

# **Great Yarmouth Third River Crossing Application for Development Consent Order**

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## **Document 3.1: Draft Development Consent Order**

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**Planning Act 2008**

**The Infrastructure Planning (Applications: Prescribed Forms and Procedure)  
Regulations 2009 (as amended) (“APFP”)**

APFP Regulation Number: 5(2)(b)

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## Foreword

This draft Development Consent Order accompanies an application ('the Application') submitted by Norfolk County Council ('the Applicant') to the Secretary of State for a Development Consent Order ('DCO') under the Planning Act 2008.

If made by the Secretary of State, the DCO would grant development consent for construction, operation and maintenance of a new bascule bridge highway crossing of the River Yare in Great Yarmouth, and which is referred to in the Application as the Great Yarmouth Third River Crossing ('the Scheme').

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) require that an application for a DCO be accompanied by the documents specified at Regulation 5(2)(a) to (r). This is one of those documents and is specified at Regulation 5(2)(b).

The draft Order is presented in SI Template format. It has been validated by the SO Validation Services with no errors.

**202[ ] No.**

**INFRASTRUCTURE PLANNING**

**The Great Yarmouth Third River Crossing Development  
Consent Order 202[ ]**

*Made* - - - - - \*\*\*

*Coming into force* - - - - - \*\*\*

**CONTENTS**

**PART 1**

**PRELIMINARY**

1.	Citation and commencement	8
2.	Interpretation	8
3.	Disapplication of legislation, etc.	12

**PART 2**

**PRINCIPAL POWERS**

4.	Development consent granted by the Order	14
5.	Maintenance of authorised development	14
6.	Limits of deviation	14
7.	Benefit of the Order	15
8.	Consent to transfer benefit of the Order	15

**PART 3**

**STREETS**

9.	Power to alter layout, etc., of streets	17
10.	Street works	17
11.	Application of the 1991 Act	17
12.	Construction and maintenance of new, altered or diverted streets and other structures	19
13.	Classification of roads	20
14.	Permanent stopping up of streets and private means of access	20
15.	Temporary stopping up and restriction of use of streets	21
16.	Access to works	21
17.	Agreements with street authorities	21
18.	Traffic regulation measures	22
19.	Disapplication of obligations where undertaker is the street authority	24

PART 4  
SUPPLEMENTAL POWERS

20.	Discharge of water	25
21.	Protective work to buildings	25
22.	Authority to survey and investigate land	27
23.	Temporary suspension of navigation in connection with the authorised development	28
24.	Removal of vessels	29

PART 5  
POWERS OF ACQUISITION AND POSSESSION OF LAND

*Powers of Acquisition*

25.	Compulsory acquisition of land	31
26.	Compulsory acquisition of land – incorporation of the mineral code	31
27.	Time limit for exercise of powers to possess land temporarily or to acquire land compulsorily	31
28.	Compulsory acquisition of rights	31
29.	Private rights over land	32
30.	Power to override easements and other rights	33
31.	Modification of Part 1 of the 1965 Act	34
32.	Application of the 1981 Act	34
33.	Acquisition of subsoil or airspace etc., only	35
34.	Rights over or under streets	36

*Temporary possession of land*

35.	Temporary use of land for carrying out the authorised development	36
36.	Temporary use of land for maintaining the authorised development	38

*Supplementary*

37.	Statutory undertakers and utilities	39
38.	Apparatus and rights of statutory undertakers in stopped up streets	39
39.	Recovery of costs of new connection	40

*Compensation*

40.	Disregard of certain interests and improvements	41
41.	Set off for enhancement in value of retained land	41
42.	No double recovery	41

PART 6  
OPERATIONAL PROVISIONS

43.	Operation of new bridge	42
44.	Extinguishment of right of navigation within the river Yare in connection with authorised development	43
45.	Closing the highway comprised in the new bridge and new bridge approaches	43
46.	Removal of vehicles	44
47.	Removal of falling loads and objects	47
48.	No apparatus in the new bridge or new bridge approaches without consent	48
49.	Subsidiary works and operations in the river Yare	48
50.	Protection against dredging	49
51.	Byelaws	49

52.	Fixed penalty notices	52
-----	-----------------------	----

PART 7  
MISCELLANEOUS AND GENERAL

53.	Felling or lopping of trees	54
54.	Trees subject to tree preservation order or within conservation area	54
55.	Removal of human remains	54
56.	Deemed marine licence	56
57.	Application of landlord and tenant law	57
58.	Operational land for purposes of the 1990 Act	57
59.	Planning permission	57
60.	Undertaker's highway, road traffic and planning functions	57
61.	Defence to proceedings in respect of statutory nuisance	57
62.	Protective provisions	58
63.	Saving for Trinity House	58
64.	Certification of plans, etc.	58
65.	Service of notices	58
66.	Consents, agreements and approvals	60
67.	Arbitration	60

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SCHEDULES

SCHEDULE 1	— AUTHORISED DEVELOPMENT	61
SCHEDULE 2	— REQUIREMENTS	67
PART 1	— REQUIREMENTS	67
PART 2	— PROCEDURE FOR DISCHARGE OF REQUIREMENTS	72
PART 3	— SUPPLEMENTARY PROVISIONS	76
SCHEDULE 3	— STREETS SUBJECT TO PERMANENT LAYOUT AND OTHER ALTERATIONS	77
SCHEDULE 4	— PERMANENT STOPPING UP OF STREETS AND PRIVATE MEANS OF ACCESS	79
PART 1	— STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND OTHER NEW STREETS TO BE PROVIDED	80
PART 2	— STREET TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED	81
PART 3	— PRIVATE MEANS OF ACCESS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND OTHER NEW PRIVATE MEANS OF ACCESS TO BE PROVIDED	82
PART 4	— PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED	85
SCHEDULE 5	— TRAFFIC REGULATION MEASURES	88
PART 1	— PROHIBITIONS AND RESTRICTIONS OF WAITING, LOADING, ETC.	88
PART 2	— DIRECTION OF TRAVEL, ENTRY, ETC.	92
PART 3	— VARIATION AND REVOCATION OF EXISTING ORDERS	93
SCHEDULE 6	— LAND IN WHICH ONLY NEW RIGHTS MAY BE ACQUIRED	95

SCHEDULE 7 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS	97
SCHEDULE 8 — LAND IN WHICH ONLY AIRSPACE AND NEW RIGHTS MAY BE ACQUIRED	101
SCHEDULE 9 — LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN	102
SCHEDULE 10 — SCHEME OF OPERATION	105
PART 1 — PRELIMINARY	105
PART 2 — OPERATIONAL PROVISIONS	106
SCHEDULE 11 — THE GREAT YARMOUTH THIRD RIVER CROSSING BYELAWS 202[ ]	110
PART 1 — PRELIMINARY	110
PART 2 — CONDUCT AND BEHAVIOUR	112
PART 3 — ACCESS AND TRAFFIC	114
PART 4 — GENERAL	116
SCHEDULE 12 — TREES SUBJECT TO TREE PRESERVATION ORDERS AND WITHIN CONSERVATION AREAS	117
SCHEDULE 13 — DEEMED MARINE LICENCE	118
PART 1 — GENERAL	118
PART 2 — CONDITIONS	121
PART 3 — PROCEDURE FOR THE DISCHARGE OF CONDITIONS	124
SCHEDULE 14 — PROTECTIVE PROVISIONS	125
PART 1 — FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS	125
PART 2 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS	130
PART 3 — FOR THE PROTECTION OF ANGLIAN WATER	132
PART 4 — FOR THE PROTECTION OF THE ENVIRONMENT AGENCY	135
PART 5 — FOR THE PROTECTION OF THE WAVENEY, LOWER YARE AND LOTHINGLAND INTERNAL DRAINAGE BOARD	139
PART 6 — FOR THE PROTECTION OF THE GREAT YARMOUTH PORT AUTHORITY	141
SCHEDULE 15 — DOCUMENTS TO BE CERTIFIED	146

An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order granting development consent.

The application was examined by a [single appointed person] [panel of [ ] members (“the panel”)] (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

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(a) 2008 c. 29: The provisions of the 2008 Act relevant to this Order were amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c. 20) and by sections 22-27 of the Growth and Infrastructure Act 2013 (c. 27).

(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755 and S.I.2017/572.

(c) S.I. 2010/103, amended by S.I. 2012/635.

The [single appointed person] [panel], having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section [83(1)] [74(2)] of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the [single appointed person] [panel], has decided to make an Order granting development consent for the development described in the application [with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application].

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122, 123 and 149A of, and paragraphs 1 to 4, 10 to 17, 19 to 23, 26, 30A, 30B, 32, 32A, 32B, 33, 34, 36 and 37 of Part 1 of Schedule 5 to the 2008 Act, makes the following Order—

# PART 1

## PRELIMINARY

### Citation and commencement

1. This Order may be cited as the Great Yarmouth Third River Crossing Development Consent Order 202[ ] and comes into force on [202 ].

### Interpretation

2.—(1) In this Order except where provided otherwise—

“the 1961 Act” means the Land Compensation Act 1961(a);

“the 1965 Act” means the Compulsory Purchase Act 1965(b);

“the 1980 Act” means the Highways Act 1980(c);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);

“the 1984 Act” means the Road Traffic Regulation Act 1984(e);

“the 1990 Act” means the Town and Country Planning Act 1990(f);

“the 1991 Act” means the New Roads and Street Works Act 1991(g);

“the 2004 Act” means the Traffic Management Act 2004(h);

“the 2008 Act” means the Planning Act 2008(i);

“the 2009 Act” means the Marine and Coastal Access Act 2009(j);

“the 2016 Regulations and Directions” means the Traffic Signs Regulations and General Directions 2016(k);

“address” includes any number or address for the purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“the approach to detailed design” means the document of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the approach to detailed design for the purposes of this Order;

“authorised person” means—

(a) a person acting in the course of that person’s duties who—

(i) is an employee, agent, contractor or sub-contractor of the undertaker; or

(ii) is authorised by the undertaker to exercise one or more of its functions under this Order; or

(b) a constable, Police Community Support Officer, an officer of the Driver and Vehicle Standards Agency, an officer of the Health and Safety Executive, a person authorised for the purposes of section 44 (powers of fire-fighters etc in an emergency etc) of the Fire

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(a) 1961 c. 33.

(b) 1965 c. 56.

(c) 1980 c. 66.

(d) 1981 c. 66.

(e) 1984 c. 27.

(f) 1990 c. 8.

(g) 1991 c. 22.

(h) 2004 c. 18.

(i) 2008 c. 29: The relevant provisions of the 2008 Act were amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c. 20) and by sections 22-27 of the Growth and Infrastructure Act 2013 (c. 27).

(j) 2009 c. 23.

(k) S.I. 2016/362 as amended by S.I.2017/1086.



and Rescue Services Act 2004<sup>(a)</sup> or a person accredited by or under section 41 (accreditation under community safety accreditation schemes) of the Police Reform Act 2002<sup>(b)</sup>, acting in the execution of that person’s duties;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development authorised by this Order;

“the book of reference” means the document of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the book of reference for the purposes of this Order;

“Borough of Great Yarmouth” means the administrative area of Great Yarmouth Borough Council;

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

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

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

“the classification of roads plan” means the plan of that description set out in Schedule 15 (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)(c) (time when development begun) of the 1990 Act) forming part of the authorised development other than operations, for the purposes of archaeological or ecological investigations, investigations of the existing condition of the ground or of structures, erection of any temporary means of enclosure, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“conservation area” means an area for the time being designated under section 69 (designation of conservation areas) of the Planning (Listed Buildings and Conservation Areas) Act 1990;

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

“cycle track” has the same meaning as in section 329(1)(d) (further provisions as to interpretation) of the 1980 Act;

“electronic transmission” means a communication transmitted—

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

“the engineering plans, drawings and sections” means the plans of that description certified by the Secretary of State as the engineering plans, drawings and sections for the purposes of this Order;

“the environmental statement” means the documents of that description set out in Schedule 15 (documents to be certified) certified as the environmental statement by the Secretary of State for the purposes of this Order;

“flood risk activity” has the same meaning as it has in the Environmental Permitting (England and Wales) Regulations 2016<sup>(e)</sup>;

“footpath” and “footway” have the same meaning as they have in the 1980 Act;

“the general arrangement plans” means the plans of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

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(a) 2004 c. 21. Section 44 was amended by the Emergency Workers (Obstruction) Act 2006 (c. 39).  
(b) 2002 c. 30. Section 41 was amended by the Police and Justice Act 2006 (c. 48).  
(c) As amended by Schedule 7 to the Planning and Compensation Act 1991 (c. 34).  
(d) The definition was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and by Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).  
(e) S.I. 2016/1154 as amended by S.I. 2017/1012, S.I. 2017/1075, S.I. 2018/110, S.I. 2018/428 S.I. 2018/757 and S.I. 2019/39.

“the GYPA” means the Great Yarmouth Port Authority and includes any person or body authorised by the Authority to act on its behalf for the purposes of this Order;

“Great Yarmouth Port” means the port over which the GYPA has jurisdiction as delineated on the harbour limits plan;

“the harbour limits plan” means the plan of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the harbour limits plan for the purposes of this Order;

“the harbour master” means any person appointed as the harbour master by the GYPA under section 51 (appointment of harbour, dock or pier master) of the Harbours, Docks and Piers Clauses Act 1847(a) and includes that person’s authorised deputies and assistants;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act;

“the land plans” means the plans of that description set out in Schedule 15 (documents to be certified) certified as the land plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 6 (limits of deviation);

“the limits of dredging plan” means the plan of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the limits of dredging plan for the purposes of this Order;

“maintain” includes, to the extent which would not give rise to any environmental effects materially different from those assessed in the environmental statement, inspect, repair, adjust, alter, remove, replace or reconstruct in relation to any part of the authorised development and any derivative of “maintain” is to be construed accordingly;

“master”, in relation to any vessel, means the person having the command, charge or management of the vessel for the time being;

“MMO” means the Marine Management Organisation;

“motor vehicle” has the same meaning as it has in the Road Traffic Act 1988(b);

“the new bridge” means Work No. 8B together with the vessel impact protection systems and supporting works comprised in Work Nos. 6A and 6B;

“the new bridge area” means the new bridge, the new bridge approaches, the new bridge control tower, the new bridge plant room, the new bridge infrastructure and the public realm areas;

“the new bridge approaches” means the western and eastern approaches to the new bridge (respectively “the new bridge western approach” and “the new bridge eastern approach”), the centre lines of which, together with the centre line of the new bridge, are shown on the new bridge area plan;

“the new bridge area plan” means the plan of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the new bridge area plan for the purposes of this Order;

“the new bridge control tower” means Work No. 7A;

“the new bridge infrastructure” means all infrastructure which is required for or facilitates the construction, maintenance, inspection or operation of the new bridge including (without limitation) cables, pipes and other apparatus relating to the provision of drainage, electricity, water and other services, fenders and other protective or ancillary works relating to the new bridge, tools and any emergency, safety or communications apparatus;

“the new bridge plant room” means Work No. 7B;

“the New Road” means the new highway comprised in Work No. 8;

“the new highways” means the new and realigned highways comprised in Work Nos. 2 and 8;

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(a) 1847 c. 27  
(b) 1988 c. 52

“the new roundabout” means the new roundabout comprised in Work No. 2;

“Order land” means the land shown coloured pink, the land shown coloured blue and the land hatched pink and blue on the land plans, and described in the book of reference;

“the Order limits” means the limits of land to be acquired permanently or used temporarily as shown on the land plans and the limits of land within which the authorised development, as shown on the works plans, may be carried out;

“Ordnance Datum” means Ordnance Datum Newlyn, which is the national system for height referencing in mainland Great Britain and which forms the reference frame for heights above mean sea level, at the time of this Order coming into force;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(a);

“the public realm areas” means the areas of the public realm facilities comprised in Work No. 6A;

“the rights of navigation plan” means the plan of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the rights of navigation plan for the purposes of this Order;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as it has in Part 3(b) of the 1991 Act;

“the street plans” means the plans of that description set out in Schedule 15 (documents to be certified) certified as the street plans by the Secretary of State for the purposes of this Order;

“traffic authority” has the same meaning as in section 121A (traffic authorities) of the 1984 Act;

“the traffic regulation measures plans” means the plans of that description set out in Schedule 15 (documents to be certified) certified as the traffic regulation measures plans by the Secretary of State for the purposes of this Order;

“traffic sign” has the same meaning as it has in the 1984 Act;

“tree preservation order” and “TPO” mean a tree preservation order made under section 198(1) (power to make tree preservation order) of the 1990 Act;

“the tree preservation order and conservation area tree plans” means the plans of that description set out in Schedule 15 (documents to be certified) certified as the tree preservation order and conservation area tree plans by the Secretary of State for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“Trinity House” means the master, wardens and assistants of the guild, fraternity or brotherhood of the most glorious and undivided Trinity and of St Clement in the parish of Deptford Strond in the county of Kent, commonly called the corporation of the Trinity House of Deptford Strond;

“undertaker” means Norfolk County Council;

“variable message sign” means a sign displaying information, as determined from time to time by the undertaker, about—

(a) forthcoming closures of the new bridge to highway users and other matters relating to the operation of the new bridge;

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(a) 1981 c. 67. The definition of “owner” at section 7 was amended by Schedule 15 to the Planning and Compensation Act 1991 (c. 34)

(b) See section 49, as amended by Schedule 1 to the Infrastructure Act 2015 (c. 7)

- (b) routes which highway users are required or recommended to use, or not to use;
- (c) other matters of relevance to the operation of the local highway network; and
- (d) any other matter likely to be of assistance or interest to highway users;

“vessel” means any vessel navigable on the river Yare;

“vessel waiting facilities” means the facilities comprised in Work No. 6A;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans of that description set out in Schedule 15 (documents to be certified) certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the enjoyment of interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points or other matters identified by letters or numbers are to be construed as references to those points or other matters so lettered or numbered on the relevant plans.

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

(7) References to plots in this Order are references to the plots shown on the land plans and detailed in the book of reference.

### **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 purpose of, or in connection with, the construction, operation or maintenance of any part of the authorised development—

- (a) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991(a);
- (b) section 32(b) (variation of awards) of the Land Drainage Act 1991;
- (c) the provisions of any byelaws made under section 66(c) (powers to make byelaws) of the Land Drainage Act 1991;
- (d) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A(d) of Schedule 25 (byelaw making powers of the authority) to the Water Resources Act 1991;
- (e) byelaws 20, 48 and 56 of the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997(a);

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(a) 1991 c. 59. Section 23 was amended by Schedule 22 to the Environment Act 1995 (c. 25), Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and Schedule 2 to the Natural Resources Body for Wales (Functions) Order (S.I. 2013/755).

(b) As amended by Schedule 2 to the Natural Resources Body for Wales (Functions) Order (S.I. 2013/755).

(c) As amended by Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and section 86 of the Water Act 2014.

(d) As amended by section 103 of, and Schedule 15 to, the Environment Act 1995 (c. 25), section 100 of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 and 224 of, and Schedules 11, 16 and 22 to, the Marine and Coastal Access Act 2009 (c. 23), Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and Schedule 2 to the Natural Resources Body for Wales (Functions) Order (S.I. 2013/755).

- (f) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016**(b)** in respect of a flood risk activity only; and
- (g) the provisions of the Neighbourhood Planning Act 2017**(c)** in so far as they relate to temporary possession of land under articles 35 (temporary use of land for carrying out the authorised development) and 36 (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**(d)** any building comprised in the authorised development is deemed to be a building into which people do not normally go.

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(a) Made by the Great Yarmouth Port Authority in exercise of powers conferred by section 83 of the Harbours, Docks and Pier Clauses Act 1847 and other enabling powers.

(b) S.I. 2016/1154 as amended by S.I. 2017/1012, S.I. 2017/1075, S.I. 2018/110, S.I. 2018/428 S.I. 2018/757 and S.I. 2019/39.

(c) 2017 c. 20: see in particular Chapter 1 of Part 2 of the Act.

(d) S.I. 2010/948. Regulation 6 was substituted by the Community Infrastructure Levy (Amendment) Regulations 2011/987 (see regulation.4(1)).

## PART 2

### PRINCIPAL POWERS

#### **Development consent granted by the Order**

4.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development.

(2) Any enactment applying to land within, adjoining, or sharing a common boundary with the Order limits has effect subject to the provisions of this Order.

#### **Maintenance of authorised development**

5. 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.

#### **Limits of deviation**

6.—(1) The following provisions of this article have effect subject to the requirement that the undertaker must construct the authorised development within the Order limits.

(2) In constructing or maintaining the non-linear works comprised in the authorised development, the undertaker may deviate laterally within the limits of deviation for those works shown on the works plans to the extent the undertaker considers to be necessary or convenient.

(3) In constructing or maintaining the linear works comprised in the authorised development the undertaker may deviate laterally from the lines or situations shown on the works plans to the extent of the Order limits, so far as the undertaker considers to be necessary or convenient, save that—

- (a) in constructing or maintaining any linear work, other than Work No. 8C, in deviating laterally from the centre lines shown on the works plans, the situation of the centre line may be varied up to a maximum of 3 metres either side of the centre line of that work as shown on the works plans; and
- (b) in constructing or maintaining Work No. 8C, in deviating laterally from the centre line shown on the works plans, the situation of the centre line may be varied up to a maximum of 1 metre either side of the centre line of that work as shown on the works plans.

(4) In constructing or maintaining the new bridge the undertaker must safeguard the width of the navigable channel within the river Yare by preserving a distance of no less than 50 metres between the outer edges of the vessel impact protection systems comprised in Work Nos. 6A, 6B and 8B.

(5) In constructing or maintaining the authorised development, the undertaker may deviate vertically from the levels shown on the engineering plans, drawings and sections—

- (a) subject to paragraph (6), to any extent upwards as the undertaker considers to be necessary or convenient but not exceeding 1.0 metre; and
- (b) subject to paragraphs (7) and (8), to any extent downwards as the undertaker considers to be necessary or convenient, except in relation to the parts of the authorised development 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 (2) of that table.

<i>(1)</i> <i>Numbered Work</i>	<i>(2)</i> <i>Downwards vertical limit of deviation</i>
Work No. 1	-0.5 metres
Work No. 2	-0.5 metres

Work No. 4	-0.5 metres
Work No. 5	-0.5 metres
Work No. 6	-0.5 metres
Work No. 7	-1.0 metre
Work No. 8	-0.5 metres
Work No. 9	-0.5 metres
Work No. 10	-0.5 metres

(6) Paragraph (5)(a) does not prevent the undertaker from—

- (a) constructing the control tower comprising Work No. 7A to a height up to, but not exceeding, 20 metres above Ordnance Datum; or
- (b) constructing the plant room comprising Work No. 7B to a height up to, but not exceeding, 17 metres above Ordnance Datum.

(7) Paragraph (5)(b)—

- (a) does not prevent the undertaker in constructing the piles comprising any part of the authorised development, from deviating to any extent downwards as the undertaker considers to be necessary or convenient; and
- (b) does not prevent the undertaker, from constructing any drainage ponds or carrying out works to any existing drainage infrastructure, to any extent downwards as the undertaker considers to be necessary or convenient.

(8) In constructing or maintaining Work No. 8 the undertaker must—

- (a) provide a minimum headroom of no less than 5.3 metres above finished road level beneath the Southtown Road bridge comprising part of Work No. 8A;
- (b) provide a minimum headroom of no less than 4.9 metres above finished road level within the new private means of access comprising part of Work No. 8C; and
- (c) over the width of the navigable channel, when the new bridge is in the closed position, provide a minimum air draught of no less than 5.36 metres above Ordnance Datum.

(9) Without limitation on the scope of paragraphs (2) to (8) 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; and
- (b) deviate from the designs shown on the engineering plans, drawings and sections, provided that any such deviation is in general accordance with the approach to detailed design.

(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
- (b) “non-linear works” are references to any other works shown on the works plans.

### **Benefit of the Order**

7.—(1) Subject to paragraph (2) and article 8 (consent to transfer benefit of the Order), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

### **Consent to transfer benefit of the Order**

8.—(1) Subject to paragraph (4), the undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed in writing between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for the exercise of the powers conferred by paragraph (1).



## PART 3 STREETS

### **Power to alter layout, etc., of streets**

**9.**—(1) The undertaker may for the purposes of the authorised development alter the layout of, or carry out any works in, the streets specified in columns (1) and (2) of Schedule 3 (streets subject to permanent layout and other alterations) in the manner specified in relation to that street in column (3).

(2) Regardless of the specific powers conferred by paragraph (1) but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of or carry out any works in any street within the Order limits and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any kerb, footpath, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain passing places or parking bays.

(3) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority.

### **Street works**

**10.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any street as is within or adjacent to the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The undertaker must not carry out works under the authority of paragraph (1) without the consent of the street authority, which may attach reasonable conditions to any consent.

### **Application of the 1991 Act**

**11.**—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or

- (b) they are works which could have been carried out by the highway authority for the relevant highway in exercise of the powers conferred by section 64(a) (dual carriageways and roundabouts) of the 1980 Act or section 184(b) (vehicle crossings) of that Act.

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major highway works by virtue of paragraph (1), to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- section 56(c) (directions as to timing);
- section 56A(d) (power to give directions as to placing of apparatus);
- section 58(e) (restrictions following substantial road works);
- section 58A(f) (restriction on works following substantial street works);
- section 73A(g) (power to require undertaker to re-surface street);
- section 73B(h) (power to specify timing etc. of re-surfacing);
- section 73C(i) (materials, workmanship and standard of re-surfacing);
- section 78A(j) (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A(k) (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 execution 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 15 (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 referred to in paragraph (4) are—

- section 54(l) (advance notice of certain works), subject to paragraph (6);
- section 55(m) (notice of starting date of works), subject to paragraph (6);
- section 57(n) (notice of emergency works);
- section 59(o) (general duty of street authority to co-ordinate works);
- section 60(p) (general duty of undertakers to co-operate);
- section 68(q) (facilities to be afforded to street authority);
- section 69(r) (works likely to affect other apparatus in the street);

- 
- (a) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22)
  - (b) As amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 168 of, and paragraph 9 of Schedule 8 to, the New Roads and Street Works Act 1991.
  - (c) Section 56 was amended by section 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
  - (d) Section 56A was inserted by section 44 of the Traffic Management Act 2004.
  - (e) Section 58 was amended section 51 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
  - (f) Section 58A was inserted by section 52(1) of the Traffic Management Act 2004.
  - (g) Section 73A was inserted by section 55 of the Traffic Management Act 2004.
  - (h) Section 73B was inserted by section 55 of the Traffic Management Act 2004.
  - (i) Section 73C was inserted by section 55 of the Traffic Management Act 2004.
  - (j) Section 78A was inserted by section 57 of the Traffic Management Act 2004.
  - (k) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.
  - (l) As also amended by section 49(1) of, and Schedule 1 to, the Traffic Management Act 2004.
  - (m) As also amended by section 49(2) and 51(9) of, and Schedule 1 to, the Traffic Management Act 2004.
  - (n) As also amended by section 52(3) of, and Schedule 1 to, the Traffic Management Act 2004.
  - (o) As also amended by section 42 of the Traffic Management Act 2004.
  - (p) As also amended by Schedule 1 to the Traffic Management Act 2004.
  - (q) As also amended by Schedule 1 to the Traffic Management Act 2004.
  - (r) As also amended by Schedule 1 to the Traffic Management Act 2004.

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) Sections 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 12 (construction and maintenance of new, altered or diverted streets and other structures)—

- (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 paragraph (3) of 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**

**12.**—(1) Subject to paragraph (2), any highway to be constructed, altered or diverted under this Order, including any culverts or other structures laid under or in it, must be maintained by and at the expense of the highway authority for that highway from its completion.

(2) A variable message sign provided under this Order must be maintained by the undertaker.

(3) 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 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.

(4) The new bridge and new bridge approaches must be maintained by and at the expense of the local highway authority from the date of their completion.

(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) Where any works to which this article relates are works to a highway for which the undertaker is not the highway authority, the date for completion of those works is to be such date as is agreed by the undertaker and the highway authority.

(8) The date of completion of any works referred to in paragraph (3) is to be such date as is agreed by the undertaker and the street authority.

### **Classification of roads**

**13.**—(1) In this article “the specified road” means the length of new highway to be constructed commencing from the eastern arm of the existing A47 Harfreys’s Roundabout junction, extending in an easterly direction to its junction with South Denes Road, and identified by solid green lines on the classification of roads plan.

(2) On the day on which the authorised development is completed and open for traffic the specified road is to be classified as the A[X] and the specified road is to be—

- (a) a principal road for the purpose of any enactment or instrument which refers to highways classified as principal roads; and
- (b) a classified road for the purpose of any enactment or instrument which refers to highways classified as classified roads,

as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

### **Permanent stopping up of streets and private means of access**

**14.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets and private means of access specified in column (2) of Parts 1, 2, 3 and 4 of Schedule 4 (permanent stopping up of streets and private means of access) to the extent specified in column (3) of those Parts of that Schedule.

(2) No street or private means of access specified in column (2) of Part 1 or Part 3 of Schedule 4 (being a street or private means of access to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street or private means of access to be substituted for it, which is specified in column (4) of Part 1 or Part 3 of Schedule 4, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority (where that authority is not the undertaker), between the commencement and termination points for the stopping up of the street or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in column (2) of Part 2 or Part 4 of Schedule 4 (being a street or private means of access to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street or private means of access to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the undertaker is in possession of the land;
- (b) there is no right of access to the land from the street or private means of access concerned;
- (c) there is reasonably convenient access to the land otherwise than from the street or private means of access concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

- (5) Where a street or private means of access has been stopped up under this article—
- (a) all rights of way over or along the street or private means of access so stopped up are extinguished; and
  - (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as is bounded on both sides by land owned by the undertaker.
- (6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (7) This article is subject to article 38 (apparatus and rights of statutory undertakers in stopped up streets).

### **Temporary stopping up and restriction of use of streets**

**15.**—(1) The undertaker, during and for the purposes of carrying out the authorised development, may—

- (a) temporarily, stop up, alter or divert any street, or any part of it, and
- (b) for any reasonable time and subject to paragraph (3)—
  - (i) prevent all persons from passing along any street or part of a street; or
  - (ii) restrict or prohibit the use of any street, or of any part of it, by vehicles, or vehicles of any class, or by pedestrians, to such extent and subject to such conditions or exceptions as the undertaker may consider necessary.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street where the use has been prohibited or restricted under the powers conferred by this article, and which is within the Order limits, as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion, or prohibition or restriction of the use of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily stop up, alter or divert any street without the consent of the street authority which may attach reasonable conditions to any consent.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

### **Access to works**

**16.** The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

### **Agreements with street authorities**

**17.**—(1) The following provisions of this article apply where, in relation to an existing or proposed street, the undertaker is not or (as the case may be) will not be the street authority.

- (2) A street authority and the undertaker may enter into agreements with respect to—
  - (a) the construction of any new street including any structure carrying the street over or under any element of the authorised development;
  - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
  - (c) the maintenance of the structure of any bridge or tunnel carrying a street;
  - (d) any stopping up, alteration, or diversion of, or prohibition or restriction of the use of, a street (whether temporary or permanent) authorised by this Order;

- (e) the carrying out in the street of any of the works referred to in article 10(1) (street works); or
  - (f) such other works as the street authority and the undertaker may agree.
- (3) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) specify a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

### **Traffic regulation measures**

**18.**—(1) Subject to the provisions of this article, the undertaker may, for the purposes of the authorised development—

- (a) make provision, in respect of those lengths of roads specified in column (2) of Part 1 of Schedule 5 (Traffic Regulation Measures) as to the permitting, prohibition or restriction of the waiting, parking, loading or unloading of vehicles as specified in column (3) of that Part of that Schedule;
- (b) make provision, in respect of those lengths of roads specified in column (2) of Part 2 of Schedule 5, as to the direction of travel of vehicular traffic or the entry of pedestrians, vehicles or other classes of road user as specified in column (3) of that Part of that Schedule;
- (c) in respect of those lengths of roads specified in column (2) of Part 3 of Schedule 5, make provision revoking or varying the orders specified in column (3) of that Part of that Schedule in the manner specified in column (4) of that Part of that Schedule; and
- (d) make provision revoking, amending or suspending in whole or in part any order made, or having effect as if made, under the 1984 Act in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under the preceding provisions of this paragraph.

(2) Subject to the provisions of this article and without limitation to the exercise of the powers conferred by paragraph (1), the undertaker may make provision, in so far as necessary or expedient for the purposes of, in connection with, or in consequence of the construction, maintenance and operation of the authorised development—

- (a) as to the speed at which vehicles may proceed along any road;
- (b) permitting, prohibiting or restricting the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorising the use as a parking place of any road;
- (d) as to prescribed routes for vehicular traffic or the direction or priority of vehicular traffic on any road;
- (e) permitting, prohibiting or restricting the use by vehicular traffic of any road;
- (f) permitting, prohibiting or restricting the use by pedestrians or other non-vehicular traffic of any road forming part of, or adjacent to, the new bridge; and
- (g) revoking, amending or suspending in whole or in part any order made, or having effect as if made, under the 1984 Act.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 24 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) Subject to paragraph (5) and (in relation to provision made under paragraph (1)) so far as consistent with the specifications contained in Column 3 of the Parts of Schedule 5, the provision made by the undertaker under paragraph (1) and (2) may, as the undertaker considers necessary or expedient, be made so as to apply—

- (a) to all road users of a specified class, or to specified categories of road user within that class;
- (b) during all times and circumstances or only at specified times and circumstances;
- (c) permanently or for a specified period; and
- (d) subject to specified exceptions, limitations or conditions, including any which are necessary or expedient in consequence of the provision of a crossing under paragraph (11).

(5) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(a) when used in accordance with regulation 3(5) of those regulations.

(6) Before exercising the powers conferred by paragraph (2) the undertaker must consult the chief officer of police in whose area the road is situated and (where the undertaker is not the traffic authority for that road) the traffic authority and have regard to any representations made.

(7) The undertaker must not exercise the powers conferred by paragraphs (1) or (2) unless the undertaker has—

- (a) given not less than—
  - (i) 12 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
  - (ii) except in a case of emergency, 14 days' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily to the chief officer of police in whose area the road is situated and (where the undertaker is not the traffic authority for that road) to the traffic authority; and
- (b) published the undertaker's intention in such manner as the undertaker considers appropriate.

(8) Any prohibition, restriction or other provision made under paragraphs (1) or (2) of this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (1) or (2) within a period of 24 months from the opening of the authorised development for public use.

(9) Any prohibition, restriction or other provision made by the undertaker under paragraphs (1) or (2) ("the provision")—

- (a) must be made by written instrument in such form as the undertaker considers appropriate;
- (b) must be publicised by the undertaker in such manner as the undertaker considers appropriate;
- (c) has effect as if duly made by—
  - (i) the traffic authority in whose area the relevant road is situated as an order made under the 1984 Act if the provision is one which could have been so made by that traffic authority; or
  - (ii) the local authority in whose area the road is situated, as an order under section 32(b) (power of local authorities to provide parking places) of the 1984 Act if the provision is one which could have been so made by that local authority;

and accordingly—

- (i) may (without prejudice to the undertaker's powers under paragraph (2) during the period specified in paragraph (3) be suspended, varied or revoked by the relevant traffic authority or local authority in accordance with the 1984 Act; and

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(a) S.I. 2011/935

(b) As amended by sections 1, 2 and 8(1) of the Local Government Act 1985 (c. 51) and Schedule 8 to the New Roads and Street Works Act 1991 (c. 22).

- (ii) may be enforced by means of civil enforcement of contraventions under Part 6 of the 2004 Act(a) to the same extent as if the provision had been contained in an order made by the traffic authority or a local authority.

(10) In making provision by written instrument under paragraph (9) the undertaker may give effect to the provision as it thinks fit including by way of—

- (a) amending or revoking an existing order or other provision made under the 1984 Act; or
- (b) consolidating the provision made by the instrument with the provision made by an existing order or other provision made under the 1984 Act.

(11) The undertaker may provide crossings of the types and locations shown on the traffic regulation measures plans.

(12) A crossing provided under paragraph (11) has effect as a pedestrian crossing duly established under section 23(b) (powers of strategic highways companies and local traffic authorities with respect to pedestrian crossings) of the 1984 Act by the local traffic authority for the relevant road if the crossing is one which could have been so established by the local traffic authority.

(13) A crossing provided under paragraph (11) must accord with any requirements of the 2016 Regulations and Directions which apply to a crossing of the type provided (and if so provided and the crossing is of a type whose provision is authorised by the 2016 Regulations and Directions, the crossing has effect as if so provided).

(14) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(15) The highways comprised in the new bridge and the new bridge approaches are deemed to be highways to which the provisions of section 127(1)(a) and (b)(c) of the 1984 Act apply.

### **Disapplication of obligations where undertaker is the street authority**

**19.** Any obligation imposed on the undertaker by this Order in relation to a street or part of a street to—

- (a) obtain the consent or agreement of the street authority; or
- (b) to carry out any works or activity to the satisfaction of the street authority,

does not apply where, in relation to the relevant street or part of a street, the undertaker is the street authority.

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(a) Section 76 was amended by section 127(2) of the Local Transport Act 2008 (c.26), section 78A was inserted by section 53(2) of the Deregulation Act 2015 (c.20), section 79 was amended by Schedules 1 and 2 to the Disability Discrimination Act 2005 (c. 13), section 81 was amended by Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) and Schedule 1 to the Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order (S.I. 2006/1016), section 82 was amended by Schedule 1 to the Crime and Courts Act 2013 (c. 22) and Schedule 23 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) (which Schedule also repealed section 83), sections 85 and 86 were amended by Schedule 9 to the Deregulation Act 2015 and by section 127 of the Transport Act 2008 (c.26), section 87 was amended by section 127 of the Transport Act 2008, and section 87A was inserted by section 53 of the Deregulation Act 2015.

(b) As amended by sections 1 and 102 of the Local Government Act 1984 (c. 51), Schedule 8 to the New Roads and Street Works Act 1991 (c. 22), Schedule 1 to the Infrastructure Act 2015 (c. 7) and Schedule 10 to the Deregulation Act 2015 (c. 20).

(c) As amended by Schedule 1 to the Restricted Byways (Application and Consequential Amendment of Provisions) Regulations (S.I. 2006/1177)



## PART 4

### SUPPLEMENTAL POWERS

#### **Discharge of water**

**20.**—(1) Subject to paragraphs (3), (4) and (5), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, maintenance or use of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) Where the undertaker discharges water into, or makes any opening into, a watercourse, public sewer or drain belonging to or under the control of the Waveney, Lower Yare and Lothingland Internal Drainage Board, the provisions of Part 5 of Schedule 14 (protective provisions) apply in substitution for the provisions of paragraphs (3) and (4).

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the GYPA, the Environment Agency, an internal drainage board, a joint planning board, a local authority, or a sewerage undertaker; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(b) have the same meaning as in that Act.

(8) Nothing in this article overrides the requirement for an environmental permit under regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(c).

#### **Protective work to buildings**

**21.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

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(a) 1991 c. 56. Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(b) 1991 c. 57

(c) S.I. 2016/1154 as amended by S.I. 2017/1012, S.I. 2017/1075, S.I. 2018/110, S.I. 2018/428 S.I. 2018/757 and S.I. 2019/39.

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (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) For the purpose of determining how the functions under this article are to be exercised the undertaker may (subject to paragraph (6)) 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).

(4) The power to survey buildings and land conferred by paragraph (3) includes the power to place and leave monitoring apparatus on land or within a building and to remove such apparatus.

(5) For the purpose of carrying out protective works to a building under this article the undertaker may (subject to paragraphs (6) and (7))—

- (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 in either case the undertaker may take exclusive possession of the building and land if this is reasonably necessary for the purpose of carrying out the protective works.

(6) 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;
- (c) a right under paragraph (5)(a) to enter and take possession of a building and land within its curtilage; or
- (d) a right under paragraph (5)(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.

(7) Where a notice is served under paragraph (6)(a), (c) or (d), 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 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 67 (arbitration).

(8) 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.

(9) 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.

(10) Subject to article 42 (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.

(11) Any compensation payable under paragraph (8) or (9) is to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(12) Provided that the requirements of paragraph (6) are met, section 13(b) (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession 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(c) (application of compulsory acquisition provisions) of the 2008 Act.

(13) 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 carrying out, 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 of such operation being disrupted.

#### **Authority to survey and investigate land**

**22.**—(1) The undertaker may for the purposes of this Order authorise any person to enter on any land within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a)—
  - (i) make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil;
  - (ii) remove samples of soil or of water within or covering the land;
  - (iii) carry out ecological, environmental or archaeological investigations on the land, including the monitoring of any matter; and
- (c) 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—

- (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 or to make the trial holes.

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

- (a) in a highway for which the undertaker is not the highway authority, without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

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(a) As amended by Schedule 1 to the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307)

(b) As amended by section 139 of, and Schedules 13 and Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(c) As amended by section 190 of Schedule 16 to the Housing and Planning Act 2016 (c. 22)

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) Provided that the requirements of paragraph (2) are met, section 13 (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 (application of compulsory acquisition provisions) of the 2008 Act.

### **Temporary suspension of navigation in connection with the authorised development**

**23.**—(1) Notwithstanding anything in any other enactment or in any rule of law, the undertaker may in accordance with the provisions of this article temporarily close any part of the river Yare under paragraph (2) or (4) for the purposes of constructing, inspecting or maintaining the authorised development.

(2) For the purposes of constructing the authorised development the undertaker may, having first consulted the GYPA, close the entire width of the river Yare within the Order limits.

(3) The power conferred by paragraph (2) is to be exercised on no more than 3 occasions and the period of closure on each such occasion is not to exceed 72 hours.

(4) In addition to the closures authorised by paragraph (2), the undertaker may, with the consent of the GYPA—

- (a) for the purposes of constructing the authorised development partially reduce the width of the river Yare within the Order limits; and
- (b) for the purposes of inspecting or maintaining the authorised development—
  - (i) partially reduce the width of the river Yare within the Order limits; or
  - (ii) close the entire width of the river Yare within the Order limits in circumstances where there is no reasonable alternative.

(5) The consent of the GYPA under paragraph (4) must not be unreasonably withheld or delayed, and where granted may be given subject to reasonable conditions.

(6) In the application of paragraph (5) regard is to be had to—

- (a) the urgency and importance of the activities or works in relation to which the closure is sought;
- (b) the limitations of available materials or technology relevant to the activities or works;
- (c) any danger or detriment to users of the river and highways which will or may result if the works or activities are not carried out as proposed;
- (d) any other matter or factors which are material in all the circumstances.

(7) Before exercising the powers conferred by paragraphs (2) and (4) the undertaker must (except where exercising the power conferred by paragraph (4) in a case of emergency)—

- (a) publish notice of the temporary closure in Lloyd's List and on a website maintained by the undertaker; and
- (b) display notice of the temporary closure for the minimum period in a conspicuous position adjacent to the area of the closure from the date of the notice published under subparagraph (a) above.

(8) Following consultation with the GYPA under paragraph (2) or (as the case may be) the grant of the GYPA's consent under paragraph (4), the GYPA must as soon as practicable upon the undertaker's request issue a notice to mariners giving the commencement date and anticipated duration of the relevant temporary closure.

(9) Except in a case of emergency, the period between the publication of a notice required by paragraph (7)(a) and the commencement date of the closure to which it relates must not be less than the minimum period.

(10) Where the undertaker exercises the powers conferred by this article in a case of emergency, the undertaker must as soon as practicable display notice of the temporary closure in a conspicuous position adjacent to the area of the closure.

(11) In this article and in article 24 (removal of vessels) “emergency” means any circumstance existing or imminent which the undertaker considers is likely to cause danger to—

- (a) any person or property, including the new bridge, any vessel and any person using, working on, or intending to use or work on the new bridge or aboard any vessel passing the new bridge; or
- (b) the environment.

(12) In this article “the minimum period” means—

- (i) 21 days in the case of a closure of the entire width of the river Yare;
- (ii) 14 days in the case of a partial reduction in the width of the river Yare.

### **Removal of vessels**

**24.**—(1) If it appears to the undertaker necessary or convenient to do so for the purposes of the construction or maintenance of the authorised development, or to enable vessels to navigate through the river Yare, it may by written direction require the GYPA to remove from the river Yare any vessel that is—

- (a) sunk, stranded or abandoned; or
- (b) moored or laid up (whether lawfully or not),

to another place within Great Yarmouth Port where it may without injury to the vessel be moored or laid.

(2) the GYPA must comply with a direction issued by the undertaker under paragraph (1) within such period as is specified in the notice.

(3) Before exercising the powers conferred by paragraph (1) the undertaker must, except in case of emergency—

- (a) publish a notice of its intention to do so in Lloyd’s List and once in each of two successive weeks in a local newspaper published or circulating in the borough of Great Yarmouth, with an interval between the dates of publication of not less than 7 clear days;
- (b) display notice thereof in a conspicuous position adjacent to the vessel from the date on which the first notice is published in a local newspaper in accordance with sub-paragraph (a) for a period of at least 7 days from the date on which the second notice is published in a local newspaper in accordance with sub-paragraph (a); and
- (c) consult the harbour master.

(4) Each notice published or displayed under paragraph (3) must—

- (a) specify the vessel and the part of the river Yare to which the notice relates;
- (b) state the reason for the undertaker’s intention to require the GYPA to remove the specified vessel from the specified part of the river Yare;
- (c) specify a date, which must be a date not earlier than one month after the last date on which a notice is published under paragraph (3) by which the specified vessels must be removed from the specified part of the river Yare specified in the notice;
- (d) state that if the owner or master of any vessel of the specified description within the specified part of the river Yare does not remove that vessel on or before the date specified in accordance with sub-paragraph (c), the undertaker may direct the GYPA to remove the vessel; and
- (e) summarise the effect of paragraph (6) of this article.

(5) The undertaker must pay to the GYPA all costs and expenses reasonably incurred by the GYPA in discharging its duties under this article.

(6) Subject to paragraph (7), the undertaker may recover as a debt from the owner of any vessel removed under this article all costs and expenses incurred by the undertaker in respect of the removal of the vessel, including sums paid to the GYPA under paragraph (5).

(7) Paragraph (6) does not apply where a vessel has been removed without notice in case of emergency.

(8) In this article “emergency” has the meaning assigned by article 23(11).

**PART 5**  
**POWERS OF ACQUISITION AND POSSESSION OF LAND**  
*Powers of Acquisition*

**Compulsory acquisition of land**

**25.**—(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 28 (compulsory acquisition of rights) and article 33 (acquisition of subsoil or airspace etc., only) and article 35 (temporary use of land for carrying out the authorised development).

**Compulsory acquisition of land – incorporation of the mineral code**

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

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

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

**27.**—(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 of 1946) of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act(b) as applied by article 32 (application of the 1981 Act),

in relation to any part of the Order land.

(2) The authority conferred by article 35 (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**

**28.**—(1) Subject to paragraphs (2) and (3) the undertaker may acquire such rights over the Order land or impose such restrictive covenants affecting the Order land as may be required for any purpose for which that land may be acquired under article 25 (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 Schedule 6 (land in which only new rights may be acquired) the undertaker’s powers of compulsory acquisition 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, or to facilitate it or as is incidental to it, for the purposes specified in column (3) of Schedule 6 in relation to that land.

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(a) 1981 c. 67

(b) 1981 c. 66. Section 4 was amended by sections 184, 185 and Schedule 18 paragraph 2 to the Housing and Planning Act 2016 c. 22

(3) Subject to section 8 (other provisions as to divided land) of, and Schedule 2A(a) (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 the creation of new rights)), where the undertaker acquires a right over land or the benefit of a restrictive covenant under paragraph (1) or (2) the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 7 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.

### **Private rights over land**

**29.**—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

- (a) from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry onto land by the undertaker under section 11(1) (powers of entry) of the 1965 Act; or
- (c) on commencement of any activity authorised by the Order which interferes with or breaches those rights,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive covenant—

- (a) from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry onto land by the undertaker under section 11(1) of the 1965 Act (power of entry); or
- (c) on commencement of any activity authorised by the Order which interferes with or breaches those rights,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(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 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 37 (statutory undertakers) applies.

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

- (a) any notice given by the undertaker before—
  - (i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of the restrictive covenants over or affecting the land; or
  - (ii) the undertaker's appropriation of it; or
  - (iii) the undertaker's entry onto it; or

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(a) As inserted by paragraphs 1 and 3 of Schedule 17 to the Housing and Planning Act 2016 (c. 22).



- (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 evidenced in writing and 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 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**

**30.**—(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 as is required for the authorised development, or to facilitate it, or as is incidental to it (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—
  - (i) the compensation is to be estimated in connection with a purchase under that Act; or
  - (ii) the injury arises from the carrying out of works on or use of land acquired under that Act.

(5) Where a person deriving title under the undertaker by whom the land in question was acquired—

- (a) is liable to pay compensation by virtue of paragraph (4); and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

### Modification of Part 1 of the 1965 Act

**31.**—(1) Part 1 of the 1965 Act, as applied by this Order to section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1)(a) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 27 (time limit for exercise of powers to possess land temporarily or to acquire land compulsorily) of the Great Yarmouth Third River Crossing Development Consent Order 202[ ]”.

(3) In section 11A(b) (powers of entry: further notice of entry)—

(a) in subsection (1)(a) after “land” insert “under that provision”; and

(b) in subsection (2) after “land” insert “under that provision”.

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 27 of the Great Yarmouth Third River Crossing Development Consent Order 202[ ]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 33(4) (acquisition of subsoil or airspace etc., only) of the Great Yarmouth Third River Crossing Development Consent Order 202[ ], which excludes the acquisition of subsoil or airspace only from this Schedule”; and

(b) after paragraph 29, insert—

## “PART 4

### INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under articles 21 (protective works to buildings), 35 (temporary use of land for carrying out the authorised development) or 36 (temporary use of land for maintaining the authorised development) of the Great Yarmouth Third River Crossing Development Consent Order 202[ ].”

### Application of the 1981 Act

**32.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of Act) for subsection (2) substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”

(4) In section 5 (earliest date for execution of declaration) in subsection (2), omit the words from “, and this subsection” to the end.

(5) Omit section 5A(c) (time limit for general vesting declaration).

(6) In section 5B(d) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three

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(a) As inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(b) As inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(c) Inserted by section 182(2) of the Housing and Planning 2016 (c. 22).

(d) As inserted by section 202(2) of Schedule 3 to the Housing and Planning Act 2016 (c. 22).

year period mentioned in section 5A” substitute “section 118(a) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 27 of the Great Yarmouth Third River Crossing Development Consent Order 202[ ]”.

(7) In section 6(b) (notices after execution of declaration) in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134(c) (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(8) In section 7 (constructive notice to treat) in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(9) In Schedule A1(d) (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

“(2) But see article 33(4) (acquisition of subsoil or airspace etc., only) of the Great Yarmouth Third River Crossing Development Consent Order 202[ ], which excludes the acquisition of subsoil or airspace only from this Schedule”.

(10) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (as modified by article 31 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil or airspace etc., only**

**33.**—(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 25 (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 25 (compulsory acquisition of land) are limited to—

- (a) the acquisition of such airspace; and
- (b) the acquisition of such easements or other new rights and the imposition of such restrictive covenants over the airspace and the surface of the land,

as the undertaker may require for or in connection with the authorised development.

(3) Where the undertaker acquires any part of, or rights over, the subsoil beneath, or the surface of, or the airspace over land referred to in paragraphs (1) or (2), the undertaker is not required to acquire an interest in any other part of the land.

(4) The following do not apply in connection with the exercise of the power under paragraphs (1) and (2) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and
- (c) section 154(4)(a) (blighted land; proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(5) Paragraphs (3) and (4) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

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- (a) As amended by paragraphs 1 and 59 of Schedule 13 and Part 20 of Schedule 25, to the Localism Act 2011 (c. 20) and section 9(4) of the Criminal Justice and Courts Act 2015 (c. 2).
  - (b) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 14 to the Housing and Planning Act 2016 (c. 22).
  - (c) As amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011 (c. 20) and S.I. 2017/16.
  - (d) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(6) References in paragraph (2)(a) to airspace are references to the airspace lying at and above the heights specified in column (3) of Schedule 8 (land in which only airspace and new rights may be acquired), which are heights above Ordnance Datum and references in paragraph (2)(b) to airspace are references to the airspace lying below the airspace referenced in paragraph (2)(a).

### **Rights over or under streets**

**34.**—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development or to facilitate it or as is incidental to it.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### *Temporary possession of land*

### **Temporary use of land for carrying out the authorised development**

**35.**—(1) The undertaker may, in connection with the carrying out of the authorised development but subject to article 27(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

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- (a) As 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 the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307).
  - (b) As amended by sections 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(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 28 days 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 (land of which only temporary possession may be taken); or

(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.

(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 temporary 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.

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(a) As 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).

## Temporary use of land for maintaining the authorised development

36.—(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 28 days 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 the land and that notice must state the purpose for which the undertaker intends to take possession of the land including the particulars of the part of the authorised development for which possession is to be taken.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) 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.

(7) 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 powers conferred by this article.

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

(9) 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 (7).

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

(11) Section 13 (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.

(12) In this article “the maintenance period”, in relation to any part of the authorised development, means the period of 5 years beginning with the date on which—

- (a) that part of the authorised development is first opened for public use (where that part of the authorised development is intended to be used by the public); or
- (b) in respect of any other part of the authorised development, that part is first brought into operational use by the undertaker.

### **Statutory undertakers and utilities**

**37.**—(1) Subject to the provisions of article 28 (compulsory acquisition of rights), Schedule 14 (protective provisions) and paragraph (2), the undertaker may—

- (a) exercise the powers conferred by articles 25 (compulsory acquisition of land) and 28 (compulsory acquisition of rights) in relation to so much of the Order land as belongs to statutory undertakers; and
- (b) extinguish the rights of, or remove or reposition the apparatus belonging to, statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) article 38 (apparatus and rights of statutory undertakers in stopped up streets).

### **Apparatus and rights of statutory undertakers in stopped up streets**

**38.**—(1) Where a street is stopped up under article 14 (permanent stopping up of streets and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 14 (permanent stopping up of streets and private means of access) any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the carrying out of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the carrying out of the relocation works.

(4) If in the course of the carrying out of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

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 to be necessary, then, if it involves cost in the carrying out of the relocation works 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 paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (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 a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) 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 utility 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.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“relocation works” means work carried out, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) (interpretation) of the Communications Act 2003(a).

### **Recovery of costs of new connection**

**39.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 37 (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 37 (statutory undertakers and utilities), 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 38 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this article—

“public communications provider” has the same meaning as in section 151(1) (interpretation) of the Communications Act 2003; and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

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(a) 2003 c. 21.



## *Compensation*

### **Disregard of certain interests and improvements**

**40.**—(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 executed 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 execution 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 executed 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**

**41.**—(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 28 (compulsory acquisition of rights), 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
- (b) 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.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

### **No double recovery**

**42.** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

## PART 6

### OPERATIONAL PROVISIONS

#### **Operation of new bridge**

**43.**—(1) The undertaker is authorised to operate the new bridge, subject to the following provisions of this article.

(2) The undertaker must operate the new bridge in accordance with a scheme of operation prepared by the undertaker.

(3) The GYPA, and the master, owner, agent, pilot or operator of any vessel must comply with the provisions of the scheme of operation.

(4) The provisions of the scheme of operation must initially consist of the provisions set out in Schedule 10 (scheme of operation).

(5) At any time after the new bridge opens to public use, the undertaker may, with the agreement of GYPA which must not be unreasonably withheld or delayed, amend the terms of the scheme of operation.

(6) Any amendment of the scheme of operation under paragraph (5) must conform to the following principles—

- (a) the new bridge will be opened as and when required to allow the passage of any vessel except a recreational vessel;
- (b) reasonable measures are to be taken by the GYPA, the undertaker and users of the river Yare to ensure that passages of vessels past the new bridge are co-ordinated and conducted efficiently;
- (c) the new bridge will be opened to allow the passage of any recreational vessel upon such notice and at such times as the undertaker reasonably determines;
- (d) in determining times under sub-paragraph (c) the undertaker may exclude peak hours;
- (e) where a specified event occurs and as a result—
  - (i) the new bridge cannot be opened; or
  - (ii) opening the new bridge would be likely to cause danger to—
    - (aa) any person or property, including the new bridge, any vessel and any person using, working on or intending to use or work on the new bridge or aboard any vessel; or
    - (bb) the environment,

the undertaker is not to be obliged to open the new bridge at the scheduled time but instead at such later time as is reasonable in the circumstances; and

- (f) no amendment of the scheme of operation is to result in any effects on the environment which are materially different from those assessed in the environmental statement.

(7) Paragraphs (2) and (3) apply to the scheme of operation as amended under paragraph (5) as they do the scheme as initially prepared in compliance with paragraph (4).

(8) The undertaker must publish the initial scheme of operation and any amendments to it on a website maintained by the undertaker.

(9) In this article—

- (a) “peak hours” means the periods between—
  - (i) 08:00 to 09:00 on any day; and
  - (ii) 16:30 and 17:30 on any day;
- (b) “recreational vessel” means a vessel used solely for leisure activity and includes any commercially operated hire vessel used or rented for leisure use;

- (c) “the scheduled time” means any time at which the new bridge would be due to open in accordance with the principles at sub-paragraphs (6)(a) to (d); and
- (d) “specified event” means—
  - (i) an emergency;
  - (ii) adverse weather conditions;
  - (iii) a vessel colliding with the new bridge;
  - (iv) a power failure, hydraulic failure or mechanical failure; or
  - (v) any other circumstance beyond the reasonable control of the undertaker.

(10) In this article and in article 45 (closing the highway comprised in the new bridge) “emergency” means any circumstance existing or imminent which the undertaker considers is likely to cause danger to—

- (a) any person or property, including the new bridge, any vessel and any person using, working on or intending to use or work on the new bridge or aboard any vessel passing the new bridge; or
- (b) the environment.

### **Extinguishment of right of navigation within the river Yare in connection with authorised development**

**44.**—(1) For the purpose of protecting the new bridge, the public right of navigation within the areas of the river Yare identified in paragraph (2) is extinguished in accordance with the provisions of this article.

(2) The areas referred to in paragraph (1) are shown hatched brown on the rights of navigation plan.

(3) Paragraph (1) does not take effect until the undertaker has, prior to commencement of construction of the new bridge—

- (a) notified the GYPA of the date from which the extinguishment is to have effect;
- (b) published notice of the extinguishment and the date from which the extinguishment is to have effect in Lloyd’s List and once in each of 2 successive weeks in a local newspaper published or circulating in the Borough of Great Yarmouth, with an interval between the earliest and latest notices of not less than 7 clear days; and
- (c) displayed notice of the extinguishment and the date from which the extinguishment is to have effect in a conspicuous position adjacent to the river Yare from the date of the first notice published under sub-paragraph (b) above, until at least 7 days after the last notice published under sub-paragraph (b).

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

(5) As soon as possible following receipt by the GYPA of notice given by the undertaker under paragraph (3), the GYPA must issue a notice to mariners giving the commencement date and other particulars of the extinguishment to which the notice relates.

(6) A master of a vessel must not allow a vessel to enter into any part of the areas referred to in paragraph (2) without first obtaining the consent of the undertaker which may attach reasonable conditions to any consent.

(7) Before granting a consent under paragraph (6), the undertaker must consult with the harbour master.

### **Closing the highway comprised in the new bridge and new bridge approaches**

**45.**—(1) The undertaker may close any highway formed by the new bridge or the new bridge approaches, in whole or in part—

- (a) to allow the new bridge to open;
- (b) for the purpose of or in connection with the maintenance of the new bridge or the new bridge approaches; and
- (c) in case of any emergency.

(2) The undertaker may provide and operate such barriers across the highway and signs as it considers necessary to secure the closure of the highway under paragraph (1) and alert highway users to the closure.

(3) Where the undertaker intends to close the highway under paragraph (1)(b) it must, except where maintenance is required in an emergency—

- (a) give not less than 7 days' notice of such closure by advertisement in at least one newspaper published or circulating in the borough of Great Yarmouth; and
- (b) throughout a period of at least 7 days prior to the closure display signs at convenient locations on the new bridge approaches giving warning of the closure.

(4) In this article “emergency” has the meaning assigned by article 43(10).

### **Removal of vehicles**

**46.**—(1) If a vehicle waiting, loading, unloading or breaking down on the new bridge or the new bridge approaches—

- (a) causes any obstruction or hazard;
- (b) prevents the opening of the new bridge; or
- (c) causes, or is likely to cause, material detriment—
  - (i) to the efficient and effective operation of the new bridge; or
  - (ii) the environment,

the person in charge of the vehicle must immediately remove the vehicle if directed to do so by an authorised person.

(2) Where, in relation to vehicle to which paragraph (1) applies—

- (a) the person in charge of the vehicle has not complied in a timely manner with a direction made under paragraph (1) to remove the vehicle;
- (b) the person in charge of the vehicle proposes to comply with a direction made under paragraph (1) in a manner which an authorised person reasonably determines would be detrimental to the safety of that person or other persons using the highway;
- (c) an authorised person reasonably determines that directing the person in charge of the vehicle to remove it would be detrimental to the safety of that person or other persons using the highway; or
- (d) no person in charge of the vehicle is present,

an authorised person may take all reasonable steps to remove the vehicle from the new bridge or (as the case may be) new bridge approaches.

(3) An authorised person who removes a motor vehicle under paragraph (2) may do so by towing or driving the vehicle or in such other manner as the authorised person considers necessary and may take such measures in relation to the vehicle as the authorised person considers necessary to enable the vehicle to be removed.

(4) A vehicle removed by an authorised person under this article—

- (a) may be returned immediately to the person in charge of that motor vehicle; or
- (b) where immediate return of that vehicle to the person in charge of it is not practicable or appropriate, must be delivered to the undertaker or to a person authorised by the undertaker to keep motor vehicles so removed (“the custodian” in either case).

(5) In a case where the owner of the vehicle has disclaimed all rights of ownership of the vehicle and its contents and fittings, the custodian may dispose of them in such manner as it sees fit at any time.

(6) In any case not falling within paragraph (5), a vehicle or its contents or fittings must not be disposed of before the end of the period of 5 weeks beginning with the date on which the vehicle was removed and until the custodian has, for the purpose of ascertaining the owner of the vehicle, taken such steps as are specified in paragraph (7) and either—

- (a) the custodian has failed to ascertain the name and address of the owner; or
- (b) the owner has failed to comply with a notice complying with paragraph (8) served on the owner by post.

(7) The steps referred to in paragraph (6) are—

- (a) if the vehicle carries a United Kingdom registration mark, the custodian must ascertain from the records kept by the Secretary of State under the Vehicle Excise and Registration Act 1994(a) the name and address of the person by whom the vehicle is kept (“the registered keeper”); and
- (b) if the vehicle does not carry such a registration mark, the custodian must make such inquiries (if any) as appear to the custodian reasonably practicable to ascertain the owner of the vehicle.

(8) A notice under paragraph (6)(b) must be addressed to the owner which—

- (a) states—
  - (i) reasons for the removal of the vehicle;
  - (ii) the place to which the vehicle has been removed;
  - (iii) the registration mark and make of the vehicle;
  - (iv) the steps required to be taken to obtain possession of the vehicle;
  - (v) the RSD charges which the custodian will be entitled to recover from the owner in accordance with this article; and
  - (vi) that unless the vehicle is removed by the owner on or before the date specified in sub-paragraph (b), the custodian intends to dispose of it; and
- (b) requires the owner to remove the vehicle from the custody of the custodian within 21 days of the date on which the notice was served.

(9) The custodian is entitled to treat the registered keeper of the vehicle as the person entitled to its contents and fittings unless and to the extent that some other person satisfies the custodian of their claim to all or part of them.

(10) Where it appears to the custodian that more than one person is the owner of the vehicle—

- (a) the notice under paragraph (6)(b) must be sent to all persons appearing to be the owner of the vehicle; and
- (b) the vehicle may not be disposed of in accordance with paragraph (5) unless all persons appearing to be the owners have disclaimed all rights of ownership.

(11) Where a vehicle has been removed and delivered into the custody of a custodian in accordance with paragraph (4), the custodian is entitled to (whether or not any claim is made under paragraph 21 of this article) recover the RSD charges from the person who is or (as the case may be) was the owner of the vehicle in relation to—

- (a) the removal and storage of the vehicle; and
- (b) if the vehicle has been disposed of, its disposal.

(12) Where any RSD charges are recoverable in respect of a vehicle by a custodian by virtue of paragraph (11)—

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(a) 1994 c. 22

- (a) the RSD charges are recoverable as a simple contract debt in any court of competent jurisdiction;
- (b) the custodian is entitled to retain custody of the vehicle until the RSD charges recoverable by virtue of paragraph (11)(a) are paid.

(13) Where—

- (a) it appears to the custodian that more than one person is the owner of the vehicle; and
- (b) one of those owners, or a person authorised by one of those owners, has gained possession of the vehicle under paragraph (16),

then the owner who gained possession of the vehicle under paragraph (16) is to be treated as the owner from whom the RSD charges are recoverable.

(14) Where—

- (a) it appears to the custodian that more than one person is the owner of the vehicle; and
- (b) one of those owners has made a claim under paragraph (19) that satisfies the conditions in paragraph (20),

then the owner who made the claim under paragraph (19) is to be treated as the owner from whom the RSD charges is recoverable.

(15) Where—

- (a) it appears to the custodian that more than one person is the owner of the motor vehicle; and
- (b) neither paragraph (13) nor paragraph (14) applies,

then those persons are to be treated as jointly and severally liable for the RSD charges.

(16) A person (“the claimant”) may take possession of a vehicle (with its contents and fittings) which has been removed and delivered to a custodian and has not been disposed of under this article, if the conditions specified in paragraph (17) are satisfied.

(17) The conditions are that—

- (a) the claimant satisfies the custodian that the claimant is the owner of the vehicle or that the claimant is authorised by the owner to take possession of the motor vehicle; and
- (b) all outstanding RSD charges are paid to the custodian.

(18) Where it appears to the custodian that more than one person is the owner of the vehicle, the custodian must give possession of the motor vehicle to the first claimant who satisfies the conditions set out in paragraph (17).

(19) If, after a vehicle has been disposed of by a custodian under this article, a person claims to have been the owner of the vehicle at the time when it was disposed of and the conditions specified in paragraph (20) are fulfilled, a sum calculated in accordance with paragraph (21) is payable by the custodian to the owner.

(20) The conditions are that—

- (a) the person claiming satisfies the custodian that the person so claiming was the owner of the vehicle at the time it was disposed of;
- (b) the claim is made before the end of the period of 1 year beginning with the date on which the vehicle was disposed of; and
- (c) no previous claim in respect of the vehicle has been made.

(21) The sum payable under paragraph (20) is calculated by deducting from the proceeds of disposal of the vehicle the RSD charges that would have been payable under paragraph (17)(b) had the motor vehicle been claimed by the owner immediately before its disposal together with such RSD charges as may be due in respect of the disposal of the vehicle.

(22) Where it appears to the custodian of a vehicle that more than one person is the owner of that vehicle, the custodian must treat the first person who makes a claim that satisfies the conditions set out in paragraph (20) as the owner for the purposes of this article.

(23) in this article “the RSD charges” means such reasonable charges determined from time to time by the undertaker in accordance with paragraph (24) in respect of the removal, storage and disposal of vehicles under this article.

(24) The RSD charges—

- (a) must not exceed the charges prescribed, in relation to England, by the Secretary of State under sections 101A(3), 101A(4) or 102(2)(a) of the 1984 Act in respect of the removal, storage and disposal of vehicles under the 1984 Act; and
- (b) must be published by the undertaker in such manner as the undertaker considers appropriate.

(25) For the purposes of this article the owner of a vehicle is taken to be the person by whom the vehicle is kept; and in determining for those purposes who was the owner of a vehicle which is a motor vehicle at any time, it is presumed (unless the contrary appears) that the owner was the person in whose name the motor vehicle was at the relevant time registered under the Vehicle Excise and Registration Act 1994.

(26) For the purposes of this article “breaking down”, in relation to a vehicle which is a motor vehicle, includes by way of a mechanical defect, lack of fuel, oil, water or power required for the motor vehicle or any other circumstances in which a person in charge of the vehicle could not immediately, safely and without damage to the motor vehicle or its accessories drive it under its own power away from the new bridge and the new bridge approaches.

### **Removal of falling loads and objects**

**47.**—(1) If a load or other object falling from a vehicle on the new bridge or the new bridge approaches—

- (a) causes any obstruction or hazard;
- (b) prevents the opening of the new bridge; or
- (c) causes, or is likely to cause, material detriment to—
  - (i) the efficient and effective operation of the new bridge; or
  - (ii) the environment,

the person in charge of the vehicle must immediately remove the load or object if directed to do so by an authorised person.

(2) Where, in relation to a load or other object to which paragraph (1) applies—

- (a) the person in charge of the vehicle has not complied with a direction made under paragraph (1) to remove the load or object;
- (b) the person in charge of the vehicle proposes to comply with a direction made under paragraph (1) in a manner which an authorised person reasonably determines would be detrimental to the safety of that person or other persons using the highway;
- (c) an authorised person reasonably determines that directing the person in charge of the vehicle to remove the load or object would be detrimental to the safety of that person or other persons using the highway; or
- (d) no person in charge of the vehicle is present,

an authorised person may take all reasonable steps to remove the load or object from the new bridge or (as the case may be) new bridge approaches.

(3) An authorised person—

- (a) may return a load or object which the authorised person has removed immediately to the person in charge of the vehicle from which it has fallen; or

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(a) Section 101A was inserted by Schedule 11 to the Traffic Management Act 2004 (c. 18). Charges have been prescribed (under, inter alia, sections 101A(3), 101A(4) and 102(2) of the 1984 Act) by the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations (S.I. 2008/2095).

- (b) where a return of the load or object which the authorised person has removed to the person in charge of the vehicle from which it has fallen is not practicable or appropriate, must deliver the load to the undertaker or to a person authorised by the undertaker to keep loads and objects so removed (“the custodian” in either case).

(4) Unless it appears to the custodian that the load or object has no monetary value, the custodian must take reasonable steps to ascertain the name and address of the owner of the load or object.

(5) Where the custodian has been unable to ascertain the name and address of the owner of the load or object, or is not obliged to do so under paragraph (4), the custodian may dispose of or sell the load or object as the custodian thinks fit.

(6) Where the custodian has ascertained the name and address of the owner of the load or object, the custodian must notify such person that—

- (a) the load or object is in the possession of the custodian;
- (b) the owner must take possession of the load or object within five weeks of the date of the notice (“the claim period”);
- (c) the owner may only take possession of the load or object on the payment of the custodian’s expenses in removing and storing the load or object; and
- (d) if the owner fails to act in accordance with the requirements in the notice, title in the load or object will vest in the custodian immediately upon the expiry of the claim period.

(7) The custodian may recover, as a simple contract debt in any court of competent jurisdiction, any expenses reasonably incurred in the removal and storage of a load or object from the owner of that load or object.

(8) Unless the owner of the load acts in accordance with the notice requirements, title in the load vests in the custodian on the date specified in the notice.

(9) Where a load or object falling from a vehicle consists of, or includes, liquids or semi-liquids or items which are loose or an aggregate, or noxious, perishable or otherwise hazardous or difficult to collect up or remove, and the driver of the vehicle fails to remove it in accordance with a direction given under paragraph (1) or the fallen load or object poses a hazard to highway users—

- (a) paragraphs (2) to (8) do not apply;
- (b) an authorised person may, as they see fit, arrange for the load or object—
  - (i) to be immediately washed, cleaned, cleared away or removed; and
  - (ii) thereafter disposed of or sold by or behalf of the undertaker.

### **No apparatus in the new bridge or new bridge approaches without consent**

**48.** Regardless of anything contained in any enactment, no person is to enter upon, break up or interfere with the new bridge or the new bridge approaches, or any part of them, for the purpose of placing or doing anything in or in relation to any sewer, drain, main, pipe, wire or other apparatus or executing any work except with the written consent of the undertaker and in accordance with such terms and conditions as the undertaker may determine, including as to payment, such consent not to be unreasonably withheld and any disputes as to withholding of consent or over terms and conditions to be subject to the arbitration provisions in article 67 (arbitration).

### **Subsidiary works and operations in the river Yare**

**49.—**(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 the river Yare (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, dredge, scour, cleanse, alter and improve the bed of the river Yare for the purposes of maintaining the authorised development.

(2) 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.

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

(4) Any dispute as to a person's entitlement to compensation under paragraph (3) or as to the amount of the compensation must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

(6) The powers conferred by this article must not be exercised without the agreement of the GYPA, which must not be unreasonably withheld or delayed but which may be given subject to reasonable conditions.

### **Protection against dredging**

**50.**—(1) No person is to dredge within the area shown hatched yellow on the limits of dredging plan.

(2) No person is to dredge within the area shown hatched blue on the limits of dredging plan without the prior consent of the undertaker, such consent not to be unreasonably withheld.

### **Byelaws**

**51.**—(1) The undertaker may make, amend, revoke and enforce byelaws regulating the use and operation of the new bridge, the maintenance of order and the conduct of persons in the new bridge area, the mooring of vessels to the new bridge and vessel waiting facilities, and the passage of vessels past the new bridge.

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

- (a) preventing interference with, or obstruction of, the operation of the new bridge, the new bridge control tower, the new bridge plant room, the vessel waiting facilities or other facilities, machinery, apparatus, tools or other things provided in connection with the operation of the new bridge;
- (b) preventing interference with, or obstruction of, the new bridge infrastructure;
- (c) preventing trespass in the new bridge area;
- (d) preventing nuisances in the new bridge area;
- (e) to require any person in charge of a motor vehicle which is at rest by reason of breakdown or accident in a prescribed place on the new bridge or the new bridge approaches to take prescribed steps for reporting that fact and the position and circumstances in which the vehicle is at rest;
- (f) to prohibit any person, other than an authorised 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 authorised person; and

- (ii) from moving, or attempting to move, such a vehicle from the position in which it is at rest unless so directed by an authorised person;
- (g) to prohibit a person from obstructing any action taken by an authorised person under the powers conferred by articles 46 (removal of vehicles) and 47 (removal of falling loads and objects);
- (h) to ensure the safety of vehicles passing over the new bridge; and
- (i) placing controls on the mooring and passage of vessels.

(3) The undertaker must obtain the agreement of the GYPA, such agreement not to be unreasonably withheld, before making byelaws under paragraph (1) the purpose of which is to control the navigation or mooring of vessels.

(4) The byelaws contained in Schedule 11 (the Great Yarmouth Third River Crossing Byelaws 202[ ]—

- (a) are to be treated for all purposes as byelaws made by the undertaker under paragraph (1) save that, for the purposes of paragraph (7) and the provisions of the Local Government Act 1972(a), mentioned in that paragraph, they are to be treated as having been confirmed by the Secretary of State on the date this Order comes into force;
- (b) take effect upon commencement of construction of the new bridge; and
- (c) continue to have effect until such time as they are amended or revoked by further byelaws made under paragraph (1).

(5) From the date that this Order comes into force, the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997(b) are amended as follows—

- (a) in Byelaw 3 (interpretation) the following definitions are added—

““the new bridge” means the bridge comprised in Work No. 8B together with the vessel impact protection systems and supporting works comprised in Work Nos 6A and 6B, as set out in Schedule 1 (authorised development) to the Order”;

““the new bridge control tower” means Work No. 7A as set out in Schedule 1 to the Order”;

““the new bridge infrastructure” means the vessel waiting facilities together with all infrastructure which is required for or facilitates the construction, maintenance inspection or operation of the new bridge including (without limitation) cables, pipes and other apparatus relating to the provision of drainage, electricity, water, and other services, fenders and other protective or ancillary works relating to the new bridge, tools and any emergency, safety or communications apparatus”;

““new bridge undertaker” means Norfolk County Council or a person to whom the benefit of the relevant provisions of the Order has been transferred under article 8 (consent to transfer benefit of the Order) of the Order”;

““the Order” means the Great Yarmouth Third River Crossing Development Consent Order 202[ ]”;

““the vessel waiting facilities” means the vessel waiting facilities comprised in Work No 6A as set out in Schedule 1 to the Order”;

- (b) after Part V (Haven Bridge) insert—

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(a) 1972 c. 70

(b) Made by the Great Yarmouth Port Authority in exercise of powers conferred by section 83 of the Harbours, Docks and Pier Clauses Act 1847 and other enabling powers.

“PART VA  
NEW BRIDGE CONTROLS ON VESSELS

**Mooring of vessels**

**44A.** A master of a vessel must not moor the vessel to any part of the new bridge or the new bridge infrastructure without the prior consent of the new bridge undertaker.

**Observation of signals and communications**

**44B.** A master of a vessel must observe and comply with all river traffic control signal lights exhibited from the new bridge and follow any instructions issued by the new bridge undertaker.

**44C.** 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 at the new bridge control tower on VHF channel 14 or (if this becomes obsolete) such other means of communication instructed by the new bridge undertaker.

**44D.** A master of a vessel awaiting passage under the new bridge must—

- (b) give transiting vessels sufficient room to manoeuvre; and
- (c) ensure that that the vessel does not advance beyond the outer edge of the vessel impact protection systems comprised in the new bridge until allowed to proceed by the new bridge undertaker.

**Passage of vessels under the new bridge**

**44E.** A master of a vessel must not direct the vessel to pass under the new bridge without prior consent from the new bridge undertaker.

**44F.**—(1) A master of a vessel must ensure that the vessel does not exceed a speed of seven knots when approaching and passing under the new bridge.

(2) This byelaw does not apply to any vessel when it is being used for a rescue operation, fire-fighting or for police or port operations.

**Collision with the new bridge**

**44G.** A master of a vessel which has been involved in a collision with the new bridge or any element of the new bridge infrastructure 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 GYPA must not—

- (a) amend or revoke the byelaws inserted into the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997 by paragraph (5); or
- (b) make byelaws which affect the new bridge, the new bridge infrastructure, or the passage of vessels within the limits of dredging,

without first obtaining the consent of the undertaker, such consent not to be unreasonably withheld.

(7) Subject to paragraph (8), the provisions of subsections 236(3) to (8) and (11) (procedure etc., for byelaws) and section 238 (evidence of byelaws) of the Local Government Act 1972(a) apply in relation to byelaws made by the undertaker under paragraph (1) and for that purpose references in

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(a) 1972 c. 70. There are amendments to subsections 236(3) to (8) and (11) and section 238 but none are relevant to this Order.

those provision of the Local Government Act 1972 to “the authority” are to be read as references to the undertaker.

(8) The undertaker may make, amend and revoke byelaws under paragraph (1) in accordance with the procedure in the Byelaws (Alternative Procedure) (England) Regulations 2016<sup>(a)</sup> as if those regulations applied to the making and revoking of byelaws under this article (and accordingly section 236 of the Local Government Act 1972 did not apply).

(9) Byelaws made under this article are enforceable as follows—

- (a) in the case of byelaws made under paragraph (1), by an authorised person; or
- (b) in the case of vessel byelaws, by an authorised person or the GYPA.

(10) A person who contravenes a byelaw made under paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) Where damage to the new bridge or new bridge infrastructure is attributable to a person in charge of a vessel being in breach of a byelaw made under paragraph (1) or a vessel byelaw, the undertaker may recover from that person all expenses reasonably incurred in repairing the damage as a debt.

(12) The GYPA must provide to the undertaker all information reasonably requested by the undertaker where the undertaker reasonably suspects that a breach of the byelaws made under paragraph (1) or the vessel byelaws has been committed by a person in charge of a vessel.

(13) The GYPA must comply with a request made by the undertaker under paragraph (12) within ten days of the date the request was made.

(14) In this article “breakdown” in relation to a motor vehicle, includes mechanical defect, lack of fuel, oil, water or power required for the vehicle, and any other circumstances in which a person in charge of the vehicle could not immediately, safely and without damage to the vehicle or its accessories, drive it under its own power away from the new bridge.

(15) In this article and in article 52 (fixed penalty notices) “vessel byelaws” means—

- (a) the byelaws inserted into the Great Yarmouth Port Authority Navigation (Haven) Byelaws 1997 by paragraph(5), as from time to time amended or revoked by the GYPA in accordance with paragraph (6); and
- (b) byelaws made by the GYPA in accordance with paragraph (6) which affect the new bridge, the new bridge infrastructure, or the passage of vessels within the areas shown hatched yellow and blue on the limits of dredging plan.

### **Fixed penalty notices**

**52.**—(1) This article applies where it appears to an authorised person that a person has committed an offence under byelaws made under paragraph (1) of article 51 (byelaws) or vessel byelaws.

(2) The authorised person may serve on that person a fixed penalty notice in respect of the offence.

(3) Where a person is given a fixed penalty notice under this article in respect of an offence—

- (a) no proceedings may be instituted for that offence before the expiration of 14 days after the date of the notice; and
- (b) that person may not be convicted of the offence if the fixed penalty is paid before the expiration of 14 days after the date of the notice.

(4) A fixed penalty notice must state—

- (a) the amount of the fixed penalty;
- (b) particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence;

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(a) S.I. 2016/165

- (c) the time by which and the manner in which the fixed penalty must be paid, including any telephone number to be used for payments by credit or debit card and details of any electronic payment facility; 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 authorised 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, evidence of a residential address in the United Kingdom.
- (7) Payment of the deposit must be made—
- (a) in person to the authorised person by cash, credit card, debit card or other means by which the undertaker accepts payments, if the authorised person has the necessary means to accept payment in that manner;
  - (b) by telephone by credit card, debit card or other means by which the undertaker accepts payments by telephone to the number stipulated in the fixed penalty notice for making payments; or
  - (c) by an electronic payment facility.
- (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—
- (a) enables payments to be made by credit card, debit card or other means by which the undertaker accepts electronic payments; and
  - (b) which is provided to the public 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 by the holder of a sum due under this article;
- “debit card” means a card or similar thing issued by any person, use of which enables the holder to cause a sum due under this article to be paid by the electronic transfer of funds from any account of the holder at a bank or other institution providing banking facilities;
- “electronic payment facility” means an app, an internet payment facility and any other means by which the undertaker accepts payments due under this article by electronic means;
- “fixed penalty notice” means a notice offering the opportunity of the discharge of liability to conviction of an offence under byelaws made under paragraph (1) of article 51 or vessel byelaws;
- “internet payment facility” means a facility provided by a website maintained by the undertaker or on its behalf which enables payments to be made by credit card, debit card or other means by which the undertaker accepts electronic payments; and
- “vessel byelaws” has the meaning assigned to it by article 51(15).

## PART 7

### MISCELLANEOUS AND GENERAL

#### **Felling or lopping of trees**

**53.**—(1) The undertaker may fell or lop any tree or shrub near, within or overhanging any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, operation or maintenance of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to other persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

#### **Trees subject to tree preservation order or within conservation area**

**54.**—(1) The undertaker may fell or lop any tree described in columns (1) and (2) of Schedule 12 (trees subject to tree preservation orders and within conservation areas), cut back its roots or undertake such other works described in column (3) of that Schedule, if it reasonably believes it to be necessary to do so to prevent the tree—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1) the undertaker must not cause unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity.

(3) Where works to a tree are authorised by paragraph (1) and a tree preservation order is in force in relation to that tree—

- (a) written consent for the works is deemed to have been granted by a local planning authority having functions under the order;
- (b) the duty imposed by section 206(1)(a) (replacement of trees) of the 1990 Act does not apply; and
- (c) for the purposes of section 9 (requirement of licence for felling) of the Forestry Act 1967(b), any felling comprised in the works is deemed to be immediately required for the purpose of carrying out development authorised by planning permission granted under the 1990 Act.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

#### **Removal of human remains**

**55.**—(1) In this article “the specified land” means any land within the Order limits.

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(a) Amended by Schedule 11 to the 2008 Act.

(b) 1967 c. 10. Relevant amendments to section 9 have been made by section 4 of, and Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and Schedule 2 to the Natural Resources Body for Wales (Functions) Order (S.I. 2013/755).

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Subject to paragraph (12), before any such remains are removed from the specified land the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the specified land; and
- (b) displaying a notice in a conspicuous place at or near to the location of the human remains.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to Great Yarmouth Borough Council.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that persons claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice by the person who gave the notice fails to remove the remains within a further period of 56 days;
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the

place from which the remains were removed and the place in which they were reinterred or cremated; and

- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to Great Yarmouth Borough Council.

(12) No notice is required under paragraph (3) before the removal of any human remains where the undertaker is satisfied—

- (a) that the remains were interred more than 100 years ago; and
- (b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.

(13) In this article—

- (a) references to a relative of the deceased are to a person who—
  - (i) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased; or
  - (ii) is, or is a child of, a brother, sister, uncle or aunt of the deceased.
- (b) references to a personal representative of the deceased are to a person or persons who—
  - (i) is the lawful executor of the estate of the deceased; or
  - (ii) is the lawful administrator of the estate of the deceased.

(14) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(15) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(16) Section 25 (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) of the Burial Act 1857<sup>(a)</sup> is not to apply to a removal carried out in accordance with this article.

(17) Section 239 (use and development of burial grounds) of the 1990 Act applies in relation to any land or right over land acquired for the purposes of the authorised development (whether or not by agreement) and to the temporary use of land under articles 35 (temporary use of land for carrying out the authorised development) or 36 (temporary use of land for maintaining the authorised development), as if—

- (a) the reference to a relevant acquisition or appropriation in section 239(1) was a reference to acquisition for the purposes of the authorised development (whether or not by agreement) or temporary use under articles 35 or 36;
- (b) the reference in section 239(1)(b) to use by any person in any manner in accordance with planning permission was a reference to use by the undertaker in any manner in accordance with the provisions of this Order; and
- (c) the reference to prescribed requirements in section 239(2) was a reference to the requirements of (2) to (15) of this article.

(18) The Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations 1950<sup>(b)</sup> do not apply to the authorised development.

### **Deemed marine licence**

**56.** The undertaker is deemed to have been granted a marine licence under Part 4 (marine licensing) of the 2009 Act to carry out the licensable marine activities specified in Part 1 of Schedule 13 (deemed marine licence), subject to the conditions set out in Part 2 of that Schedule (which are deemed to have been attached to the licence under Part 4 of the 2009 Act).

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(a) 1857 c. 81. Substituted by Church of England (Miscellaneous Provisions) Measure 2014 No. 1 s.2 (January 1, 2015: substitution has effect subject to transitional and saving provisions specified in SI 2014/2077 Sch.1 paras 1 and 2).

(b) S.I. 1950/792.



## **Application of landlord and tenant law**

**57.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole, or any part of, the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

## **Operational land for purposes of the 1990 Act**

**58.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

## **Planning permission**

**59.** If planning permission is granted under the 1990 Act after this Order comes into force for development which is wholly, or partly within, the Order limits and—

- (a) is not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or
- (b) is required to complete or enable the use or operation of any part of the authorised development,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

## **Undertaker's highway, road traffic and planning functions**

**60.** Except as expressly provided, nothing in this Order is to prejudice the rights, powers and duties of the undertaker under the 1980 Act, the 1984 Act, the 1990 Act and the 1991 Act in relation to the highways constructed as part of the authorised development.

## **Defence to proceedings in respect of statutory nuisance**

**61.**—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be

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(a) 1990 c. 43; there are amendments that are not relevant to this Order.

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)(b) of that Act if—

- (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 reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) 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.

### **Protective provisions**

**62.** Schedule 14 (protective provisions) has effect.

### **Saving for Trinity House**

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

### **Certification of plans, etc.**

**64.**—(1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents set out in Schedule 15 (documents to be certified) to the Secretary of State for certification as true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 15 (documents to be certified) requires to be amended to reflect the terms of the Secretary of State’s decision to make this Order, that plan or document in the form amended to the Secretary of State’s satisfaction is the version of the document required to be submitted for certification under paragraph (1).

(3) A plan or document certified in accordance with paragraphs (1) and (2) is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(4) The undertaker must, following certification of the plans and documents in accordance with paragraphs (1) and (2), make those plans and documents available in electronic form for inspection by members of the public for a period of at least 5 years commencing with the date of certification.

### **Service of notices**

**65.**—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;

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(a) 1974 c. 40. Section 61 was amended by section 162 of, and Schedule 15 to, the Environmental Protection Act 1990 (c. 25) and by Schedule 24 to the Environment Act 1995 (c. 25).

- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (9) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) Where the person on whom a notice or other document to be served for the purposes of this Order is a partnership, the notice or document is duly served if it is served on a partner or a person who has the control or management of the partnership business.

(4) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body;
- (b) in the case of a partner of a partnership or a person having the control or management of the partnership business, the address of the principal office of the partnership; and
- (c) in any other case, the last known address of that person at the time of service.

(5) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(6) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(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.

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(a) 1978 c. 30.

(10) This article does not 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.

**Consents, agreements and approvals**

**66.**—(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, 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 10 (street works), 12 (construction and maintenance of new, altered or diverted streets and other structures), 15 (temporary stopping up and restriction of use of streets), 16 (access to works), 20 (discharge of water) and 22 (authority to survey and investigate land); and

“relevant authority” means the authority or other person by whom the application is to be determined.

**Arbitration**

**67.** Except where otherwise expressly provided for in this Order and unless otherwise agreed 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.

Signed by authority of the Secretary of State for Transport

	<i>Name</i>
	Title
Date	Department for Transport

# SCHEDULES

## SCHEDULE 1

Articles 2(1) and 4

### AUTHORISED DEVELOPMENT

In the County of Norfolk and the Borough of Great Yarmouth, a development which, in accordance with a direction made by the Secretary of State for Transport on 26 February 2018 under section 35 (directions in relation to projects of national significance) of the 2008 Act, is development for which development consent is required, and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act, comprising—

**Work No. 1** – shown on sheet 1 of the works plans and being improvements to the existing A47(T) Great Yarmouth Bypass trunk road at Harfrey’s roundabout to facilitate the tie in of Work No. 2 to the existing highway network, including carriageway and footway realignment, modifications to traffic signs and road markings, and ecological mitigation works.

**Work No. 2** – as shown on sheet 1 of the works plans and being the construction of new highway, replacing part of Queen Anne’s Road, William Adams Way and Suffolk Road, comprising—

- (a) the construction of a new roundabout connecting William Adams Way, Queen Anne’s Road, Suffolk Road and the new highway comprising Work No. 8A;
- (b) the improvement of William Adams Way, Queen Anne’s Road and Suffolk Road, including carriageway realignment, to facilitate connections of these roads to the new roundabout;
- (c) the construction of pile-supported concrete slabs, embankments, retaining walls and culverts supporting the new highway;
- (d) the provision of a traffic signal-controlled crossing for pedestrians and cyclists on Suffolk Road, north of the new roundabout described in (a) above;
- (e) the provision of a site compound on land between those lengths of William Adams Way and Queen Anne’s Road within Work No. 2, including site offices, welfare facilities, parking provisions and storage of plant and materials;
- (f) the provision of footways and cycle tracks; and
- (g) the provision of landscaping.

**Work No. 3** – as shown on sheet 1 of the works plans and comprising works to existing drainage infrastructure to the north of Queen Anne’s Road, between the A47 (T) Great Yarmouth Bypass and Suffolk Road and the provision of private means of access as shown on sheet 1 of the street plans.

**Work No. 4** – as shown on sheet 1 of the works plans and comprising—

- (a) the improvement of the existing William Adams Way highway between Work No. 2 and the junction of William Adams Way with Southtown Road, including the provision of footways and cycle tracks;
- (b) the removal of an existing footbridge across William Adams Way, including associated ramps;
- (c) the provision of a traffic signal-controlled crossing for pedestrians and cyclists on William Adams Way, south-east of the roundabout described in Work No. 2;
- (d) works to existing drainage infrastructure adjoining the realigned William Adams Way;
- (e) the construction of pile-supported concrete slabs and embankments where necessary to support the improved highway referred to in paragraph a) above;
- (f) the provision of a private means of access as shown on sheet 1 of the street plans; and

(g) the provision of landscaping.

**Work No. 5** – as shown on sheet 1 of the works plans and comprising—

(a) Work No. 5A – Southtown Road—

- (i) the improvement of existing highway, including the provision of a pedestrian crossing;
- (ii) the provision of a turning facility for cyclists to facilitate turning into Cromwell Road;
- (iii) the provision of a bus waiting facility and associated works;
- (iv) the provision of a private means of access, as shown on sheet 1 of the street plans; and
- (v) the alteration of traffic signs.

(b) Work No. 5B – Queen Anne’s Road—

- (i) the improvement of existing highway including realignment and alteration of traffic signs at the junction of Queen Anne’s Road with Southtown Road to permit usage by vehicular traffic;
- (ii) the construction of a new turning head and associated works;
- (iii) the provision of private means of access as shown on sheet 1 of the street plans; and
- (iv) the provision of landscaping.

(c) Work No. 5C – Cromwell Road—

- (i) the improvement of existing highway, including the provision of new parking bays;
- (ii) the construction of an electricity sub-station, including any enclosing structures and connections, and a private means of access as shown on sheet 1 of the street plans; and
- (iii) the provision of landscaping.

(d) Work No. 5D – Land at Cromwell Court—

- (i) the provision of turning facilities and parking.

**Work No. 6** – as shown on sheet 1 of the works plans and comprising—

(a) Work No. 6A – Bollard Quay and west bank of the river Yare—

- (i) the provision of public realm facilities;
- (ii) the provision of vessel waiting facilities adjacent to the west bank of the river Yare;
- (iii) the construction of part of a flood defence wall, to be incorporated within a flood defence scheme proposed to be undertaken by the Environment Agency;
- (iv) the construction of vessel impact protection systems within the watercourse; and
- (v) works within the watercourse to support the vessel impact protection systems, including—
  - (aa) the construction of piles and pile caps; and
  - (bb) the provision and capping of backfill material.

(b) Work No. 6B — East bank of the river Yare—

- (i) the construction of vessel impact protection systems within the watercourse; and works within the watercourse to support the vessel impact protection systems, including—
  - (aa) the construction of piles and pile caps; and
  - (bb) the provision and capping of backfill material.

**Work No. 7** – as shown on sheet 1 of the works plans and comprising the following works to serve the new bridge—

(a) Work No. 7A – West bank of the river Yare—

- (i) the construction of a control tower, including all necessary access, apparatus and connecting services.
- (b) Work No. 7B – East bank of the river Yare—
  - (i) the construction of a plant room, including all necessary access, apparatus and connecting services.

**Work No. 8** – as shown on sheets 1 and 2 of the works plans and being the construction of new highway, comprising—

- (a) Work No. 8A – river Yare bridge western approach—
  - (i) the construction of a new highway to connect the new roundabout described in Work No. 2 and the new river Yare bridge described in Work No. 8B;
  - (ii) the construction of pile-supported concrete slabs and embankments supporting the new highway;
  - (iii) the construction of retaining walls supporting the new highway;
  - (iv) the construction of a bridge deck over Southtown Road, over which the new highway passes;
  - (v) the construction of abutments supporting the new bridge deck described in (iv) above;
  - (vi) the construction of piles and pile caps supporting the abutments described in (v) above;
  - (vii) the provision of a traffic signal-controlled crossing for pedestrians and cyclists;
  - (viii) the provision of footways and cycle tracks; and
  - (ix) the provision of landscaping.
- (b) Work No. 8B – river Yare bridge—
  - (i) the construction over the watercourse and adjacent land, of a bridge deck carrying the new carriageway, footways and cycle track;
  - (ii) the construction of an opening section of bridge deck and associated barriers and signage;
  - (iii) the construction, within and adjacent to the watercourse, of bascule abutments and other structures and facilities to support the bridge deck and enable the operation of the opening section described in ii) above;
  - (iv) the construction of vessel impact protection systems within the watercourse;
  - (v) works within and adjacent to the watercourse to support the works described at subparagraphs (iii) and (iv) including—
    - (aa) the construction of piles and pile caps; and
    - (bb) the provision and capping of backfill material;
  - (vi) apparatus for the mechanical, electrical, instrumentation, control and automation systems of the bridge; and
  - (vii) the construction of access stairs.
- (c) Work No. 8C – river Yare bridge eastern approach—
  - (i) the construction of a new highway to connect the new junction comprising part of Work No. 9 with the river Yare bridge described in Work No. 8B;
  - (ii) the construction of pile-supported concrete slabs and embankments supporting the new highway;
  - (iii) the construction of retaining walls supporting the new highway;
  - (iv) the construction of a bridge deck to enable the new highway to pass over a new private means of access, as shown on sheet 2 of the street plans;
  - (v) the construction of abutments supporting the bridge deck described in (iv) above;

- (vi) the construction of piles and pile caps supporting the abutments described in (v) above;
- (vii) the provision of a traffic signal-controlled crossing for pedestrians and cyclists;
- (viii) the provision of footways and cycle tracks; and
- (ix) the provision of landscaping.

**Work No. 9** – as shown on sheet 2 of the works plans and comprising—

- (a) the improvement of the existing A1243 South Denes Road and Southgates Road, including the construction of a new traffic signal-controlled junction with the new highway comprising Work No. 8C;
- (b) the construction of embankments supporting the improved highway referred to in subparagraph (a) above;
- (c) the provision of private means of access to facilitate maintenance of the new highway comprised in Work Nos. 8B and 8C and to facilitate access to land to the west of South Denes Road and Southgates Road, as shown on sheet 2 of the street plans;
- (d) works to enable that part of Fish Wharf, perpendicular to South Denes Road, between Sutton Road and Swanston's Road, to be replaced with a private means of access, shown on sheet 2 of the street plans, that only permits left-turn manoeuvres onto South Denes Road;
- (e) works to enable that part of Fish Wharf, parallel to South Denes Road, between Sutton Road and Swanston's Road, to become part of the adjacent landowner's property;
- (f) the provision of a site compound on land west of South Denes Road and north of Work No. 8C, including site offices, welfare facilities, parking provisions and storage of plant and materials;
- (g) the construction of an electricity sub-station, including any enclosing structures and connections and private means of access as shown on sheet 2 of the street plans; and
- (h) the provision of landscaping.

**Work No. 10** – as shown on sheet 2 of the works plans and comprising—

- (a) the improvement of Sutton Road, including carriageway and footway surfacing works and the alteration of traffic signs to facilitate a change of direction of operation of the one-way system to an easterly direction;
- (b) the improvement of Swanston's Road, including the alteration of traffic signs to facilitate a change of direction of operation of the one-way system to a westerly direction;
- (c) the improvement of Middle Road West, including the alteration of traffic signs to reflect a change of direction of operation of the one-way systems on Sutton Road and Swanston's Road;
- (d) the improvement of Middle Road East, including the alteration of traffic signs to reflect a change of direction of operation of the one-way systems on Sutton Road and Swanston's Road;
- (e) the improvement of Admiralty Road, including the alteration of traffic signs to reflect a change of direction of operation of the one-way systems on Sutton Road and Swanston's Road.

**Work No. 11** – as shown on sheet 1 of the works plans and comprising the provision of new allotments on land north of Queen Anne's Road, including the provision of sheds and fencing.

**Work No. 12** – mitigation works for the benefit of Great Yarmouth and Waveney Mind at the locations shown on sheet 1 of the works plans.

**Work No. 13** – as shown on sheets 3, 4, 5, 6 and 7 of the works plans and being the installation of a variable message sign to facilitate the operation of the new and improved highway in each of the following locations—

- (a) Work No. 13A – A47 (T) Great Yarmouth Bypass (as shown on sheet 3 of the works plans);



- (b) Work No. 13B – Gapton Hall Road (as shown on sheet 4 of the works plans);
- (c) Work No. 13C – B1141 Yarmouth Way (as shown on sheet 5 of the works plans);
- (d) Work No. 13D – North Quay (as shown on sheet 6 of the works plans);
- (e) Work No. 13E – Fuller’s Hill (as shown on sheet 6 of the works plans); and
- (f) Work No. 13F – A47 (T) Acle New Road (as shown on sheet 7 of the works plans).

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

works within streets, including—

- (a) works for the strengthening, improvement, repair, maintenance or reconstruction of any street;
- (b) relocation, provision or replacement of signs, markings and street lighting; and
- (c) 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 the river Yare (to the extent they are situated within the Order limits) to—

- (d) alter, clean, modify, dismantle, refurbish, reconstruct, remove, relocate or replace any work or structure;
- (e) carry out excavations and clearance, deepening, scouring, cleansing, dumping and pumping operations;
- (f) carry out dredging, which may include such dredging works as may be required to provide side slopes or otherwise secure the dredged area against situation, scouring or collapse;
- (g) 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 obtained in carrying out any operations comprised in (d), (e) or (f);
- (h) temporarily remove, alter, strengthen, interfere with, occupy and use the banks, bed, foreshore, waters and walls of the river Yare;
- (i) construct, place and maintain works and structures including piled vessel impact protection systems, protection piles and cofferdams; and
- (j) provide lighting, signage and aids to navigation; and

other works—

- (k) for the strengthening, alteration or demolition of any building;
- (l) 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;
- (m) to provide or alter ramps, steps, footpaths, footways, cycle tracks, non-motorised user routes or links, and crossing facilities;
- (n) to provide or alter embankments, 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;
- (o) to provide settlement mitigation measures for the benefit or protection of, or in relation to, any land or building, including monitoring and safeguarding of existing infrastructure, utilities and services affected by the authorised development;
- (p) to alter the course of, or otherwise interfere with, navigable or non-navigable watercourses;

- (q) to provide 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;
- (r) to provide areas of hard or soft landscaping works, or public realm, at locations adjacent to the proposed highway and associated works;
- (s) for the preparation or clearance of the site of any of the works (including fencing and other boundary treatments, vegetation removal, works of demolition, including demolition of existing structures, and the creation of alternative highways) and the provision or alteration of earthworks (including soil stripping and storage and site levelling);
- (t) to provide construction and service compounds and working sites, haulage roads, temporary buildings and apparatus, plant and equipment rooms, storage areas (including storage of spoil and other materials), temporary vehicle parking, construction fencing, perimeter enclosures, security fencing, and construction lighting and other buildings, machinery, apparatus and works and conveniences;
- (u) to provide offices, staff mess rooms, welfare facilities and other ancillary or administrative accommodation and conveniences;
- (v) for the benefit or protection of the authorised development; and
- (w) 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.

## SCHEDULE 2 REQUIREMENTS

Article 4(1)

### PART 1 REQUIREMENTS

#### **Interpretation**

1.—(1) In this Schedule the following expressions have the following meanings—

“the archaeological written scheme of investigation” means the document of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the archaeological written scheme of investigation for the purposes of this Order;

“the code of construction practice” means a code of construction practice approved under paragraph 5 of this Schedule;

“the county planning authority” means Norfolk County Council in its capacity as county planning authority for the county of Norfolk under section 1(1)(a) (local planning authorities: general) of the Town and Country Planning Act 1990;

“the drainage strategy” means the document of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the drainage strategy for the purposes of this Order;

“the IDB” means the Waveney, Lower Yare and Lothingland Internal Drainage Board;

“the lead local flood authority” means Norfolk County Council in its capacity as lead local flood authority under section 6(7) (other definitions) of the Flood and Water Management Act 2010(a);

“the outline code of construction practice” means the document of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the outline code of construction practice for the purposes of this Order;

“the landscaping plans” means the plans of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the landscaping plans for the purposes of this Order;

“the lighting report” means the document of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the lighting report for the purposes of this Order;

“the preliminary navigation risk assessment” means the document of that description set out in Schedule 15 (documents to be certified) certified by the Secretary of State as the preliminary navigation risk assessment for the purposes of this Order.

#### **Time limits**

2. The authorised development must not commence later than the expiration of 5 years beginning with the date that this Order comes into force.

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(a) 2010 c. 29.

### **Commencement of the authorised development**

3. Notice of commencement of the authorised development must be given to the county planning authority in writing within 7 days of the date that the authorised development is commenced.

### **Design of the authorised development**

4.—(1) The authorised development must be designed and implemented in general accordance with—

- (a) the general arrangement plan; and
- (b) the approach to detailed design.

### **Code of construction practice**

5.—(1) No part of the authorised development is to commence until a code of construction practice for that part of the authorised development has been submitted to and, following consultation with Great Yarmouth Borough Council, the lead local flood authority, the IDB and the Environment Agency, approved in writing by the county planning authority.

(2) The submitted code of construction practice must include provision for the following matters—

- (a) hours of working;
- (b) management of traffic during construction of the authorised development;
- (c) a travel plan for construction workers;
- (d) management and minimisation of site waste;
- (e) management of dust;
- (f) management of noise and vibration;
- (g) control of emissions during construction of the authorised development;
- (h) control of pollution of water and land;
- (i) measures to address identified contamination;
- (j) management of nature conservation impacts;
- (k) flood management;
- (l) measures to address climate change.

(3) The code of construction practice submitted under sub-paragraph (1) must be in accordance with the outline code of construction practice.

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

### **Landscaping scheme**

6.—(1) No part of the authorised development is to commence until a written landscaping scheme for the authorised development has been submitted to and, following consultation with Great Yarmouth Borough Council, approved in writing by the county planning authority.

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

- (a) location, 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) any ecological mitigation areas;
- (f) details of any existing trees, hedges and shrubs to be retained;
- (g) implementation timetables for all landscaping works; and
- (h) details of the maintenance regime for the landscaping scheme, which must provide for maintenance for a period of 15 years commencing with that date of completion of the landscaping works.

(3) All landscaping works must be carried out and maintained in accordance with the landscaping scheme approved under sub-paragraph (1).

### **Existing trees and hedgerows**

7.—(1) All hedges and trees forming part of the boundary of the Order land or situated within it and which are shown to be retained in the landscaping scheme approved under paragraph 6 must be protected from any damage during the construction of the authorised development in accordance with British Standard BS5837 (2012) ‘Trees in relation to design, demolition and construction’.

(2) If any hedge or tree protected under sub-paragraph (1) is removed, uprooted, destroyed or damaged during the construction of the authorised development it must be replaced in the first available planting season and afterwards maintained for a period of 5 years.

(3) No felling, lopping or removal of hedges or trees (“the relevant activity”) is to take place during the bird nesting season unless a written report concerning the relevant activity by a suitably qualified ecologist has been provided to and approved by the county planning authority. The recommendations of the ecologist as set out in the report must be complied with in carrying out the relevant activity.

### **Contamination**

8.—(1) In the event that contaminated materials are found at any time when carrying out the authorised development which have not been identified and addressed in a code of construction practice—

- (a) work in the location affected by such contamination must immediately stop;
- (b) the contamination must be notified in writing to the county planning authority and the Environment Agency; and
- (c) the undertaker must complete a risk assessment of the contamination.

(2) Following a notification under sub-paragraph (1), where the county planning authority determines that remediation is necessary, a written scheme and programme for the remedial measures necessary to render the land fit for its intended purpose (including a timetable), must be submitted to and, following consultation with Great Yarmouth Borough Council and the Environment Agency, approved in writing by the county planning authority and afterwards carried out.

### **Emergency Preparedness and Response Plan**

9.—(1) No part of the authorised development is to be opened to the public until an emergency preparedness and response plan has been submitted to and, following consultation with Great Yarmouth Borough Council, the lead local flood authority and the Environment Agency, approved in writing by the county planning authority.

(2) The submitted emergency preparedness and response plan must include provision as to the actions and measures to be taken in relation to the authorised development to prepare for and respond to the following emergencies—

- (a) a flood event;
- (b) a fire event; and
- (c) an incident involving terrorism or other substantial threat to security.

(3) The approved plan must be implemented in full.

### **Surface water drainage**

**10.**—(1) No part of the authorised development which comprises any part of a surface water drainage system is to commence until written details of that surface water drainage system have been submitted to and, following consultation with Great Yarmouth Borough Council, the lead local flood authority and the IDB, 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 and include a timetable for implementation.

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

### **Lighting**

**11.**—(1) No numbered work comprised in the authorised development is to commence until a written scheme of the lighting to be provided for that work on opening for public use (except lighting to be provided to interior of a building) has been submitted to and, following consultation with Great Yarmouth Borough Council, approved in writing by the county planning authority.

(2) The written scheme of proposed lighting submitted for approval by the county planning authority under sub-paragraph (1) must be in accordance with the lighting report and include a timetable for implementation.

(3) The numbered work in question must be carried out in accordance with the scheme approved under sub-paragraph (1) and the approved lighting must be permanently maintained thereafter.

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

### **Completion and availability of particular works**

**12.**—(1) Public use of the highway comprised in the new bridge and the new bridge western approach must not commence until the works specified in sub-paragraph (2) have been completed in compliance with the Order and made available for use.

(2) The works are—

- (a) the vessel waiting facilities;
- (b) Work No. 11; and
- (c) Work No. 12.

### **Archaeology**

**13.**—(1) The authorised development must be carried out in accordance with the archaeological written scheme of investigation, including the provisions of any method statement or other document required to be prepared under the terms of the archaeological written scheme of investigation.

(2) Any archaeological remains not identified in the archaeological written scheme of investigation which are revealed when carrying out the authorised development work (“the revealed remains”) must be retained in situ (subject to sub-paragraph (3)) and reported to the county planning authority within 3 working days.

(3) No construction operations are to take place within 10 metres of the revealed remains for a period of 14 days from the date of such notification unless otherwise agreed in writing by the county planning authority.

(4) If the county planning authority confirm to the undertaker during the 14 day period referred to in sub-paragraph (3) that the revealed remains require further investigation, then no construction operations are to take place within 10 metres of the revealed remains until the revealed remains have been investigated and recorded in accordance with a scheme submitted to and approved in writing by the county planning authority.

#### **Preliminary navigation risk assessment**

**14.**—(1) The new bridge must be designed, constructed and operated in accordance with section 7 (Additional Mitigation Measures) of the preliminary navigation risk assessment.

#### **Signs at vessel waiting facilities**

**15.**—(1) Signs instructing masters of vessels utilising the vessel waiting facilities to switch off the vessel engine whilst the vessel is moored must be provided to the satisfaction of the county planning authority prior to the first use of the vessel waiting facilities and permanently maintained thereafter.

#### **Amendments to approved details**

**16.**—(1) Subject to sub-paragraph (2), where any details, plans or schemes have been approved by the county planning authority under the provisions of any requirement, the county planning authority may at any time if it thinks fit approve amendments to the approved details, plans or schemes and following any further approval by the county planning authority the approved details, plans or schemes include the amendments approved under this requirement.

(2) In considering any amendment to any details, plans or schemes the county planning authority must consult those persons it would have been required to consult before granting approval initially in relation to the details, plans, or schemes.

## PART 2

### PROCEDURE FOR DISCHARGE OF REQUIREMENTS

#### **Interpretation**

**17.**—(1) In this Part of this Schedule—

“the appeal parties” means the discharging authority, the undertaker and any requirement consultees;

“application” means an application to a discharging authority for a specified consent;

“discharging authority” means the body responsible for determining an application for a specified consent;

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(a);

“requirement consultee” means any person named in a requirement which is the subject of an appeal as a person to be consulted by the discharging authority in discharging that requirement; and

“specified consent” means any consent, agreement or approval—

(a) required by—

(i) any provision of Part 1 of this Schedule; or

(ii) any document referred to in such provision; or

(b) authorised by paragraph 16,

and includes a consent, agreement or approval discharging a requirement in part only.

#### **Applications made under requirements**

**18.**—(1) Where an application has been made to the relevant discharging authority, the discharging authority must give notice to the undertaker of the discharging authority’s decision on the application within—

(a) a period of 6 weeks beginning with—

(i) the day immediately following that on which the application is received by the discharging authority; or

(ii) where, further information has been requested by the discharging authority under paragraph 19, the day immediately following—

(aa) the day the further information was supplied; or

(bb) where an appeal has been made by the undertaker under sub-paragraph 20(1)(d) or (e) and the appeal is allowed, the day on which the appeal was determined by the Secretary of State; or

(cc) where an appeal has been made by the undertaker under sub-paragraph 20(1)(d) or (e) and the appeal is dismissed, the day on which the relevant further or additional information is supplied; or

(b) such longer period as the discharging authority and the undertaker may agree in writing.

(2) Subject to sub-paragraph (3), in determining an application for a specified consent, the discharging may—

(a) grant the specified consent, either unconditionally or subject to reasonable conditions; or

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(a) 1971 c. 80.



(b) refuse the specified consent,

and where the specified consent, agreement or approval is refused or granted subject to conditions, the discharging authority must provide reasons for the refusal or (as the case may be) conditions in the notice of its decision with the notice of the decision.

(3) In the event that the discharging authority does not give notice of its decision within the period set out in sub-paragraph (1), the discharging authority is taken to have granted the specified consent sought by the application without any condition or qualification at the end of that period.

### **Further information relating to application**

**19.**—(1) A discharging authority in receipt of an application for a specified consent may request the undertaker to provide such further information as is reasonably necessary to enable the discharging authority to consider the application.

(2) A request to provide further information under sub-paragraph (1) must be made within 21 days of receipt of the application by the discharging authority.

(3) A discharging authority may request further information under sub-paragraph (1) on more than one occasion provided that all such requirements are made within the period specified by sub-paragraph (2).

(4) If the discharging authority does not request the undertaker to provide further information in accordance with sub-paragraphs (1) to (3), the discharging authority is thereafter deemed to have sufficient information. The undertaker is under no obligation to provide further information to the discharging authority but may do so if the discharging authority so requests.

### **Appeals**

**20.**—(1) Where the undertaker has made an application for a specified consent to the discharging authority, the undertaker may in writing appeal to the Secretary of State in the event that the discharging authority—

- (a) refuses the application;
- (b) grants the specified consent subject to conditions;
- (c) has not given notice to the undertaker of the discharging authority's decision on the expiry of the applicable period specified by sub-paragraph 18(1);
- (d) requests the undertaker to provide further information in accordance with paragraph 19(1) and the undertaker considers that provision of any of the required information is not necessary to determination of the application;
- (e) has—
  - (i) received further information from the undertaker in response to a request made under sub-paragraph 19(1);
  - (ii) notified the undertaker that information provided is inadequate; and
  - (iii) requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) An appeal made under sub-paragraph(1)(a), (b), (d) or (e), must be made within 42 days of the date of the notice of the relevant decision or (as the case may be) request.

(3) An appeal made under sub-paragraph (1)(c) must be made within 42 days of the expiry of the applicable period specified by sub-paragraph 18(1).

(4) The appeal process is as follows:

- (a) 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 the requirement consultees;
- (b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and must notify

the appeal parties of the identity of the appointed person and the address to which all correspondence for that person's attention should be sent;

- (c) the discharging authority and the requirement consultees must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under sub-paragraph (b) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties shall make any counter-submissions to the appointed person within 20 business days of receipt of written representations under sub-paragraph (c);
- (e) The appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(5) The appointment of the person under sub-paragraph (4)(b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(6) If the appointed person considers that further information is necessary to enable consideration of the appeal, the appointed person 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.

(7) Any further information required under sub-paragraph (6) is to be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 business days of that date.

(8) The appointed person may at any time extend any deadline specified in this Part of this Schedule.

(9) On an appeal under this paragraph, the appointed person 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 appeal as if the relevant application had been made to the appointed person in the first instance.

(10) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed by this Part of this Schedule, or as extended by the appointed person under sub-paragraph (8).

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

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

(13) If an approval is given by the appointed person under this Schedule, it is deemed to be an approval for the purpose of Part 1 of this Schedule as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(14) Except where a direction is given under sub-paragraph (15) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person are to be met by the undertaker.

(15) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it

is to be made, the appointed person must have regard to any relevant provision of the Planning Practice Guidance as from time to time published by the Ministry of Housing, Communities and Local Government or any circular or guidance which may from time to time replace it.

## PART 3

### SUPPLEMENTARY PROVISIONS

#### **Publication of requirements**

**21.**—(1) The undertaker, must, as soon as reasonably practicable following the making of this Order, establish on a website maintained by the undertaker a register of those requirements contained in Part 1 of this Schedule that include provision for a specified consent.

(2) The register must set out in relation to each such requirement—

(a) whether an application for any specified consent has been made; and

(b) whether the specified consent has been granted or refused.

(3) Where a specified consent has been granted, the register must provide a copy of it.

(4) The register must be maintained by the undertaker for a period of least 3 years following the opening of the authorised development to public use.

#### **Service of documents**

**22.**—(1) Any document required or authorised to be sent to any person under the provisions of this Schedule is to be taken to be a document required or authorised to be served on that person for the purposes of article 65 (service of notices) of the Order.

#### **Anticipatory steps relevant to specified consent**

**23.**—(1) In the discharge of its functions under this Schedule, a discharging authority may treat and take account of any pre-commencement action as if it had occurred after the coming into force of this Order.

(2) in this paragraph “pre-commencement action” means any act of the undertaker or any other person which—

(a) is of relevance to the seeking or obtaining of a specified consent; and

(b) occurred before the coming into force of this Order.

### SCHEDULE 3

Article 9(1)

## STREETS SUBJECT TO PERMANENT LAYOUT AND OTHER ALTERATIONS

The lengths of street subject to layout and other alterations in column 2 of this Schedule are shown by blue cross-hatching on the street plans and given a reference (“Ref”) number, preceded by “C” commencing with “1”

<i>(1)</i> <i>Street Plans Sheet Number and Area</i>	<i>(2)</i> <i>Street subject to alteration</i>	<i>(3)</i> <i>Description of alteration</i>
Sheet 1 In the Borough of Great Yarmouth  In the County of Norfolk	Ref C1 U61067 Queen Anne’s Road	Realigning, signage and improvement works to 70 metres of U61067 Queen Anne’s Road to provide and facilitate an arm on and off the new roundabout
	Ref C2 C618 Suffolk Road	Realigning, signage and improvement works to 220 metres of C618 Suffolk Road to provide and facilitate an exit arm off the new roundabout
	Ref C3 C631 William Adams Way	Realigning, signage and improvement works to 205 metres of C631 William Adams Way to provide and facilitate a dual carriageway arm off the new roundabout at its junction with the existing C618 Suffolk Road
	Ref C4 U61067 Queen Anne’s Road	Creation of a revised junction between U61067 Queen Anne’s Road and C630 Southtown Road, together with signage and improvement works to 121 metres of the existing U61067 Queen Anne’s Road
	Ref C5 U61057 Cromwell Road	Signage and improvement works, including provision of parking bays, to 80 metres of the U61057 Cromwell Road
	Ref C6 C630 Southtown Road	Signage and improvement works to 481 metres of the existing C630 Southtown Road
Sheet 2  In the Borough of Great Yarmouth  In the County of Norfolk	Ref C7 U60769 Fish Wharf	Realigning, signage and improvement works to 114 metres of the existing U60769 Fish Wharf
	Ref C8 A1243 Southgates Road	Widening, signage and improvement works to 232 metres of the existing A1243

		Southgates Road to provide 3 southbound lanes and 1 north bound lane
	Ref C9 A1243 South Denes Road	Widening, signage and improvement works to 318 metres of the existing A1243 South Denes Road to provide 3 southbound lanes and 1 north bound lane and tying into a new signalised junction with the new bridge eastern approach over the river Yare
	Ref C10 U60795 Sutton Road	Signage and improvement works of 115 metres to the existing U60795 Sutton Road to reflect the change in the direction of operation of the one-way system in that road
	Ref C11 U60769 Fish Wharf	Signage and improvement works to 70 metres of the existing U60769 Fish Wharf
	Ref C12 U60782 Middle Road West	Signage and improvement works to 166 metres of the existing U60782 Middle Road West to reflect the change in direction of operation of the one-way systems on U60795 Sutton Road and U60796 Swanston's Road
	Ref C13 U60781 Middle Road East	Signage and improvement works to 166 metres of the existing U60781 Middle Road East to reflect the change in direction of operation of the one-way systems on U60795 Sutton Road and U60796 Swanston's Road
	Ref C14 C609 Admiralty Road	Signage and improvement works to 229 metres of the existing C609 Admiralty Road to reflect the change in direction of operation of the one-way systems on U60795 Sutton Road and U60796 Swanston's Road
	Ref C15 U60796 Swanston's Road	Signage and improvement works to 116 metres of the existing U60796 Swanston's Road to change the direction of operation of the one-way system

## SCHEDULE 4

Article 14(1)

### PERMANENT STOPPING UP OF STREETS AND PRIVATE MEANS OF ACCESS

In relating this Schedule to the corresponding street plans, the provisions described in this Schedule are shown on the street plans in the following manner—

- (a) streets to be stopped up, described in column (2) of Part 1 and Part 2 of this Schedule, are shown by thick black hatching, over the extent of stopping up described in column (3) of each of those Parts and are given a reference (“Ref”) number, preceded by ‘A’, commencing with ‘1’;
- (b) new streets to be substituted for a street to be stopped up, or which are otherwise to be provided, as described in column (4) of Part 1 of this Schedule, are shown by red stipple and given a reference (“Ref”) number, preceded by ‘D’, commencing with ‘1’;
- (c) private means of access to be stopped up, described in column (2) of Parts 3 and 4 of this Schedule, are shown by grey shading over the extent of stopping up described in column (3) of each of those Parts, and are given a reference (“Ref”) number, preceded by ‘B’, commencing with ‘1’; and
- (d) new private means of access to be substituted for a private means of access to be stopped up, or which are otherwise to be provided, as described in column (4) of Part 3 of this Schedule, are shown by thin diagonal black hatching and are given a reference (“Ref”) number commencing with ‘1’.

## PART 1

### STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND OTHER NEW STREETS TO BE PROVIDED

<i>(1)</i> Street plans sheet number	<i>(2)</i> Street within the Borough of Great Yarmouth to be stopped up	<i>(3)</i> Extent of stopping up	<i>(4)</i> New street within the Borough of Great Yarmouth to be substituted, and other new streets to be provided
Sheet 1	Ref A1 C631 William Adams Way	To be stopped up over a distance of 186 metres eastwards from its junction with the existing A47 Harfrey's roundabout	Ref D1 The new highways
Sheet 1	Ref A2 U61067 Queen Anne's Road	To be stopped up over a distance of 20 metres westwards from its existing junction with C618 Suffolk Road	Ref D1 The new highways
Sheet 1	Ref A3 C618 Suffolk Road	To be stopped up over a distance of 61 metres northwards from its existing junction with C631 William Adams Way	Ref D1 The new highways
Sheet 1	Ref A4 U61067 Queen Anne's Road	To be stopped up over a distance of 53 metres eastwards from its existing junction with C618 Suffolk Road	Ref D1 The new highways
Sheet 1	-	-	Ref D2 Provision of a new turning head on U61067 Queen Anne's Road at a distance 105 metres westwards from the junction of U61067 Queen Anne's Road and C630 Southtown Road
Sheet 1	-	-	Ref D3 Provision of turning facilities and parking on land at Cromwell Court situated at the



			western end of the existing U61057 Cromwell Road
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PART 2

STREET TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Street plans sheet number</i>	<i>(2)</i> <i>Street within the Borough of Great Yarmouth to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
Sheet 2	Ref A5 U60769 Fish Wharf	To be stopped up over a distance of 145 metres in a westward and then southward direction from its existing junction with the existing A1243 South Denes Road

### PART 3

#### PRIVATE MEANS OF ACCESS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND OTHER NEW PRIVATE MEANS OF ACCESS TO BE PROVIDED

<i>(1)</i> Street plans sheet number	<i>(2)</i> Private means of access within the Borough of Great Yarmouth to be stopped up	<i>(3)</i> Extent of stopping up	<i>(4)</i> Private means of access within the Borough of Great Yarmouth to be substituted, and other new private means of access to be provided
Sheet 1	-	-	Ref 1 New private means of access from U61054 Boundary Road, commencing 153 metres west from its existing junction with C618 Suffolk Road, to facilitate access for maintenance of existing drainage infrastructure
Sheet 1	-	-	Ref 2 A new private means of access from U61067 Queen Anne's Road, commencing 42 metres west from its existing junction with C618 Suffolk Road, to facilitate access for maintenance of existing drainage infrastructure
Sheet 1	-	-	Ref 3 A new private means of access from C618 Suffolk Road, commencing 142 metres north from its junction with U61052 Alpha Road, for a distance of 93 metres, to facilitate access for maintenance
Sheet 1	-	-	Ref 4 A new private means

			of access from U61067 Queen Anne's Road, commencing 42 metres west from its junction with C630 Southtown Road, for a distance of 47 metres, to facilitate access for maintenance
Sheet 1	-	-	Ref 5 A new private means of access from the new turning head at U61067 Queen Anne's Road (Reference D2) to serve the new allotments
Sheet 1	-	-	Ref 6 A new private means of access from U61057 Cromwell Road to serve the new electricity substation, commencing 6 metres west from its junction with the existing C630 Southtown Road
Sheet 1	-	-	Ref 7 A new private means of access forming an exit ramp from Bollard Quay to the existing C630 Southtown Road, opposite its junction with U61074 Waveney Road, for a distance of 29 metres
Sheet 2	-	-	Ref 8 New private means of access via the new underpass to facilitate access to land to the north and south of the new bridge eastern approach, for a distance of 33 metres
Sheet 2	-	-	Ref 9 New private means of access from U60769 Fish Wharf, 115 metres from its junction with the existing A1243 South

			Denes Road, to facilitate access for maintenance of the new bridge and the new bridge eastern approach
Sheet 2	-	-	Ref 10 A new private means of access to serve the new electricity substation off U60769 Fish Wharf, commencing 30 metres west from its junction with the existing A1243 South Denes Road
Sheet 2	-	-	Ref 11 New private means of access from A1243 South Denes Road to facilitate access for maintenance of the new bridge and new bridge eastern approach
Sheet 2	Ref B29 Access to the Neptune Warehouse, South Denes Road	A length from its junction with the existing A1243 South Denes Road, to its junction with U60769 Fish Wharf including the south western loop element	Ref 12 New one-way private means of access from U60769 Fish Wharf for a distance of 136 metres northwards, then eastwards, to provide a left turn exit onto A1243 South Denes Road
Sheet 2	Ref B31 Access to the Atlas Terminal, South Denes Road	A length from its junction with the existing A1243 South Denes Road, for a distance of 12 metres	Ref 13 New private means of access from the improved A1243 South Denes Road for a distance of 9 metres westwards to serve the Atlas Terminal
Sheet 2	Ref B32 Access to the Atlas Terminal (Scroby Sands Offshore Wind Farm, Operations and Maintenance Facility), Southgates Road	A length from its junction with the existing A1243 Southgates Road for a distance of 10 metres	Ref 14 New private means of access from the improved A1243 Southgates Road for a distance of 7 metres westwards to serve the Atlas Terminal (Scroby Sands Offshore Wind Farm, Operations and Maintenance Facility)

## PART 4

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

<i>(1)</i> <i>Street plans sheet number</i>	<i>(2)</i> <i>Private means of access within the Borough of Great Yarmouth to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
Sheet 1	Ref B1 Access to Units 1 - 13, Suffolk Road Enterprise Park, 50 metres north of its junction with the existing U61067 Queen Anne's Road	A length from its junction with the existing C618 Suffolk Road, for a distance of 10 metres
Sheet 1	Ref B2 Access to Great Yarmouth & Gorleston Allotment Association allotments off U61067 Queen Anne's Road, at the junction with the existing C618 Suffolk Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 1 metre
Sheet 1	Ref B3 Access to the Great Yarmouth and Waveney Mind site off U61067 Queen Anne's Road, at the junction with the existing C618 Suffolk Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 2 metres
Sheet 1	Ref B4 Access to Great Yarmouth & Gorleston Allotment Association allotments off U61067 Queen Anne's Road, 25 metres east of that road's existing junction with C618 Suffolk Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 2 metres
Sheet 1	Ref B5 Access to No. 22 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B6 Access to No. 22 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B7 Access to No. 21 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B8 Access to No. 20 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres

Sheet 1	Ref B9 Access to No. 19 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B10 Access to No. 18 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B11 Access to No. 17 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B12 Access to No. 17 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B13 Access to No. 16 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B14 Access to No. 15 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B15 Access to No. 14 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B16 Access to No. 13 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B17 Access to No. 13 Queen Anne's Road	A length from its junction with the existing U61067 Queen Anne's Road, for a distance of 3 metres
Sheet 1	Ref B18 Access to No. 11 Cromwell Road	A length from its junction with the existing U61057 Cromwell Road, for a distance of 11 metres
Sheet 1	Ref B19 Access to No. 148 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 3 metres
Sheet 1	Ref B20 Access to No. 149 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 3 metres
Sheet 1	Ref B21 Access to No. 150 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 3 metres
Sheet 1	Ref B22 Access to No. 151 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 4 metres

Sheet 1	Ref B23 Access to No. 152 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 4 metres
Sheet 1	Ref B24 Access to No. 153 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 4 metres
Sheet 1	Ref B25 Access to No. 154 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 4 metres
Sheet 1	Ref B26 Access to No. 155 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 4 metres
Sheet 1	Ref B27 Access to No. 156 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 4 metres
Sheet 1	Ref B28 Access to No. 156 Southtown Road	A length from its junction with the existing C630 Southtown Road, for a distance of 4 metres
Sheet 2	Ref B30 Access to South Denes Car Sales, opposite the junction of A1243 South Denes Road and U60795 Sutton Road	A length from its junction with the existing A1243 South Denes Road, for a distance of 10 metres

## SCHEDULE 5

Article 18(1)

### TRAFFIC REGULATION MEASURES

#### PART 1

#### PROHIBITIONS AND RESTRICTIONS OF WAITING, LOADING, ETC.

<i>(1)</i> <i>Traffic regulation measures plans sheet number and reference number</i>	<i>(2)</i> <i>Number, name and side of road within the Borough of Great Yarmouth and affected length</i>	<i>(3)</i> <i>Measure</i>
Sheet 1 Reference 01	C631 William Adams Way north side (east bound)  From its junction with the A47 Harfrey's roundabout, to its junction with the new roundabout	All motor vehicles: no waiting at any time
Sheet 1 Reference 02	C631 William Adams Way south side (west bound)  From its junction with the new roundabout, to its junction with the A47 Harfrey's roundabout	All motor vehicles: no waiting at any time
Sheet 1 Reference 03	U61067 Queens Anne's Road both sides  From its junction with the new roundabout to a point 65 metres north west of that junction	All motor vehicles: no waiting at any time
Sheet 1 Reference 04	C618 Suffolk Road both sides  From its junction with the new roundabout northwards for a distance of 44 metres	All motor vehicles: no waiting at any time
Sheet 1 Reference 05	C631 William Adams Way north east side (south east bound)  From its junction with the new roundabout to its junction with the C630 Southtown Road	All motor vehicles: no waiting at any time
Sheet 1 Reference 06	C631 William Adams Way south west side (north west bound)  From its junction with C630	All motor vehicles: no waiting at any time



	Southtown Road to its junction with the new roundabout	
Sheet 1 Reference 07	U61067 Queen Anne's Road south side  From a point 96 metres northwest from its junction with C630 Southtown Road in a north westerly direction for a distance of 20 metres	All motor vehicles: no waiting at any time
Sheet 1 Reference 08	U61067 Queen Anne's Road north side  From a point 96 metres north west from its junction with C630 Southtown Road in a north westerly direction for a distance of 20 metres including the turning head	All motor vehicles: no waiting at any time
Sheet 1 Reference 09	U61067 Queens Anne's Road north side  From its junction with C630 Southtown Road westwards for a distance of 40 metres	All motor vehicles: no waiting at any time
Sheet 2 Reference 10	A1243 Southgates Road east side  From a point 21 metres north of the mid-point of its junction with the U60757 Barrack Road northwards for a distance of 50 metres	All motor vehicles: no waiting at any time
Sheet 2 Reference 11	A1243 South Denes Road east side  From a point 10 metres north of the mid-point of its junction with the U60796 Swanston's Road northwards to a point 15 metres south of the mid-point of its junction with U60795 Sutton Road	All motor vehicles: no waiting at any time
Sheet 2 Reference 12	A1243 Southgates Road east side  From a point 16 metres north of the mid-point of its junction with the U60795 Sutton Road to a point 72 metres south of the mid-point of its junction with the U60757 Barrack Road	All motor vehicles: no waiting at any time
Sheet 2 Reference 13	A1243 Southgates Road east side	Limited waiting Monday to Saturday between 8am and 6pm. 1 hour maximum waiting

	From a point 71 metres north of the mid-point of its junction with the U60757 Barrack Road northwards for a distance of 27 metres	period, no return within 2 hours
Sheet 2 Reference 14	U60795 Sutton Road north side  From a point 10 metres east of its junction with the A1243 South Denes Road, to a point 48 metres east of that junction	All motor vehicles: no waiting at any time
Sheet 2 Reference 15	U60795 Sutton Road south side  From a point 15 metres east of the mid-point of its junction with Middle Road East to a point 20 metres east of that junction	All motor vehicles: no waiting at any time
Sheet 2 Reference 17	U60795 Sutton Road south side  From a point 4 metres west of the mid-point of its junction with U60781 Middle Road East, to a point 8 metres west of that junction	All motor vehicles: no waiting at any time
Sheet 2 Reference 18	U60795 Sutton Road south side  From a point 4 metres east of the mid-point of its junction with U60781 Middle Road East, to a point 7 metres east of that junction	All motor vehicles: no waiting at any time
Sheet 1 and Sheet 2 Reference 19	The New Road north side (east bound)  Entire length	All vehicles; no waiting, loading or unloading at any time
Sheet 1 and Sheet 2 Reference 20	The New Road south side (west bound)  Entire length	All vehicles: no waiting, loading or unloading at any time
Sheet 1 and Sheet 2 Reference 26	C630 Southtown Road west side  From a point 7 metres south of the junction with the U61057 Cromwell Road, to a point 77 metres south of the junction with U61057 Cromwell Road	All motor vehicles: no waiting at any time
Sheet 1 and Sheet 2 Reference 29	U61060 Cromwell Road south side	Road parking place: no restriction on times or duration of parking

	From a point 30 metres west of its junction with C630 Southtown Road westwards for its remaining length	
Sheet 2 Reference 30	U60795 Sutton Road north side  From its junction with C609 Admiralty Road to a point 69 metres west of that junction	Road parking place: no restriction on times or duration of parking
Sheet 2 Reference 31	U60795 Sutton Road south side  From its junction with C609 Admiralty Road to a point 20 metres west of that junction	Road parking place: no restriction on times or duration of parking
Sheet 2 Reference 32	U60795 Sutton Road south side  From a point 12 metres east of the mid-point of its junction with U60782 Middle Road West to a point 7 metres west of the mid-point of its junction with U60781 Middle Road East	Road parking place: no restriction on times or duration of parking
Sheet 2 Reference 33	U60795 Sutton Road south side  From a point 7 metres east of its junction with U60781 Middle Road East to a point 15 metres east of that junction	Road parking place: no restriction on times or duration of parking
Sheet 2 Reference 35	U60782 Middle Road West east side  From its junction with the U60795 Sutton Road southwards for a distance of 7 metres	All motor vehicles: no waiting at any time

## PART 2

### DIRECTION OF TRAVEL, ENTRY, ETC.

<i>(1)</i> <i>Traffic regulation measures plans sheet number and reference number</i>	<i>(2)</i> <i>Number, name and side of road within the Borough of Great Yarmouth and affected length</i>	<i>(3)</i> <i>Measure</i>
Sheet 1 and Sheet 2 Reference 21	The New Road south side (west bound)  From a point 120 metres west of its junction with A1243 South Denes Road for a distance of 135 metres in a westerly direction	All vehicles, pedestrians and persons driving, riding or leading a horse or other animal of draught or burden: prohibition of entry when indicated by signs and barriers or by direction of an authorised person
Sheet 1 and Sheet 2 Reference 34	The New Road north side (east bound)  From a point 155 metres east of its junction with the new roundabout for a distance of 135 metres in an easterly direction	All vehicles, pedestrians and persons driving, riding or leading a horse or other animal of draught or burden: prohibition of entry when indicated by signs and barriers or by direction of an authorised person
Sheet 1 Reference 37	C618 Suffolk Road both sides  From its junction with the new roundabout to its junction with U61054 Boundary Road	All vehicles: one way from south to north

## PART 3

### VARIATION AND REVOCATION OF EXISTING ORDERS

<i>(1) Traffic regulation measures plans sheet number and reference number</i>	<i>(2) Number, name and side of road within the Borough of Great Yarmouth and affected length</i>	<i>(3) Title of Order</i>	<i>(4) Variation or revocation</i>
Sheet 1 and Sheet 2 Reference 16	U61067 Queen Anne's Road both sides  From its present junction with the C618 Suffolk Road eastwards for a distance of 15 metres	The Norfolk County Council (Great Yarmouth (Southtown), Various Roads) (Prohibition of Waiting) Consolidation and Variation Order 2011	Revocation of prohibition of waiting
Sheet 1 and Sheet 2 Reference 22	U61067 Queen Anne's Road both sides  At its junction with C630 Southtown Road	The Norfolk County Council (Various Roads, Great Yarmouth) (Prohibition of Driving) Order 1985	Revocation of prohibition of driving
Sheet 2 Reference 23	U60795 Sutton Road both sides  Entire length	The Norfolk Country Council (Great Yarmouth and Gorleston, Various Roads) (One-Way) Consolidation Order 2015	Variation: reversal of current required direction of travel
Sheet 2 Reference 24	U60796 Swanston's Road both sides  Entire length	The Norfolk Country Council (Great Yarmouth and Gorleston, Various Roads) (One-Way) Consolidation Order 2015	Variation: reversal of current required direction of travel
Sheet 1 Reference 25	C618 Suffolk Road both sides  From its present junction with William Adams Way northwards to its junction with U61054 Boundary Road	The Norfolk County Council (Great Yarmouth and Gorleston, Various Roads) (One-Way) Consolidation Order 2015	Revocation of south to north one way requirement
Sheet 2 Reference 27	U60795 Sutton Road both sides  From a point 17 metres west of the mid-point of its	The Norfolk County Council (Great Yarmouth, (South Denes) Various Roads) (Prohibition of Waiting)	Revocation of prohibition of waiting

	junction with the U60781 Middle Road East eastwards for a distance of 34 metres	Consolidation and Variation Order 2011	
Sheet 2 Reference 28	U60795 Sutton Road both sides  From its junction with the C609 Admiralty Road westwards for a distance of 4 metres	The Norfolk County Council (Great Yarmouth, (South Denes), Various Roads) (Prohibition of Waiting) Consolidation and Variation Order 2011	Revocation of prohibition of waiting
Sheet 1 and Sheet 2 Reference 36	U61057 Cromwell Road south side  From a point 30 metres west of its junction with the C630 Southtown Road westwards for its remaining length	The Norfolk County Council (Great Yarmouth (Southtown), Various Roads) (Prohibition of Waiting) Consolidation and Variation Order 2011	Revocation of prohibition of waiting

SCHEDULE 6

Article 28(2)

LAND IN WHICH ONLY NEW RIGHTS MAY BE ACQUIRED

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot reference number(s) shown on the land plans</i>	<i>(3)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
<b>The land plans – sheet 1</b>			
In the Borough of Great Yarmouth  In the County of Norfolk	1-02, 1-03, 1-04, 1-05, 1-06, 1-07, 1-08, 1-09	Acquisition of new rights (including the imposition of restrictive covenants) for the purpose of carrying out works to existing drainage infrastructure	Work No. 3
<b>The land plans – sheet 2</b>			
In the Borough of Great Yarmouth  In the County of Norfolk	2-06, 2-08, 2-11, 2-12, 2-14, 2-15	Acquisition of new rights (including the imposition of restrictive covenants) for the purpose of constructing, protecting, accessing and maintaining the improved William Adams Way	Work No. 4
<b>The land plans – sheet 3</b>			
In the Borough of Great Yarmouth  In the County of Norfolk	3-04	Acquisition of new rights (including the imposition of restrictive covenants) for the purpose of constructing, protecting, accessing and maintaining the authorised development	Work No. 6A
<b>The land plans – sheet 4</b>			
In the Borough of Great Yarmouth  In the County of Norfolk	4-06, 4-09, 4-23	Acquisition of new rights (including the imposition of restrictive covenants) for the purpose of constructing, protecting, accessing and maintaining the authorised development	Work Nos. 6A, 6B, 7A, 7B and 8B
<b>The land plans – sheet 5</b>			
None	-	-	-

<b>The land plans – sheet 6</b>			
None	-	-	-
<b>The land plans – sheet 7</b>			
None	-	-	-
<b>The land plans – sheet 8</b>			
None	-	-	-
<b>The land plans – sheet 9</b>			
None	-	-	-



## MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

### *Compensation enactment*

**1.** The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

**2.—**(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 7 to the Great Yarmouth Third River Crossing Development Consent Order 202[ ] (“the 202[ ] Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 7 to the 202[ ] Order) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”.

**3.—**(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

### *Application of Part 1 of the 1965 Act*

**4.** Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 31 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the acquisition of land under article 25 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 28(1) (compulsory acquisition of rights)—

- (a) with the modification specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

**5.—**(1) The modifications referred to in paragraph 4(a) are as follows.

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(a) 1973 c. 26.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11(a) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 25), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(b) (powers of entry: further notices of entry), 11B(c) (counter-notice requiring possession to be taken on specified date, 12(d) (penalty for unauthorised entry) and 13(e) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

(6) Section 20(f) (protection for interests of tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 31(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.

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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) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.
  - (b) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).
  - (c) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016 (c. 22).
  - (d) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).
  - (e) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 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).
  - (f) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 and S.I. the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307).

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

**“SCHEDULE 2A  
COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT  
IN NOTICE TO TREAT**

*Introduction*

**1.**—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a 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 32 (application of the Compulsory Purchase (Vesting Declarations) Act 1981 of the Great Yarmouth Third River Crossing Development Consent Order 202[ ] in respect of the land to which the notice to treat relates.

(2) But see article 33(3) (acquisition of subsoil or airspace etc., only) of the Great Yarmouth Third River Crossing Development Consent Order 202[ ] which excludes the acquisition of subsoil or airspace only from this Schedule.

**2.** 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 acquiring 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 acquiring 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 the 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 the 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 acquiring authority ought to be required to take.

**13.** If the Upper Tribunal determines that the acquiring 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 acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring 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 withdraw 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 33(2)

LAND IN WHICH ONLY AIRSPACE AND NEW RIGHTS MAY BE ACQUIRED

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot Reference</i> <i>Number(s) shown on</i> <i>the land plans</i>	<i>(3)</i> <i>Height above</i> <i>Ordnance Datum (m)</i>	<i>(4)</i> <i>Purpose(s) for which</i> <i>airspace and new</i> <i>rights may acquired</i>
<b>The land plans – sheet 4</b>			
In the Borough of Great Yarmouth  In the County of Norfolk	4-08	5.36 metres	Acquisition of 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 35(1)

LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE  
TAKEN

<i>(1)</i> Location	<i>(2)</i> Plot reference Number(s) shown on the land plans	<i>(3)</i> Purpose for which temporary possession may be taken	<i>(4)</i> Relevant part of the authorised development
<b>The land plans – sheet 1</b>			
In the Borough of Great Yarmouth  In the County of Norfolk	1-01	Temporary possession of land to facilitate the improvement of the existing A47 Great Yarmouth Bypass in connection with the tie-in of the new highway (comprised in Work No.2) to the existing highway network at Harfrey's roundabout	Work Nos. 1 and 2
	1-10	Temporary possession of land adjacent to the new roundabout to provide working space, including a construction compound for the construction of the authorised development	Work Nos. 2 and 3
	1-20	Temporary possession of land to provide working space for the improvement of Suffolk Road, in connection with the provision of the new bridge western approach and associated works	Work Nos. 2 and 8A
<b>The land plans – sheet 2</b>			
In the Borough of Great Yarmouth  In the County of Norfolk	2-01	Temporary possession of land to facilitate the improvement of the existing A47 Great Yarmouth Bypass in connection with the tie-in of the new highway (comprised in Work No.2) to the	Work Nos. 1 and 2

		existing highway network at Harfrey's roundabout	
	2-07	Temporary possession of land to provide mitigation works for the benefit of the MIND Centre and Grounds	Work No. 12
<b>The land plans – sheet 3</b>			
In the Borough of Great Yarmouth  In the County of Norfolk	3-01	Temporary possession of land to provide working space for the improvement of Southtown Road in connection with the provision of the new bridge western approach, including the provision of new public realm on Bollard Quay	Work Nos. 5, 6, 7 and 8
	3-05	Temporary possession of land including riverbed to provide working space for the construction of the new bridge and associated works	Work Nos. 5, 6, 7 and 8
	3-06, 3-07, 3-08, 3-09	Temporary possession of land within the Atlas Terminal to provide working space, including a construction compound for the construction of authorised development	Work Nos. 6, 7, 8 and 9
	3-13, 3-16, 3-20, 3-21, 3-22	Temporary possession of land to provide working space for the improvement of South Denes Road and Southgates Road in connection with the provision of the new bridge eastern approach and associated works	Work Nos. 8 and 9
<b>The land plans – sheet 4</b>			
In the Borough of Great Yarmouth  In the County of	4-02	Temporary possession of land to provide working space for the improvement of Southtown Road in	Work Nos. 5, 6, 7 and 8

Norfolk		connection with the provision of the new bridge western approach, including the provision of new public realm on Bollard Quay	
	4-07, 4-10, 4-25	Temporary possession of land including riverbed to provide working space for the construction of the new bridge and associated works	Work Nos. 5, 6, 7 and 8
	4-13	Temporary possession of land within the Atlas Terminal to provide working space, including a construction compound for the construction of authorised development	Work Nos. 6B, 8C and 9
	4-21, 4-26, 4-29	Temporary possession of land within the Atlas Terminal to provide working space, including a construction compound, for the construction of the authorised development	Work Nos. 6B, 7B, 8C and 9
	4-27, 4-28	Temporary possession of land within the curtilage of the Neptune Warehouse to provide working space, including a construction compound for the construction of the authorised development	Work Nos. 6B, 7B, 8C and 9
<b>The land plans – sheet 5</b>			
None	-	-	-
<b>The land plans – sheet 6</b>			
None	-	-	-
<b>The land plans – sheet 7</b>			
None	-	-	-
<b>The land plans – sheet 8</b>			
None	-	-	-
<b>The land plans – sheet 9</b>			
None	-	-	-



## SCHEME OF OPERATION

## PART 1

## PRELIMINARY

**Interpretation**

1.—(1) In this Schedule the following expressions have the following meanings—

“the bridge” means the new bridge;

“emergency vessel” means a vessel used to respond to an emergency whether operated by the GYPA, a recognised emergency service or deputised provider;

“excessive wind condition” means greater than 20m/s (10 minute average) wind speed;

“inbound vessel” means any vessel approaching the bridge from the mouth of the river Yare intending to transit the bridge in a northerly direction towards the Haven Bridge;

“opening request” means a request given in respect of a vessel specifying the opening time that it requires the bridge to be open;

“opening request revision” means a request for an amendment to a vessel’s passage plan and to the opening time specified in an opening request;

“opening time” means the time when the vessel requires the bridge to be open as specified in an opening request;

“outbound vessel” means any vessel approaching the bridge from the Haven Bridge intending to transit the bridge in a southerly direction towards the river Yare;

“port” means Great Yarmouth Port;

“recreational vessel” means any vessel used solely for leisure activity and includes any commercially operated hire vessel used or rented for leisure use; and

“specified event” means—

- (i) an emergency (either marine or landside and includes a road traffic accident on or close to the bridge);
- (ii) excessive wind condition or other adverse weather conditions such as affects the safe operation of the bridge;
- (iii) a vessel colliding with the bridge;
- (iv) a power failure, hydraulic failure or mechanical failure; or
- (v) any other circumstance beyond the reasonable control of the undertaker.

(2) Paragraphs 3 to 6 are subject to paragraph 7 in their application to a recreational vessel.

## PART 2

### OPERATIONAL PROVISIONS

#### **Bridge Operations**

- 2.—(1) The following provisions apply to the undertaker.
- (2) The bridge is to be operated 24 hours a day, 365 days a year, opening upon request, subject to and in accordance with the provisions of this Schedule, for all marine traffic transiting the river Yare in the waters of the port.
- (3) With the exception of a specified event, or in the circumstances detailed at sub-paragraph (8) and paragraph 9, the bridge is to be opened in sufficient time to allow the safe and unhindered passage of a vessel through the bridge.
- (4) The undertaker is to ensure the bridge is manned and operated safely, by suitably qualified and experienced personnel at all times, in accordance with the prevailing applicable legislation.
- (5) The undertaker is to provide suitable marine VHF radio equipment to monitor the port operational frequency to monitor and respond to Port Control, Vessels within the port, as well as maintaining an understanding of the flow of traffic and any developing marine emergencies.
- (6) The undertaker is to provide, publicly promote, and constantly monitor, an email address, web portal, telephone number and the VHF equipment detailed in sub-paragraph (5), for the purposes of receiving opening requests and opening request revisions.
- (7) The undertaker is to cause and ensure that the bridge—
- (a) is fully opened and in a safe condition for transit by a vessel by the time given in that vessel's opening request or (as the case may be) revised opening request; and
  - (b) remains open for the duration of the vessel's transit until the vessel is past and clear and it is safe to close.
- (8) In the event of scheduled maintenance of the bridge structure, road surface, machinery or associated equipment, such that the bridge is unable to open upon request, the undertaker is to provide a minimum of 14 days notice, in writing, to GYPA stating the following;
- (a) start date and time of the scheduled maintenance;
  - (b) duration the bridge will be out of operation; and
  - (c) scheduled date and time of the bridge returning to operational state.

#### **Opening Requests**

- 3.—(1) The following provisions of this paragraph apply to the master, owner, agent, pilot or operator of vessels wishing to transit the bridge (and accordingly such persons must comply with any obligation expressed by reference to a vessel).
- (2) Any vessel wishing to transit the bridge must provide an opening request containing the following information no later than 120 minutes (2 hours) prior to the required opening time—
- (a) the name of the vessel requesting passage;
  - (b) the required opening time;
  - (c) the overall length and beam of the vessel requesting passage;
  - (d) the presence of any superstructure, cargo, or structure which overhangs the designed beam of the vessel requesting passage;
  - (e) the air draft of the vessel if this is less than 6 metres; and
  - (f) for a tug and tow, or vessel being escorted by a tug or tugs;
    - (i) the names and number of tugs;

- (ii) the overall length of the tow;
- (iii) the maximum beam of the tow or towed object.

(3) Any vessel must reconfirm the requested opening time with the undertaker no later than 60 minutes (1 hour) prior to the requested opening time.

(4) Opening requests and reconfirmations under sub-paragraph (3) are to be made by the vessel via the means detailed at paragraph 2(6).

(5) The required opening time given in the opening request is to be that time which the vessel intends to commence its transit of the bridge, either inbound or outbound.

(6) The undertaker must—

- (a) acknowledge the opening request, by the same means as it was given, within 10 minutes of receiving the request;
- (b) provide a confirmation of approval or refusal of the requested opening time within 10 minutes of acknowledging the request; and
- (c) where an opening request is refused, provide the following information—
  - (i) a reason for refusing the request; and
  - (ii) except in the case of exceptional circumstances, an alternative time for the vessel to transit the bridge.

(7) Vessels acting as a group and wishing to transit the bridge as a group may request a bridge opening in accordance with paragraph 2 provided that—

- (a) the opening request is made by the group leader;
- (b) all vessels included in the group are listed in the opening request; and
- (c) the number of vessels is such that the anticipated transit time through the bridge from the passage of the first vessel to the passage of the last vessel is no greater than 15 minutes.

### **Opening Request Revisions**

**4.—**(1) The following provisions of this paragraph apply to the master, owner, agent or operator of vessels wishing to transit the bridge (and accordingly such persons must comply with any obligation expressed by reference to a vessel).

(2) Should a vessel require to revise a previously requested opening time, this must be made by way of an opening request revision complying with the following requirements—

- (a) it is made via the means detailed at paragraph 2(6);
- (b) it contains the revised opening time together with the information specified in paragraph 3(2)(a) and (c) to (f);
- (c) it is made no later than 30 minutes prior to the originally requested opening time; and
- (d) where it is made through written communications, the first line of text reads “opening request revision”.

(3) The undertaker must—

- (a) acknowledge the opening request revision by the same means as it was given, within 10 minutes of receiving the request;
- (b) provide a confirmation of approval or refusal of the requested revised opening time within 10 minutes of receipting the request; and
- (c) where an opening revision request is refused, provide the following information—
  - (i) a reason for refusing the request; and
  - (ii) except in the case of exceptional circumstances, an alternative time for the vessel to transit the bridge.

### **Vessels inbound**

5.—(1) The following provisions of this paragraph apply to the master, owner, agent or operator of inbound vessels wishing to transit the bridge (and accordingly such persons must comply with any obligation expressed by reference to a vessel).

(2) Vessels are to request a bridge opening in accordance with paragraph 3.

(3) Vessels entering the port are to conduct a marine VHF call with the undertaker on the port's operational marine VHF channel immediately prior to entering the piers at the mouth of the river Yare, reconfirming the requested opening time of transiting the bridge.

(4) Vessels approaching from below the pilot station, situated at Berth 10, are to conduct a further marine VHF call with the undertaker on the port's operational marine VHF channel on passing abeam of the pilot station.

(5) Vessels departing a berth within the river Yare to the south of the bridge and intending to conduct a transit through the bridge are to conduct a marine VHF call with the undertaker on the port's operational marine VHF channel immediately prior letting go all lines.

### **Vessels outbound**

6.—(1) The following provisions of this paragraph apply to the master, owner, agent or operator of outbound vessels wishing to transit the bridge (and accordingly such persons must comply with any obligation expressed by reference to a vessel).

(2) Vessels are to request a bridge opening in accordance with paragraph 3.

(3) Vessels entering the port from Haven Bridge are to conduct a marine VHF call with the bridge control room on the port's operational marine VHF channel immediately prior to passing the Haven Bridge, reconfirming the intended time of transiting the bridge.

(4) Vessels departing a berth within the river Yare to the north of the bridge and intending to conduct a transit through the bridge are to conduct a marine VHF call with the undertaker on the port's operational marine VHF channel immediately prior letting go all lines.

### **Recreational Vessels**

7.—(1) The following provisions of this paragraph apply to the master, owner, agent or operator of recreational vessels wishing to transit the bridge (and accordingly such persons must comply with any obligation expressed by reference to a recreational vessel).

(2) Recreational vessels are to request a bridge opening in accordance with paragraph 3 and must use reasonable endeavours not to request an opening time between 08:00 and 09:00 and between 16:30 and 17:30.

(3) Recreational vessels must use the vessel waiting facilities or depart the port when required to wait for the next recreational opening.

(4) Where the bridge has been opened for a vessel, other than a recreational vessel, a recreational vessel may transit the bridge with the undertaker's permission, provided that the transit time through the bridge from the passage of the first vessel to the passage of the last vessel is no greater than 15 minutes.

### **Emergency Vessels**

8.—(1) The following provisions of this paragraph apply to the master, owner, agent or operator of emergency vessels responding to an emergency and wishing to transit the bridge (and accordingly such persons must comply with any obligation expressed by reference to an emergency vessel).

(2) The provisions of paragraph 3 do not apply to the emergency vessel.

(3) Where possible the emergency vessel must provide as much notice as possible of its required opening of the bridge.

(4) Emergency vessels entering the port from sea and intending to conduct a transit through the bridge are to conduct a marine VHF call with the undertaker on the port's operational marine VHF channel immediately prior to entering the piers at the mouth of the river Yare.

(5) Emergency vessels departing a berth within the river Yare and intending to conduct a transit through the bridge are to conduct a marine VHF call with the undertaker on the port's operational marine VHF channel immediately prior letting go all lines.

(6) Should an emergency vessel request an immediate bridge opening whilst the bridge is already open to conduct a scheduled bridge opening, the undertaker is to ensure the bridge remains open until the emergency vessel has completed its transit and is past and clear.

### **Exceptions to obligations of undertaker**

9.—(1) In the event of a specified event, such that the bridge is unable to open upon request, the undertaker is to—

- (a) immediately inform the GYPA of the specified event, by the fastest possible means, stating—
  - (i) The nature of the specified event preventing operation of the bridge; and
  - (ii) The possible duration the bridge will be out of operation;
- (b) immediately inform approaching vessels intending to transit the bridge of the specified event and the need to seek a temporary berth or port departure;
- (c) provide regular updates on the specified event to the GYPA, amending the possible duration of the interruption to operations; and
- (d) on successful resolution of the specified event inform the GYPA of such and the resumption of routine operations.

(2) Where opening the bridge would be likely to cause danger to—

- (a) any person or property, including the bridge;
- (b) any vessel;
- (c) any person using or intending to use or work on the bridge or aboard any vessel; or
- (d) the environment,

the undertaker is not obliged to open the bridge at any scheduled time but instead must open the bridge at such later time as is reasonable in the circumstances.

(3) Where the circumstances described in sub-paragraph (2) apply and the bridge is unable to be opened on request, the undertaker is to—

- (a) immediately inform the GYPA, by the fastest possible means, of—
  - (i) the reason preventing operation of the bridge; and
  - (ii) the possible duration the bridge will be out of operation;
- (b) immediately inform approaching vessels intending to transit the bridge of the reasons preventing operation of the bridge and the need to seek a temporary berth or port departure;
- (c) provide regular updates on the closure to GYPA, amending the possible duration of the interruption to operations; and
- (d) on successful resolution to inform the GYPA of such and the resumption of routine operations.

**THE GREAT YARMOUTH THIRD RIVER CROSSING BYELAWS  
202[ ]**

**PART 1  
PRELIMINARY**

**Citation and commencement**

1. These byelaws—

- (a) may be cited as the Great Yarmouth Third River Crossing Byelaws 202[ ]; and
- (b) have effect as set out in article 51 (byelaws) of the Great Yarmouth Third Crossing Development Consent Order 202[ ].

**Interpretation**

2.—(1) In these byelaws unless the context otherwise requires—

“advertisement” has the same meaning as it has in the Town and Country Planning Act 1990(a);

“authorised person” means—

- (a) a person acting in the course of that person’s duties who—
  - (i) is an employee, agent, contractor or sub-contractor of the undertaker; or
  - (ii) is authorised by the undertaker to exercise one or more of its functions under the Order; or
- (b) a constable, Police Community Support Officer, an officer of the Driver and Vehicle Standards Agency, an officer of the Health and Safety Executive, a 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(b) or a person accredited by or under section 41 (accreditation under community safety accreditation schemes) of the Police Reform Act 2002(c), acting in the execution of that person’s duties;

“barriers” means barriers installed within the new bridge area to prevent the passage of persons or vehicles;

“the byelaws” means these byelaws;

“carriageways” means the parts of the new bridge area that are carriageways as defined by section 329(1) (further provision as to interpretation) of the Highways Act 1980(d);

“cycle tracks” means the parts of the new bridge area that are cycle tracks as defined by section 329(1)(e) of the Highways Act 1980;

“footways” means the parts of the new bridge area that are footways as defined by section 329(1) of the Highways Act 1980;

“maintenance” includes inspect, repair, adjust, alter, remove, replace or reconstruct;

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(a) 1990 c. 8

(b) 2004 c. 21. Section 44 was amended by the Emergency Workers (Obstruction) Act 2006 (c. 39).

(c) 2002 c. 30. Section 41 was amended by the Police and Justice Act 2006 (c. 48).

(d) 1980 c.66.

(e) The definition was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and by Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54),

“motor vehicle” has the same meaning as it has in the Road Traffic Act 1988(a);

“the new bridge” means Work No. 8B together with the vessel impact protection systems and supporting works comprised in Work Nos. 6A and 6B as set out in Schedule 1 (authorised development) to the Order;

“the new bridge area” means the new bridge, the new bridge approaches, the new bridge control tower, the new bridge plant room, the new bridge infrastructure and the public realm areas;

“the new bridge approaches” means the western and eastern approaches to the new bridge, the centre lines of which, together with the centre line of the new bridge, are shown on the new bridge area plan;

“the new bridge area plan” means the plan of that description set out in Schedule 15 (documents to be certified) of the Order certified by the Secretary of State as the new bridge area plan for the purposes of the Order;

“the new bridge control tower” means Work No. 7A as set out in Schedule 1 to the Order;

“the new bridge infrastructure” means all infrastructure which is required for or facilitates the construction, maintenance, inspection or operation of the new bridge including (without limitation) cables, pipes and other apparatus relating to the provision of drainage, electricity, water, and other services, fenders and other protective or ancillary works relating to the new bridge, tools and any emergency, safety or communications apparatus;

“the new bridge plant room” means Work No. 7B. as set out in Schedule 1 to the Order;

“notice” includes a sign, signal and a digital or other display, and in appropriate circumstances, an audible announcement;

“the Order” means the Great Yarmouth Third River Crossing Development Consent Order 202[ ];

“the public realm areas” means the areas of the public realm facilities comprised in Work No. 6A as set out in Schedule 1 to the Order;

“trailer” means a vehicle (including a horse box) designed or adapted to be towed by a motor vehicle;

“undertaker” means Norfolk County Council or such other person who has the benefit of the Order in accordance with article 7 (benefit of the Order) of the Order;

“vaporiser” means an electronic device that can be used to deliver nicotine (whether alone or in combination with other substances) to a person inhaling from the device; and

“vessel waiting facilities” means the vessel waiting facilities comprised in Work No 6A as set out in Schedule 1 (authorised development) to the Order.

(2) The Interpretation Act 1978(b) applies to the interpretation of these byelaws as it applies to the interpretation of an Act of Parliament.

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(a) 1988 c. 52.

(b) 1978 c. 30.

## PART 2

### CONDUCT AND BEHAVIOUR

#### **Smoking, etc.**

- 3.** Whilst on the new bridge a person must not—
- (a) smoke or carry an item that is alight including a lit cigar, cigarette, cigarillo, pipe, match or lighter; or
  - (b) use a vaporiser.

#### **Unacceptable behaviour**

- 4.** A person must not—
- (a) climb upon, remove, operate, interfere with, obstruct or damage (whether deliberately or negligently) any new bridge infrastructure;
  - (b) interfere with, obstruct or damage (whether deliberately or negligently) the vessel waiting facilities;
  - (c) enter the new bridge control tower or the new bridge plant room without the prior consent of an authorised person;
  - (d) 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 the prior consent of an authorised person;
  - (e) drop, throw or allow anything to fall—
    - (i) onto the new bridge;
    - (ii) over the parapet of the new bridge; or
    - (iii) 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;
  - (f) access the river Yare, or attempt to do so, by climbing onto the river walls adjoining the new bridge;
  - (g) display or post a bill, placard, advertisement or notice within the new bridge area;
  - (h) write, print, draw or paint on or cut, mark or stamp any part of the new bridge area unless such activity is authorised by—
    - (i) a notice displayed by or on behalf of the undertaker; or
    - (ii) the prior consent of an authorised person;
  - (i) fix anything to the new bridge, the new bridge infrastructure or the vessel waiting facilities without the prior consent of an authorised person;
  - (j) spit, urinate or defecate in the new bridge area;
  - (k) 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;
  - (l) offer for sale or sell any article, thing or service of any description in the new bridge area without the consent of the undertaker;
  - (m) move, alter, deface or otherwise interfere with any notice belonging to the undertaker which is displayed or placed in the new bridge area;
  - (n) without prejudice to any other requirement of the byelaws, act in any way as to cause a nuisance in the new bridge area;
  - (o) use abusive behaviour or threatening language or gestures in the new bridge area; or



- (p) obstruct any action taken by an authorised person under powers conferred by the Order to—
  - (i) remove a vehicle from the new bridge area; or
  - (ii) remove or otherwise respond to a load or other object which has fallen from a vehicle.

## 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 that would contravene a direction of an authorised person or a notice displayed by the undertaker which prohibits or restricts access.

(2) A person must not loiter in the new bridge area if asked to leave by an authorised person.

(3) An authorised person may prevent the driver of a motor vehicle from gaining access to the new bridge area if the authorised 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.

(4) A person must not attempt to use the footways, carriageways and cycle tracks comprised in the new bridge—

- (a) when instructed not to do so by an authorised 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 authorised person or a person acting with the consent of an authorised 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 which is lawfully proceeding within the new bridge area.

(2) A person (other than an authorised person) must not use or cause to be used within the new bridge area any vehicle which emits 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(a) 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 carriageway comprised in the new bridge or new bridge approaches, unless directed or authorised to do so by an authorised person.

(4) A person must not ride a bicycle in any part of the new bridge area where a notice displayed by the undertaker states that cycling is prohibited, unless directed or authorised to do so by an authorised person.

(5) A person must not drive a motor vehicle within the new bridge area other than on the carriageways unless directed or authorised to do so by an authorised person.

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

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

(8) A person must not abandon a motor vehicle in the new bridge area except in an emergency or if directed by an authorised 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 or new bridge approaches 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.

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(a) 1988 c. 52.

(11) A person must not use or cause to be used a motor vehicle on the new bridge or new bridge approaches 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 will be 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 authorised person.

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

- (a) as soon as practicable immediately notify an authorised person of the breakdown;
- (b) switch on the motor vehicle's hazard lights; and
- (c) not attempt to move the motor vehicle (unless permitted or directed to do so by an authorised person).

(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 the river Yare must—

- (a) as soon as practicable inform an authorised person of the loss of the load;
- (b) immediately inform an authorised person of the identity of, and contact details for, the owner of the load; and
- (c) not attempt to reclaim the load (unless permitted or directed to do so by an authorised person).

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

**PART 4**  
**GENERAL**

**Saving for authorised persons**

7.—(1) Nothing in these byelaws prevents an authorised 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 authorised person.

(2) Without restriction to the generality of the saving set out at paragraph (1), the activities included in that saving include any activity within the public realm areas for the purposes of—

- (a) gaining access to the new bridge control tower, the new bridge or the new bridge approaches for any purpose; or
- (b) the operation or maintenance of any element of the new bridge area.

## SCHEDULE 12

Article 54(1)

### TREES SUBJECT TO TREE PRESERVATION ORDERS AND WITHIN CONSERVATION AREAS

<i>(1)</i> <i>Tree preservation order and tree group reference, or conservation area name</i>	<i>(2)</i> <i>Tree preservation order and conservation area tree plans sheet number</i>  <i>Type of tree or group of trees and plan reference (“ref”) number</i>	<i>(3)</i> <i>Works to be carried out</i>
Borough of Great Yarmouth Tree Preservation Order No.7 2005 Tree group reference: G3	Sheet 1  Group comprising 1 Sycamore; 3 Whitebeam; and 10 White Poplar (ref G3)	Crown lift branches overhanging land within the Order limits
Borough of Great Yarmouth Conservation Area No.3 – Hall Quay & South Quay	Sheet 2  Group of trees comprising of Sycamore (ref G40)	Crown lift branches overhanging land within the Order limits
Borough of Great Yarmouth Conservation Area No.5 – Nicholas & Northgate Street (Laughing Image Corner)	Sheet 3  Group comprising: 1 Whitebeam (ref T57); and 2 Unknown (Ornamental) (ref T58, T60)	Removal
Borough of Great Yarmouth Conservation Area No.5 – Nicholas & Northgate Street (Laughing Image Corner)	Sheet 3  1 Whitebeam (ref T59)	Crown lift branches overhanging into land within the Order limits
Borough of Great Yarmouth Conservation Area No.5 – Nicholas & Northgate Street (Fullers Hill)	Sheet 3  Group comprising: 2 Birch (ref T45, T48); 2 Sycamore (ref T46, T49); 1 Silver Maple (ref T47); and 1 Cherry (ref T50)	Removal
Borough of Great Yarmouth Conservation Area No.5 – Nicholas & Northgate Street (Fullers Hill)	Sheet 3  Group comprising: Sycamore; Hawthorn; and Elder (ref G41)	Crown lift branches overhanging into land within the Order limits

## SCHEDULE 13

Article 56

### DEEMED MARINE LICENCE

#### PART 1

#### GENERAL

##### **Interpretation**

1.—(1) In this licence—

“the 2008 Act” means the Planning Act 2008;

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

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

“business day” means a day other than a Saturday or Sunday or bank holiday in England;

“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 of this licence and references in this licence to numbered conditions are to the conditions with those numbers in Part 2;

“construction activity” means any licensed activity to be undertaken during the construction of the authorised development;

“the environmental statement” means the documents of that description set out in Schedule 15 (documents to be certified) of the Order certified by the Secretary of State as the environmental statement for the purposes of the Order;

“harbour authority” means the Great Yarmouth Port Authority;

“the licence holder” means the undertaker and any transferee or lessee under article 8 (consent to transfer benefit of the Order) of the Order;

“licensed activity” means any of the licensable marine activities specified in Part 1 of this licence at paragraph 3(1);

“the MMO” means the Marine Management Organisation;

“the MMO local office” means the MMO office whose contact details are given at paragraph 2(1)(b) or such other MMO office identified by replacement contact details provided by the MMO under paragraph 2(1)(b);

“MMO Marine Licensing Team” means the MMO team whose contact details are given at paragraph 2(1)(a) or such other team of person identified by replacement contact details provided by the MMO under paragraph 2(1)(a);

“the Order” means the Great Yarmouth Third River Crossing Development Consent Order 202[ ];

“the River” means the area defined at paragraph 3(3); and

“the works plans” means the plans of that description set out in Schedule 15 (documents to be certified) of the Order certified as the works plans by the Secretary of State for the purposes of the Order.

(2) All points, directions, lengths, areas and other measurements specified in this licence are to be construed as if the words “or thereabouts” were inserted after each such point, direction, length, area or other measurement.

(3) Reference points specified in this licence are to be construed as references to Ordnance Survey National Grid reference points.

2.—(1) The main points of contact with the MMO and the addresses 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

or such replacement contact details as are notified to the licence holder in writing by the MMO.

(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

or such replacement contact details as are notified to the licence holder in writing by the MMO.

(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 0345 051 8486

Email—dispersants@marinemanagement.org.uk

or such replacement contact details as are notified to the licence holder in writing by the MMO.

(3) Unless otherwise notified to the licence holder in writing by the MMO, all notices required by this licence to be sent by the undertaker 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 activities which constitute licensable marine activities under section 66(1) of the 2009 Act and which—

(a) form part of, or are related to, the authorised development (including any dredging activities for the purposes of maintaining the authorised development); and

(b) are not exempt from requiring a marine licence by virtue of any provision made under section 74 of the 2009 Act.

(2) In this paragraph “the authorised development” means the development described in Schedule 1 (authorised development) to the Order, and any other development (within the meaning of section 32 of the 2008 Act) or activities authorised by the Order.

(3) The coordinates for the area within which the licence holder may carry out licensed activities are specified below and more particularly shown on the works plans—

<i>Point reference</i>	<i>Northing</i>	<i>Easting</i>	<i>Heading</i>
1	52.595	1.7269	Due W
2	52.595	1.7257	Following River Wall
3	52.5908	1.7264	ENE
4	52.5912	1.7276	Following River Wall
1	52.5955	1.7269	

(4) This licence does not permit the disposal of dredged material at sea or in other waters.



## PART 2

### CONDITIONS

#### **Notification of commencement and completion of licensed activities**

- 4.**—(1) The licence holder must—
- (a) notify the MMO local office of the commencement of the first instance of any licensed activity at least 5 working days prior to the commencement of that licensed activity;
  - (b) notify the MMO local office of the completion of the licensed activities within 10 working days of such completion; and
  - (c) notify the Source Data Receipt team, UK Hydrographic Office, Taunton, Somerset, TA1 2DN (email: sdr@ukho.gov.uk) of the completion of the licensed activities within 2 weeks of the date of completion of the licensed activities;
  - (d) send a copy of the notification required under sub-paragraph (c) to the MMO Marine Licensing Team within one week of issue; and
  - (e) ensure that a notice to mariners is issued at least 10 working days prior to the commencement of the licensed activities advising of the start date and the expected vessel routes from the local construction ports to the relevant location.

#### **Construction method statement**

**5.**—(1) The licence holder must submit a method statement, for approval by the MMO following consultation with the Environment Agency, at least 8 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) a programme of works including timings and durations, method of delivery of material to site and plant to be used during the works;
  - (c) provision that no dredged materials arising from any dredging activity are to be disposed of at sea or in other waters.

(3) The licence holder must not commence the construction activity until the MMO has approved in writing the submitted method statement.

(4) The construction activity must be carried out in accordance with the approved method statement, unless otherwise agreed in writing by the MMO.

#### **Dredging method statement**

**6.**—(1) The licence holder must submit a method statement, for approval by the MMO following consultation with the Environment Agency, at least 8 weeks prior to the commencement of any dredging activity.

- (2) The method statement must include the following details—
- (a) the detailed dredging methodology to be employed by the licence holder in carrying out the dredging activity;
  - (b) a programme of works including timings and durations and plant to be used during the dredging activity; and
  - (c) information relating to the management of dredged materials arising from any dredging activity.

(3) The licence holder must not commence the dredging activity until the MMO has approved in writing the submitted method statement.

(4) The dredging activity must be carried out in accordance with the approved method statement, unless otherwise agreed in writing by the MMO.

### **Vessels**

7.—(1) The licence holder must notify the MMO Marine Licensing Team 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 Marine Licensing Team no less than 24 hours before the commencement of the relevant licensed activity;
- (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 on any licensed activities, and that a copy of this licence is held on board any such vessel.

### **Marine pollution contingency plan**

8.—(1) The licence holder must submit a marine pollution contingency plan, for approval by the MMO, at least 8 weeks prior to the commencement of the first licensed activity, including any construction activity or dredging 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 the carrying out of the licensed activities and the methods and procedures the licence holder intends to put in place to address those risks.

(3) The MMO must consult the Environment Agency and the harbour authority on the marine pollution contingency plan before approving it.

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

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

### **Piling techniques**

9.—(1) Where any construction activity involving piling is carried out within the River, the licence holder must comply with the requirements set out in sub-paragraphs (2) to (4).

(2) Vibro piling techniques are to be used as standard, with percussive piling only used if required to drive a pile to its design depth.

(3) Where 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.

(4) Where percussive piling ceases for a period longer than 10 minutes, the soft-start procedure must be repeated.

### **Concrete and cement**

10.—(1) The licence holder must not discharge, intentionally or unintentionally, waste concrete, slurry or wash water from concrete or cement works into the River. The licence holder must contain and site concrete and cement mixing and washing areas at least 10 metres from any watercourse or surface water drains to minimise the risk of run off entering the River;

(2) If concrete is to be sprayed, suitable protective sheeting must be provided to prevent rebounded or windblown concrete from entering the water environment; and

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

### **Coatings and treatments**

**11.** The licence holder must ensure that any coatings and any treatments are suitable for use in the marine environment and are used in accordance with guidelines approved—

- (a) by the Health and Safety Executive;
- (b) by the Environment Agency; or
- (c) by both of the foregoing bodies.

### **Spills, etc.**

**12.** The licence holder must—

- (a) store, handle, transport and use fuels, oils, chemicals and other substances so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers;
- (b) report any spill of oil, fuel or chemicals into the marine area to the MMO Marine Pollution Response Team within 12 hours of the spill occurring; and
- (c) store all waste in designated areas that are isolated from surface water drains and open water and are bunded to contain any spillage.

### **Dropped objects**

**13.** All dropped objects must be reported to the MMO Marine Licensing Team using the Dropped Object Procedure Form (or such substitute notification procedure communicated in writing to the licence holder by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form or substitute notification, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar), and the MMO may require obstructions to be removed from the seabed at the undertaker's expense, if reasonable to do so.

### **Post-construction**

**14.** The licence holder must remove all equipment, temporary structures, waste and debris associated with the construction activities within the River within 4 weeks of completion of the final construction activity.

## PART 3

### PROCEDURE FOR THE DISCHARGE OF CONDITIONS

#### **Meaning of “application”**

**15.** In this Part, “application” means a submission by the licence holder for approval by the MMO of any method statement or plan under conditions 5, 6 and 8.

#### **Further information regarding application**

**16.—(1)** The MMO may request in writing such further information from the licence holder as is necessary to enable the MMO to consider the application.

(2) If the MMO does not make a request under sub-paragraph (1) within 20 business days of the day immediately following that on which the application is received by the MMO, it is deemed to have sufficient information to consider the application and is not entitled to request further information after this date without the prior agreement of the licence holder.

#### **Determination of application**

**17.—(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 16; and
- (c) such other matters as the MMO thinks relevant.

(2) Having considered the application the MMO must—

- (a) grant the application unconditionally; or
- (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**

**18.—(1)** Subject to sub-paragraphs (2) and (3), the MMO must give notice to the licence holder of the determination of the application within 30 business days of the day immediately following that on which the application is received by the MMO.

(2) Where the MMO has made a request under condition 16, the MMO must give notice to the licence holder of the determination of the application within 30 business days of the day immediately following that on which the further information is received by the MMO.

(3) The MMO and the licence holder may agree in writing to extend the period of time within which the MMO must provide a notice under sub-paragraph (1) or (as the case may be) (2).

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

(5) Where notice is not given by the MMO in accordance with sub-paragraphs (1) to (3) the application is deemed to have been refused.

# SCHEDULE 14

## PROTECTIVE PROVISIONS

### PART 1

#### FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. The provisions of this Part of this Schedule have effect for the protection of statutory undertakers unless otherwise agreed in writing between the undertaker and the statutory undertaker in question.

2. In this Part of this Schedule—

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

“apparatus” means—

- (a) in the case of a statutory undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant as defined in the Electricity Act 1989(a), belonging to or maintained by the statutory undertaker for the purposes of electricity supply;
- (b) in the case of a statutory undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by the statutory undertaker for the purposes of gas supply;
- (c) in the case of a statutory undertaker within paragraph (c) of the definition of that term—
  - (i) mains, pipes or other water apparatus belonging to or maintained by the statutory undertaker for the purposes of water supply; and
  - (ii) mains, pipes or other water apparatus that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991(b);
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991; and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act(c),

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes 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;

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(a) 1989 c. 29.

(b) 1991 c. 56. Section 51A was inserted by section 92 of the Water Act 2003 (c. 37) and amended by section 10 of the Water Act 2014 (c. 21).

(c) Section 102(4) was amended by section 96(1)(c) of the Water Act 2003 (c. 37) and Schedule 7 to the Water Act 2014 (c.21). Section 104 was amended by sections 96(4) and 101(2) 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, and Schedule 7 to, the Water Act 2014 (c. 21).

“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

“statutory undertaker” means—

- (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<sup>(a)</sup>;
- (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 of the above descriptions 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 15 (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 14 (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 (9).

(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 (3), 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.

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(a) 1986 c. 44. See section 7(1): this 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).

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the statutory undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) The obligation imposed on the statutory undertaker under sub-paragraph (3) does not extend to the exercise by the statutory undertaker of any power to acquire any land or rights in land by compulsory purchase order.

(5) Any alternative apparatus to be constructed in land of 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 the statutory undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 67 (arbitration).

(6) The statutory undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 67 (arbitration), and after the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), 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.

(7) Regardless of anything in sub-paragraph (6), if the undertaker gives notice in writing to the statutory undertaker in question that it desires itself to carry out any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being carried out by the statutory undertaker, may be carried out by the undertaker, in accordance with plans and in a position agreed between the statutory undertaker and the undertaker or, in default of agreement, determined by arbitration in accordance with article 67 (arbitration), without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the statutory undertaker.

(8) In carrying out any work under sub-paragraph (7) the undertaker must comply with all statutory obligations which would have been applicable had the works been carried out by the statutory undertaker.

(9) Nothing in sub-paragraph (7) authorises the undertaker to 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 600 millimetres of the apparatus.

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a statutory undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the statutory undertaker in question or in default of agreement settled by arbitration in accordance with article 67 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in land of the undertaker, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker or traffic on the highway; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to any apparatus for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the statutory undertaker

in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that statutory undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

**8.—**(1) Not less than 28 days before starting the carrying out of any works authorised by this Order that will or may affect any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the statutory undertaker in question a plan, section and description of the works to be carried out.

(2) Those works must be carried out only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the carrying out of those works.

(3) Any requirements made by a statutory undertaker under sub-paragraph (2) must be made within a period of 28 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a statutory undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs (1) to (4) apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the carrying out of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the statutory undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(7) Nothing in sub-paragraph (6) entitles the undertaker to carry out works to any apparatus but, upon receipt of notice from the undertaker, the statutory undertaker must proceed to carry out such works as may be required without unnecessary delay.

**9.—**(1) Subject to the following provisions of this paragraph, the undertaker must repay to the statutory undertaker in question the proper and reasonable expenses incurred by that statutory undertaker in, or in connection with the inspection, removal, relaying, replacing, alteration or protection of any apparatus under any provision of this Part of this Schedule (including any costs reasonably incurred or compensation properly paid in connection with the acquisition of facilities and rights or exercise of statutory powers for such apparatus) including the cutting off of any apparatus from any other apparatus or the making safe of any redundant apparatus as a consequence of the exercise by the undertaker of any power under this Order and the surveying of any land or works, the inspection, superintendence and monitoring of works or the removal of any temporary works reasonably necessary in consequence of the exercise of the undertaker of any power under this Order.

(2) The value of any apparatus removed under this Part is to be deducted from any sum payable under sub-paragraph(1), that value being calculated after removal.

(3) If in accordance with this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,



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 67 (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 undertaker 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;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act(b);

“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 (application of the electronic communications code) 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;

“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 conferred by article 37 (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-paragraph (2), 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.

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(a) 2003 c. 21.

(b) See section 106 and Schedule 3A. Section 106 was amended by section 4 of the Digital Economy Act 2017 (c. 30) and Schedule 3A was inserted by Schedule 1 to that Act.

**15.** 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. 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 67 (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 of the 1991 Act; or
- (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 ANGLIAN WATER

**17.** For the protection of Anglian Water, the provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the undertaker and Anglian Water, have effect.

**18.** In this Part of this Schedule—

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

“Anglian Water” means Anglian Water Services Limited, company number 2366656, whose registered office is at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire PE29 6YJ;

“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(a); and
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102 (4) (adoption of sewers and disposal works) of The Water Industry Act 1991 or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act(b),

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.

**19.** The undertaker must not interfere with, build over or near to any apparatus within the Order land or execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute 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.

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

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(a) 1991 c. 56.

(b) Section 102(4) was amended by section 96(1)(c) of the Water Act 2003 (c. 37) and Schedule 7 to the Water Act 2014 (c.21). Section 104 was amended by sections 96(4) and 101(2) 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, and Schedule 7 to, the Water Act 2014 (c. 21).

- (a) Any permits required under the Environmental Permitting (England and Wales) Regulations 2016(a) 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 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 executed only in accordance with the plan, section and description submitted and in accordance with such reasonable requirements as may be made by Anglian Water without delay for the alteration or otherwise for the protection of the apparatus, or for securing access to it.

**21.** In the situation, where in exercise of the powers conferred by the Order, the undertaker acquires any interest in any land in which apparatus is placed and such apparatus is to be relocated, extended, removed or altered in any way, no alteration or extension is to take place until Anglian Water has established, to its reasonable satisfaction, contingency arrangements in order to conduct its functions for the duration of the works to relocate, extend, remove or alter the apparatus. Anglian Water must use reasonable endeavours to establish contingency arrangements in a timely manner.

**22.** Regardless of any provision in this Order or anything shown on any plan, the undertaker must not acquire any apparatus otherwise than by agreement with Anglian Water, and before extinguishing any existing rights for Anglian Water to use, keep, inspect, renew and maintain its apparatus in the Order land, the undertaker must, with the agreement of Anglian Water, create a new right to use, keep, inspect, renew and maintain the apparatus that is reasonably convenient for Anglian Water, such agreement not to be unreasonably withheld or delayed.

**23.** 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 such apparatus as will enable Anglian Water to maintain or use the apparatus no less effectively than was possible before such obstruction.

**24.** If in consequence of the exercise of the powers conferred by the Order, previously unmapped sewers, lateral drains or other apparatus are identified by the undertaker, notification of the location of such assets will immediately be given to Anglian Water and afforded the same protection as other Anglian Water assets.

**25.** If for any reason or in consequence of the construction of any of the works referred to in paragraphs 20 to 22 and 24 above 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 Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good any damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by Anglian Water,

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

**26.** Nothing in paragraph 25 above 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 Anglian Water, its officers, servants, contractors or agents.

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(a) S.I. 2016/1154 as amended by S.I. 2017/1012, S.I. 2017/1075, S.I. 2018/110, S.I. 2018/428 S.I. 2018/757 and S.I. 2019/39

**27.** Any difference or dispute arising between the undertaker and Anglian Water under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with article 67 (arbitration).

## PART 4

### FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

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

**29.** 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 first brought into use;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” have corresponding meanings;

“drainage work” means any land which provides or is expected to provide flood storage capacity for the river Yare and any bank, wall or embankment or other structure, or any appliance constructed or used for land drainage, flood defence or tidal monitoring and any ancillary works constructed as a consequence of works carried out for drainage purposes;

“the fishery” means the river Yare and fish in, or migrating to or from, the river Yare and the spawn, spawning ground, habitat or food of such fish;

“plans” includes sections, descriptions, drawings, specifications and method statements; and

“specified work” means any permanent or temporary work or operation authorised by this Order as is 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 any 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 the river Yare and habitats in its immediate vicinity;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.

**30.—(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 as determined in accordance with paragraph 38.

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

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval or, where further particulars have been requested under sub-paragraph (1), the submission of those further particulars; and
- (c) may be given subject to such reasonable requirements as the Agency may impose for the protection of any drainage work or fishery or water resources, for the prevention of flooding and water pollution and in the discharge of its environmental duties.

(4) Requirements imposed by the Agency under sub-paragraph (3)(c) may include provision 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.

(5) 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).

(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 plans approved or (as the case may be) deemed to have been approved or determined under this Part of 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.

**31.** 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.

**32.—**(1) If any part of the 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 to the undertaker 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) to remove, alter or pull down the work to the reasonable satisfaction of the Agency, and where removal is required, to restore the site of the specified work or protective work required by the Agency 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 from the date when a notice under sub paragraph (1) is served on the undertaker, it has failed to begin taking steps to comply with the requirements of the notice and thereafter to make reasonably expeditious progress towards compliance with the requirements of the notice, the Agency may execute the works specified in the notice and any expenditure incurred by it in so doing shall be 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 38.

**33.—**(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), 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 under sub-



paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any expenditure incurred by the Agency in so doing is to be recoverable from the undertaker.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with this Part of this Schedule the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 38.

(6) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of this Order from doing so; or
- (b) any obstruction of a drainage work, for the purposes of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule.

**34.** If by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

**35.** If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 48 hours of the undertaker becoming aware of such obstruction.

**36.—(1)** The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) If within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to the fishery, the undertaker fails to take such steps as are described in a notice served under sub-paragraph (2), the Agency may take those steps and may recover from the undertaker any expenditure reasonably incurred by it in doing so.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker the reasonable cost of so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

**37.**—(1) The undertaker must indemnify the Agency in respect of all costs, charges and expenses not otherwise provided for in this Part of this Schedule which the Agency may reasonably incur or have to pay by reason of—

- (a) the examination or approval of plans under this Part of this Schedule;
- (b) the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule;
- (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; and
- (d) 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) The fact that any act or thing may have been done—

- (a) by the Agency on behalf of the undertaker; or
- (b) by the undertaker, its employees, contractors or agents in accordance with plans or particulars submitted to or modifications or conditions specified by the Agency, or in a manner approved by the Agency, or under its supervision or the supervision of its duly authorised representative,

does not (if it was done or required without negligence on the part of the Agency or its duly authorised representative, employee, contractor or agent) excuse the undertaker from liability under the provisions of this paragraph.

(3) Nothing in sub-paragraph (2) imposes any liability on the undertaker with respect to any costs, charges, expenses, damages or losses to the extent that they are attributable to the act, neglect or default of the Agency, its officers, servants, contractors or agents.

(4) The Agency must give to the undertaker written notice of any claim or demand as is referred to in sub-paragraph (1) as soon as it becomes aware of such claim or demand, and no settlement or compromise thereof is to be made without the prior consent of the undertaker, which agreement must not be unreasonably conditioned, withheld or delayed.

**38.** 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 67 (arbitration).

## PART 5

### FOR THE PROTECTION OF THE WAVENEY, LOWER YARE AND LOTHINGLAND INTERNAL DRAINAGE BOARD

**39.** The provisions of this Part of this Schedule have effect for the protection of the Board unless otherwise agreed in writing between the undertaker and the Board.

**40.** In this Part of this Schedule—

“the Board” means the Waveney, Lower Yare and Lothingland Internal Drainage Board and any successor body;

“the outfall pipe” means the specified work comprising an outfall pipe, headwall and associated apparatus to be constructed in and adjoining the relevant watercourse known as Waveney Common Road 1 adjacent to Queen Anne’s Road, subject to such amendments as the Board and the undertaker may agree;

“relevant asset” means any watercourse, adjoining bank, embankment or wall and any associated apparatus or structure, including sluices and water control appliances, which is for the time being belonging to or under the control of the Board;

“relevant watercourse” means a watercourse that is a relevant asset;

“specified work” means any part of the authorised development which affects a relevant asset;

“functions” includes powers and duties.

**41.**—(1) The undertaker must notify the Board of the intended commencement and anticipated duration of any specified work.

(2) The notification given under sub-paragraph (1) must be given 14 working days prior to commencement of the relevant specified work.

(3) The requirements of sub-paragraphs (1) and (2) have effect in addition to any other requirement of this Part of this Schedule which must be complied with by the undertaker prior to the commencement of any specified work.

**42.** The undertaker must permit any officer of the Board to inspect any specified work during its execution.

**43.** In constructing and operating the outfall pipe, the undertaker must comply with the following requirements—

- (a) prior to constructing the outfall pipe, the undertaker must obtain the approval of the Board to a maximum rate of discharge of surface water through the outfall pipe;
- (b) the undertaker must ensure that the approved maximum rate of discharge is not exceeded;
- (c) the headwall must comprise a recessed precast concrete unit of adequate dimensions;
- (d) all material excavated during the construction of the headwall must be removed from the watercourse;
- (e) the area around the headwall must be restored to its previous condition as soon as possible following construction of the headwall;
- (f) in constructing the outfall pipe the undertaker must ensure that erosion protection sufficient to prevent scouring of the bank of the watercourse is provided beneath the outfall pipe, across the bed and extending across the far bank to the same level as the outfall pipe and to at least one metre either side of it;
- (g) no part of the outfall pipe or associated erosion protection measures is to protrude beyond the existing bank profile; and
- (h) discharge through the outfall is to consist solely of surface water runoff and must not include any treated foul water.

**44.** If a specified work requires a relevant water course to be temporarily dammed off and over-pumped (“the temporary operations”), the undertaker must—

- (a) obtain the approval of the Board to the commencement and duration of the temporary operations;
- (b) ensure that the drainage of any other person is not materially affected by the temporary operations;
- (c) construct the dams in such a manner that they can be removed without delay in the event that water levels rise to an unacceptably high level or the over-pumping apparatus provided by the undertaker is unable to cope with the flow of water; and
- (d) remove the dams as soon as reasonably possible following completion of the relevant part of the specified works and restore the areas where the dams were positioned to their previous condition.

**45.** Where the undertaker culverts a relevant watercourse in carrying out a specified work, it must comply with the following requirements—

- (a) where there are existing pipes entering the length of watercourse to be culverted, these are to be suitably extended and diverted to outfall into—
  - (i) the open channel to one side or the other of the culverted length; or
  - (ii) to the nearest access chamber;
- (b) the material used in infilling must not contain any garden rubbish, brick rubble or other deleterious material and must be suitably compacted;
- (c) the infill material must be laid to the depth required to match the existing ground levels to either side of the infilled area.

**46.**—(1) Where any damage is caused by the undertaker to a relevant watercourse or other relevant asset in any of the circumstances mentioned in paragraph (2), the undertaker must make good such damage as soon as possible following its occurrence.

(2) The circumstances are—

- (a) the driving or waiting of any vehicle on the banks of any relevant watercourse;
- (b) the placing, use or storage of any apparatus, structure or equipment in or on the banks of any relevant watercourse;
- (c) the dredging, raising or taking of any gravel, sand, ballast, clay or other material from the bed or bank of any relevant watercourse; and
- (d) any other activity undertaken in the construction or maintenance of any specified work.

**47.**—(1) The undertaker must at its expense maintain all elements of any specified work which are, following their execution, vested in the undertaker.

(2) Where any works to a relevant asset are executed by the undertaker in carrying out the specified works, the Board continues to have responsibility for maintenance of the relevant asset.

**48.** Any agreement or approval under this Part of this Schedule must not be unreasonably withheld or delayed and must be given in writing.

**49.**—(1) Save as provided by sub-paragraph (2) or other provision of this Order, nothing in this Part of this Schedule affects the rights and responsibilities of the Board under the Land Drainage Act 1991.

(2) The Board must not exercise its functions in a manner contrary to the provisions of the Order.

**50.** Any difference or dispute arising between the undertaker and the Board under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and the Board, be determined by arbitration under article 67 (arbitration).

## PART 6

### FOR THE PROTECTION OF THE GREAT YARMOUTH PORT AUTHORITY

**51.** For the protection of the GYPA the following provisions of this Part of this Schedule, unless otherwise agreed in writing between the undertaker and the GYPA, have effect.

**52.** In this Part of this Schedule the following definitions apply—

“adverse effects” means any physical damage to the river caused by the specified work which affects the stability, structure and safety of the river and, without limitation on the scope of that meaning, includes—

- (a) the erosion of the bed, banks or walls of the river, or the impairment of the stability of any works or lands forming part of the river;
- (b) damage to the walls or banks of the river caused by excessive weight being placed on the river walls;
- (c) the silting of the river or the deposit of materials in the river so as to damage the river; and
- (d) the pollution of the river;

“engineer” means a professionally qualified engineer (whether an employee of the GYPA or external consultant) appointed by the GYPA for the purpose in question;

“protective work” means a work which is reasonably necessary to minimise adverse effects to the river arising from the construction of the Specified Work as may be required by the GYPA by notice to the undertaker served not later than 6 months before the commencement of any specified work;

“river” means the river Yare;

“specified work” means so much of the authorised development as may in any way materially affect the river or is situated upon, across, under or over or within 15 metres of the river; and

“works” means the protective works and the authorised development.

**53.**—(1) Subject to sub-paragraph (2), nothing in this Order authorises the undertaker to—

- (a) construct or maintain any specified work or protective work which would have the effect of exceeding the load bearing capacity of any part of the existing river wall which is not replaced by the specified work or protective work; or
- (b) use any part of the river wall which is not to be replaced by the works as a load bearing wall or structure for any specified work or protective work.

(2) The provisions of sub-paragraph (1) do not apply where the GYPA has accepted the findings of a risk assessment carried out by the undertaker, including supporting calculations, that demonstrates that the load bearing capacity of the relevant part of the river wall would be adequate with or without specified reinforcement.

(3) The GYPA must not unreasonably withhold its acceptance of a risk assessment under sub-paragraph (2), must give its decision within 10 working days of the undertaker submitting its risk assessment, but may give its acceptance on terms that the undertaker must carry out any specified reinforcements.

**54.** The undertaker must not commence the operation of any element of the specified work until the engineer has notified the undertaker that any related protective work has been completed to the engineer’s reasonable satisfaction. The engineer’s notification shall not be unreasonably withheld or delayed and in any event the engineer shall provide any comments within 1 month of the undertaker providing the plans of the protective work. If the engineer has made no comment within 3 weeks the undertaker may remind the engineer of this obligation and if the engineer makes no comments within 1 week of being reminded the engineer is to be deemed to have notified the undertaker that the protective work has been completed to the engineer’s reasonable satisfaction.

**55.** Any navigation simulations required to be carried out by the undertaker on the river relating to any temporary works are to be conducted with GYPA pilots or the harbour master in attendance. The undertaker will notify the GYPA of any navigation simulations in advance of it being carried out and the GYPA may send representatives.

**56.** The undertaker shall give the GYPA not less than 6 weeks' notice in writing of the commencement of construction of the authorised development unless otherwise agreed.

**57.**—(1) Subject to sub-paragraph (2)—

- (a) the undertaker must comply with all reasonable directions of the harbour master in connection with the safety of navigation of the river during construction of the works;
- (b) any special direction issued by the harbour master under Part III of the Great Yarmouth Port Authority Act 1990 is deemed to be reasonable unless the undertaker objects in writing giving reasons within 14 days of receipt of a direction; and
- (c) any disputes relating to a special direction issued under this paragraph are to be settled by arbitration in accordance with article 67 (arbitration) of the Order.

(2) Except where strictly necessary to ensure the safety of navigation, no direction may be given under this paragraph which would prevent or materially hinder any works or activity authorised by or under any other provision of this Order.

**58.** Any specified work must, when commenced be constructed—

- (a) without unnecessary delay;
- (b) in such a manner as to cause as little adverse effects as is reasonably practicable to the river;
- (c) in such a manner as to cause no material adverse effects to the integrity of the walls or banks of the river; and
- (d) in such a manner as to cause as little inconvenience as is reasonably practicable to the GYPA.

**59.**—(1) The undertaker must not in the course of constructing any specified work or protective work or otherwise in connection with such works do or permit anything which results in the deposit of any polluting materials on, in or over the river and must take such steps as the harbour master may reasonably require to avoid or make good any breach of its obligations under this paragraph.

(2) Subject to sub-paragraphs (3) and (4), the undertaker must not in the course of constructing any specified work or protective work or otherwise in connection with such works do or permit anything which results in the deposit of any other materials in the river and must take such steps as the harbour master may reasonably require to avoid or make good any breach of its obligations under this sub-paragraph.

(3) For the avoidance of doubt, the structures comprising the authorised development, and any specified work or protective work shall not themselves constitute a material for the purposes of sub-paragraph (2).

(4) Sub-paragraph (2) does not apply to the deposit by the undertaker of materials (other than polluting materials) in the river if such deposit has been authorised in writing by the GYPA.

**60.** Where reasonably required to do so by the engineer or the harbour master for the purpose of ensuring the safety of the river the undertaker must, to the reasonable satisfaction of the engineer or harbour master, fence off any specified work or protective work or take such steps as the engineer or the harbour master may reasonably require to be taken for the purpose of separating a specified work or a protective work from the river, whether on a temporary or permanent basis or both.

**61.**—(1) Prior to commencement of the works, a baseline hydrographic survey will be undertaken by the undertaker. This survey will form the basis for comparison with future surveys described within this paragraph. The results of the survey will be shared with the GYPA and must form the baseline of future assessments and/or surveys carried out under this paragraph.

(2) Following commencement of construction of a specified work or a protective work (whichever is commenced first) the undertaker must carry out further assessments and surveys of the area of the river under and in the vicinity of the authorised development (and other such reasonable area notified to the undertaker by the GYPA) in accordance with the following requirements—

- (a) during the period from commencement of the works in the river until the date occurring one year after substantial completion of the works surveys are to be carried out 4 times per calendar year at such times within the year as the GYPA reasonably directs;
- (b) during the period from the date occurring one year after substantial completion of the works until the date occurring three years after substantial completion of the works surveys are to be carried out 2 times per calendar year at such times within the year as the GYPA reasonably directs;
- (c) sub-paragraph (d) is to apply if any of the surveys undertaken under sub-paragraph (b) or other evidence provided by the GYPA to the undertaker shall have demonstrated that the works are creating an adverse effect and that adverse effect has not been mitigated to the reasonable satisfaction of the GYPA by the expiry of the period referred to in sub-paragraph (b);
- (d) where this sub-paragraph applies, surveys shall be carried out once per calendar year, at such time as the GYPA reasonably directs, during the period commencing with the date of expiry of the period referred to in sub-paragraph (b) and ending on the seventh anniversary of that date or such date as the adverse effect has been demonstrated to the reasonable satisfaction of the GYPA to have been mitigated (whichever date shall first occur);
- (e) should a survey carried out during construction show any discernible change has occurred to the river bed levels, localised sediment sampling will be undertaken in the area of change to determine the composition of the material, hydrodynamic modelling will be undertaken to assess the extent to which the new bridge construction activity may have contributed to the change and a detailed report prepared;
- (f) should a survey carried out after construction show either a sudden large change to the river bed level or, over time, that a longer-term trend of change in level pattern has occurred, localised sediment sampling will be undertaken in the affected area to determine the composition of the material, hydrodynamic modelling will be undertaken to assess the extent to which the new bridge construction activity may have contributed to the change and a detailed report prepared;
- (g) the extent of the surveys carried out under this paragraph will be 200 metres upstream and downstream of the centre line of the new bridge covering the full width of the river over this length; and
- (h) all hydrographic surveys mentioned in this paragraph will be undertaken using a suitable multibeam echo-sounder, in accordance with the International Hydrographic Organization Standards for Hydrographic Surveys 5th Edition (February 2008) to Survey Order 1a.

**62.**—(1) In the event that the further surveys or assessment carried out under paragraph 61(2) disclose that the works have resulted in part of the river becoming silted up or subject to scouring to the extent that there is, or is likely to be, a materially adverse impact on either the safety or efficiency of navigation of the river or the condition of the works, then the undertaker must dredge the river (or carry out such alternative remedial works as the GYPA, acting reasonably, approves) to remove the silting or make good the scouring as soon as reasonably practicable to the reasonable satisfaction of GYPA and at no expense to the GYPA.

(2) Where the undertaker is obliged to carry out dredging or remedial works under sub-paragraph (1), the GYPA may instead (at its discretion) carry out such dredging or works on the undertaker's behalf if the undertaker so requests and on condition that the undertaker will meet all reasonable expenses of the GYPA.

**63.**—(1) The undertaker must at all reasonable times on being given reasonable notice (except in cases of emergency) allow reasonable facilities to the engineer for access to inspect any specified work or protective work during its construction.

(2) The undertaker must supply the engineer with all such information as the engineer may reasonably require with regard to any specified work or protective work or the method of constructing but such information shall be limited to matters of reasonable concern to the GYPA observed during an inspection under sub-paragraph (1).

**64.** The undertaker must provide and maintain at its own expense in the vicinity of the specified work or protective work such temporary lighting from sunset to sunrise or other periods of adverse visibility and such signal lights for the control of navigation as the harbour master may reasonably require during the construction of a specified work or a protective work or the material failure of a specified work or protective work.

**65.**—(1) The undertaker must, upon completion of any part of a specified work, and after the purpose of any temporary works has been accomplished, remove as soon as reasonably practicable any temporary works constructed and materials for temporary works placed in, on or over the river in connection with that part of the specified work.

(2) All temporary works must be removed to the reasonable satisfaction of the engineer and in such a way as causes as little adverse effects or interference as reasonably practicable with, or delay or interruption to, the safe passage of vessels along the river.

(3) In the event of any adverse effects to the river that is caused by the undertaker's failure to remove any temporary works in accordance with sub-paragraph (1), the undertaker must as soon as reasonably practicable make good such adverse effects and pay to the GYPA the reasonable additional costs and expenses it incurs by reason of such failure to remove temporary works.

(4) In the event of the undertaker failing to remove any temporary works in accordance with sub-paragraph (1) and thereafter failing to remove the temporary works within a reasonable period after receiving notice from the GYPA, the GYPA may remove those works and charge the undertaker the reasonable costs and expenses incurred as a result.

**66.**—(1) The undertaker must, before placing any temporary structure or apparatus over the river required in connection with the maintenance or repair or renewal of a specified work, comply with the reasonable requirements of the GYPA, such requirements to include—

- (a) the undertaker providing the GYPA with 42 days' written notice of this requirement so that the GYPA may bring these works to the attention of users of the river; and
- (b) receiving approval from the harbour master, but on terms that such approval must not be unreasonably withheld or delayed.

(2) In the case of any work carried out in an emergency the undertaker is only required to give such notice to the harbour master as may be reasonably practicable in the circumstances.

**67.** If at any time after the completion of a specified work, not being a work vested in the GYPA, the GYPA gives notice to the undertaker informing it that the state of maintenance of the specified work appears to be such that the specified work is causing or is likely to cause adverse effects to the river, the undertaker must, on receipt of such notice together with supporting evidence of the matters asserted by the notice to the reasonable satisfaction of the undertaker take such steps as may be reasonably necessary to put the specified work in such state of maintenance as not to cause such adverse effect and if the undertaker fails to do so, the GYPA may make and do in and upon the land of the undertaker or the GYPA all such works to put the specified work in such state of maintenance as before and the cost, expenses and losses incurred by the GYPA in so doing must be repaid to the GYPA by the undertaker.

**68.** Within 3 months of completion of the specified works and protective works ("the completed works"), the undertaker must provide to the GYPA drawings of the completed works as constructed, including the electrical and mechanical drawings of the opening and closing mechanisms of the new bridge. If any modifications are made to the completed works following their completion the undertaker must provide updated as built drawings of the modified works.



**69.** The undertaker must keep such elements of the specified works that are not subject to the statutory duty of the undertaker as highway authority to maintain the highway, including the vessel waiting facilities and navigational lighting, in good and substantial repair and condition to the reasonable satisfaction of the GYPA.

**70.** The undertaker must, so far as practicable, keep the new bridge in the raised position from the occurrence of a failure to raise or close until such time as the engineer has certified in writing (which shall be done as soon as reasonably practicable) that the new bridge can be operated normally and safely. The engineer must provide a copy of such certification to the undertaker as soon as reasonably practicable.

**71.** The undertaker must publish and maintain in a prominent position at each end of the new bridge and such other positions as reasonably necessary to attract the attention of vessel operators and users of the new bridge and the river, notices setting out the arrangements for the opening of the new bridge. Such notices and locations, in so far as they are for the purpose of notifying vessel users, are to be approved by the GYPA.

**72.** Before providing any illumination or illuminated traffic sign on or in connection with the specified work or in the vicinity of the river, the undertaker must consult with the GYPA and comply with the GYPA's reasonable requirements in regard to such lighting with a view to ensuring that—

- (a) appropriate navigation lighting is placed on the specified works and on any protective works; and
- (b) any illuminations will not be directed upstream or downstream into the path of oncoming vessels on the river to ensure that such illumination or illuminated signs cannot be confused with any lights or lighting used for controlling, directing or securing the safety of vessels on the river.

**73.** The undertaker is responsible for the development, implementation and ongoing maintenance of a motorists early warning notification system which may include deployment of variable message signing, email alerts and use of social media to convey any likely disruption to users of the new bridge and the river due to new bridge openings and to be provided at no cost to the GYPA.

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

**SCHEDULE 15**  
**DOCUMENTS TO BE CERTIFIED**

<i>(1)</i> <i>Document</i>	<i>(2)</i> <i>Description</i>
The approach to detailed design	The approach to detailed design contained in document reference 7.4a (revision X)
The archaeological written scheme of investigation	The archaeological written scheme of investigation contained in document reference 6.9 (revision X)
The book of reference	The book of reference contained in document reference 4.3 (revision X)
The classification of roads plan	The classification of roads plan contained in document reference 2.4 (revision X)
The drainage strategy	The drainage strategy contained in appendix 12C of the environmental statement (revision X)
The engineering plans, drawings and sections	The engineering plans, drawings and sections contained in document reference 2.10 (revision X)
The environmental statement	The environmental statement and associated figures and appendices contained in document references 6.1, 6.2 and 6.3 (revision X)
The general arrangement plans	The general arrangement plans contained in document reference 2.2 (revision X)
The harbour limits plan	The harbour limits plan contained in document reference 2.13 (revision X)
The land plans	The land plans contained in document reference 2.5 (revision X)
The landscaping plans	The landscaping plans contained in document reference 2.9 (revision X)
The lighting report	The lighting report contained in document reference 7.4d (revision X)
The limits of dredging plan	The limits of dredging plan contained in document reference 2.11 (revision X)
The new bridge area plan	The new bridge area plan contained in document reference 2.14 (revision X)
The outline code of construction practice	The outline code of construction practice contained in document reference 6.16 (revision X)
The preliminary navigation risk assessment	The preliminary navigation risk assessment contained in document reference 6.14 (revision X)
The rights of navigation plan	The rights of navigation plan contained in document reference 2.12 (revision X)
The street plans	The street plans contained in document reference 2.7 (revision X)
The traffic regulation measures plans	The traffic regulation measures plans contained in document reference 2.3 (revision X)
The tree preservation order and conservation area tree plans	The tree preservation order and conservation area tree plans contained in document reference

	2.8 (revision X)
The works plans	The works plans contained in document reference 2.6 (revision X)

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises Norfolk County Council to construct, operate and maintain the Great Yarmouth Third River Crossing. This is a new highway across the river Yare, linking the A47 at Harfrey's Roundabout on the western side of the river to the A1243 South Denes Road on the eastern side. The highway includes an opening span double leaf bascule bridge across the river.

The Order permits Norfolk County Council to acquire, compulsorily or by agreement, land and rights in land and to use land for the purposes of the Third River Crossing. The Order also includes provisions about the operation and use of the new bridge.

A copy of all documents mentioned in this Order and certified in accordance with article 64 (certification of plans, etc) of this Order may be inspected free of charge during working hours at the offices of Norfolk County Council at County Hall, Martineau Lane, Norwich, Norfolk NR1 2DH.