7) For the purposes of paragraph (6) “written details” means—

- (a) highway cross-sections and long sections;
- (b) details of earthworks, pavement construction, materials, carriageway layout, footways and cycleways, road restraints, road markings, traffic signs, traffic signals, crossing facilities, and street lighting;
- (c) details of approach ramps, engineered fill, retaining structures, piles and foundations where those details have not already been submitted by the undertaker to the county planning authority as part of a scheme bridge approval in principle report pursuant to Volume 1 Section 1 Part BD2/12 (Technical Approval of Highways Structures) of Highways England’s Design Manual for Roads and Bridges; and
- (d) any other details requested by the county planning authority prior to or within 14 days of receiving a submission by the undertaker under paragraph (6).

Code of construction practice

4.—(1) No part of the authorised development may commence until a code of construction practice for that part of the authorised development has been submitted to the county planning authority by the undertaker following consultation with the Environment Agency, the harbour authority and the local planning authority and the submitted code of construction practice has been approved by the county planning authority.

(2) Any code of construction practice produced under sub-paragraph (1) must be in accordance with the interim code of construction practice.

(3) The authorised development must be carried out in accordance with the code of construction practice produced under sub-paragraph (1).

Landscaping scheme

5.—(1) No part of the authorised development may commence until a written landscaping scheme for the authorised development has been submitted to the county planning authority by the undertaker following consultation with the local planning authority and the written landscaping scheme has been approved in writing by the county planning authority.

(2) Any landscaping scheme prepared under sub-paragraph (1) must be in general accordance with the landscaping plans and set out details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) ecological areas;
- (f) details of any existing trees to be retained;
- (g) details of the maintenance regime for the landscaping scheme; and
- (h) implementation timetables for all landscaping works.

(3) All landscaping works must be carried out and maintained to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

Surface water drainage

6.—(1) No part of the authorised development which comprises any part of a surface water drainage system may commence until written details of that surface water drainage system have been submitted to the county planning authority by the undertaker following consultation with the local planning authority, the harbour authority and the surface water drainage system has been approved in writing by the county planning authority.

(2) The surface water drainage system submitted for approval by the county planning authority under sub-paragraph (1) must be in accordance with the drainage strategy.

(3) The surface water drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1).

Highways lighting

7.—(1) No part of the authorised development may commence until a written scheme of the proposed highway lighting to be provided for that part of the authorised development has been submitted to the county planning authority by the undertaker following consultation with the local planning authority and the harbour authority and the written scheme of the proposed highway lighting for that part of the authorised development has been approved in writing by the county planning authority.

(2) The written scheme of proposed highway lighting submitted for approval by the county planning authority under sub-paragraph (1) must be in accordance with the highway lighting plan.

(3) The authorised development must be carried out in accordance with the scheme approved under sub-paragraph (1).

(4) Nothing in this requirement restricts lighting of the authorised development during its construction or where temporarily required for maintenance.

Contaminated land and groundwater

8.—(1) The undertaker must carry out further ground investigation surveys—

- (a) as near as reasonably practicable to boreholes BHC06 and BHC101 referred to in the ground investigation report, prior to the commencement of the construction of Work No. 1E; and
- (b) of land within the limits of deviation of Work No. 5, prior to the commencement of the construction of Work No. 5.

(2) In the event that contaminated land, including groundwater—

- (a) which was not previously identified in the environmental statement is found at any time when carrying out the authorised development; or
- (b) is encountered following the further ground investigation of boreholes BHC06 and BHC101 referred to in the ground investigation report carried out under sub-paragraph (1)(a); or
- (c) is encountered whilst following the further ground investigation within the limits of deviation of Work No. 5 carried out under sub-paragraph (1)(b),

it must be reported as soon as reasonably practicable to the county planning authority, the local planning authority, the Environment Agency, and, in the event of any contaminated land, including groundwater, being found within Lowestoft Harbour, the harbour authority.

(3) As soon as reasonably practicable (and in any event not later than 30 days) following the submission of a report pursuant to sub-paragraph (1), the undertaker must submit for approval a scheme to the county planning authority setting out how the nature and extent of contamination on site will be assessed by way of an investigation and risk assessment.

(4) The undertaker must implement the approved scheme and upon completion of it submit for approval to the county planning authority a written report of the findings of the scheme.

(5) If the county planning authority determines, following receipt of the report submitted by the undertaker pursuant to sub-paragraph (4), that remediation of the contaminated land is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose, must be submitted for approval by the county planning authority.

(6) Remediation must be carried out in accordance with the scheme approved under sub-paragraph (5).

(7) Following completion of the remediation carried out pursuant to sub-paragraph (5), a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to the county planning authority for approval.

(8) In this paragraph, where approval or determination is sought by the undertaker from the county planning authority, before giving any approval or determination the county planning authority must consult with the local planning authority, the Environment Agency and, where the approval or determination relates to matters within Lowestoft Harbour, the harbour authority.

Mooring

9. The new bridge must not be opened for traffic until Work No. 7 has been made available for use by recreational vessels.

Written schemes of investigation

10. The authorised development must be carried out in accordance with the scheme-wide written scheme of investigation.

Navigation risk assessment

11.—(1) Prior to commencement of construction of the new bridge and following consultation with the harbour authority, the undertaker must undertake a vessel simulation which takes account of the final design of the new bridge.

(2) Prior to commencement of construction of the new bridge and following consultation with the harbour authority and the PMSC Stakeholder Group, the undertaker must update the preliminary navigation risk assessment to take account of the final design and construction methodology of the new bridge and, in doing so, must use the results of the vessel simulation carried out under sub-paragraph (1).

(3) Following the update of the preliminary navigation risk assessment carried out pursuant to sub-paragraph (2), the undertaker must submit the updated navigation risk assessment to the harbour authority for its approval, which must not be unreasonably withheld.

(4) Following construction of the new bridge the harbour authority must incorporate the updated navigation risk assessment approved by it under sub-paragraph (3) into the wider navigational risk assessments relating to Lowestoft Harbour.

(5) The construction and operation of the new bridge must be carried out in accordance with the updated navigation risk assessment approved under sub-paragraph (3) and, subject to sub-paragraph (6), in accordance with any further updated navigation risk assessment prepared by the harbour authority in consequence of sub-paragraph (4).

(6) The obligation under sub-paragraph (5) to operate the new bridge in accordance with any further updated navigation risk assessment prepared by the harbour authority in consequence of sub-paragraph (4) is subject to the terms of a determination under article 62 of any dispute between the undertaker and the harbour authority that may arise relating to that further updated navigation risk assessment.

(7) Article 62 applies to any dispute arising under this paragraph between the undertaker and the harbour authority in place of the provisions of Part 2 of this Schedule.

Traffic mitigation

12.—(1) The authorised development must not be opened for traffic until the undertaker has carried out and completed the following works—

- (a) the installation of equipment to adapt traffic signals at the junction of the existing A12 Tom Crisp Way and the existing Blackheath Road;
- (b) the widening of the existing Peto Way approach to the existing A1117 Normanston Drive/Peto Way roundabout; and
- (c) the widening of the left turn kerb radius at the existing Kimberley Road for traffic turning left into that road from the existing B1531 Waveney Drive, at the existing Kimberly Road/B1531 Waveney Drive junction.

(2) The works required by sub-paragraph (1) must not commence until written details of the works have been submitted to and approved by the county planning authority, following consultation with the local planning authority.

(3) The undertaker must not utilise the power under article 53 and Schedule 11 to make provision for the prohibition of motorised vehicles on the existing Durban Road except for emergency vehicles and the motorised vehicles of owners, occupiers and visitors to No 1b Durban Road, as shown on sheet 1 of the traffic regulation measures plans (clearways and prohibitions), until it has exercised the powers under article 53 and Schedule 11 to make provision for no waiting at any time and no loading or unloading at any time as shown on sheet 3 of the traffic regulation measures plans (clearways and prohibitions).

(4) The undertaker must, in 2027 and 2037, undertake a review of the performance of the junctions described as junctions 6, 18 and 22 in the transport assessment.

(5) Following completion of each of the reviews required by sub-paragraph (4), the undertaker must submit for approval a report of that review to the county planning authority.

(6) Upon receipt of that report, the county planning authority must, within 8 weeks of receiving a report under sub-paragraph (5) determine—

- (a) if any remedial measures are required at any of the junctions listed in sub-paragraph (4) having regard to the expected performance of these junctions in 2037 set out in the transport assessment; and
- (b) whether such remedial measures must be carried out by the undertaker.

(7) If the county planning authority determines that the undertaker must implement those remedial measures, the undertaker must implement them.

(2) Subject to paragraph (3), in the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, the discharging authority may—

- (a) give or refuse its consent, agreement or approval; or
- (b) give its consent, agreement or approval subject to reasonable conditions,

and where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision.

Further information regarding requirements

18.—(1) In relation to any part of an application made under this Schedule, the discharging authority has the right to request such further information from the undertaker as is necessary to enable the discharging authority to consider the application.

(2) If the discharging authority considers that further information is necessary and the requirement concerned contained in Part 1 of this Schedule does not specify that consultation with a consultee is required, the discharging authority must, within 10 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement concerned contained in Part 1 of this Schedule specifies that consultation with a consultee is required, the discharging authority must issue the application to the consultee within five business days of receipt of the application, and notify the undertaker in writing specifying any further information requested by the consultee within five business days of receipt of such a request.

(4) If the discharging authority does not give the notification within the period specified in subparagraph (2) or (3) it (and the consultee, as the case may be) is deemed to have sufficient information to consider the application and is not entitled to request further information without the prior agreement of the undertaker.

Appeals

19.—(1) Where the undertaker makes an application to the discharging authority, the undertaker may appeal to the Secretary of State in the event that—

- (a) the discharging authority refuses an application for any consent, agreement or approval required by—
 - (i) a document referred to in Part 1 of this Schedule; or
 - (ii) a document referred to in any requirement contained in Part 1 of this Schedule;
- (b) the discharging authority grants an application subject to conditions;
- (c) the discharging authority issues a notice further to sections 60 or 61 of the Control of Pollution Act 1974;
- (d) on receipt of a request for further information pursuant to paragraph 18 of this Part of this Schedule, the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (e) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The appeal process is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the time period set out in paragraph 17(1), giving rise to the appeal referred to in subparagraph (1);
- (b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging authority and any consultee specified under the relevant requirement contained in Part 1 of this Schedule;
- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to consider the appeal (“the adjudicator”) and must notify the appeal parties of the identity of the adjudicator and the address to which all correspondence for the attention of the adjudicator must be sent;
- (d) the discharging authority and any consultee (if applicable) must submit their written representations together with any other representations to the adjudicator in respect of the appeal within 10 business days of the start date specified by the adjudicator and must ensure that copies of their written representations and any other representations as sent to the adjudicator are sent to each other and to the undertaker on the day on which they are submitted to the adjudicator;
- (e) the appeal parties must make any counter-submissions to the adjudicator within 10 business days of receipt of written representations pursuant to sub-paragraph (c) above; and
- (f) the adjudicator must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable after the end of the 10 day period for counter-submissions under paragraph (e).

(3) The appointment of the adjudicator pursuant to sub-paragraph (2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the adjudicator considers that further information is necessary to enable the adjudicator to consider the appeal the adjudicator must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required pursuant to sub-paragraph (4) must be provided by the party from whom the information is sought to the adjudicator and to the other appeal parties by the date specified by the adjudicator. The adjudicator must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the adjudicator within 10 business days of the date specified by the adjudicator but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (e).

(6) On an appeal under this paragraph, the adjudicator may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the adjudicator in the first instance.

(7) The adjudicator may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the adjudicator such written representations as have been sent outside of the relevant time limits.

(8) The adjudicator may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the adjudicator that there is sufficient material to enable a decision to be made on the merits of the case.

(9) The decision of the adjudicator on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for a judicial review.

A12 Roundabout (existing junction of Peto Way (C970) and Peto Way (A1117) with Normanston Drive (A1117) and Normanston Drive (A1144))

11. A length of existing highway proposed to be classified as part of the A12, over the entire length of the circulatory carriageway forming the existing roundabout junction of Peto Way (C970) and Peto Way (A1117) with Normanston Drive (A1117) and Normanston Drive (A1144),

identified by a red line on the classification of roads plan.

A12 Peto Way

12. A length of existing highway proposed to be classified as part of the A12, along both the northbound and southbound carriageways, commencing from the roundabout forming the junction of Peto Way (C970) and Peto Way (A1117) with Normanston Drive (A1144) and Normanston Drive (A1117) and Fir Lane, extending in a northerly direction to the point where it joins the existing roundabout junction of Millennium Way (A1117) and Oulton Road,

identified by a red line on the classification of roads plan.

A12 Roundabout (existing junction of Oulton Road, Millennium Way and Peto Way)

13. A length of existing highway proposed to be classified as part of the A12, over the entire length of the circulatory carriageway forming the existing roundabout junction of Oulton Road (B1074), Millennium Way (A1117) and Peto Way (A1117).

identified by a red line on the classification of roads plan.

A12 Millennium Way

14. A length of existing highway to be re-classified as part of the A12, along both the northbound and southbound carriageways, commencing from the existing roundabout junction of Millennium Way (A1117) and Oulton Road (B1074), extending in a northerly direction to the point where it joins the existing roundabout junction of Park Meadows and Bentley Drive,

identified by a red line on the classification of roads plan.

A12 Roundabout (existing junction of Millennium Way, Bentley Drive and Park Meadows)

15. A length of existing highway proposed to be classified as part of the A12, over the entire length of the circulatory carriageway forming the existing roundabout junction of Millennium Way (A1117), Bentley Drive and Park Meadows,

identified by a red line on the classification of roads plan.

A12 Millennium Way

16. A length of existing highway to be re-classified as part of the A12, along both the northbound and southbound carriageways, commencing from the existing roundabout junction of Millennium Way (A1117), Park Meadows and Bentley Drive, extending in a northerly direction to the point where it joins the existing roundabout junction of Yarmouth Road (A47), Corton Long Lane (B1385) and Blundeston Road,

identified by a red line on the classification of roads plan.

A146 Bridge Road

17. A length of existing highway along both the northbound and southbound carriageways proposed to be re-classified as part of the A146, commencing from the northern end of the A146 Beccles Road (a point 135m from the junction with Cotmer Road in a northerly direction where

the road crosses the rail line) and continuing in a general northerly direction up to the existing roundabout junction of Bridge Road, Saltwater Way (A1117) and Victoria Road (B1531), identified by a blue line on the classification of roads plan.

A146 Roundabout (existing junction of Saltwater Way (A1117), Bridge Road (A1117) and Victoria Road (B1531))

18. A length of existing highway proposed to be re-classified as part of the A146, over the entire length of the circulatory carriageway forming the roundabout junction of Saltwater Way (A1117), Bridge Road (A1117) and Victoria Road (B1531),

identified by a blue line on the classification of roads plan.

A146 Saltwater Way

19. A length of existing highway along both the northbound and southbound carriageways proposed to be re-classified as part of the A146, commencing from the existing roundabout junction of Bridge Road (A1117) and Victoria Road (B1531) with Saltwater Way (A1117) and continuing in a generally northerly direction to a point where it joins the exit arm of the unclassified section of Bridge Road,

identified by a blue line on the classification of roads plan.

A146 Bridge Road

20. A length of existing highway along both the northbound and southbound carriageways proposed to be re-classified as part of the A146, commencing from where Saltwater Way (A1117) joins the exit arm from the existing unclassified section of Bridge Road and extending in a generally northerly direction until it joins the roundabout junction of Commodore Road (unclassified) and Bridge Road (A1117),

identified by a blue line on the classification of roads plan.

A146 Roundabout (existing junction of Bridge Road (A1117) and Commodore Road)

21. A length of existing highway proposed to be reclassified as part of the A146, over the entire length of the circulatory carriageway, forming the roundabout junction of Bridge Road (A1117) with Commodore Road,

identified by a blue line on the classification of roads plan.

A146 Bridge Road

22. A length of existing highway along both the northbound and southbound carriageways proposed to be re-classified as part of the A146, commencing from the roundabout junction of Bridge Road (A1117) and Commodore Road in a north-easterly direction to a point where it joins the roundabout junction of Bridge Road (A1117), Gorleston Road (B1375) and Normanston Drive (A1117),

identified by a blue line on the classification of roads plan.

A146 Roundabout (existing junction of Bridge Road (A1117), Gorleston Road (B1375) and Normanston Drive (A1117))

23. A length of existing highway proposed to be re-classified as part of the A146, over the entire length of the circulatory carriageway forming the roundabout junction of Gorleston Road (B1375), Normanston Drive (A1117) and Bridge Road (A1117),

identified by a blue line on the classification of roads plan.

A146 Normanston Drive

24. A length of existing highway along both the northbound and southbound carriageways proposed to be re-classified as part of the A146, commencing from the roundabout junction of Gorleston Road (B1375), Normanston Drive (A1117) and Bridge Road (A1117) in a generally north-easterly direction to a point where it joins the existing roundabout junction of Peto Way (A1117), Normanston Drive (A1117), Peto Way (C970), Normanston Drive (A1144) and Fir Lane (unclassified),

identified by a blue line on the classification of roads plan.

PART 2

OTHER ROADS

C970 Lake Lothing Third Crossing Northern Roundabout northern arm (to/from Denmark Road)

25. A length of new highway proposed to be constructed and to be classified as part of Denmark Road (C970), along both the north-eastbound and south-westbound carriageways, commencing at the proposed Lake Lothing Third Crossing Northern Roundabout and extending in a north-easterly direction for a distance of 25 metres to a point where it joins the existing roundabout junction of Rotterdam Road, Denmark Road and Peto Way (C970),

identified by a dashed green line on the classification of roads plan.

Canning Road

26. A length of new highway proposed to be constructed and to be unclassified and known as Canning Road, along both the northbound and southbound carriageways, commencing from the roundabout junction with Canning Road and entrance to East Suffolk Council offices in a northerly direction until its junction with the existing Riverside Road,

identified by a dashed orange line on the classification of roads plan.

New Access Road

27. A length of new highway proposed to be constructed and to be unclassified from a point on Waveney Drive 95 metres east of its junction with Waveney Crescent west, in a generally northerly direction for a distance of 236 metres and then in a generally easterly direction towards Riverside Road, for a distance of 158 metres to a point where it joins the western end of the existing Riverside Road,

identified by a dashed orange line on the classification of roads plan.

SCHEDULE 4

Article 10

PERMANENT STOPPING UP OF HIGHWAYS AND PRIVATE MEANS OF ACCESS AND PROVISION OF NEW HIGHWAYS AND PRIVATE MEANS OF ACCESS

PART 1

HIGHWAYS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW HIGHWAYS WHICH ARE OTHERWISE TO BE PROVIDED

| (1) Area | (2) <i>Highway to be stopped up</i> | (3) <i>Extent of stopping up</i> | (4) <i>New highway to be substituted/provided</i> |
|--|--|-------------------------------------|--|
| The rights of way and access plans – sheet 1 | | | |
| In the administrative area of East Suffolk Council | - | - | Reference A A length of new highway from a point on Peto Way 25 metres west of its junction with Rotterdam Road in a generally south westerly direction for a distance of 25 metres. |
| The rights of way and access plans – sheets 1 and 2 | | | |
| In the administrative area of East Suffolk Council | - | - | Reference B A length of new highway from a point on Peto Way 140 metres west of its junction with Rotterdam Road in a generally southerly direction for a distance of 432 metres. |
| The rights of way and access plans – sheet 2 | | | |
| In the administrative area of East Suffolk Council | - | - | Reference C A length of new highway from a point on Waveney Drive 95 metres east of its junction with Waveney Crescent west, in a generally northerly direction for a distance of 236 metres and then in a generally easterly |

PART 2

PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW PRIVATE MEANS OF ACCESS WHICH ARE OTHERWISE TO BE PROVIDED

| <i>(1) Area</i> | <i>(2) Highway to be stopped up</i> | <i>(3) Extent of stopping up</i> | <i>(4) New private means of access to be substituted/provided</i> |
|---|---|--------------------------------------|---|
| The rights of way and access plans – sheet 1 | | | |
| In the administrative area of East Suffolk Council | - | - | Reference 1 A new private means of access from the Network Rail works compound area in the south to land occupied by the East Suffolk railway line in the north, to facilitate access for maintenance of the new bridge. |
| | - | - | Reference 1a A new private means of access from the improved Denmark Road, located 90m south east of the existing Rotterdam Road roundabout, allowing access across the proposed landscaped area to land occupied by the East Suffolk Railway. |
| | - | - | Reference 1b A new private means of access from the landscaped area, located 50m south of private means of access Reference 1a, allowing access to land occupied by the East Suffolk Railway. |
| | - | - | Reference 2 A new private means of access from the Associated British Ports' quayside in the south to the Network Rail works compound area in the north, to |

| <i>(1) Area</i> | <i>(2) Highway to be stopped up</i> | <i>(3) Extent of stopping up</i> | <i>(4) New private means of access to be substituted/provided</i> |
|---------------------|---|--------------------------------------|---|
| | | | facilitate access for maintenance of the new bridge. |

The rights of way and access plans – sheet 2

| | | | |
|--|--|--|--|
| In the administrative area of East Suffolk Council | Reference b Access to land (owned by East Suffolk Council) on the north side of the existing Riverside Road, 5 metres east of its junction with the existing access to premises known as Riverside (occupied by East Suffolk Council and Suffolk County Council). | A length from its junction with the existing Riverside Road northwards, for a distance of 3 metres. | Reference 3 To be substituted by a new private means of access from the new highway (Reference C) and located 27 metres west of the existing access to Riverside, to be granted for the benefit of the land affected by the stopping up of private means of access reference b. |
| | - | - | Reference 4 A new private means of access from the new highway (Reference E) commencing 72 metres east and 43 metres north of the existing entrance to Riverside, providing access to the new bridge control tower. |
| | - | - | Reference 4a A new private means of access from the new highway (Reference E), located 34 metres to the north of the existing access from Riverside Road, providing access to premises to the north-east of Riverside Road occupied by Nexen. |
| | Reference d Access to premises (occupied by UK Power Networks Ltd). | A length from its junction with the existing Riverside Road in a northerly direction for a distance of 3 metres. | Reference 4 To be substituted by a new private means of access from the improved Riverside Road to premises (occupied by UK Power Networks Ltd) located 62 metres east of the existing |

| <i>(1) Area</i> | <i>(2) Highway to be stopped up</i> | <i>(3) Extent of stopping up</i> | <i>(4) New private means of access to be substituted/provided</i> |
|---------------------|--|--|--|
| | | | at the end of the improved Canning Road to the west of its existing junction with Riverside Road, to facilitate access for maintenance of the new bridge southern approach and adjacent utilities. |
| | - | - | Reference 9 A new private means of access from the south side of the improved Canning Road to the west of its existing junction with Riverside Road to facilitate access for maintenance of the new bridge southern approach and adjacent utilities. |
| | - | - | Reference 10 A new private means of access from the north side of the existing MotorLings access road on the east of its junction with Riverside Road, to facilitate access for maintenance of the new bridge southern approach and adjacent utilities. |
| | - | - | Reference 11 A new private means of access from the south side of the existing MotorLings access road on the east of its junction with Riverside Road, to facilitate access for maintenance of the new bridge southern approach and adjacent utilities. |
| | Reference h Access to premises known as Riverside | A length from its junction with the existing Canning | Reference 12 To be substituted by a new private means of |

| <i>(1) Area</i> | <i>(2) Highway to be stopped up</i> | <i>(3) Extent of stopping up</i> | <i>(4) New private means of access to be substituted/provided</i> |
|---------------------|---|--|--|
| | | | granted for the benefit of No.1b Durban Road. |
| | Reference n Access to the existing garages on the south side of Durban Road 19 metres south of the junction of Durban Road with Waveney Drive. | A length from its junction with the existing Durban Road in a south-easterly direction for a distance of 5 metres. | Reference 18 To be substituted by a new private means of access providing pedestrian access from the new bridge southern roundabout, to be granted for the benefit of the land affected by the stopping up of private means of access reference n. |
| | Reference o Access to the premises known as Bellablue Beauty Clinic. | A length from its junction with the existing Waveney Drive in a southerly direction for a distance of 9 metres. | Reference 19 To be substituted by a new private means of access providing pedestrian access from the new bridge southern roundabout, to be granted for the benefit of the land affected by the stopping up of private means of access reference o. |
| | Reference p Access to No. 34 Waveney Drive. | A length from its junction with the existing Waveney Drive in a southerly direction for a distance of 2 metres. | Reference 20 To be substituted by a new private means of access providing pedestrian access from the westerly approach to the new bridge southern roundabout, to be granted for the benefit of the land affected by the stopping up of private means of access reference p. |
| | Reference q Access to No. 32 Waveney Drive. | A length from its junction with the existing Waveney Drive in a southerly direction for a distance of 2 metres. | Reference 21 To be substituted by a new private means of access providing pedestrian access from the westerly approach to the new bridge southern roundabout, to be granted for the |

| <i>(1) Area</i> | <i>(2) Highway to be stopped up</i> | <i>(3) Extent of stopping up</i> | <i>(4) New private means of access to be substituted/provided</i> |
|---------------------|---|---|--|
| | | | benefit of the land affected by the stopping up of private means of access reference q. |
| | Reference r Access to Lings Wharf, (occupied by Motorlings and others) 29 metres west of the Tom Crisp Way Roundabout. | A length from its junction with the existing Waveney Drive in a northerly direction for a distance of 2 metres. | Reference 15 To be substituted by a new private means of access from the improved Waveney drive located 45 metres to the west of the Tom Crisp Way roundabout, providing access to premises on the north side of Waveney Drive, occupied by MotorLings, to be granted for the benefit of the land affected by the stopping up of private means of access reference r. |

PART 3

PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

| <i>(1) Area</i> | <i>(2) Private Means of Access to be stopped up</i> | <i>(3) Extent of stopping up</i> |
|---|---|---|
| The rights of way and access plans – sheet 1 | | |
| In the administrative area of East Suffolk Council. | Reference a Access to land (owned by Suffolk County Council) | A length from its junction with the existing junction of Peto Way/Denmark Road with Rotterdam Road in a southerly direction for a distance of 8 metres. |
| The rights of way and access plans – sheet 2 | | |
| In the administrative area of East Suffolk Council. | Reference c Access to land (occupied by East Suffolk Council) on the north side of Riverside Road 27 metres east of the access to Riverside. | A length from its junction with the existing Riverside Road in a westerly direction for a distance of 3 metres. |
| | Reference f Access to land (occupied by East Suffolk Council) on the | A length from its junction with the existing Riverside Road in a westerly direction for a |

SCHEDULE 5
TREES SUBJECT TO TREE PRESERVATION ORDERS

Article 19

| <i>(1)</i> <i>Type of tree</i> | <i>(2)</i> <i>Work number in which trees are situated</i> |
|---|--|
| Trees within the areas identified as T4 and G1 in the First Schedule to the Waveney District Council Tree Preservation Order (No. 61) dated 4 January 1985 and being trees located on land at 42 Waveney Drive, Lowestoft, and shown on the tree preservation order trees location plan. | Work No. 2 |
| Tree within the area marked T1 in the First Schedule to the Waveney District Council Tree Preservation Order 1999 (No. 269) dated 20 January 1999 and being a single tree located on land north of No.1a Durban Road, Lowestoft and shown on the tree preservation order trees location plan. | Work No. 2 |

SCHEDULE 6

Article 26

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

PART 1

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

| (1) Area | (2) <i>Plot Reference Number(s) shown on land plans</i> | (3) <i>Purpose(s) for which rights over land may be acquired</i> |
|--|--|---|
| The land plans – sheet 2 | | |
| In the administrative area of East Suffolk Council | 2-14, 2-17, 2-21, 2-27, 2-30 | New rights (including the imposition of restrictive covenants) for the benefit of the undertaker for the purpose of constructing, protecting, accessing and maintaining the new bridge. |
| | 2-34 | New rights (including the imposition of restrictive covenants) for the benefit of the undertaker for the purpose of constructing, protecting, accessing and maintaining the new bridge, including a right of access along Commercial Road (from the point where it ceases to be public highway to the location of the new bridge), as shown on sheet 1 of the rights of way and access plans. |
| The land plans – sheet 3 | | |
| In the administrative area of East Suffolk Council | 3-03, 3-06, 3-08, 3-11, 3-36, 3-55 | New rights (including the imposition of restrictive covenants) for the benefit of the undertaker for the purpose of constructing, protecting, accessing and maintaining the new bridge. |
| | 3-12, 3-39 | New rights (including the imposition of restrictive covenants) for the benefit of the undertaker for the purpose of constructing, protecting, accessing and maintaining the new bridge. |
| | 3-29, 3-32, 3-50 | New rights (including the imposition of restrictive covenants) required for the benefit of the undertaker for the purpose of constructing, |

| <i>(1) Area</i> | <i>(2) Plot Reference Number(s) shown on land plans</i> | <i>(3) Purpose(s) for which rights over land may be acquired</i> |
|--|---|---|
| | | protecting, accessing and maintaining the new bridge; and, for the benefit of the undertaker and relevant statutory undertakers, for the provision of private means of access to land as shown on sheet 2 of the rights of way and access plans, and in connection with the diversion, protection and maintenance of, and access to, statutory undertakers' apparatus. |
| | 3-41 | New rights (including the imposition of restrictive covenants) for the benefit of the undertaker for the purpose of providing and maintaining appropriate visibility across the new public highway. |
| | 3-45, 3-47 | New rights (including the imposition of restrictive covenants) required for the benefit of the undertaker for the purpose of constructing, protecting, accessing and maintaining the new bridge southern approach, and for the benefit of the undertaker and relevant statutory undertakers for the provision of private means of access as shown on sheet 2 of the rights of way and access plans, and in connection with the diversion, protection and maintenance of, and access to, statutory undertakers' apparatus. |
| The land plans – sheet 4 | | |
| In the administrative area of East Suffolk Council | 4-05 | New rights (including the imposition of restrictive covenants) for the benefit of the undertaker for the purpose of providing and maintaining appropriate visibility across the new public highway. |
| | 4-07, 4-08, 4-09 | New rights (including the imposition of restrictive covenants) required for the benefit of relevant statutory undertakers in connection with the diversion, protection and maintenance of, and access to |

| <i>(1) Area</i> | <i>(2) Plot Reference Number(s) shown on land plans</i> | <i>(3) Purpose(s) for which rights over land may be acquired</i> |
|--|---|---|
| | | statutory undertakers' apparatus. |
| The land plans – sheet 5 | | |
| In the administrative area of East Suffolk Council | 5-03, 5-10, 5-31 | New rights (including the imposition of restrictive covenants) required for the benefit of the undertaker for the purpose of constructing, protecting, accessing and maintaining the new bridge southern approach and for the benefit of relevant statutory undertakers in connection with the diversion, protection and maintenance of, and access to statutory undertakers' apparatus. |
| | 5-14 | New rights (including the imposition of restrictive covenants) for the benefit of relevant statutory undertakers in connection with the diversion, protection and maintenance of and access to statutory undertakers' apparatus and for the provision of a private means of access to land on the north side of Waveney Drive, as shown on sheet 2 of the rights of way and access plans, for the benefit of that land. |
| | 5-15 | New rights (including the imposition of restrictive covenants) for the purpose of providing a private means of access to land adjacent to the new bridge, as shown on sheet 2 of the rights of way and access plans, for the benefit of that land. |
| | 5-27 | New rights (including the imposition of restrictive covenants) required for the benefit of the undertaker for the purpose of constructing, protecting, accessing and maintaining the new bridge southern approach; for the provision of private means of access to land as shown on sheet 2 of the rights of way and access plans for the |

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 32(4) is also modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

Introduction

1. This Schedule applies where an acquiring authority (“the authority”) serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 31 (application of the 1981 Act) of the Lake Lothing (Lowestoft) Third Crossing Order 2020 in respect of the land to which the notice to treat relates.

2. But see article 27(4) (acquisition of subsoil or airspace only) of the Lake Lothing (Lowestoft) Third Crossing Order 2020 which excludes the acquisition of subsoil or airspace only from the application of this Schedule.

3. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

15. Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

SCHEDULE 8

Article 27

LAND IN WHICH ONLY AIRSPACE AND NEW RIGHTS MAY BE ACQUIRED

| <i>(1) Area</i> | <i>(2) Plot Reference Number(s) shown on land plans</i> | <i>(3) Height above Ordnance Datum (m)</i> | <i>(4) Purpose(s) for which airspace and new rights may be acquired</i> |
|--|---|--|---|
| The land plans – sheet 2 | | | |
| In the administrative area of East Suffolk Council | 2-26, 2-28 | 7.805 metres | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the protection and maintenance of the new bridge. |
| | 2-29 | 8.315 metres | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the protection and maintenance of the new bridge. |
| | 2-32 | 8.155 metres | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the protection and maintenance of the new bridge. |
| | 2-33 | 8.230 metres | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the protection and maintenance of the new bridge. |
| The land plans – sheet 3 | | | |
| In the administrative area of East Suffolk Council | 3-33 | 8.230 metres | Airspace for the construction and operation of the new bridge and new rights (including restrictive |

| <i>(1) Area</i> | <i>(2) Plot Reference Number(s) shown on land plans</i> | <i>(3) Height above Ordnance Datum (m)</i> | <i>(4) Purpose(s) for which airspace and new rights may be acquired</i> |
|---------------------|---|--|---|
| | | | covenants) below, for the protection and maintenance of the new bridge. |
| | 3-34 | 13.480 metres | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the protection and maintenance of the new bridge. |
| | 3-35, 3-37, 3-38 | 8.065 metres | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the protection and maintenance of the new bridge. |

SCHEDULE 9

Article 33

LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN

| <i>(1) Area</i> | <i>(2) Plot Reference Number(s) shown on land plans</i> | <i>(3) Purpose for which temporary possession may be taken</i> | <i>(4) Relevant part of the authorised development</i> |
|--|---|---|---|
| The land plans – sheet 2 | | | |
| In the administrative area of East Suffolk Council | 2-13, 2-15, 2-16, 2-19, 2-20, 2-22, 2-31 | Temporary possession to provide working space for the construction of the new bridge and the new bridge approaches. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| The land plans – sheet 3 | | | |
| In the administrative area of East Suffolk Council | 3-01, 3-02 | Temporary possession to provide working space for the construction of the new bridge. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| | 3-10, 3-54 | Temporary possession to provide working space for the construction of the new bridge and the new mooring. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| | 3-14, 3-16 | Temporary possession to provide working space for the construction of the new bridge and a construction compound to facilitate all works. | <i>The land plans – sheet 3</i> |
| | 3-15 | Temporary possession | Airspace for the |

| <i>(1) Area</i> | <i>(2) Plot Reference Number(s) shown on land plans</i> | <i>(3) Purpose for which temporary possession may be taken</i> | <i>(4) Relevant part of the authorised development</i> |
|---------------------|---|---|---|
| | | to provide working space for the construction of the new bridge and a construction compound to facilitate all works. | construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| | 3-21 | Temporary possession of land to construct a replacement access to premises and to facilitate construction of the new extension of Canning Road. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| | 3-22, 3-25 | Temporary possession of land to provide working space for the construction of the new extension to Canning Road. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| | 3-42 | Temporary possession of land to provide working space for the construction of the new extension to Canning Road and improvements to Riverside Road. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| | 3-56 | Temporary possession of land to facilitate phased reconfiguration of commercial premises located on land to the south of and outside the Order limits around plots 3-57 and | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and |

| <i>(1) Area</i> | <i>(2) Plot Reference Number(s) shown on land plans</i> | <i>(3) Purpose for which temporary possession may be taken</i> | <i>(4) Relevant part of the authorised development</i> |
|--|---|---|---|
| | | 3-58. | maintenance of the new bridge |
| | 3-57 | Temporary possession of land to provide access to facilitate the phased reconfiguration of commercial premises located on land to the south of and outside the Order limits around plots 3-57 and 3-58. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| | 3-59 | Temporary possession of land to provide working space for the construction of the new access road between Waveney Drive and the improved Riverside Road. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| The land plans – sheet 4 | | | |
| In the administrative area of East Suffolk Council | 4-01, 4-04 | Temporary possession of land to provide working space for the construction of the new access road between Waveney Drive and the improved Riverside Road. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| The land plans – sheet 5 | | | |
| In the administrative area of East Suffolk Council | 5-06 | Temporary possession of land to provide working space for the improvement of Riverside Road and Waveney Drive and the construction of the new southern roundabout. | Airspace for the construction and operation of the new bridge and new rights (including restrictive covenants) below, for the benefit of the undertaker, for the protection and maintenance of the new bridge |
| | 5-28 | Temporary possession of land to provide working space for the improvement of | Airspace for the construction and operation of the new bridge and new rights |

- (a) climb upon, remove, operate, interfere with, obstruct or damage (whether deliberately or negligently) the new bridge infrastructure;
- (b) enter the new bridge control building area without prior consent from an appointed person;
- (c) remove, jump or otherwise manoeuvre over or under, any bar, railing, fence or barrier or open any gate or movable barrier fitted or placed on any part of the new bridge without prior consent from an appointed person;
- (d) drop or allow to fall anything on to the new bridge or the new bridge approaches or over the parapet of the new bridge or over any fence or wall on or abutting on the new bridge so as to endanger or cause injury or damage to any person or property;
- (e) post a bill, placard or notice within the new bridge area;
- (f) write, print, draw or paint on or cut, mark or stamp any part of the new bridge area;
- (g) fix anything to the new bridge or the new bridge infrastructure;
- (h) spit, urinate or defecate in the new bridge area;
- (i) place or deposit or leave on or in the new bridge area any vehicle or any article or thing so as to create an obstruction or litter or fire risk;
- (j) offer for sale or sell any article or thing of any description in the new bridge area without the consent of Suffolk County Council;
- (k) move, alter, deface or otherwise interfere with any notice belonging to Suffolk County Council which is exhibited or placed in the new bridge area;
- (l) without prejudice to any other requirement of the byelaws, act in any way as to cause a nuisance in the new bridge area; or
- (m) use abusive behaviour or threatening language or gestures in the new bridge area.

PART 3

ACCESS AND TRAFFIC

Unauthorised access and loitering

- 5.—(1) A person must not enter, attempt to enter or remain in any part of the new bridge area where there is a notice prohibiting or restricting access.
- (2) A person must not loiter in the new bridge area if asked to leave by an appointed person.
- (3) A driver of a motor vehicle must not sleep within the new bridge area.
- (4) An appointed person may prevent the driver of a motor vehicle from gaining access to the new bridge area if the appointed person has reasonable cause to believe the driver of the motor vehicle is contravening, or will contravene if allowed to proceed, any of the byelaws.
- (5) A person must not attempt to use or cross the new bridge—
- (a) when instructed not to do so by an appointed person;
 - (b) in contravention of a notice displayed by the undertaker; or
 - (c) whenever the new bridge is in the process of opening or closing.

Traffic regulation

- 6.—(1) A person (other than an appointed person) must not use or cause to be used within the new bridge area a barrow, cart, rickshaw or animal-drawn means of conveyance except if it is conveyed as the load or part of the load of a motor vehicle.
- (2) A person (other than an appointed person) must not use or cause to be used within the new bridge area vehicles which emit grit, sparks, ashes, cinders, or oily substances in a manner which

contravenes any regulations for the time being in force under the Road Traffic Act 1988 or any amendment thereof relating to the construction and use of motor vehicles.

(3) A person on foot must not enter any part of the new bridge area apart from the footways and cycleways unless directed to do so by an appointed person.

(4) A person with a bicycle must not enter any part of the new bridge area apart from the cycleways unless directed to do so by an appointed person.

(5) A person must not drive a motor vehicle onto the footways or cycleways unless directed to do so by an appointed person.

(6) A person must not take onto the new bridge any animal other than a dog unless the animal is enclosed in a motor vehicle or trailer.

(7) A person must not release an animal from a motor vehicle within the new bridge area.

(8) A person must not abandon a motor vehicle in the new bridge area except in an emergency and as directed by an appointed person.

(9) A person must not operate a motor vehicle music or sound system at such volume as to cause nuisance to people within the new bridge area.

(10) A person must not take or cause to be taken onto the new bridge a motor vehicle which by reason of its condition is likely to break down or is in such condition as is likely to injure persons or damage property.

(11) A person must not use or cause to be used a motor vehicle on the new bridge unless the load carried by the motor vehicle is at all times contained or secured (if necessary by physical restraint other than its own weight) and is in such a position that neither danger nor nuisance is caused or is likely to be caused to a person or property by reason of the load or any part of the load falling or being thrown from the motor vehicle.

(12) No driver of or passenger in a motor vehicle which has broken down may carry out repairs to or refuel a motor vehicle in the new bridge area without the consent of an appointed person.

(13) A driver of a motor vehicle which has broken down in the new bridge area must—

- (a) immediately notify an appointed person of the breakdown; and
- (b) switch on the motor vehicle's hazard lights.

(14) A driver of a motor vehicle which has shed its load in full or in part on the new bridge such that it has caused, or may cause, an obstruction or other hazard to users of the new bridge or to users of Lake Lothing must—

- (a) not attempt to reclaim the load;
- (b) immediately inform an appointed person of the loss of the load; and
- (c) immediately inform an appointed person of the identity of, and contact details for, the owner of the load.

(15) Any user of the new bridge must comply with any direction given by an appointed person or notice, sign or signal within the new bridge area at any time.

PART 4

GENERAL

Saving for appointed persons

7. Nothing in these byelaws prevents an appointed person from undertaking an activity which would otherwise be prohibited by these byelaws provided such activity is undertaken in the execution of that person's duties as an appointed person.

| <i>(1) Area</i> | <i>(2) Road name number and length</i> | <i>(3) Speed limit and restricted roads status</i> |
|---|---|--|
| | joins the existing roundabout junction of Rotterdam Road and Denmark Road along both the northbound and southbound carriageways. | |
| The traffic regulation measures (speed limits and restricted roads) plans – sheets 1 and 2 | | |
| In the administrative area of East Suffolk Council | <p>A12 Lake Lothing Third Crossing</p> <p>A length of new highway from a point where it departs from the new A12 Lake Lothing Third Crossing Northern Roundabout in a generally southerly direction for a distance of 604 metres to a point where it joins the new A12 Lake Lothing Third Crossing Southern Roundabout along both the northbound and southbound carriageways.</p> | Restricted road |
| The traffic regulation measures (speed limits and restricted roads) plans – sheet 2 | | |
| In the administrative area of East Suffolk Council | <p>A12 Lake Lothing Third Crossing Southern Roundabout</p> <p>A length of improved highway comprising the Lake Lothing Third Crossing Southern Roundabout along the entire length of the circulatory carriageway.</p> | Restricted road |
| | <p>B1531 Waveney Drive</p> <p>A length of improved carriageway comprising the western spur of the new Lake Lothing Third Crossing Southern Roundabout in a westerly direction for a distance of 43 metres along both the westbound and eastbound carriageways.</p> | Restricted road |
| | <p>A12 Lake Lothing Third Crossing</p> <p>A length of improved carriageway comprising the eastern spur of the new Lake Lothing Third Crossing Southern Roundabout in an easterly direction for a</p> | Restricted road |

| <i>(1) Area</i> | <i>(2) Road name number and length</i> | <i>(3) Speed limit and restricted roads status</i> |
|---------------------|--|--|
| | distance of 33 metres, along both the westbound and eastbound carriageways. | |
| | <p>New Access Road from Waveney Drive to Riverside Road</p> <p>A length of new highway from a point on Waveney Drive 95 metres east of its junction with Waveney Crescent west, in a generally northerly direction for a distance of 236 metres and then in a generally easterly direction towards Riverside Road, for a distance of 158 metres.</p> | Restricted road |
| | <p>Canning Road</p> <p>A length of new highway from a point on the existing Riverside Road 37 metres east of the entrance to premises known as Riverside (4 Canning Road), in a generally southerly direction for a distance of 90 metres to its junction with the improved Canning Road along both the northbound and southbound carriageways.</p> | Restricted road |
| | <p>Canning Road Roundabout</p> <p>A length of improved highway on the existing Canning Road, comprising a new roundabout and improved access to premises known as Riverside (4 Canning Road) along the entire length of the circulatory carriageway and access.</p> | Restricted road |
| | <p>New Access Road to Control Tower and Nexen Group premises</p> <p>A length of new highway from a point on the existing Riverside Road 55 metres east of the northern entrance to premises known as Riverside (4 Canning Road), in a generally north-easterly direction and forming a</p> | Proposed 30mph Speed Limit |

| <i>(1) Area</i> | <i>(2) Road name number and length</i> | <i>(3) Measures</i> |
|---------------------|---|--------------------------|
| | improved roundabout forming the junction between Rotterdam Road and Denmark Road for a distance of 165 metres in an easterly direction along the eastbound carriageway of Denmark Road. | |
| | Denmark Road A length of improved highway from a point from the improved roundabout forming the junction between Rotterdam Road and Denmark Road for a distance of 35 metres in an easterly direction along the westbound carriageway of Denmark Road. | No waiting (at any time) |
| | Rotterdam Road A length of improved highway from a point from the improved roundabout junction of Rotterdam Road and Denmark Road for a distance of 5 metres in a northerly direction along the northbound carriageway of Rotterdam Road. | No waiting (at any time) |
| | Rotterdam Road A length of improved highway from a point from the improved roundabout junction of Rotterdam Road and Denmark Road for a distance of 50 metres in a northerly direction along the southbound carriageway of Rotterdam Road. | No waiting (at any time) |
| | Peto Way A length of existing highway to be improved from a point where it departs from the proposed A12 Lake Lothing Third Crossing 129 metres west of the improved roundabout junction of Rotterdam Road and Denmark Road for a distance of 56 metres in an easterly direction | Clearway |

| <i>(1) Area</i> | <i>(2) Road name number and length</i> | <i>(3) Measures</i> |
|---------------------|--|--------------------------|
| | Riverside Road A length of new highway from a point on the existing Riverside Road 175 metres west of the northern entrance to premises known as Riverside (4 Canning Road), in an easterly direction towards the existing Riverside Road, for a distance of 107 metres on the eastbound carriageway | No waiting (at any time) |
| | Riverside Road A length of improved highway from a point on the existing Riverside Road 47 metres west of the northern entrance to premises known as Riverside (4 Canning Road), in an easterly direction towards the existing Riverside Road, for a distance of 25 metres on the eastbound carriageway | No waiting (at any time) |
| | Riverside Road A length of improved highway from a point on the existing Riverside Road 43 metres east of the northern entrance to premises known as Riverside (4 Canning Road), in an easterly direction towards the existing Nexen access for a distance of 65 metres on the eastbound carriageway | No waiting (at any time) |
| | New Access Road to Control Tower and Nexen Group premises A length of new highway from a point on the existing Riverside Road 55 metres east of the northern entrance to premises known as Riverside (4 Canning Road), in a generally north-easterly direction and forming a turning head for the Control Tower and new highway access to land on the east side of the new bridge southern approach (being premises | No waiting (at any time) |

| <i>(1) Area</i> | <i>(2) Road name number and length</i> | <i>(3) Measures</i> |
|---------------------|---|--------------------------|
| | occupied by Nexen), for a distance of 50 metres on the northbound and southbound carriageways. | |
| | <p>Riverside Road</p> <p>A length of new and improved highway from a point on the existing Riverside Road 145 metres west of the northern entrance to premises known as Riverside (4 Canning Road), in an easterly direction towards the existing Nexen access, for a distance of 250 metres on the westbound carriageway</p> | No waiting (at any time) |
| | <p>New Access Road from Riverside Road to Canning Road</p> <p>A length of new highway from a point on the existing Riverside Road 37 metres east of the northern entrance to premises known as Riverside (4 Canning Road), in a generally southerly direction for a distance of 90 metres to its junction with the improved Canning Road along the southbound carriageways.</p> | No waiting (at any time) |
| | <p>New Access Road from Riverside Road to Canning Road</p> <p>A length of new highway from a point on the existing Riverside Road 37 metres east of the northern entrance to premises known as Riverside (4 Canning Road), in a generally southerly direction for a distance of 6 metres to its junction with the improved Canning Road along the northbound carriageway.</p> | No waiting (at any time) |
| | <p>New Access Road forming new eastern entrance into Riverside</p> <p>A length of new highway from a point on the existing</p> | No waiting (at any time) |

| <i>(1) Area</i> | <i>(2) Road name number and length</i> | <i>(3) Measures</i> |
|---|--|--|
| | <p>Crossing Southern Roundabout for a distance of 50 metres in an easterly direction.</p> <p>On the south side, from the new A12 Lake Lothing Third Crossing Southern Roundabout for a distance of 40 metres in an easterly direction.</p> | |
| | <p>B1531 Waveney Drive</p> <p>An improved length of the existing Waveney Drive from a point 55 metres east of its junction with Waveney Crescent West in an easterly direction for 130 metres along both the westbound and eastbound carriageways.</p> | No waiting (at any time) |
| | <p>B1531 Waveney Drive</p> <p>Waveney Drive from a point 80 metres west of the A12 Lake Lothing Third Crossing Southern Roundabout in an easterly direction for a distance of 80 metres along both the westbound and eastbound carriageways.</p> | Clearway |
| | <p>Durban Road</p> <p>A length of the improved Durban Road from a point 450 metres north east of the existing junction of Kimberley Road with Durban Road for a distance of 5 metres, south-west from the outer edge of the Lake Lothing Third Crossing Southern Roundabout across both the northbound and southbound carriageways</p> | <p>The prohibition of use by motorised vehicles except for emergency vehicles which may access Durban Road from both its southern and northern ends (including via its junction with the new southern roundabout) and may travel either northbound or southbound on Durban Road; and except for the motorised vehicles of owners and occupiers of and visitors to No. 1b Durban Road in respect of which access is permitted via the southern end of Durban Road only.</p> |
| The traffic regulation measures plans (clearways and prohibitions) – sheet 3 | | |
| In the administrative area of East Suffolk Council | <p>Kimberley Road</p> <p>A length of Kimberley Road for a distance of 28 metres in a westerly direction from its</p> | <p>No waiting (at any time)</p> <p>No loading or unloading (at any time).</p> |

| <i>(1) Area</i> | <i>(2) Road name number and length</i> | <i>(3) Measures</i> |
|---------------------|--|--------------------------|
| | junction with Durban Road along both the eastbound and westbound carriageways. | |
| | Kimberley Road A length of Kimberley Road for a distance of 30 metres in an easterly direction from its junction with Waveney Drive along both the eastbound and westbound carriageways. | No waiting (at any time) |
| | Kirkley Run A length of Kirkley Run for a distance of 41 metres in a southerly direction from a point 14 metres north of the centre of Notley Road along the edge of the north-westbound carriageway. | No waiting (at any time) |
| | Kirkley Run A length of Kirkley Run for a distance of 24 metres in a southerly direction from the junction of Kirkley Run and Notley Road along the south-eastbound carriageway. | No waiting (at any time) |
| | Notley Road A length of Notley Road for a distance of 55 metres in a generally north-easterly direction from the junction with Kirkley Run along the westbound carriageway. | No waiting (at any time) |
| | Notley Road A length of Notley Road for a distance of 17 metres in an easterly direction from a point 79 metres east of the junction with Kirkley Run along the westbound carriageway. | No waiting (at any time) |
| | Notley Road A length of Notley Road for a distance of 17 metres in a generally easterly direction from a point 147 metres east of the junction with Kirkley Run along the westbound carriageway. | No waiting (at any time) |
| | Notley Road | No waiting (at any time) |

PART 3
REVOCATIONS AND VARIATIONS OF EXISTING TRAFFIC REGULATION ORDERS

| (1) Area | (2) Road name number and length | (3) Order | (4) Revocations or variations |
|---|--|--|--|
| The traffic regulation measures plans (clearways and prohibitions) – sheet 1 | | | |
| In the administrative area of East Suffolk Council | Rotterdam Road West side from a point 15 metres north of its junction with Eastern Way in a south-easterly direction to a point 15 metres east of its junction with Hervey Street. | District of Waveney (Various Roads in Lowestoft) (Prohibition of Waiting) Order 1987 | Order to be partially revoked to the extent identified on sheet 1 by a dashed orange line. |
| | Denmark Road The west side from a point 15 metres north of its junction with Eastern Way in a south-easterly direction to a point 15 metres east of its junction with Hervey Street save for a length of 25 metres where it passes across the existing junction of Denmark Road, Rotterdam Road and Peto Way. | District of Waveney (Various Roads in Lowestoft) (Prohibition of Waiting) Order 1987 | Order to be partially revoked to the extent identified on sheet 1 by a dashed orange line. |
| | Peto Way and Rotterdam Road From a point 37 metres south of its junction with Eastern Way in a south-westerly direction towards Peto Way for a distance of 6 metres. | Suffolk County Council (Eastern Way, Essex Road, Norfolk Street and Rotterdam Road) (Prohibition of Waiting, On-Street Parking Place and Revocation) Order 2012 | Order to be partially revoked to the extent identified on sheet 1 by a dashed orange line. |
| | Peto Way North side and south side, from a point 102 metres east of the existing roundabout junction of Peto Way and Barnards Way for a distance of 180 metres in a generally | Suffolk County Council (Grove Road, Peto Way and St. Peters Street, Lowestoft) (Prohibition and Restriction of Waiting and Loading, Clearway and Revocation) Order | Order to be partially revoked to the extent identified on sheet 1 by a dashed orange line. |

| <i>(1) Area</i> | <i>(2) Road name number and length</i> | <i>(3) Order</i> | <i>(4) Revocations or variations</i> |
|---------------------|--|----------------------|--|
| | easterly direction. | 2009 | |

The traffic regulation measures plans (clearways and prohibitions) – sheet 2

| | | | |
|--|--|---|---|
| In the administrative area of East Suffolk Council | Riverside Road West side, from a point 42 metres to the north-east of the centreline of its junction with Canning Road for a distance of 175 metres to the south to its junction with the B1351 Waveney Drive. East side, from a point 42 metres to the north east of the centreline of its junction with Canning Road for a distance of 175 metres to the south to its junction with the B1351 Waveney Drive. | The Borough of Lowestoft (St. Margaret's Road and Riverside Road) (Street Parking Places) Order 1966 Suffolk County Council (South Lowestoft Relief Road – Associated Measures) (Various Roads, Lowestoft and Carlton Colville) (Prohibition and Restriction of Waiting, Additional Measures and Revocation) Order 2006 Suffolk County Council (Canning Road and U336 Riverside Road, Lowestoft) (Prohibition of Waiting and Revocation) Order 2016 | Orders to be partially revoked to the extent identified on sheet 2 by a dashed orange line. |
| | Canning Road North side, from the existing access to Riverside in an easterly direction for a distance of 20 metres. West side, from the existing access to Riverside in a generally southerly direction for a distance of 57 metres. South side, from a point 20 metres east of the entrance to the Registrar's Office in a south-westerly direction for a distance of 20 metres. | The Lowestoft (General) (Prohibition and Restriction of Waiting) (Amendment) (No.2) Order 1972 Suffolk County Council (Lowestoft Central Relief Roads) (Prohibition and Restriction of Waiting) (No.2) Order 1977 Suffolk County Council (Canning Road and U336 Riverside Road, Lowestoft) (Prohibition of Waiting and Revocation) Order 2016 | Orders to be partially revoked to the extent identified on sheet 2 by a dashed orange line. |
| | B1351 Waveney | The Lowestoft | Orders to be partially |

SCHEDULE 12

DEEMED MARINE LICENCE

Article 55

PART 1

GENERAL

Interpretation

1. In this licence—

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“AB Ports” means Associated British Ports, company reference number ZC000195, whose registered office address is 25 Bedford Street, London WC2E 9ES;

“the authorised development” has the meaning given in paragraph 3(2);

“commence” means beginning to carry out any part of a licensed activity and “commenced” and “commencement” are to be construed accordingly;

“condition” means a condition in Part 2, Part 3 and Part 4 of this licence;

“construction activity” means—

(a) any licensed activity to be undertaken during the construction of the authorised development; and

(b) any licensed activity to be undertaken for the purposes of maintaining the authorised development, with the exception of any maintenance dredging activity;

“capital dredging activity” means an activity which comprises the excavation of the seabed, in an area or down to a level (relative to Ordnance Datum) not previously dredged during the preceding 10 years;

“the environmental statement” means the documents of that description as reference in Schedule 14 (documents to be certified) to the Order, certified by the Secretary of State for the purposes of the Order;

“the harbour authority” means AB Ports in its role as the owner and operator of, and the statutory harbour authority for, Lowestoft Harbour as established by section 8 of, and paragraph 2 of Schedule 3 to the Transport Act 1981(a);

“the harbour master” has the same meaning as is given to that term in article 2 of the Order;

“Lake Lothing” means the navigable saltwater lake within the town of Lowestoft in the area of East Suffolk Council between the North Sea and Oulton Broad, as identified by reference points 652111E, 292801N, 655207E, 292615N respectively;

“the licence holder” means the undertaker or any transferee under article 49 (transfer of benefit of Order, etc) of the Order;

“licensed activity” means any of the activities specified in Part 1 of this licence;

“maintenance dredging activity” means any activity which comprises the removal of recently-accumulated sediments such as mud, sand and gravel in order to keep channels, berths and other areas at their designed depths and which takes place in circumstances where—

(a) the level of the seabed to be restored by the dredging is not lower than it has been at any time during the past 10 years; and

(a) 1981 c.56.

(b) there is evidence that dredging has previously been undertaken to that level (or lower) during that period;

“marine pollution contingency plan” means the plan as required by condition 8 of this licence;

“the Order” means the Lake Lothing (Lowestoft) Third Crossing Order 2020; and

“the scheme-wide written scheme of investigation” means the document of that description as identified in Schedule 14 to the Order, and certified by the Secretary of State as the scheme-wide written scheme of investigation for the purposes of the Order;

2.—(1) Except where otherwise indicated, the main point of contact with the MMO and the address for email and postal returns and correspondence are as follows—

(a) Marine Management Organisation, Marine Licensing Team, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH; Tel. – 0300 123 1032, Fax – 0191 376 2681, Email –marine.consents@marinemanagement.org.uk;

(b) Marine Management Organisation, MMO Lowestoft, Pakefield Road, Lowestoft, Suffolk, NR33 0HT; Tel. – 01502 573 149 or 01502 572 769, Email –lowestoft@marinemanagement.org.uk.

(2) The contact details for the MMO Marine Pollution Response Team are Tel. (during office hours) – 0300 200 2024, Tel. (outside office hours) – 07770 977 825 or 0845 051 8486 and Email – dispersants@marinemanagement.org.uk, or such replacement contact details notified to the licence holder in writing by the MMO.

(3) Unless otherwise stated in writing by the MMO, all notices required by this licence to be sent by the licence holder to the MMO must be sent by email.

Details of licensed marine activities

3.—(1) Subject to the licence conditions in Part 2, this licence authorises the licence holder (and any agent, contractor or subcontractor acting on its behalf) to carry out any licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act which—

(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.

(2) In this paragraph “the authorised development” means—

(a) the construction of piers in Lake Lothing;

(b) the construction of piles and pile caps within Lake Lothing supporting piers and fendering;

(c) the construction of fendering within Lake Lothing;

(d) the construction of a mooring within Lake Lothing;

(e) the powers conferred by article 44(1) (subsidiary works and operations in Lake Lothing) of the Order;

(f) for the purposes of or in connection with the construction of any of the works and other development mentioned above, ancillary or related development which does not give rise to any materially new or materially different environmental effects than those assessed in the environmental statement, consisting of—

(i) activities within Lake Lothing to—

(aa) alter, clean, modify, dismantle, refurbish, reconstruct, remove, relocate or replace any work or structure (including lake walls);

(bb) carry out excavations and clearance, deepening, scouring, cleansing, dumping and pumping operations;

(cc) carry out dredging, which may include such dredging works as may be required to provide side slopes or otherwise secure the dredged area against siltation, scouring or collapse;

- (dd) use, appropriate, sell, deposit or otherwise dispose of any materials (including liquids but excluding any wreck within the meaning of the Merchant Shipping Act 1995(a)) obtained in carrying out any such operations;
 - (ee) remove and relocate any vessel or structure sunk, stranded, abandoned, moored or left (whether lawfully or not);
 - (ff) temporarily remove, alter, strengthen, interfere with, occupy and use the banks, bed, foreshore, waters and walls of the lake;
 - (gg) construct, place and maintain works and structures including piled fenders, protection piles and cofferdams; and
 - (hh) provide lighting, signage and aids to navigation,
 - (ii) other works and development—
 - (aa) to place, alter, divert, relocate, protect, remove or maintain services, plant and other apparatus and equipment belonging to statutory undertakers, utility companies and others in, under or above land, including mains, sewers, drains, pipes, cables, lights, cofferdams, fencing and other boundary treatments including bollards and security cameras;
 - (bb) embankments, viaducts, bridges, aprons, abutments, shafts, foundations, retaining walls, drainage works, outfalls, pollution control devices, pumping stations, culverts, wing walls, fire suppression system water tanks and associated plant and equipment, highway lighting and fencing; and
 - (cc) to alter the course of, or otherwise interfere with, navigable or non-navigable watercourses;
 - (iii) such other works as may be necessary or convenient for the purposes of, or in connection with or in consequence of, the construction, maintenance, operation or use of the authorised development, including—
 - (aa) works to divert, remove or replace apparatus, including mains, sewers, drains, pipes, conduits, cables, electrical substations and electrical lines; and
 - (bb) landscaping and other works to mitigate any adverse effect of the construction, maintenance and operation of the works or to benefit or protect any person or premises affected by the construction, maintenance and operation of the works; and
 - (iv) activities to carry out works and development of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the operation and maintenance of the authorised development; and
- (g) any other development within the meaning of section 32 (meaning of “development”) of the 2008 Act that is authorised by the Order.

(3) The coordinates for the area of Lake Lothing within which the licence holder may carry out licensed activities except for the disposal of materials at sea are specified below and more particularly shown on the works plans—

| <i>Point reference</i> | <i>Northing</i> | <i>Easting</i> |
|------------------------|-----------------|----------------|
| 1 | 52.474911207 | 1.733489517 |
| 2 | 52.474849891 | 1.733838101 |
| 3 | 52.474859620 | 1.733843345 |
| 4 | 52.474284891 | 1.737130879 |
| 5 | 52.473912859 | 1.739236608 |
| 6 | 52.473894308 | 1.739340178 |
| 7 | 52.472403935 | 1.739857854 |

(a) 1995 c. 21

| <i>Point reference</i> | <i>Northing</i> | <i>Easting</i> |
|------------------------|-----------------|----------------|
| 8 | 52.472377859 | 1.739259917 |
| 9 | 52.472651586 | 1.739120380 |
| 10 | 52.472715280 | 1.739125784 |
| 11 | 52.473064828 | 1.738231175 |
| 12 | 52.473243521 | 1.737535204 |
| 13 | 52.473977989 | 1.733117287 |

(4) The licence holder must ensure that dredged material approved for disposal at sea pursuant to condition 15(4) must be disposed of within the disposal site TH005 Lowestoft Circular North within the coordinates set out in the table below (or any other disposal site approved in writing by the MMO).

| <i>Northing</i> | <i>Easting</i> |
|-----------------|----------------|
| 52.48163 | 1.7867 |
| 52.48161 | 1.786138 |
| 52.48156 | 1.785583 |
| 52.48147 | 1.785042 |
| 52.48135 | 1.784515 |
| 52.4812 | 1.784013 |
| 52.48102 | 1.783538 |
| 52.4808 | 1.783098 |
| 52.48056 | 1.782697 |
| 52.4803 | 1.782337 |
| 52.48002 | 1.782023 |
| 52.47971 | 1.781758 |
| 52.4794 | 1.781547 |
| 52.47907 | 1.78139 |
| 52.47873 | 1.78129 |
| 52.47839 | 1.781247 |
| 52.47804 | 1.781262 |
| 52.4777 | 1.781333 |
| 52.47737 | 1.781462 |
| 52.47705 | 1.781647 |
| 52.47674 | 1.781885 |
| 52.47644 | 1.782173 |
| 52.47617 | 1.782512 |
| 52.47592 | 1.782893 |
| 52.47569 | 1.783315 |
| 52.47549 | 1.783772 |
| 52.47532 | 1.784262 |
| 52.47518 | 1.784775 |
| 52.47508 | 1.78531 |
| 52.47501 | 1.78586 |
| 52.47497 | 1.78642 |
| 52.47497 | 1.78698 |
| 52.47501 | 1.78754 |
| 52.47508 | 1.78809 |
| 52.47518 | 1.788625 |
| 52.47532 | 1.789138 |
| 52.47549 | 1.789628 |
| 52.47569 | 1.790085 |

| <i>Northing</i> | <i>Easting</i> |
|-----------------|----------------|
| 52.47592 | 1.790507 |
| 52.47617 | 1.790888 |
| 52.47644 | 1.791227 |
| 52.47674 | 1.791515 |
| 52.47705 | 1.791753 |
| 52.47737 | 1.791938 |
| 52.4777 | 1.792067 |
| 52.47804 | 1.792138 |
| 52.47839 | 1.792153 |
| 52.47873 | 1.79211 |
| 52.47907 | 1.79201 |
| 52.4794 | 1.791853 |
| 52.47971 | 1.791642 |
| 52.48002 | 1.791377 |
| 52.4803 | 1.791063 |
| 52.48056 | 1.790703 |
| 52.4808 | 1.790302 |
| 52.48102 | 1.789862 |
| 52.4812 | 1.789387 |
| 52.48135 | 1.788885 |
| 52.48147 | 1.788358 |
| 52.48156 | 1.787817 |
| 52.48161 | 1.787262 |

PART 2

CONDITIONS APPLYING TO CONSTRUCTION ACTIVITIES

Construction method statement

4.—(1) The licence holder must submit a method statement, for approval by the MMO following consultation with the Environment Agency and the harbour authority, at least 13 weeks prior to the commencement of any construction activity.

- (2) The method statement must include the following details—
- (a) the detailed construction methodology to be employed by the licence holder in carrying out the construction activity;
 - (b) in the case of construction of the authorised development, the detailed dredging methodology to be employed by the licence holder and confirmation as to whether the dredging proposed is to be a capital dredging activity or a maintenance dredging activity;
 - (c) a programme of works including timings and durations, method of delivery of material to site and plant to be used during the works;
 - (d) a report of the consultation with the Environment Agency and the harbour authority carried out under sub-paragraph (1);
 - (e) provision that within the marine environment vibro piling techniques are to be used as standard, with percussive piling only used if required to drive a pile to its design depth. If percussive piling is necessary, soft-start procedures are to be used to ensure incremental increase in pile power, over a period of not less than 20 minutes, until full operational piling power is achieved; and where percussive piling ceases for a period longer than 10 minutes, the soft-start procedure must be repeated; and

- (f) where dredged materials arising are intended to be disposed of at sea, the method statement must be accompanied by valid sediment sampling analysis pursuant to condition 15.
- (3) The licence holder must not commence the construction activity concerned until the MMO has approved in writing the submitted method statement.
- (4) The construction activity concerned must be carried out in accordance with the approved method statement, unless otherwise agreed in writing by the MMO.

Post construction

5. The licence holder must remove all temporary structures, waste and debris associated with all construction activities within Lake Lothing within 4 weeks of completion of the final construction activity.

PART 3

CONDITIONS APPLYING TO MAINTENANCE DREDGING TO BE UNDERTAKEN POST CONSTRUCTION

Maintenance dredging method statement

- 6.—(1)** The licence holder must submit a method statement, for approval by the MMO following consultation with the Environment Agency and the harbour authority, at least 13 weeks prior to the commencement of any maintenance dredging activity that is to be carried out by the licence holder following completion of construction of the authorised development.
- (2) The method statement must include the following details—
- (a) the detailed methodology to be employed by the licence holder in carrying out the maintenance dredging activity;
 - (b) a programme of works including timings and durations and plant to be used during the maintenance dredging activity;
 - (c) a report of the consultation with the Environment Agency and the harbour authority carried out under sub-paragraph (1); and
 - (d) where dredged materials arising are intended to be disposed of at sea, the method statement must be accompanied by valid sediment sampling analysis pursuant to condition 15.
- (3) The licence holder must not commence the maintenance dredging activity until the MMO has approved in writing the submitted method statement.
- (4) The maintenance dredging activity must be carried out in accordance with the approved method statement, unless otherwise agreed in writing by the MMO.

PART 4

CONDITIONS APPLYING TO ALL LICENSABLE ACTIVITIES INCLUDING CONSTRUCTION ACTIVITIES AND MAINTENANCE DREDGING ACTIVITIES

Notification of commencement and completion of construction activities only

- 7.—(1)** The licence holder must—
- (a) inform the MMO local office in writing at least 5 days prior to the commencement of the first construction activity and within 5 days of completion of the final licensed construction activity;

- (b) send copies of the notifications required under paragraph (a) to the MMO Marine Licensing Team within 5 days of the date of these notifications;
- (c) send a notification of the commencement of works to the UK Hydrographic Office at least two weeks prior to the commencement of the works together with a request for confirmation as to whether an update of published nautical charts and marine safety information is required;
- (d) send copies of the notifications required under paragraph (c) to the MMO Marine Licensing Team within 24 hours of issue;
- (e) send a notification of the final completion of licensed activities to the Source Data Receipt team, UK Hydrographic Office, Taunton, Somerset, TA1 2DN (Email: sdr@ukho.gov.uk; Tel: 01823 337900) within two weeks of the date of final completion of the licensed activities;
- (f) send a copy of the notification required under paragraph (e) to the MMO Licensing Team within one week of the notification being first issued;
- (g) issue a notice to mariners at least 5 days prior to the commencement of the first construction activity and within 5 days of completion of the final construction activity, or, if the MMO agrees in writing, request that the harbour master issues the notice of mariners on its behalf; and
- (h) send copies of the notifications required under paragraph (g) to the MMO Marine Licensing Team within 5 days of the date of these notifications.

(2) Where impact piling is required as part of a construction method statement approved by the MMO under condition 4 the licence holder must—

- (a) prior to the commencement of a licensed activity in Lake Lothing which involves impact piling—
 - (i) submit details of the expected location, start and end dates of impact pile driving to the Marine Noise Registry in order to satisfy the ‘Forward Look’ requirements of the Registry; and
 - (ii) send copies of the notifications required under sub-paragraph (i) to the MMO Marine Licensing Team within 5 days of the date of these notifications; and
- (b) within 12 weeks of completion of a licensed activity in Lake Lothing which involves impact piling—
 - (i) submit details of the expected location, start and end dates of impact pile driving to the Marine Noise Registry in order to satisfy the ‘Close Out’ requirements of the Registry; and
 - (ii) send copies of the notifications required under sub-paragraph (i) to the MMO Marine Licensing Team within 5 days of the date of these notifications.

Marine pollution contingency plan

8.—(1) The licence holder must submit a marine pollution contingency plan, for approval by the MMO, at least 13 weeks prior to the commencement of any construction activity.

(2) The marine pollution contingency plan must set out the licence holder’s assessment of the likely risks which could arise as a result of a spill or collision during construction and maintenance of the authorised development and the methods and procedures the licence holder intends to put in place to address those risks.

(3) The licence holder must consult the Environment Agency and the harbour authority on the marine pollution contingency plan before submitting it to the MMO and must submit a report of the consultation undertaken at the same time as submitting the marine pollution contingency plan under sub-paragraph (1).

(4) The licence holder must not commence the construction activities until the MMO has approved in writing the submitted marine pollution contingency plan.

(5) The construction activities must be carried out in accordance with the approved marine pollution contingency plan, unless otherwise agreed in writing by the MMO.

Vessels

9.—(1) The licence holder must notify the MMO Licensing Team in writing of any vessel being used to carry on any licensed activities on behalf of the licence holder.

(2) A notification under sub-paragraph (1) must—

- (a) be received by the MMO no less than 24 hours before the commencement of the relevant construction activity; and
- (b) include the name of the master of the vessel, the vessel type, the vessel IMO number and details of the vessel owner or operating company.

(3) The licence holder must ensure that a copy of this licence and any subsequent revisions or amendments have been read and understood by the master of any vessel being used to carry out any construction activities, and that a copy of this licence is held on board any such vessel.

Concrete and cement

10.—(1) The licence holder must ensure that waste concrete, slurry or wash water from concrete or cement activities are not discharged, intentionally or unintentionally, into the marine environment.

(2) Unless otherwise agreed in writing by the MMO in approving a construction method statement under condition 4, the licence holder must contain and site concrete and cement mixing and washing areas away at least 10 metres away from Lake Lothing or any surface water drain to minimise the risk of run off entering Lake Lothing or any surface water drain.

(3) If concrete is to be sprayed, suitable protective sheeting must be provided to prevent rebounded or windblown concrete from entering the marine environment.

(4) Rebounded concrete material must be cleared away before protective sheeting is removed.

Coatings and treatments

11. The licence holder must ensure that all coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved either by the Health and Safety Executive or by the Environment Agency.

Spills, etc.

12. The licence holder must—

- (a) install bunding and/storage facilities to contain and prevent the release of, fuels, oils, and chemicals associated with plant, refuelling and construction equipment, into the marine environment;
- (b) use secondary containment with a capacity of no less than 110% of the container's storage capacity;
- (c) report any spill of oil, fuel or chemicals into the marine area to the MMO Marine Pollution Response Team, the harbour master and the Maritime and Coastguard Agency no later than 12 hours after the spill occurs; and
- (d) store all waste in designated areas that are isolated from surface water drains and open water and are banded to contain any spillage.

Scheme-wide written scheme of investigation

13. All licensed activities must be carried out in accordance with the scheme-wide written scheme of investigation.

Further information regarding application

21. The MMO may request in writing such further information from the licence holder as is necessary to enable the MMO to consider the application.

Determination of application

- 22.**—(1) In determining the application, the MMO may have regard to—
- (a) the application and any supporting information or documentation;
 - (b) any further information provided by the licence holder in accordance with paragraph 11; and
 - (c) such other matters as the MMO thinks relevant.
- (2) Having considered the application, the MMO must—
- (a) grant the application unconditionally;
 - (b) grant the application subject to the conditions the MMO thinks fit; or
 - (c) refuse the application.
- (3) In determining an application, the MMO may discharge its obligations under sub-paragraph (2)(a), (b) or (c) separately in respect of a part of the application only, where it is reasonable to do so.

Notice of determination

23.—(1) Subject to sub-paragraph (2) or (3), the MMO must give notice to the licence holder of the determination of the application within 13 weeks from the day immediately following that on which the application is received by the MMO, or as soon as reasonably practicable after that date.

(2) Where the MMO has made a request under condition 21, the MMO must give notice to the licence holder of the determination of the application no later than 13 weeks from the day immediately following that on which the further information is received by the MMO, or as soon as reasonably practicable after that date.

(3) Where the MMO determines it is not reasonably practicable to make a determination pursuant to sub-paragraph (1) or (2) in 13 weeks, it must notify the licence holder as soon as reasonably practicable and provide confirmation in writing of the intended determination date.

(4) Where the MMO refuses the application the refusal notice must state the reasons for the refusal.

- (a) any licence holder within the meaning of Part 1 (electricity supply) of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986(a);
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 (preliminary) of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the statutory undertaker are regulated by Part 3 (street works in England and Wales) of the 1991 Act.

4.—(1) Regardless of the temporary stopping up, alteration or diversion of streets under the powers conferred by article 11 (temporary stopping up and restriction of use of streets), a statutory undertaker is at liberty at all times to take all necessary access across any such street and to carry out and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the temporary stopping up, alteration or diversion was in that street.

(2) Where any street is stopped up under article 10 (permanent stopping up of streets and private means of access), any statutory undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the statutory undertaker legal easements reasonably satisfactory to the statutory undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the statutory undertaker to require the removal of that apparatus under paragraph 6 or to carry out works under paragraph 8.

5. Despite any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

6.—(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 over which access to any apparatus is enjoyed or requires that the statutory undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a statutory undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the statutory undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of carrying out 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 the statutory undertaker in question 28 days' 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 a statutory undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (a), afford to the statutory undertaker 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.

- (a) 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, the statutory undertaker in

(a) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27) and Part 1 of Schedule 23 to the Energy Act 2004 (c. 20). There are further amendments to section 7 but none are relevant.

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 62 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (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; and
- (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.

(5) An amount which apart from this sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory undertaker in question any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, maintenance or failure of any of the works referred to in paragraph 6(2), 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 a statutory undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any statutory undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that statutory undertaker in making good such damage or restoring the supply; and
- (b) indemnify the statutory undertaker against all reasonable claims, penalties, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or reasonably and properly incurred by, the statutory undertaker,

by reason or in consequence of any such damage or interruption.

(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 a statutory undertaker, its officers, servants, contractors or agents.

(3) A statutory undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

11. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed the undertaker must provide such alternative means of access to that apparatus as will enable the statutory undertaker to maintain or use the apparatus no less effectively than was possible before the obstruction.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

12.—(1) For the protection of any operator, the following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the Company and the operator.

(2) In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“electronic communications apparatus” has the same meaning as in the electronic communications code(b);

“the electronic communications code” has the same meaning as in section 106 (1) (application of the electronic communications code) of the 2003 Act(c);

“electronic communications code network” means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) of that code; and

“operator” means the operator of an electronic communications code network.

13. The exercise of the powers of article 35 (statutory undertakers and utilities) is subject to Part 10 undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

14.—(1) Subject to sub-paragraphs (2) to (3), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(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 an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

15. Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 62 (arbitration).

16. This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(a) 2003 c. 21.

(b) See paragraph 5 of Schedule 3A (the electronic communications code) to the Communications Act 2003 (c. 21). Schedule 3A was inserted by Schedule 1 to the Digital Economy Act 2017 (c. 30).

(c) Section 106 was amended by section 104(3) to (9) of the Digital Economy Act 2017.

- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

PART 3

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

17. The following provisions of this Part of this Schedule apply for the protection of the Agency unless otherwise agreed in writing between the Environment Agency and the undertaker.

18. In this Part of this Schedule—

- “the Agency” means the Environment Agency;
- “completion” in relation to a specified work means the date on which it is brought into use;
- “construction” includes execution, placing, altering, replacing, relaying, removal and excavation and “construct” and “constructed” have corresponding meanings;
- “drainage work” includes any land which provides or is expected to provide flood storage capacity for Lake Lothing and any bank, wall, embankment or other structure, or any appliance constructed or used for land drainage, flood defence or tidal monitoring;
- “the fishery” means Lake Lothing;
- “plans” includes sections, drawings, sediment risk analysis, specifications, calculations and method statements;
- “specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 8 metres of a drainage work or is otherwise likely to—
 - (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
 - (b) affect the flow, purity or quality of water in Lake Lothing and any other watercourse or other surface waters or ground water;
 - (c) cause obstruction to the free passage of fish or damage to the fishery;
 - (d) affect the conservation, distribution or use of water resources; or
 - (e) affect the conservation value of Lake Lothing and habitats in its immediate vicinity; and
- “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.

19.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency or determined under paragraph 30.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been refused 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 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 drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental and recreational duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

(5) Without limiting sub-paragraph (3), 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—

- (a) to safeguard any drainage work against damage; or
- (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.

(6) Any specified work, and all protective works required by the Agency under sub-paragraph (4) must be constructed—

- (a) without unreasonable delay in accordance with the plan approved under this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and the Agency is entitled by its officers to watch and inspect the construction of such works.

(7) 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 specified work.

20. The undertaker must give to the Agency notice in writing of the commencement of any specified work not less than 14 days prior to its commencement and notice in writing of its completion not later than 7 days after such completion.

21.—(1) If any part of a specified work or any protective work required by the Agency 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, at the undertaker's own expense, to comply with the requirements of this Part of this Schedule 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 to the reasonable satisfaction of the Agency, 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.

(2) Subject to sub-paragraph (3) if within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (1) is served upon 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 execute the works specified in the notice and any expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(3) In the event of any dispute as to whether sub-paragraph (2) is properly applicable to any work in respect of which a 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 an emergency, exercise the powers conferred by sub-paragraph (2) until the dispute has been finally determined in accordance with paragraph 30.

22.—(1) Subject to sub-paragraph (6) 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, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (5) and paragraph 26, if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served

- (a) in the examination or approval of plans under this Part of this Schedule; or
- (b) 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
- (c) 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.

27.—(1) The undertaker is responsible for and must indemnify the Agency against all costs and losses not otherwise provided for in this Part of this Schedule which may be incurred or suffered by the Agency by reason of—

- (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
- (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.

(2) In sub-paragraph (1), “costs” include—

- (a) expenses and charges;
- (b) staff costs and overheads; and
- (c) legal costs.

(3) The undertaker must indemnify the Agency against all liabilities, claims and demands arising out of or in connection with the authorised development or works otherwise outside of the matters referred to in sub-paragraphs (1)(a) and (1)(b).

(4) In sub-paragraph (3)—

- (a) “claims” and “demands” include as applicable—
 - (i) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand; and
 - (ii) any interest element of sums claimed or demanded; and
- (b) “liabilities” include—
 - (i) contractual liabilities;
 - (ii) tortious liabilities (including liabilities for negligence or nuisance);
 - (iii) liabilities to pay statutory compensation or for breach of statutory duty; and
 - (iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

28. The Agency must give to the undertaker reasonable notice of any such claim or demand and no settlement or compromise thereof is to be made without the agreement of the undertaker which agreement must not be unreasonably withheld.

29. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan 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.

30. Any difference or dispute arising between the Agency and the undertaker under this Part of this Schedule must, unless otherwise agreed in writing between the Agency and the undertaker, be determined by arbitration in accordance with article 62 (arbitration).

PART 4

FOR THE PROTECTION OF RAILWAY INTERESTS

31. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail, and in the case of paragraph 45, any other person on whom rights or obligations are conferred by that paragraph.

32. In this Part of this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of his powers under section 8 (licences) of the Railways Act 1993(a);

“Network Rail” means Network Rail Infrastructure Limited (company number 0204587, whose registered office is at 1 Eversholt Street, London, NW1 2DN) 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 (meaning of “subsidiary” etc) of the Companies Act 2006(b)) 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;

“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;

“protective works” means any works specified by the engineer under paragraph 35(4);

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail for or connected with the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised development as is or is to be situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

33.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property or rights over railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

(a) 1993 c. 43. As amended by paragraphs 1 and 4 of Schedule 17 to the Transport Act 2000 (c. 38), paragraphs 1 and 5 of Schedule 2 to the Railways and Transport Safety Act 2003 (c. 20), paragraph 3 of Schedule 1, and Schedule 13, to the Railways Act 2005 (c. 14) and S.I. 2015/1682.

(b) 2006 c. 46.

(b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development under this Order.

34.—(1) The undertaker must not exercise the powers conferred by articles 4 (development consent etc granted by the Order), 10 (permanent stopping up of private means of access), 11 (temporary stopping up and restriction of use of streets), 12 (access to works) 14 (use of private roads for construction), 15 (discharge of water), 16 (protective works to buildings), 17 (authority to survey and investigate land) 18 (felling or lopping of trees), 19 (trees subject to tree preservation orders), 22 (compulsory acquisition of land), 26 (compulsory acquisition of rights, etc), 27 (acquisition of subsoil and airspace only), 28 (private rights over land), 29 (power to override easements and other rights), 30 (rights over or under streets), 33 (temporary use of land for carrying out the authorised development), 34 (temporary use of land for maintaining the authorised development), 35 (statutory undertakers and utilities), 36 (apparatus and rights of statutory undertakers and utilities in stopped up streets), 43 (maintenance of authorised development) and 44 (subsidiary works and operations in Lake Lothing) or the powers conferred by section 11(3) (powers of entry) of the 1965 Act or the 1981 Act as applied or modified by this Order in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272(a) (extinguishment of rights of electronic communications code operators: preliminary notices) of the 1990 Act or article 35 (statutory undertakers and utilities) in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over any railway property except with the consent of Network Rail.

(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.

35.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate his approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is to be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(a) Section 272 was amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).

(4) When signifying his approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion must be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using those railways (including any relocation, decommissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to his reasonable satisfaction.

36.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 35(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 35;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic on it and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work or a protective work, the undertaker must, regardless any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect to any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

37. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work or a protective work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or a protective work or the method of constructing it.

38. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

39.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work or a protective work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railways of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

42. If at any time after the completion of a specified work or a protective work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work or the protective work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work or that protective work in such state of maintenance as not adversely to affect railway property.

43. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work or a protective work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

44. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work or a protective work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

45.—(1) 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—

- (a) by reason of the construction or maintenance of a specified work or a protective work or the failure thereof; or
- (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,

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or a 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 his supervision must 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 subparagraph.

(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 must be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) must include sums equivalent to the relevant costs.

(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.

(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 under sub-paragraph (4).

(6) In this paragraph—

“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 restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or protective work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 (licences) of the Railways Act 1993.

46. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 45) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made under this Part of this Schedule (including any claim relating to those relevant costs).

47. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

48. 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—

- (a) any railway property shown on the works plans and the land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (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.

49. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 (the provision of railway services) of the Railways Act 1993.

50. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 49 (transfer of benefit of Order, etc.) of this Order 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)—

- (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.

51. The undertaker must no later than 28 days from the date that the documents submitted to and certified by the Secretary of State in accordance with article 60 (certification of documents) are certified by the Secretary of State, provide a set of those documents to Network Rail in the form of a computer disc with read only memory.

52. In relation to any dispute arising under this Part of this Schedule that is referred to arbitration in accordance with article 62 (arbitration), the process referred to in article 62(2) must be varied by the arbitrator where Network Rail demonstrates to the arbitrator's reasonable satisfaction that Network Rail is unable (acting reasonably) to comply with the process due to timing constraints that may arise for Network Rail in—

- (a) obtaining clearance conditions;
- (b) obtaining any engineering, regulatory or stakeholder (internal or external) consent; or
- (c) assessing any matter of concern with regard to the safe operation of Network Rail's railway,

the variation being to the extent reasonably necessary so that Network Rail is able (acting reasonably) to comply with that process.

PART 5

FOR THE PROTECTION OF THE HARBOUR AUTHORITY

53. For the protection of the harbour authority the provisions of this Part of this Schedule, have effect unless otherwise agreed in writing.

54. In this Part of this Schedule—

“accumulation” means any accumulation of silt or other material (including any materials used to construct the authorised development) which constitutes an impediment to navigation at or in the approaches to Lowestoft Harbour;

“erosion” means any erosion of the bed or banks of the lake or any quay or jetty or other structure of whatever nature within Lowestoft Harbour;

“plans” includes sections, descriptions, drawings, specifications, proposed method statements and hydraulic information, including but not limited to information as to the discharge of water and materials;

“port land” means any land in Lowestoft Harbour held by the harbour authority for the purposes of its statutory undertaking; and

“specified work” means any tidal work or any other work or operation authorised by this Order on port land or which may affect port land or navigation in respect of Lowestoft Harbour of the functions or the harbour authority in relation to the operation of Lowestoft Harbour.

55.—(1) The undertaker must not, under the powers conferred by this Order, temporarily possess, acquire or use, or acquire new rights over, port land without the consent of the harbour authority.

(2) The undertaker must not exercise the powers conferred by article 17 (authority to survey and investigate land) or the powers conferred by section 11(3) (powers of entry) of the 1965 Act in respect of any port land without the consent of the harbour authority.

(3) The powers conferred by article 29 (power to override easements and other rights) do not apply to any rights held by the harbour authority for the purpose of its statutory undertaking, except with the consent of the harbour authority.

(4) The consent of the harbour authority under this paragraph must not be unreasonably withheld but may be given subject to reasonable conditions.

(5) If the harbour authority fails to express its refusal or approval of any request for a consent under—

- (a) sub-paragraph (1) in respect of temporary possession powers;
- (b) sub-paragraph (2); or
- (c) sub-paragraph (3),

within 30 days of such a request having been delivered to it, and the harbour authority has not requested an extension of time to give its consent from the undertaker prior to the expiration of the 30 days which the undertaker has granted, acting reasonably, such a request is deemed to have been refused by the harbour authority.

(6) If the harbour authority fails to express its approval of any request for a consent under sub-paragraph (1), (2) or (3) at the expiration of the extension of time granted by the undertaker under sub-paragraph (5), such a request is deemed to have been refused by the harbour authority.

56.—(1) At least 56 days before commencing the construction or maintenance of any specified work, the undertaker must submit to the harbour authority plans of that work for its approval.

(2) Any approval of the harbour authority under this paragraph—

- (a) must not be unreasonably withheld;
- (b) may be given subject to such reasonable requirements as the harbour authority may make for the protection of Lowestoft Harbour and navigation within Lowestoft Harbour and the

approaches to Lowestoft Harbour, including a requirement for the undertaker to carry out protective works at its own expense; and

- (c) must not restrict the powers granted to the undertaker under this Order where such powers do not affect the harbour authority's undertaking.

(3) The undertaker must carry out any specified work and any protective works required under sub-paragraph (2)(b) in accordance with the plans approved under sub-paragraph (1) or settled under article 62 (arbitration).

(4) If the harbour authority fails to express its refusal or approval of any plans or arrangements within 30 days after they have been delivered to it under sub-paragraph (1) and the harbour authority has not requested an extension of time to give its consent from the undertaker prior to the expiration of the 30 days which the undertaker has granted, acting reasonably, it is deemed to have refused them.

(5) If the harbour authority fails to express its approval of any plans or arrangements delivered to it under sub-paragraph (1) at the expiration of the extension of time granted by the undertaker under sub-paragraph (4), such a request is deemed to have been refused by the harbour authority.

57. The undertaker must at all reasonable times during construction of a specified work allow the harbour authority, its servants and agents, access to such work and all reasonable facilities for inspection of any such work subject always to the reasonable stipulations of the undertaker relating to delay to construction, health, safety, security and confidentiality.

58.—(1) After the purpose of any temporary works has been accomplished the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from the harbour authority requiring the undertaker so to do, remove any such temporary works or any materials relating to them which may have been placed on port land or below the level of high water within Lowestoft Harbour or the approaches to Lowestoft Harbour by or on behalf of the undertaker, and make good the land upon which the temporary works took place to the reasonable satisfaction of the harbour authority.

(2) If the undertaker fails to do so within a reasonable period after receiving such notice, the harbour authority may remove the same and may recover the reasonable costs of doing so from the undertaker.

59.—(1) If during the construction of a tidal work or after the completion of that work and wholly or partly in consequence of its construction there is caused or created an accumulation or erosion the undertaker, if so requested by the harbour authority acting reasonably, must remedy such accumulation or erosion to the extent attributable to such construction and, if it refuses or fails to do so as soon as reasonably practicable, the harbour authority may itself cause the work to be done and may recover the reasonable cost of doing so from the undertaker.

(2) For the purposes of sub-paragraph (1)—

- (a) in the case of an accumulation, the remedy must be its removal; and
- (b) in the case of erosion, the remedy must be the carrying out of such reconstruction works and other protective works or measures as the harbour authority reasonably requires.

(3) In the event that surveys, inspection, tests and sampling carried out pursuant to paragraph 64(1)(b) establish that such accumulation or erosion would have been caused in any event by factors other than construction of a tidal work, the undertaker is liable to remedy such accumulation or erosion only to the extent that the same is attributable to such construction.

60. The undertaker must pay to the harbour authority the reasonable costs of—

- (a) alterations to aids to navigation (including navigation marks or lights) owned by the harbour authority;
- (b) laying down moorings or buoys; or
- (c) carrying out any dredging operations in relation to sub-paragraphs (a) and (b),

as may be necessary in consequence of the construction of a tidal work.

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in not less efficient a manner than previously;

“apparatus” means—

- (a) any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under the Water Industry Act 1991; and
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4)(a) (adoption of sewers and disposal works) of the Water Industry Act 1991 or an agreement to adopt made under section 104(b) (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act,

and includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any sewer, drain, or works (within the meaning of section 219 (general interpretation) of that Act) and any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“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; and

“plan” includes sections, drawings, specifications and method statements.

71. The undertaker must not interfere with, build over or near to any apparatus within the Order land or carry out the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or carry out any filling around the apparatus (where the apparatus is laid in a trench) within the standard protection strips which are the strips of land falling the following distances to either side of the medial line of any relevant pipe or apparatus—

- (a) 2.25 metres where the diameter of the pipe is less than 150 millimetres;
- (b) 3 metres where the diameter of the pipe is between 150 and 450 millimetres;
- (c) 4.5 metres where the diameter of the pipe is between 450 and 750 millimetres; and
- (d) 6 metres where the diameter of the pipe exceeds 750 millimetres,

unless otherwise agreed in writing with Anglian Water, such agreement not to be unreasonably withheld or delayed, and such provision being brought to the attention of any agent or contractor responsible for carrying out any work on behalf of the undertaker.

72. The alteration, extension, removal or re-location of any apparatus must not be implemented until—

- (a) any requirement for any permits under the Environmental Permitting (England and Wales) Regulations 2016(c) or other legislation and any other associated consents are obtained by the undertaker, and any approval or agreement required from Anglian Water on alternative outfall locations as a result of such re-location are approved, such approvals from Anglian Water not to be unreasonably withheld or delayed; and
- (b) the undertaker has made the appropriate application required under the Water Industry Act 1991 together with a plan and section of the works proposed and Anglian Water has agreed all of the contractual documentation required under the Water Industry Act 1991, such agreement not to be unreasonably withheld or delayed; and such works to be carried out only in accordance with the plan and description submitted and in accordance with such reasonable requirements as may be made by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it.

(a) Section 102(4) was amended by section 96(1) of the Water Act 2003 (c. 37) and paragraphs 2 and 90 of Schedule 7 to the Water Act 2014 (c. 21).
(b) Section 104 was amended by section 96(1) of, and Part 3 of Schedule 9 to, the Water Act 2003, section 42(3) of the Flood and Water Management Act 2010 (c. 29) and section 11(1) and (2) of the Water Act 2014.
(c) S.I. 2016/1154.

Apparatus of Cadent in stopped up streets

81.—(1) Without prejudice to the generality of any other protection afforded to Cadent elsewhere in the Order, where any street is stopped up under article 10 (permanent stopping up of streets and private means of access), if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or must 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.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 11 (temporary stopping up and restriction of use of streets), Cadent is 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 may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

(3) The provisions of this Part of this Schedule apply and take precedence over article 36 (apparatus and rights of statutory undertakers and utilities in stopped up streets).

Protective works to buildings

82. The undertaker, in the case of the powers conferred by article 16 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent.

Acquisition of land

83.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker may not, except with the agreement of Cadent—

- (a) acquire any interest in or right over land, or any apparatus belonging to Cadent;
- (b) override any easement or other interest of Cadent by the imposition of restrictive covenants or otherwise; or
- (c) appropriate or use the subsoil of any street which contains the apparatus of Cadent.

(2) Prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between Cadent and the undertaker) that is subject to the requirements of this Part of this Schedule that causes any conflict with or breach the terms of any existing easement or other legal or land interest of Cadent or affects the provisions of any existing 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 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 must 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 part of the authorised development.

(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.

(4) Any agreement or consent granted by Cadent under paragraph 86 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

84.—(1) If, in the exercise of the agreement reached in accordance with paragraph 83 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 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, and is in operation to the reasonable satisfaction of Cadent in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of constructing any part of the authorised development 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 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 remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Cadent to its satisfaction (taking into account paragraph 85(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by 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, Cadent must, on receipt of a written notice to that effect from the undertaker, take such reasonable steps to seek to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed, with the undertaker's assistance if required by Cadent, save that this obligation does not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it elects to so do.

(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.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to Cadent of any such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

85.—(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 construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be 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 removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) 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 removed the terms and conditions to which those facilities and rights are subject in the matter may be referred to arbitration in accordance with paragraph 92 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.

Retained apparatus: protection

86.—(1) Not less than 56 days (or such time period as may be agreed between Cadent and the undertaker) before the commencement of any specified works the undertaker must submit to Cadent a plan or plans and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan or plans to be submitted to Cadent under sub-paragraph (1) must include a method statement which describes—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until Cadent has given written approval of the plan so submitted.

(4) Any approval of Cadent required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) or (7); and
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraph (1) or (2) applies, Cadent may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (5) or (7) by Cadent for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Cadent is entitled to watch and inspect the execution of those works.

(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 satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and Cadent must give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If Cadent in accordance with sub-paragraph (5) or (7) 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, paragraphs 78 to 80 and 83 to 85 apply as if the removal of the apparatus had been required by the undertaker under paragraph 84(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days unless otherwise agreed by Cadent and the undertaker before commencing the execution of the authorised 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.

(10) The undertaker is not 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 and must—

SCHEDULE 14
DOCUMENTS TO BE CERTIFIED

Article 60

| <i>(1)</i> <i>Document</i> | <i>(2)</i> <i>Description</i> |
|--|---|
| book of reference | The book of reference contained in document reference [SCC/LLTC/EX/116]. |
| classification of roads plan | The classification of roads plan revision number P01 contained in document reference [SCC/LLTC/EX/136]. |
| drainage strategy | The drainage strategy contained in document reference [SCC/LLTC/EX/168]. |
| engineering section drawings and plans | <p>The engineering section drawings and plans revision number P0 contained in document reference 2.9 subject to the substitutions set out below:</p> <ul style="list-style-type: none"> (a) Key Plan revision number P01 contained in document reference [SCC/LLTC/EX/140]; (b) Mainline Key Plan revision number P01 contained in document reference [SCC/LLTC/EX/141]; (c) Mainline Sheet 1 revision number P01 contained in document reference [SCC/LLTC/EX/142]; (d) Mainline Sheet 2 revision number P02 contained in document reference [SCC/LLTC/EX/143]; (e) Side Roads Key Plan revision number P01 contained in document reference [SCC/LLTC/EX/144]; (f) Side Roads Sheet 5 revision number P01 contained in document reference [SCC/LLTC/EX/145]; (g) Side Roads Sheet 6 revision number P01 contained in document reference [SCC/LLTC/EX/146]; (h) Side Roads Sheet 7 revision number P01 contained in document reference [SCC/LLTC/EX/147]; (i) Side Roads Sheet 8 revision number P01 contained in document reference [SCC/LLTC/EX/148]; and (j) Side Roads Sheet 9 revision number P01 contained in document reference [SCC/LLTC/EX/149]. |
| environmental statement | The environmental statement, figures and appendices contained in document references 6.1, 6.2 and 6.3 (subject to the substitutions set out |

| <i>(1) Document</i> | <i>(2) Description</i> |
|-------------------------|--|
| | <p>below):</p> <ul style="list-style-type: none"> (k) Chapter 11 of the Environmental Statement contained in document reference [SCC/LLTC/EX/69]; (l) Chapter 12 of the Environmental Statement contained in document reference [SCC/LLTC/EX/86]; (m) the interim code of construction practice (appendix 5A); (n) the scheme-wide written scheme of investigation; (o) the ground investigation report; (p) the piling works risk assessment; (q) the sediment transport assessment (appendix 17C) contained in document reference [SCC/LLTC/EX/36]; (r) Annex A to the flood risk assessment (appendix 18A) contained in document reference [SCC/LLTC/EX/47]; (s) Annex C figures 3.1 and 6.1 to the flood risk assessment (Appendix 18A) contained in document reference [SCC/LLTC/EX/167]; (t) the drainage strategy; and (u) the following figures: <ul style="list-style-type: none"> (i) 1.2 contained in document reference [SCC/LLTC/EX/155]; (ii) 4.1 and 4.3 contained in document reference [SCC/LLTC/EX/156]; (iii) 5.1 to 5.5 contained in document reference [SCC/LLTC/EX/157]; (iv) 8.2 contained in document reference [SCC/LLTC/EX/158]; (v) 9.1, 9.3 and 9.4 contained in document reference [SCC/LLTC/EX/159]; (vi) 11.3 and 11.6 contained in document reference [SCC/LLTC/EX/160]; (vii) 12.1 contained in document reference [SCC/LLTC/EX/161]; (viii) 13.1 contained in document reference [SCC/LLTC/EX/162]; (ix) 15.2 contained in document reference [SCC/LLTC/EX/163]; (x) 17.1, 17.2 and 17.3 contained in document reference |

| <i>(1) Document</i> | <i>(2) Description</i> |
|---------------------------------------|--|
| | <p>[SCC/LLTC/EX/164];</p> <p>(xi) 18.1 and 18.2 contained in document reference [SCC/LLTC/EX/165]; and</p> <p>(xii) 19.2 and 19.3 contained in document reference [SCC/LLTC/EX/166].</p> |
| general arrangement plans | <p>The general arrangement plans contained in the following documents:</p> <p>(v) Key Plan revision number P01 contained in document reference [SCC/LLTC/EX/121];</p> <p>(w) Sheet 1 revision number P02 contained in document reference [SCC/LLTC/EX/122]; and</p> <p>(x) Sheet 2 revision number P01 contained in document reference [SCC/LLTC/123].</p> |
| ground investigation report | The interpretative environmental ground investigation report contained in document reference [SCC/LLTC/EX/32]. |
| harbour limits plan | The harbour limits plan revision number P01 contained in document reference [SCC/LLTC/EX/153]. |
| highway lighting plan | The highway lighting plan contained at Figure 5.5 of the environmental statement. |
| interim code of construction practice | The interim code of construction practice contained in document reference [SCC/LLTC/EX/192]. |
| interim design guidance manual | The design guidance manual contained in document reference [SCC/LLTC/EX/17]. |
| land plans | <p>The land plans revision number P0 contained in document reference 2.3 subject to the substitutions set out below:</p> <p>(y) Sheet 3 revision number P01 contained in document reference number [SCC/LLTC/EX/124];</p> <p>(z) Sheet 4 revision number P01 contained in document reference number [SCC/LLTC/EX/125]; and</p> <p>(aa) Sheet 5 revision number P01 contained in document reference number [SCC/LLTC/EX/126].</p> |
| landscaping plans | <p>The landscaping plans contained in the following documents:</p> <p>(bb) Key Plan revision number P02 contained in document reference [SCC/LLTC/EX/137];</p> <p>(cc) Sheet 1 revision number P02 contained in document reference [SCC/LLTC/EX/138]; and</p> |

| (1) Document | (2) Description |
|---|--|
| | (dd) Sheet 2 revision number P02 contained in document reference [SCC/LLTC/123]. |
| limits of dredging plan | The limits of dredging plan revision number P01 contained in document reference [SCC/LLTC/EX/150]. |
| new bridge area plans | The new bridge area plans revision number P0 contained in document reference 2.13 subject to the substitutions set out below: (ee) Key Plan version number P01 contained in document reference [SCC/LLTC/EX/151]; and (ff) Sheet 2 revision number P01 contained in document reference [SCC/LLTC/EX/152]. |
| new bridge operating signals noise assessment | The new bridge operating signals noise assessment contained in appendix A to document reference [SCC/LLTC/EX/81]. |
| piling works risk assessment | The piling works risk assessment revision 1 contained in document reference [SCC/LLTC/EX/34]. |
| preliminary navigation risk assessment | The preliminary navigation risk assessment contained in document reference 6.9 subject to the substitution of the vessel survey report (appendix B) which is substituted by the vessel survey report contained in document reference [SCC/LLTC/EX/44]. |
| scheme of operation | The Scheme of Operation contained in document reference [SCC/LLTC/EX/209]. |
| rights of way and access plans | The rights of way and access plans contained in the following documents: (gg) Key Plan revision number P01 contained in document reference [SCC/LLTC/EX/129]; (hh) Sheet 1 revision number P01 contained in document reference [SCC/LLTC/EX/130]; and (ii) Sheet 2 revision number P01 contained in document reference [SCC/LLTC/EX/131]. |
| scheme-wide written scheme of investigation | The scheme-wide written scheme of investigation contained in document reference [SCC/LLTC/EX/67]. |
| transport assessment | The transport assessment contained in document reference [SCC/LLTC/EX/23] |
| traffic regulation measures plans | The traffic regulation measures plans revision number P0 contained in document reference 2.6 subject to the substitutions set out below: (jj) Key Plan version number P01 contained in document reference [SCC/LLTC/EX/132]; |