

The Sizewell C Project, Ref. EN010012

Suffolk County Council comments on draft s.106, accompanying draft Explanatory Memorandum and draft Confirmation and Compliance Document

Suffolk County Council Registration ID Number: 20026012

Deadline 3

24 June 2021

Scope of comments

1. SCC has been in dialogue with the Applicant regarding the draft Deed of Obligation/s.106 agreement.
2. SCC intend to continue to work collaboratively with the Applicant on the draft Deed of Obligation/s.106 agreement.
3. No conclusions have been reached by SCC as to the acceptability of the Applicant's Evolving Approach at this stage.
4. SCC is also considering the evolving inter-relationship between the DCO and the Deed of Obligation.
5. SCC has reviewed the draft Deed of Obligation document submitted by the Applicant to the ExA at Deadline 2 and provided further comments.
6. A lack of comment by SCC on any aspect of the draft Deed of Obligation should not be taken as meaning that SCC agree with that part of the document.

Comments on the Evolving Approach

7. Legal powers
 - a. SCC notes that the Applicant now proposes that the Deed of Obligation would not be entered into using the powers in section 106 of the Town and Country Planning Act 1990 ("1990 Act").

- b. Whilst the Applicant has not provided title information to SCC, SCC notes from paragraph 4.1 of the Applicants explanation of the Applicant's Evolving Approach to contractual commitments to mitigation referred to in response to SA.1 ("Applicant's Explanation") that the Applicant infers it owns some land within the Order Limits.
- c. SCC considers that it is not clear whether the Applicant intends for the Deed of Obligation to be entered into under section 111 of the Local Government Act 1972 only or whether the Applicant intends that ESC and SCC would enter into the Deed of Obligation pursuant to section 1 of the Localism Act 2011 too. Section 1 of the Localism Act 2011 is referred to in Clause 2.1 of the draft Deed of Obligation but is then not mentioned on the front page of the draft Deed of Obligation or in Clause 4.1 of the draft Deed of Obligation.
- d. SCC notes that the Applicant considers that one of the advantages of the Evolving Approach is that this removes the need to determine whether each of the commitments made in the Deed of Obligation meet the tests in section 106(1)(a) to (d) of the 1990 Act and whether as a result such commitments would be capable of running with the land as "planning obligations". SCC has two comments on the Applicant's view on this matter at this stage:
 - i. It is not clear which of the "commitments" the Applicant considers could not be drafted to meet the tests in section 106(1)(a) to (d) and SCC would welcome confirmation from the Applicant on this.
 - ii. In any event, it is usual practice for documents entered into using the powers in section 106 of the 1990 Act to also be entered into pursuant to section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers. This is what the previous drafting of Clause 2.1 of the draft Deed of Obligation envisaged. If the Applicant was prepared to enter into an agreement pursuant to section 106 (when it is understood by SCC which of the commitments could not meet the tests in section 106(1)(a) to (d)), SCC could then consider whether any further drafting or provision would need to be discussed to protect SCC's position if obligations fell outside of section 106(1) (e.g. relating to the timing of the triggers for those commitments, the provision of bonded/guaranteed obligations, whether such commitments could be dealt with as requirements in the DCO or indeed whether SCC would be content to agree to those commitments being purely contractual pursuant to section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011).

8. Liability under the Evolving Approach

- a. Any Deed of Obligation entered into pursuant to the Evolving Approach would not bind any land within the Order Limits (or any other land).
- b. SCC considers that one of the benefits of entering into a section 106 agreement is that this binds land and pursuant to section 106(3)(b) of the 1990 Act would automatically bind any person deriving title from the entity entering into such an agreement. This conventional approach provides some comfort that there would always be a party (i.e. a land owner) who SCC could enforce against (although it is acknowledged that an owner of land could possibly become insolvent or not have the resources to meet obligations when they fall due).

- c. SCC comment on enforcement and the implications of potential future transfers of the benefit of all or part of the DCO under the Evolving Approach below.
- d. SCC note the comments in the Applicant's Explanation that the Deed of Obligation is proposed to bind the "relevant undertaker" at all times and one of the reasons why this is considered appropriate is that the DCO would be personal to the named undertaker as defined in the DCO.
- e. SCC is aware that section 140 of the Planning Act 2008 ("2008 Act") allows for a DCO to include provision authorising the operation of a "*generating station*" only if the development to which the DCO relates is or includes the construction or extension of the generating station.
- f. SCC is also conscious of draft Article 7 of the DCO which sets out that the "*undertaker is authorised to operate and use the authorised development for which development consent is granted by this Order*" and draft Article 8 (which subject to (a) – (c) of that Article 8 discussed below) states that the provisions of the DCO have effect solely for the benefit of NNB Generation Company (SZC) Limited, subject to Article 9.
- g. SCC would welcome clarification from the Applicant as to its views on the following in light of the above:
 - i. Whether the Applicant considers that draft Article 7 of the DCO falls within the scope of section 140 of the 2008 Act given the scope of the "authorised development" as defined in the DCO and the reference in section 140 of the 2008 Act to "*generating station*".
 - ii. Whether the Applicant considers that draft Articles 7 and 8 of the DCO are drafted in terms that are restrictive enough to ensure that the DCO is personal to the undertaker. In particular, SCC would welcome confirmation of the Applicant's position on whether draft Articles 7 and 8 are sufficient to:
 - 1. ensure that it is only the undertaker that may construct, take the benefit of and also subsequently carry out and use the authorised development permitted under the DCO; and
 - 2. exclude any other entity from constructing, taking the benefit of and also subsequently carrying out and using the authorised development permitted under the DCO for the duration of the operation of any part of the authorised development.
- h. SCC also note that the Applicant proposes, under draft Article 8 of the DCO, to give three other entities the benefit of the DCO powers (Network Rail, National Grid and EDF Energy Nuclear Generation Limited) but that the Applicant considers that only NNB Generation Company (SZC) Limited should be bound by the terms of the Deed of Obligation.
- i. SCC notes paragraph 5.5 of the Applicant's Explanation as to why the Applicant considers that these three other entities should not (and apparently will not) be bound by the terms of the Deed of Obligation. SCC are considering the implications of draft Article 8 and the Evolving Approach in terms of the works pursuant to the DCO which these three entities would be permitted to carry out

without taking on any liability under the Deed of Obligation. However, SCC have the following comments on this at this stage:

- i. SCC would welcome the Applicant's views as to what, if any, further drafting the Applicant would propose to the draft Deed of Obligation to ensure that any breach of the triggers relating to obligations in the Deed of Obligation by any or all of these three entities would be enforceable directly against the Applicant and how does the Applicant intend to ensure that these three entities comply with the terms of the Deed of Obligation.
- ii. Notwithstanding Clause 5 of the draft Deed of Obligation relating to the release of the Applicant from the obligations in the Deed being limited where it has transferred the entire benefit of the DCO pursuant to Article 9 of the DCO and the Applicant's response to SA.1.28, SCC is concerned about the practicalities of enforcing against breaches of the Deed of Obligation on the part of these three other entities.
- iii. Whilst there might be an ability to enforce against the Applicant in theory for breaches of the Deed of Obligation on the part of these three other entities if the Applicant has no control or ability to compel these other entities to comply with the terms of the Deed this might not be effective in practice.
- iv. SCC are particularly concerned about any obligations in the Deed of Obligation which would need to be carried out by these three entities. For example, if any of the Key Environmental Mitigation needed to be carried out and completed under Schedule 9 of the draft Deed of Obligation needed to be carried out and completed by Network Rail but it was not then SCC question the effectiveness of enforcing against the Applicant for such a breach where the Applicant may not have the power or control over the ability to meet such an obligation.
- v. Using the example above, this concern is exacerbated by the current drafting in Schedule 9 of the draft Deed of Obligation which simply requires "*reasonable endeavours*" to carry out and complete the Key Environmental Mitigation. SCC are concerned that if the Applicant has requested Network Rail to carry out and complete an element of the Key Environmental Mitigation but Network Rail either will not or cannot comply with that requirement it may then be argued that the Applicant (against whom the obligation would be enforceable) has used its "*reasonable endeavours*" to comply and there would not be an effective route for the Councils to oblige this mitigation to be delivered.
- j. SCC note section 4 of the Applicant's Explanation with regard to the Applicant's position on using a section 106 agreement to bind the land within the Order Limits which it currently owns coupled with (what SCC consider would need to be) a DCO requirement restricting any development or utilisation of the DCO on land which is not bound into such a section 106 agreement unless a deed of adherence was entered into to bind that land into the terms of the section 106 agreement. SCC are considering whether this could be considered a "simpler and equally robust" means of securing the obligations as the Applicant indicates at paragraph 4.2 of the Applicant's Explanation. At this stage, SCC has the following observations:

- i. As noted above, whilst the Applicant has not provided title information to SCC, SCC notes from paragraph 4.1 of the Applicants Explanation that the Applicant has indicated it owns some land within the Order Limits. This would appear to make the approach summarised above legally possible (given the Applicant appears to be “interested” in the land to be bound (as required under section 106(1) of the 1990 Act)).
- ii. Paragraph 4.1 of the Applicant’s Explanation sets out that the Applicant considers it perverse to require the Applicant to take on an administrative burden of binding land pursuant to deeds of adherence in this manner when it does not consider that future land owners should be bound purely by virtue of being a land owner. SCC comments on this are as follows:
 1. SCC is not clear why the Applicant considers such an approach to be an “administrative burden” if it would be the Applicant itself who would be acquiring such land within the Order Limits (either by private treaty or compulsorily using provisions in the DCO) given that a simple precedent deed of adherence could be agreed at the outset and all that would presumably need to be reviewed by the Councils on a case by case basis would be up-to-date title documents to agree such deeds of adherence.
 2. SCC needs further information to understand why a blanket exclusion for the liability of land owners would be appropriate in such a scenario. This is particularly so given that it would presumably be the Applicant who would be the land owner of land within the Order Limits that would need to be bound into any section 106 agreement. SCC considers that excluding certain classes of land owner from liability could be considered (e.g. agricultural tenants) on a case by case basis. Alternatively, the Applicant could instead offer a private indemnity to any land owners who required it, particularly given that the Applicant appears willing to take on full liability for the commitments in any Deed of Obligation/section 106 agreement given its position on not binding the three entities mentioned under draft Article 8 of the DCO.
 3. In view of the Applicant’s position and the indication on drawings SZC/LOU/15 Rev 01 and SZC/LOU/16 Rev 01 of land with an option for lease by SZC Co, SCC queries whether it is the intention of the Applicant to acquire the freehold ownership of all of the land within the Order Limits or whether the Applicant is intending to enter into leases (instead of acquiring freehold title) in respect of some of the land within the Order Limits.

9. Enforcement under the Evolving Approach

- a. SCC is willing to engage with the Applicant as to the enforcement aspects of the Evolving Approach.
- b. SCC would welcome the Applicant’s proposals on the extent to which (and how) enforcement options which would be open to SCC under a section 106 agreement could be incorporated into the DCO or Deed of Obligation.

- c. It appears that the Applicant could not offer to incorporate provisions which would allow SCC to enter land to carry out operations or to enforce debts as a charge on land unless the Applicant was in control of such land within the Order Limits. SCC does not consider this approach materially different to the approach summarised at point [6.j.] above (i.e. using a section 106 agreement and requiring land to be bound into that document by deed of adherence before works under the DCO are carried out on that land).
- d. SCC notes the comments at paragraph 6.11 of the Applicant's Explanation as to the utility of enforcement options that would usually be available to SCC under section 16 given the scale of the likely contributions.
- e. In light of the above, SCC would welcome confirmation from the Applicant as to whether they would be able to provide bonds or guarantees to secure compliance with obligations in any Deed of Obligation/section 106 agreement agreed.
- f. SCC also notes paragraph 6.12 of the Applicant's Explanation and the comment that the governance arrangements would not be capable of being enforced or made to work without the active participation of the Applicant on an ongoing basis. SCC is considering whether fall-back arrangements to ensure these governance arrangements could continue to function if necessary in the event of the Applicant's insolvency (or where the Applicant could not participate) would be appropriate.

10. Transfers pursuant to Article 9 of the DCO and liability under the Evolving Approach

- a. SCC notes the updated provision at draft Article 9(4) as follows:

(4) Where the undertaker has transferred any benefit ("transferor"), or for the duration of any period during which the transferor has granted any benefit, under paragraph (1) –

(a) 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 under this Order as would apply if those benefits or rights were exercised by the transferor; and

(b) save to the extent agreed by the Secretary of State, the Deed of Obligation completed pursuant to this Order, and any variations to it at the date of transfer or grant, shall be enforceable against the transferee or lessee as they would against the transferor"

- b. Notwithstanding the comments below, SCC question whether draft Article 9(4)(b) should refer to the Deed of Obligation as being entered into "*pursuant to this Order*" as SCC anticipate the Deed of Obligation may be entered into before such an Order was made. Instead, perhaps the definition of "Deed of Obligation" could also refer to the date of any such document in due course.
- c. In addition, SCC would require the definition of "Deed of Obligation" in the draft DCO to be updated to ensure that any variations (or replacement) Deeds of Obligation were also caught by these provisions as appropriate i.e. so a transferee is always bound to enter into the most up-to-date package of obligations.

- d. SCC note the Applicant's comment at paragraph 5.4 of the Applicant's Response that Article 9 could require that a deed of adherence to any Deed of Obligation must be entered into by the transferee. In the event the Evolving Approach is taken forward by the Applicant, SCC would welcome the incorporation of a provision which required any transferee to enter into such a deed of adherence and that such a valid and completed deed of adherence should be provided to SCC before it could take the benefit of the DCO powers under Article 9.
- e. Further, SCC note the ability for the Secretary of State to agree to vary the extent to which any Deed of Obligation is enforceable against a transferee. This could potentially allow for a transferee to take free from the obligations in any Deed of Obligation using a mechanism where SCC have no control or right to make representations on whether they consider the transferee should be bound. In light of this, if the Applicant wants to retain this flexibility, SCC are considering whether SCC should be given an opportunity to make written representations to the Secretary of State on this point before the Secretary of State could use its power to vary the enforceability of such a Deed of Obligation against a transferee.
- f. SCC questions whether the latest revisions to draft Article 9(5)(b) which exclude the requirement for Secretary of State consent to transfers of the benefit of any or all of the provisions of the DCO under Article 9(1) where time limits for claims for compensation have elapsed and certain other criteria have been met are appropriate. On the face of things, there may still be commitments/obligations in any Deed of Obligation which have not been discharged or are ongoing at that point in time and SCC would require protection against the liability under the Deed of Obligation being transferred at that point to an entity which SCC may not be able to enforce against (by reason of the resources of that entity or otherwise). For this reason, SCC are also considering whether:
 - i. The written approval of SCC should be required for any transfer under Article 9 to take effect (so SCC could be satisfied that any transferee is properly bound into the Deed of Obligation (if considered necessary) and that such a transferee could meet its obligations under the deed of Obligation as they fall due); and/or
 - ii. SCC should be given an opportunity to make representations to the Secretary of State before the Secretary of State grants consent for any transfer under Article 9(1), particularly as to the suitability of a proposed transferee to meet obligations under any Deed of Obligation.
- g. Notwithstanding the comments in paragraph 5.7 of the Applicant's Explanation, SCC considers further consideration is needed as to the liability of a transferee under Article 9 for the provisions in any Deed of Obligation, particularly if the benefit of only some but not all of the provisions of the DCO are transferred under Article 9. SCC comments are as follows:
 - i. Clause 4.5 of the draft Deed of Obligation (copied below) acknowledges that the Deed may be enforceable against a party to whom the benefit of the DCO has been transferred under Article 9.

The parties agree that the obligations contained in this Deed will not be enforceable against any party other than SZC Co save to the

extent that it shall be enforceable against any party to whom the benefit of SZC Co's undertaking has been transferred pursuant to Article 9 of the Development Consent Order (unless otherwise agreed by the Secretary of State).

- ii. However, there is no provision in the draft Deed of Obligation which clarifies whether a reference in the draft Deed of Obligation to "SZC Co" should be treated as incorporating any transferee of part (or all) of the benefit of the DCO pursuant to Article 9 of the DCO or any provision stating that liability under the Deed of Obligation would be joint and several. This is considered important so that SCC is aware of which entities it may enforce against in respect of any breaches of any Deed of Obligation. SCC also questions whether it would be appropriate for an entity taking part of the benefit of DCO provisions should be treated as being able to satisfy obligations in any Deed of Obligation which SZC Co should be responsible for (e.g. attendance and participation in governance arrangements).
 - iii. In principle, SCC considers that the above point may be capable of being resolved by dealing with this in any deed of adherence which may be required under Article 9 (by being clear in such a document what obligations a transferee is covenanting to adhere to), although draft Article 9 would need to reflect that any such deed of adherence would need to be in a form acceptable to SCC (and ESC) before any transfer could take effect.
 - iv. In this regard, SCC is aware of Clause 5 of the draft Deed of Obligation relating to the release of the obligations in the Deed only where it has transferred the entire benefit of the DCO pursuant to Article 9 of the DCO and the Applicant's response to SA.1.28.
11. Notwithstanding that Recital (A) in the draft Deed of Obligation indicates that this document would include the date of the DCO, SCC expect any such document to need to be agreed and completed before the close of the examination and before any grant of the DCO. SCC notes that this is acknowledged by the Applicant in the responses to SA.1.14 and SA.1.18.

Selected comments in response to the Applicant's response to the ExA's Written Questions SA.1.

12. Deemed approval

- a. SCC remain unsatisfied with the proposed deemed approval provisions in paragraph 6 of Schedule 1 in the draft Deed of Obligation.
- b. It is understood that the Applicant intends to discuss these further with SCC and ESC.
- c. Matters for approval under the draft Deed of Obligation are expected to be relevant to delivering mitigation set out in the EIA and automatic approval of schemes may undermine SCC's ability to control this.
- d. There may be some approvals which would not have such an effect, but this will need to be considered when the Applicant has provided further detail about the substantive provisions.

- e. In addition, SCC do not consider it expedient that if SCC received an request/application for approval which did not include sufficient information or clarification and this information or clarification was not forthcoming, SCC would need to refuse this request/application to avoid a deemed approval.

13. “Reasonable endeavours” obligations

- a. SCC’s position is that use of “reasonable endeavours” by reference the Applicant’s obligations in any Deed of Obligation/section 106 agreement is not acceptable.
- b. This provides no certainty to SCC that this mitigation will be delivered and could make enforcement by SCC difficult.
- c. A “reasonable endeavours” obligation could simply require the Applicant to take one reasonable course of action to achieve an aim/outcome, not all of them (see: Rhodia International Holdings Ltd v Huntsman International LLC [2007] EWHC 292 (Comm)). A “reasonable endeavours” obligation does not require action to be taken which would disadvantage the Applicant.
- d. SCC acknowledges the Applicant’s answer to SA.1.52 that the standard “reasonable endeavours” was used in the Hinkley Point C Section 106 Agreement.
- e. However, SCC is aware that the Hinkley Point C project has experienced several changes in the assumed construction programme for both the main site and its Associated Developments (including the Temporary Jetty) as a result of various external influences and causations. SCC understands that progress with and changes to the implementation plan for Hinkley Point C have been the subject of regular review and dialogue between the NNB and the Councils (in that case). The formal mechanism for this is set out in the HPC Deed of Development Consent Obligations which contains an obligation that NNB GenCo shall use “reasonable endeavours” to carry out and complete the Associated Developments in accordance with the Implementation Plan. In the case of HPC, the determination of courses of action rests with NNB GenCo taking into account any reasonable representations of the Councils. It should be noted that not all the Associated Developments at HPC have yet been completed which raises a number of points:
 - i. that the range of factors that will inform the Councils’ representations could in some cases be outside of the direct control of the project. SCC understands that a live example at Hinkley Point C relates to the need for the timing of works contained in the Implementation Plan to be sensitive to works by others elsewhere in the locality;
 - ii. the potential need to control the timing of works to ensure they are delivered in time to address impacts; and
 - iii. the need to ensure the works themselves are obligated, regardless of timing.
- f. SCC are of the view that this phrase should not be used in the context of covenants in the Deed of Obligation and, instead, the Applicant should commit to delivering the relevant obligation by reference to a set trigger (related to time or a stage in the development), unless otherwise agreed in writing with SCC

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(or ESC, where relevant). In this way, if SCC (or ESC, where relevant) agree that a timetable for delivery should be altered following a request from the Applicant.

Comments on draft Deed of Obligation (revision 4.0)

SCC has been in dialogue with the Applicant regarding the draft Deed of Obligation/s.106 agreement.

The comments below are not exhaustive and may alter as further iterations of the document evolves.

V4 section	Existing drafting	SCC comment
General comment		All references to any Work No. to be checked as the draft DCO evolves.
General comment		SCC are considering each of the references to plans in the context of the particular definition in which they are used and at present cannot confirm whether they are content with the proposed plans.
Front cover	DEED OF OBLIGATION pursuant to section 111 of the Local Government Act 1972 relating to Sizewell C, Suffolk	Does the Applicant also intend for this to refer to section 1 of the Localism Act 2011
Table of contents		The plans and annexes need to be included here.
Recital (A)	On [●] the Secretary of State made the Development Consent Order;	SCC suggest this is deleted as it is expected that any Deed of Obligation would be entered into before the DCO is made.
Recital (C)	Suffolk County Council is also a local planning authority, in particular in relation to the Pakenham Site, and is the highway authority (except for trunk roads), the waste planning authority, the lead flood authority, the fire and rescue authority and the education authority for the area in which the Sites are situated.	Revision: (C) Suffolk County Council is also a local planning authority, in particular in relation to the Pakenham Site, and is the highway authority (except for trunk roads), the waste planning authority, the lead local flood authority, the

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		fire and rescue authority and the education authority for the area in which the Sites are situated.
1.1	Where in this Deed (which shall include the Recitals, Schedules and Appendices hereto) the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:	Revision: Where in this Deed (which shall include the Recitals, Schedules, Annexes and Plans hereto) the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:
"Commencement"	means the carrying out of a material operation as defined in section 155 of the 2008 Act comprised in the Project other than: (a) operations consisting of Preparatory Works; and (b) operations consisting of the Relocated Facilities Works prior to the occurrence of the Transitional Date, and the words "Commence" and "Commenced" and cognate expressions shall be construed accordingly;	SCC are continuing to consider the implications of this as the detail of each obligation evolves. SCC continue to have concerns regarding the scope of the "Preparatory Works" and this is commented on below.
"Communications Officers"	means [●];	SCC await the Applicant's proposed wording for this definition.
"Construction Period"	means the period between (i) the Commencement Date; and (ii) date of receipt of fuel for Unit 2;	SCC request clarity from the Applicant as to why the date of the receipt of fuel for "Unit 2" should be considered the end of the "Construction Period". Is it anticipated that any works of construction would be carried out on any of the Sites after the date of the receipt of fuel for "Unit 2"? SCC also request the Applicant's rationale for the separate use of the term "Construction Phase" by reference to the

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		Main Civils Construction Phase, the Mechanical, Electrical and Heating (MEH) Phase and the Site Operations / Support Services / Enabling Works Phase.
"CPIH"	means the consumer prices index including owner-occupiers' housing costs excluding indirect taxes published by the Office for National Statistics or any official publication substituted for it;	SCC comment that it is unlikely that this index will be appropriate for all of the obligations in the Deed of Obligation and other indices (e.g. related to build costs or retail prices) will need to be considered for each obligation as appropriate.
"Index"	means the CPIH for the United Kingdom or in default of publication thereof such substitute index as the parties may agree in accordance with clause 10;	As above. It is unlikely that the CPIH index will be appropriate for all of the obligations in the Deed of Obligation.
"Interest Rate"	means [●]% above the [●] base rate applicable at the Payment Date;	Revision: means a minimum of 4% above the Bank of England base rate applicable at the Payment Date;
"new Sizewell B relocated facilities permission"	means any planning permission granted by East Suffolk Council under the 1990 Act which authorises the development of the Relocated Facilities Works or development substantially similar to the Relocated Facilities Works;	Revision: means any planning permission granted by East Suffolk Council under the 1990 Act (other than the Sizewell B relocated facilities permissions) which authorises the development of the Relocated Facilities Works or development substantially similar to the Relocated Facilities Works (provided that such substantially similar development is not likely to give rise to any materially new or materially different environmental effects to the Relocated Facilities Works);
"Operational Period"	means [●];	SCC await the Applicant's proposed wording for this definition.

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		<p>SCC also request the Applicant's rationale for the separate use of the term "Operational Phase" in Schedule 7 of the Deed of Obligation.</p>
<p>"Preparatory Works"</p>	<p>(a) site preparation and clearance works; (b) pre-construction archaeological works; (c) environmental surveys and monitoring; (d) removal of hedgerows, trees and shrubs; (e) investigations for the purpose of assessing ground conditions; (f) diversion or laying of services; (g) remedial work in respect of any contamination or adverse ground conditions (excluding works including and associated with dewatering activities carried out as part of Work No. 1A(l), Work No. 1A(t) and Work No.1A(u) in Schedule 1 to the Development Consent Order); (h) receipt and erection of construction plant and equipment; (i) the temporary display of site notices and advertisements; and (j) erection of temporary buildings and structures (which for the purpose of this definition does not include Work No. 3, Work No. 9, Work No. 10 or Work No. 13 in Schedule 1 to the Development Consent Order).</p>	<p>SCC are concerned this definition includes wide, undefined, terms which potentially allows for potentially extensive works to be carried out before "Commencement" under the Deed of Obligation.</p> <p>SCC consider that (b) pre-construction archaeological works; (c) environmental surveys and monitoring; (e) investigations for the purpose of assessing ground conditions; and (i) the temporary display of temporary buildings and structures (and the remedial work mentioned in (g), subject to checking the cross references to the DCO once the DCO is in a final form) may be agreed.</p> <p>However, SCC request further explanation from the Applicant as to the other carve outs from Commencement mentioned here, why each one is considered necessary and whether this could be drafted any more precisely.</p>
<p>"Second Relocated Facilities Section 106 Agreement"</p>	<p>means the agreement under section 106 of the 1990 Act and other relevant powers dated 17 February 2021 and made between East Suffolk Council and NGL (as varied from time to time);</p>	<p>SCC notes that "NGL" is not defined and requests the Applicant provides a definition for this term.</p>
<p>"Sizewell B relocated facilities permissions"</p>	<p>means: (a) the planning permission granted by East Suffolk Council on 13 November 2019, with reference number</p>	<p>As above. SCC notes that "NGL" is not defined and requests the Applicant provides a definition for this term.</p>

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	<p>DC/19/1637/FUL (as varied from time to time) (the “First Sizewell B Relocated Facilities Permission”); and</p> <p>(b) the planning permission granted pursuant to the hybrid application for Work No. 1E submitted on 16 November 2020 with reference DC/20/4646/FUL and any amendments thereto submitted on behalf of NGL to East Suffolk Council (the “Second Sizewell B Relocated Facilities Permission”).</p>	
“Sizewell C Construction Workforce”	<p>means persons:</p> <p>(a) employed to work on the Sizewell C Project at the Main Development Site or one or more of the Associated Development Sites as their main place of work; and</p> <p>(b) who have been at the Main Development Site or one or more of the Associated Development Sites on at least 5 separate days in a 30 day period during the Construction Period; and</p> <p>(c) who have been at the Main Development Site or [one or more of] the Associated Development Sites for at least 37.5 hours in a 30 day period during the Construction Period.</p>	<p>SCC notes that this definition is used in a number of obligations in the Deed (and the definitions of NHB Workers, HB Workers and Workforce Children are parasitic on this definition) and is reviewing this in the context of what is required for each relevant obligation.</p> <p>SCC does not agree with restricting this definition to those “employed” to work on the Sizewell C Project. This term needs to be drafted widely enough to cover the workforce directly or indirectly employed, including sub-contractors and similar.</p> <p>The terms “Main Development Site” and “Associated Development Sites” are not defined and SCC requests the Applicant provide proposed definitions for review.</p> <p>SCC also queries how the Applicant proposes compliance with this definition is monitored for each of the obligations which use this definition (e.g. the Social Care Resilience Measures, the obligations relating to Emergency Services at Schedule 4, the School and Early Years Capacity Measures and the Residual Healthcare Contribution). In this regard SCC notes the monitoring obligations at paragraph 6.2 of Schedule 3 but at present does not consider this includes obligations to collect all of the</p>

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		<p>information that would be needed for all of the obligations and there is no requirement to submit this information to SCC or other working groups other than the Accommodation Working Group.</p> <p>What about the SZC Workforce who are not part of the Construction Workforce? How are these defined?</p>
1.2.13	references to "including" shall mean including without limitation;	references to "including" and "include" shall mean including without limitation;
ADDITION		<p>Revision: Add new Clause 1.2.16 as follows:</p> <p>Where in this agreement it is stated that the SZC Co's consent, approval or agreement is required, SZC Co agrees not to unreasonably withhold its consent approval or agreement and to confirm in writing its consent, approval or agreement or otherwise of the relevant matter, scheme or measure within 21 Working Days of the date of receipt of details of such matter, scheme or measure, or such longer period as may be agreed in writing between SZC Co and the relevant Council, and in the event of SZC Co failing to respond within the relevant decision period (or longer period as agreed) that the relevant Council may proceed with on the basis that such matter, scheme or measure has been approved by SZC Co.</p>
3.1	Subject to clauses 3.2, 3.3, 3.4, and 3.5, the parties agree that Clause 4 in this Deed shall not have operative effect unless and until the Commencement Date has occurred.	<p>SCC anticipates that a number of the obligations in the Schedules will need to come into force (and be enforceable by the Councils) before the Commencement Date so this Clause will need revising to reflect this.</p> <p>In particular SCC considers any monitoring and resourcing contributions that may be due (subject to further discussion between the Councils and the Applicant) under</p>

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		Schedule 2 will need to be paid in advance of Commencement.
3.2	<p>3.2 Provided that the Project has not been Commenced, where the Development Consent Order is granted and becomes the subject of any judicial review proceedings under section 118 of the 2008 Act:</p> <p>3.2.1 until such time as such proceedings including any appeal have been finally determined, the terms and provisions of this Deed will remain without operative effect unless the Project is Commenced;</p> <p>3.2.2 if following the final determination of such proceedings the Development Consent Order is quashed and, in the event that the court orders the Application to be remitted to the Secretary of State, the Application is subsequently refused and no appeal or further appeal may be made in respect of such refusal, this Deed will cease to have any further effect and any money paid to the Councils pursuant to the Schedules and not spent or committed by the Councils (or such other person as the money has been paid to under this Deed) shall be repaid in full within [56] Working Days of the final determination of such proceedings; and</p> <p>3.2.3 if following the final determination of such proceedings (and, any redetermination of the Application by the Secretary of State in the event of quashing) the Development Consent Order is capable of being Commenced, then this Deed will take effect in accordance with its terms subject to any variations to its terms necessitated through the redetermination process.</p>	<p>In light of the comment above, it is not expected that all the obligations in the Schedules will not have operative effect unless the Project is Commenced and these provisions will need to be updated to reflect this.</p> <p>SCC is also of the view that sub-clause 3.3 should be revised as follows to refer to a Deed of Variation to the Deed of Obligation:</p> <p>if following the final determination of such proceedings (and, any redetermination of the Application by the Secretary of State in the event of quashing) the Development Consent Order is capable of being Commenced, then this Deed will take effect in accordance with its terms subject to any Deeds of Variation to its terms necessitated through the redetermination process and are agreed by the Councils.</p>

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3.3	Where the Application is refused, but the Development Consent Order is subsequently granted following redetermination by the Secretary of State following the final determination of judicial review proceedings under section 118 of the 2008 Act, this Deed will, upon granting of the Development Consent Order, take effect in accordance with its terms subject to any variations to its terms necessitated through the redetermination process.	<p>Revision:</p> <p>Where the Application is refused, but the Development Consent Order is subsequently granted following redetermination by the Secretary of State following the final determination of judicial review proceedings under section 118 of the 2008 Act, this Deed will, upon granting of the Development Consent Order, take effect in accordance with its terms subject to any Deeds of Variation to its terms necessitated through the redetermination process and are agreed by the Councils.</p>
4.1.1	The obligations contained in the Schedules pursuant to section 111 of the Local Government Act 1972 and all other powers so enabling.	SCC requests clarity from the Applicant as to whether the Applicant proposes this clause should also refer to section 1 of the Localism Act 2011.
5.1	SZC Co shall, upon transfer of the entire benefit of the Development Consent Order pursuant to article [9] of the Development Consent Order, be released from all obligations in this Deed in relation to that interest but without prejudice to the rights of the parties in relation to any antecedent breach of those obligations.	<p>Revision:</p> <p>5.1 SZC Co shall, prior to the transfer of any or all of the benefit of the Development Consent Order pursuant to article [9] of the Development Consent Order, provide the Councils with a deed of covenant, in a form to be approved by the Councils, duly executed by the transferee of any or all of the benefit of the Development Consent Order which confirms that the transferee of any or all of the benefit of the Development Consent Order shall comply with the obligations of SZC Co pursuant to this Deed</p> <p>5.2 Upon the Councils' issuing written confirmation that the deed of covenant required pursuant to clause 5.1 above has been received and released unconditionally to the Councils for completion such confirmation to be issued by the Councils within 10 working days of receipt of the duly executed deed of covenant, in the approved form, SZC Co shall, , be released from all its obligations in this Deed but</p>

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		without prejudice to the rights of enforcement of the parties in relation to any antecedent breach by SZC Co of those obligations.
7.2	Suffolk County Council will within 21 Working Days following receipt of a written request by SZC Co certify compliance or partial compliance (as and if appropriate) with the provisions of this Deed and if so requested by SZC Co will (as and if appropriate) execute a deed of release or partial release from the relevant provisions of this Deed [and promptly procure that the same is entered in the register of local land charges maintained by East Suffolk Council] subject to payment by SZC Co of Suffolk County Council's reasonable legal fees for complying with this clause 7.3.	Revision: Suffolk County Council will within 56 Working Days following receipt of a written request by SZC Co. (such request to include sufficient information to enable Suffolk County Council to determine whether the relevant provisions of this Deed have been complied or partially complied with) certify compliance or partial compliance (as and if appropriate) with the provisions of this Deed and if so requested by SZC Co will execute a deed of release or partial release from the relevant provisions of this Deed and promptly procure that the same is entered in the register of local land charges maintained by East Suffolk Council subject to payment by SZC Co of Suffolk County Council's reasonable legal fees for complying with this clause 7.2.
8	RESOLUTION OF DISPUTES	This Clause is subject to on-going discussions between SCC and the Applicant.
9.4.1	in the case of Suffolk County Council: Address: [•] Relevant addressee: [•] Reference: [•]	in the case of Suffolk County Council: Address: Suffolk County Council, Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX Relevant addressee: Executive Director of Growth, Highways and Infrastructure Reference: SIZEWELL C DEED OF OBLIGATION
10	Unless otherwise indicated in this Deed, all payments and financial contributions to be paid, provided or made available pursuant to this Deed will be increased by	SCC generally refer to indexation for the month two months before the date on which the sum is payable and

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	<p>reference to the amount of the increase in the Index from the date of this Deed until the date payment is due in accordance with the following formula:</p> <p>Amount Payable = Sum x (Index at Payment Date / Index at today's date)</p> <p>where:</p> <p>"Amount Payable" is the amount of money required to be paid;</p> <p>"Sum" is the amount of the Contribution or other sum of money stated in this Deed;</p> <p>"Index at Payment Date" is the Index last published before the Payment Date; and</p> <p>"Index at today's date" is the relevant Index last published prior to the date the Development Consent Order is made.</p>	<p>the date of the Deed to ensure that actual, rather than forecast figures are used.</p> <p>Revision:</p> <p>Unless otherwise indicated in this Deed, all payments and financial contributions to be paid, provided or made available pursuant to this Deed will be increased by reference to the amount of the increase in the Index from the date of this Deed until the date payment is due in accordance with the following formula (where the Index at Payment Date / Index at today's date is greater than one (1)):</p> <p>Amount Payable = Sum x (Index at Payment Date / Index at today's date)</p> <p>where:</p> <p>"Amount Payable" is the amount of money required to be paid;</p> <p>"Sum" is the amount of the Contribution or other sum of money stated in this Deed;</p> <p>"Index at Payment Date" is the Index for the month two (2) months before the before the Payment Date; and</p> <p>"Index at today's date" is the relevant Index for the month two (2) months before the date the Development Consent Order is made</p>
12.1.1	<p>at least [●] Working Days prior to the Commencement Date, of the anticipated date of Commencement of works pursuant to the Development Consent Order PROVIDED</p>	<p>Revision:</p>

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	<p>THAT for the avoidance of doubt nothing in this Deed shall prevent Commencement from having occurred lawfully in the event this notice is not served in accordance with this clause;</p>	<p>at least 56 Working Days prior to the Commencement Date, of the anticipated date of Commencement of works pursuant to the Development Consent Order (and if the Commencement Date does not occur on the notified date SZC Co shall re-notify the other parties to this Deed [10] Working Days prior to the Commencement Date)"PROVIDED THAT for the avoidance of doubt nothing in this Deed shall prevent Commencement from having occurred lawfully in the event this notice is not served in accordance with this clause;</p>
12.1.2	<p>prior to the Transitional Date, of the anticipated date of the Transitional Date;</p>	<p>Revision:</p> <p>at least 56 Working Days prior to the Transitional Date, of the anticipated date of the Transitional Date (and if the Transitional Date does not occur on the notified date SZC Co shall re-notify the other parties to this Deed [10] Working Days prior to the Transitional Date);</p>
13.1	<p>The Communications Officers for East Suffolk Council and Suffolk County Council (or such other central point as may be agreed between SZC Co, East Suffolk Council and Suffolk County Council) will coordinate external communications on behalf of Suffolk County Council and East Suffolk Council with SZC Co's communications team. This will be conducted in accordance with a protocol agreed between SZC Co and the Councils. Once communications material associated with a project or activity funded from the Contributions has been produced in accordance with the protocol, SZC Co shall have the right to include information in its future communications without the need for approval by the other parties to this Deed.</p>	<p>SCC requests the Applicant provide a definition of "external communications" so all parties can be sure which communications are caught by this Clause.</p> <p>SCC also consider that ideally the protocol should be agreed before completion and included as an annex to the Deed. This is more attractive than a pre-commencement obligation to agree this protocol as it is expected that these communications may include communications before the Commencement Date.</p>

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13.2.1	SZC Co shall be acknowledged as having funded such works, projects or benefits;	Revision: SZC Co shall have the right to be acknowledged as having funded such works, projects or benefits;
13.2.2	SZC Co branding and/or corporate images or logos shall be included (unless instructed to the contrary by SZC Co) in literature or publicity material relating to such works, projects or benefits;	Revision: SZC Co branding and/or corporate images or logos shall be included (unless instructed to the contrary by SZC Co) in literature or publicity material relating to such works, projects or benefits at the discretion and sole cost of SZC Co;
13.2.4	SZC Co shall have the right to be involved in publicity activities relating to such works, projects or benefits in consultation with the Councils.	Revision: SZC Co shall at its sole cost have the right to be involved in publicity activities relating to such works, projects or benefits in consultation with the Councils.
14.1	[The Parties agree that the obligations contained in the Schedules to this Deed are necessary to make the Project acceptable in planning terms, are directly related to the Project and are fairly and reasonably related in scale and kind to the Project and thus satisfy the tests in paragraph 4.1.7 of NPS EN-1.]	Paragraph 4.1.7 of NPS EN-1 refers to the tests for requirements. This reference should be to paragraph 4.1.8 which refers to development consent obligations. However, SCC do note that the Applicant is not intending on the Deed of Obligation being entered into as a development consent obligation under section 106 of the TCPA 1990. Revision: [The Parties agree that the obligations contained in the Schedules to this Deed are necessary to make the Project acceptable in planning terms, are directly related to the Project and are fairly and reasonably related in scale and kind to the Project and thus satisfy the tests for

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		development consent obligations in paragraph 4.1.8 of NPS EN-1.]
16	VAT	SCC is seeking specialist advice on the tax implications of this Clause.
17	<p>17.1 Nothing in this Deed (including its Schedules) shall require SZC Co to do anything that would be or that SZC Co is properly advised by its legal advisors would be contrary to data protection, confidentiality and/or any other applicable legal requirements or otherwise unlawful for any reason.</p> <p>17.2 Nothing in this Deed (including its Schedules) shall require any of the Councils to do anything that would be or that the relevant Council is properly advised by its legal advisors would be contrary to data protection, confidentiality and/or any other applicable legal requirements or otherwise unlawful for any reason.</p>	SCC reiterates its concern that the provision may prevent the sharing of data and information that is required to monitor compliance and fully assess the impact of the Project. SCC is content to discuss this further with the Applicant and is willing to discuss entering in to a data sharing protocol to address concerns the Applicant may have.
21	JURISDICTION	SCC notes the recent questions from the ExA and the Applicant's response to SA.1.37.
SCHEDULE 1 – COUNCILS' GENERAL OBLIGATIONS		It is not SCC's standard practice to deposit contributions that it receives into interest bearing accounts and SCC is investigating the practicalities of doing this in this case.
Schedule 1 Paragraph 2.3		It is not SCC's standard practice to deposit contributions that it receives into interest bearing accounts and SCC is investigating the practicalities of doing this in this case.
Schedule 1 Paragraph 3.2	The Councils each covenant with SZC Co that they will within 6 months of the Commencement Date and annually thereafter until the Contributions have been spent provide	The Councils each covenant with SZC Co that they will within 12 months of the Commencement Date and annually thereafter until the Contributions have been spent

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	SZC Co with a statement setting out details of the purposes to which the monies have been applied.	provide SZC Co with a statement setting out details of the purposes to which the monies have been applied.
Schedule 1 Paragraph 3.3	Notwithstanding paragraph Error! Reference source not found. , SZC Co shall in any event have the right to audit all expenditure funded from the Contributions or other amounts secured under this Deed and the Councils each covenant with SZC Co to provide access to all such information and evidence to enable SZC Co to carry out any such audit on an annual basis.	SCC expects the resourcing provisions in Schedule 2 to make provision for SCC's administration costs relating to this paragraph.
Schedule 1 Paragraph 4.1	Unless expressly stated otherwise in this Deed, if any amount of money paid to the Councils under this Deed by SZC Co remains unspent within 5 years of the date that amount was paid by SZC Co, the Councils shall repay any such unspent monies together with any Accrued Interest on those monies to SZC Co or its nominee within [●] Working Days of a request from SZC Co, unless otherwise agreed between the parties	<p>SCC consider that the time period for the Councils to commit, allocate or spent contributions it receives should be considered on an obligation by obligation basis. For example, contributions paid to be applied during the operational phase may need to be capable of being spent throughout that time.</p> <p>Subject to the above, SCC suggest the following revision:</p> <p>Unless expressly stated otherwise in this Deed, if any amount of money paid to the Councils under this Deed by SZC Co remains unspent, unallocated and or uncommitted within 10 (ten) years of the date that amount was paid by SZC Co (and for the avoidance of doubt where a sum is paid to the Councils in tranches this period runs separately for each tranche from the date the relevant tranche is received by the relevant Council), the Councils shall repay any such unspent monies together with any Accrued Interest on those monies to SZC Co or its nominee within 56 Working Days of a request from SZC Co, unless otherwise agreed between the parties.</p>

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Schedule 1 Paragraph 6		Please see SCC's general comments on this at Paragraph 10 above.
Schedule 2 Council's Resourcing		<p>This Schedule is subject to on-going discussions between the Applicant and SCC.</p> <p>At present, it is considered that SCC would want at least the following covered in this Schedule:</p> <ul style="list-style-type: none"> • Attendance at review group meetings including preparation for; • Monitoring – in relation to each obligation/measure that SCC will be responsible for in the Deed • Enforcement – SCC anticipates there will be numerous complaints that will need to be investigated by planning enforcement officers during the construction phase; • Planning staff – to discharge requirements, work with enforcement and other monitoring officers; • Additional administration/finance staff costs relating to the processing of contributions received and dealing the presentation and payment of invoices raised by third parties to be paid by the Applicant; and • S106 fund management – to be discussed further.
Schedule 2 Paragraph 4.2	The Councils shall within [●] Working Days of receiving a request from SZC Co produce itemised timesheets showing all of the matters that the Officers have worked on during the period of their employment pursuant to this Schedule 2, to include both matters relating to the Project and any other matters.	SCC does not consider it appropriate for timesheets to be required for full time staff dedicated to work on the Project or in relation what those employed by SCC to spent part of their working time on the Project do on days where they are not dedicated to the Project.

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Schedule 2 Paragraph 5.1	[SZC Co shall provide to the Councils prior to [●] an anticipated programme for the submission of material to the Councils to discharge relevant requirements pursuant to the Development Consent Order.]	This is subject to on-going discussion between SCC and the Applicant. SCC consider this should be at least six months before the Commencement Date.
Schedule 2 Paragraph 5.2	SZC Co together with the Councils shall carry out a joint review of the dedicated staff resources funded by SZC Co pursuant to this Schedule 2 [on or before the second anniversary of Commencement and again on or before the fourth anniversary of Commencement] having regard to:	SCC consider this review should be at least every two years during the construction phase.
Schedule 2 Paragraph 5.2.3	the level of activity undertaken by the Officers in relation the Project as evidenced by the itemised timesheets of the Officers described in paragraph 5.2; and	See SCC comment on timesheets relating to Schedule 2 Paragraph 4.2 above.
Schedule 2 Paragraph 5.3	Following the joint review to be carried out by SZC Co and the Councils pursuant to paragraph 6.2, SZC Co shall prepare a report identifying whether any funding of staff resources funded by SZC Co pursuant to this Deed should, either partially or fully, continue or be adjusted after the periods provided for in this Schedule 2.	This should refer to paragraph 5.2, not 6.2. SCC consider this provision should include an obligation for the Applicant to take any reasonable amendments required by the Councils into account.
Schedule 2 Paragraph 5.4	SZC Co shall provide a copy of the report completed under paragraph 6.3 to the Councils by not later than [●] and shall thereafter provide any funding in the amount and at the intervals determined by SZC Co pursuant to paragraph 6.3.]	This should refer to paragraph 5.3, not 6.3. This provision should include a requirement for this report to be approved by the Councils before its contents settles whether funding of staff resources should continue after the periods in Schedule 2. SCC do not agree to the intervals of payments being determined by the Applicant. These payments should be made on a quarterly basis as a minimum.

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Schedule 3 – Accommodation and Housing		<p>SCC acknowledges that the covenants in this Schedule 3 are between the Applicant and ESC but SCC reserves the right to comment on this (and any interaction it has with other schedules) when the drafting of this Schedule 3 is further advanced.</p> <p>In particular, SCC needs to ensure that the Housing Fund covers specialist and supported housing needs and key workers.</p>
Schedule 4 Emergency Services		This Schedule is subject to on-going discussions between the Applicant and SCC.
Schedule 4 “Community Liaison Service”	means a service to be provided by SZC Co as defined by the Code of Construction Practice to provide a liaison service between the Project and its contractors and local community groups and members of the public.	Subject to SCC review of the Code of Construction Practice and consideration of whether further approval of detail or some flexibility to depart from the Code of Construction Practice if all parties agree is required.
Schedule 4 “Emergency Services Contribution”	means the sum of £[●] in total for the purposes of mitigating the potential significant impacts of or risks associated with the Project on the provision of services by Suffolk Constabulary, Suffolk Fire and Rescue Service, and East of England Ambulance Service Trust which is to be paid in accordance with paragraph 3;	SCC considers this should include the RNLI and the Coastguard too.
Schedule 4 “Emergency Co-ordinator”	<p>means the emergency co-ordinator or co-ordinators appointed by SZC Co in accordance with paragraph 2.1.1 who shall:</p> <p>(a) appraise any incidents and allocate the On-site Emergency Response, and contact Suffolk Constabulary, Suffolk Fire and Rescue Service, and East of England Ambulance Service Trust to request assistance if required;</p>	<p>SCC consider the first part of this definition should refer to a <i>“suitably qualified and experienced emergency co-ordinator or co-ordinators”</i>.</p> <p>As above, SCC considers this should include the RNLI and the Coastguard too.</p> <p>SCC also request comment from the Applicant as to whether the “previously agreed rendezvous” point may be</p>

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	<p>(b) ensure a single point of contact with Suffolk Constabulary, Suffolk Fire and Rescue Service, and East of England Ambulance Service Trust; and</p> <p>(c) meet Suffolk Constabulary, Suffolk Fire and Rescue Service, and East of England Ambulance Service Trust. (as relevant) at the previously agreed rendezvous point and escort them to the scene of the incident;</p>	<p>agreed now (subject to any change notified in due course) or is a matter that may be agreed pre-commencement (pursuant to a mechanism in the Deed).</p>
Schedule 4 "On-site Fire and Rescue"	<p>means the private fire and rescue service to be provided by SZC Co pursuant to paragraph 2.1.3 and located on the SZC Development Site during the Construction Period;</p>	<p>SCC request the Applicant confirm whether it intends for the specification for this service to be agreed now or whether this could be subject to a mechanism requiring this to be agreed before the Commencement Date.</p>
Schedule 4 "On-site Security"	<p>means the private security service to be provided by SZC Co pursuant to paragraph 2.1.2;</p>	<p>As above. SCC request the Applicant confirm whether it intends for the specification for this service to be agreed now or whether this could be subject to a mechanism requiring this to be agreed before the Commencement Date.</p>
Schedule 4 Paragraph 2.1	<p>On or before Commencement and throughout the Construction Period thereafter, SZC Co shall:</p> <p>2.1.1 appoint one or more Emergency Co-ordinators;</p> <p>2.1.2 provide On Site Security; and</p> <p>2.1.3 provide On Site Fire and Rescue.</p>	<p>SCC question whether it is correct that these matters only need to be in place during the "Construction Period". Are these not roles that are needed during the Operational Period too?</p>
Schedule 4 Paragraph 3.1	<p>During the Construction Period, the following sums from the Emergency Services Contribution shall be paid by SZC Co to the County Council for onward payment to the Suffolk Constabulary:</p> <p>...</p>	<p>Revision:</p> <p>The following sums from the Emergency Services Contribution shall be paid by SZC Co to the County Council for onward payment to the Suffolk Constabulary:</p> <p>...</p>
Schedule 4 Paragraph 3.2	<p>During the Construction Period the following sums from the Emergency Services Contribution shall be paid by SZC</p>	<p>Revision:</p>

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	Co to the County Council for the provision of the Suffolk Fire and Rescue Service: ...	The following sums from the Emergency Services Contribution shall be paid by SZC Co to the County Council for the provision of the Suffolk Fire and Rescue Service:
Schedule 4 Paragraph 3.3.1	The sum of £[●] to contribute towards additional call-outs to the SZC Development Site, such sum to be paid in tranches against the presentation of an invoice following each call-out	SCC are considering this mechanism further with the Ambulance Trust.
Schedule 4 Paragraph 4.1 – 4.3		SCC question whether these measures should go on beyond the Construction Period and into the Operational Period too.
Schedule 4 Paragraph 4.4	Payments pursuant to this paragraph 4 shall only be made following approval by SZC Co of a request received in writing from East Suffolk Council or Suffolk County Council (as appropriate) detailing the amounts requested to be paid by reference to the relevant paragraph of this Schedule 4.	SCC do not agree to the inclusion of a general approval mechanism in this paragraph for the Applicant. Payments should be made following a request from either Council which satisfies the relevant part of paragraph 4. In addition, such payments should be made to the relevant Council within 21 Working Days of receipt of this request in writing.
Schedule 4 Paragraph 5.4 – 5.5	Community Safety Working Group	Details of the relationship between the safety community working group and the transport review group described in 2.3.1 of the CTMP are not reflected in the remit given in the draft Deed.
Schedule 5 Public Services and Community Safety		This Schedule is subject to on-going discussions between the Applicant and SCC.
Schedule 5 Paragraph 5.1	On or before Commencement, SZC Co shall establish the Community Safety Working Group which shall exist until the end of the Construction Period and shall operate in	SCC question whether this obligation should go on beyond the Construction Period and into the Operational Period too.

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	accordance with the Community Safety Working Group Terms of Reference.	
Schedule 5 Paragraph 5.6	Meetings of the Community Safety Working Group shall be quorate if at least three members (at least one of which is a member representing SZC Co and one is a member representing one of the Councils) are present.	SCC consider these meetings should only be quorate if representatives from <u>both</u> Councils is present.
Schedule 5 "School and Early Years Capacity Measures"	means initiatives to enable the delivery of capacity to account for the predicted temporary demand for additional school places and early years provision in those areas likely to be most affected based on the actual distribution of demand related to net additional Workforce Children;	<p>SCC require this to specifically include school transport and temporary classroom provision.</p> <p>SCC does not agree that this definition should refer to "net additional" Workforce Children as SCC will need to cater for displacement of existing children in the locality and sufficient school places will be needed across the area.</p> <p>SCC request the Applicant's proposals as to how SCC may monitor the number of "Workforce Children" as the Project progresses and the information that the Applicant can commit to providing in this regard.</p> <p>Revision:</p> <p>means initiatives to enable the delivery of capacity to account for the predicted temporary demand for additional school places and early years provision for children aged 0 – 19 (which for the avoidance of doubt and without limitation shall include the provision of school transport and temporary classroom provision) in those areas likely to be most affected based on the actual distribution of demand related to Workforce Children;</p>
Schedule 5 "Workforce Children"	means pre-school and school-aged children who are dependants of NHB Workers and who have moved into	SCC request the Applicant's proposals as to how SCC may monitor the number of "Workforce Children" as the Project progresses.

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	Suffolk schools or early years settings as a result of the Project.	Revision: means pre-school and school-aged children who attend (or will attend) Suffolk schools or early years settings and are dependants of NHB Workers.
Schedule 5 Paragraph 2.2.2	[East Suffolk Council may use the Public Services Resilience Fund paid pursuant to paragraph 2.2.1 may be used for: (A) new Social Care Resilience Measures; and (B) the enhancement of and addition to pre-existing Social Care Resilience Measures, should they be considered necessary by the Community Safety Working Group.]	Revision: 2.2.2 [Suffolk County Council may use the Public Services Resilience Fund paid pursuant to paragraph 2.2.1 may be used for: (A) new Social Care Resilience Measures; and (B) the enhancement of and addition to pre-existing Social Care Resilience Measures, should they be considered necessary by the Community Safety Working Group.]
Schedule 5 Paragraph 2.2	Social Care Resilience Measures	SCC question the effectiveness of this mechanism to deliver the Social Care Resilience Measures. The Community Safety Working Group will not be established until the Commencement Date and any payments may only be used towards initiatives approved by the Community Safety Working Group. SCC question whether a set of initiatives may be agreed now for the use of the first tranche payment under paragraph 2.2.1 (A) and the need to approve initiatives could apply to subsequent payments of tranches.
Schedule 5 Paragraph 2.2.3	No later than [1 April] of each year of the Construction Period, Suffolk County Council shall submit to the Community Safety Working Group for approval details of	(Subject to the comment above) Revision:

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	the Social Care Resilience Measures to be funded through the payments pursuant to paragraph 2.3.	No later than [1 April] of each year after the first 12 months of the Construction Period (or earlier at the sole discretion of Suffolk County Council), Suffolk County Council shall submit to the Community Safety Working Group for approval details of the Social Care Resilience Measures to be funded through the payments pursuant to paragraph 2.3.
Schedule 5 Paragraph 2.3	School and Early Years Resilience Measures	SCC are not convinced that it should be necessary for the Social Review Group to approve initiatives that the School and Early Years Resilience Fund may be used towards. SCC is the local education authority and is best placed to deliver these measures.
Schedule 5 Paragraph 2.3.2	No later than [1 April] of each year of the Construction Period, Suffolk County Council shall submit to the Social Review Group for approval details of the School and Early Years Resilience Measures to be funded through the payments pursuant to paragraph 2.3.1.	(Subject to the comment above) Revision: No later than [1 April] of each year after the first 12 months of the Construction Period (or earlier at the sole discretion of Suffolk County Council), Suffolk County Council shall submit to the Social Review Group for approval details of the School and Early Years Resilience Measures to be funded through the payments pursuant to paragraph 2.3.1.
Schedule 5 Paragraph 3.1	When considering how to apply a payment from Public Services Resilience Fund pursuant to paragraph 2, Suffolk County Council or East Suffolk Council (as relevant) shall take into account the recommendations of the Community Safety Working Group and/or Social Review Group and the extent to which the relevant initiative: ...	(Subject to the comments above on the involvement of the Community Safety Working Group and/or Social Review Group) Revision: When considering how to apply a payment from Public Services Resilience Fund pursuant to paragraph 2, Suffolk County Council or East Suffolk Council (as relevant) shall take into account the reasonable recommendations of the Community Safety Working Group and/or Social Review Group and the extent to which the relevant initiative: ...

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Schedule 5 Paragraph 4	School and Early Years Capacity Contribution	<p>SCC are not convinced that it should be necessary for the Social Review Group to approve the amount the School and Early Years Capacity Contribution that may be paid to SCC.</p> <p>SCC would prefer an obligation to pay lump sum payments to SCC in tranches subject to the obligation for SCC to use, commit or allocate these monies towards the School and Early Years Capacity Measures within [●] years or be subject to an obligation to return these funds.</p> <p>Consideration also needs to be given to the timing of these payments as these measures may take some time to be put in place and may need to be in place for the Commencement Date.</p> <p>Subject to the points above, the wording of paragraph 4.5 is too narrow. This needs to include any School and Early Years Capacity Measures, including new, improved or enhanced provision.</p>
Schedule 6 Health		This Schedule is subject to on-going discussions between the Applicant and SCC.
Schedule 6 "Sizewell Health"	means the private occupational healthcare service to be located on the SZC Development Site and to be provided on behalf of SZC Co to members of the Construction Workforce during the Construction Period, which will provide a package of risk prevention, health promotion and treatment initiatives in accordance with the specification in [Volume 2 Appendix 28A of the Environmental Statement]; and	This definition is subject to further comment from the CCG.

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Schedule 6 Paragraph 2.1	SZC Co shall establish Sizewell Health on or before Commencement.	<p>SCC question whether Sizewell Health also needs to be in place during the Operational Period (or for the Applicant to clarify arrangements during the Operational Period).</p> <p>Subject to the above the following revision is proposed:</p> <p>SZC Co shall establish Sizewell Health on or before Commencement and ensure Sizewell Health is operational and provided throughout the Construction Period thereafter to the reasonable satisfaction of the Health Working Group.</p>
Schedule 6 Paragraph 3.2	Suffolk County Council shall apply the Residual Healthcare Contribution towards the cost to the clinical commissioning group(s) or their successors in Suffolk of providing healthcare to NHB Workers and their dependants.	<p>This provision is subject to further comment from the CCG.</p> <p>At this stage SCC is considering how achievable only using the Residual Healthcare Contribution towards such costs associated with providing healthcare to NHB Workers and their dependants and not other members of the public would be.</p>
Schedule 6 Paragraph 4	Health Working Group	<p>These provisions are subject to further discussions between SCC and the Applicant.</p> <p>In paragraph 4.5 the “Director of Public Health” should be referred to as the “Director of Public Health Suffolk”.</p>
Schedule 7 Employment, Skills, Education and Supply Chain		<p>This Schedule is subject to on-going discussions between the Applicant and SCC.</p> <p>In particular, SCC is considering the following two points:</p> <ul style="list-style-type: none"> the timing of the obligations on SZC to provide certain services, initiatives etc. in this Schedule and the need for these to be in place

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		<p>and functional at a stage where they can be effective;</p> <ul style="list-style-type: none"> whether the obligations on SZC to provide certain services, initiatives etc. in this Schedule should be subject to fall-back arrangements which in the event of SZC default or non-performance would allow SCC to step in to carry out these functions subject to the payment of a financial sum from SZC to fund this.
Schedule 7 “Asset Skills Enhancement and Capability Initiatives”	<p>means initiatives to enhance the supply of skills related to the Project and regional needs and aspirations, by investing in skills and training provision (such as apprenticeships) within the region’s existing further education, training provider and higher education sectors, including:</p> <p>(a) revenue projects like curriculum development, development and retention of specialist trainers,</p> <p>(b) working capital projects, such as equipment to deliver courses, re-fit for existing facilities as required to meet the needs of the workforce at each phase of the Project,</p> <p>with the aims of: generating local provision of skills infrastructure to satisfy joint ambitions of the ESEWG members; delivering the requirements of the WDS at each phase of the Project; and effectively supporting the skills infrastructure needed to make the “Work Ready” individuals supported by the Sizewell C Employment Outreach Fund “Job Ready”;</p>	<p>Should the reference to “each phase” in this definition be to “each Construction Phase” and should this include the Operational Phase (and any decommissioning phase) too?</p>
Schedule 7 “Regional Skills Co-ordination Function”		<p>This definition is subject to further discussion between SCC and the Applicant.</p>

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Schedule 7 "Sizewell C Bursary Scheme"	means a bursary scheme aimed at supporting the removal of barriers for employment pathways into the Project for local people and students that either haven't reached the required entry level requirements, or need some support to successfully complete their course, particularly in areas of relative deprivation;	SCC note that this was previously focused on rural Leiston, Lowestoft, Great Yarmouth and Ipswich. Please could the Applicant confirm the reason for this amendment.
Schedule 7 "Supply Chain Strategy"	means Document 8.9, Appendix B, which sets out: (a) SZC Co's approach to engaging the local and regional supply chain for the Sizewell C Project; (b) specific measures (such as a Supply Chain Portal, website, engagement process) and processes that have been or will be put in place to support local and regional supply chain engagement to enable businesses in the east of England to compete for opportunities on the Sizewell C Project; (c) SZC Co's partnership with Suffolk Chamber of Commerce to assist local and regional businesses in successfully contracting for the supply of goods and services and to support the legacy of industrial inward investment arising from the Sizewell C Project; (d) monitoring and reporting principles; and (e) details of integration between SZC Co's proposed measures for employment, skills and education (set out within this Schedule) and supply chain engagement defined as the "Local Supply Chain Skills Programme" in this Schedule;	Revision: means Document 8.9, Appendix B (or such revision to this document which is agreed between the Councils and SZC Co), which sets out: (a) SZC Co's approach to engaging the local and regional supply chain for the Sizewell C Project; (b) specific measures (such as a Supply Chain Portal, website, engagement process) and processes that have been or will be put in place to support local and regional supply chain engagement to enable businesses in the east of England to compete for opportunities on the Sizewell C Project; (c) SZC Co's partnership with Suffolk Chamber of Commerce (or alternative provider) to assist local and regional businesses in successfully contracting for the supply of goods and services and to support the legacy of industrial inward investment arising from the Sizewell C Project; (d) monitoring and reporting principles; and (e) details of integration between SZC Co's proposed measures for employment, skills and education (set out within this Schedule) and supply chain engagement defined as the "Local Supply Chain Skills Programme" in this Schedule;

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<p>Schedule 7 “Workforce Delivery Strategies”</p>	<p>means the documents (each a “Workforce Delivery Strategy”) prepared by SZC Co (in collaboration with the main contractors for the Project and regional stakeholders where relevant) setting out in respect of each Construction Phase and the Operational Phase the strategic approach for developing the workforce requirements for the Project and shaping a legacy for the region which will include:</p> <ul style="list-style-type: none"> (a) a description of the skills, roles, competencies and qualifications needed for the relevant Phase; (b) the opportunity for skills, training and employment initiatives, such as Young Sizewell C, to contribute to the delivery of the workforce, for the Phase, highlighting where there is legacy benefit for roles identified as needed for the Project and wider regional infrastructure; (c) links to any relevant social partnerships able to deliver skills and training infrastructure to help the region prepare for the skills required for the relevant Phase; (d) the measures, including contractual obligations, that each contractor and sub-contractor will undertake to promote the local employment, skills and training benefits of the roles created; (e) planning for potential vacancies and skills gaps and opportunities for each Phase; (f) interactivity with labour market intelligence and supply chain data to develop a programme for delivery of the Asset Skills Enhancement and Capability Fund and the Sizewell C Employment Outreach Fund to meet the key needs of the Project and making funds available at the right time to meet the ‘training windows’ required per Phase; (g) the Sizewell C Skills Prospectus; (h) Local Supply Chain Skills Programme; and (i) the Apprenticeship Strategy; and 	<p>Should the reference to “each phase” in this definition be to “each Construction Phase” and should this include the Operational Phase (and any decommissioning phase) too?</p> <p>This definition should also clarify that reference to “WDS” refer to this definition.</p>
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<p>Schedule 7 Paragraph 2.1.4</p>	<p>(A) As part of the development of the Workforce Delivery Strategies, SZC Co shall produce or commission a Sizewell C Skills Prospectus.</p> <p>(B) SZC Co shall review the Sizewell C Skills Prospectus from time-to-time taking account of:</p> <p>(1) the content and review process of Workforce Delivery Strategies; and</p> <p>(2) any reasonable requirement agreed by the Employment, Skills and Education Working Group for use of Skills Prospectus information for relevant stakeholders and purposes.</p>	<p>SCC request that this Prospectus is subject to the approval of SCC.</p> <p>SCC are not content with a review “from time-to-time” and request this is reviewed annually as a minimum.</p>
<p>Schedule 7 Paragraph 2.1.5</p>	<p>(A) As part of the development of the WDSs, SZC Co shall produce or commission a Sizewell C Apprenticeship Strategy.</p> <p>(B) SZC Co shall review the Sizewell C Apprenticeship Strategy from time-to-time taking account of:</p> <p>(1) the content and review process of Workforce Delivery Strategies; and</p> <p>(2) any reasonable requirement agreed by the Employment, Skills and Education Working Group.</p> <p>(C) SZC Co will make reasonable endeavours to work with the members of the ESEWG to enact the initiatives set out within the Apprenticeship Strategy during the Construction Period, informed each year by Annual Workforce Delivery Implementation Plans.</p>	<p>SCC request that this Strategy is subject to the approval of SCC.</p> <p>SCC are not content with a review “from time-to-time” and request this is reviewed annually as a minimum.</p>
<p>Schedule 7 Paragraph 2.2.1</p>	<p>2.2.1 [Suffolk County Council] shall procure that the Regional Skills Coordination Function shall [within [●] months of the adoption of the first WDS], and annually thereafter during the Construction Period on [●], submit a draft Annual Workforce Delivery Implementation Plan to the [ESEWG] for approval.</p>	<p>Should this also refer to the Operational Phase?</p>

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Schedule 7 Paragraph 2.3	<p>2.3.1 During the Construction Period, SZC Co shall pay Suffolk County Council:</p> <p>(A) the sum of £[●] within [●] months of Commencement; and</p> <p>(B) the sum of £[●] annually thereafter from the first anniversary of the Commencement date to the end of the Construction Period;</p> <p>to be applied as contributions towards the cost of funding of the Regional Skills Co-ordination Function.</p> <p>2.3.2 The maximum liability of SZC Co pursuant to this paragraph 2.3 is £[●].</p> <p>2.3.3 Suffolk County Council shall establish the Regional Skills Co-ordination Function and procure that it shall carry out all obligations allocated to the Regional Skills Co-ordination Function in this Deed.</p>	Linked to the point above, SCC question whether the obligation to make this payment should end at the end of the Construction Period and whether this should also include the Operational Phase.
Schedule 7 Paragraph 2.4	Sizewell C Employment Outreach Fund	SCC question whether the obligation to make this payment should end at the end of the Construction Period and whether this should also include the Operational Phase.
Schedule 7 Paragraph 2.5	Asset Skills Enhancement and Capability Fund	SCC question whether the obligation to make this payment should end at the end of the Construction Period and whether this should also include the Operational Phase.
Schedule 7 Paragraph 2.6	Sizewell C Bursary Scheme	SCC question whether the obligation to make this payment should end at the end of the Construction Period and whether this should also include the Operational Phase.
Schedule 7 Paragraph 2.7	Sizewell C Jobs Service	SCC question whether the obligation to provide this service should end at the end of the Construction Period and whether this should also include the Operational Phase.

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		<p>SCC also consider that the final detail of the Sizewell C Jobs Service and any revisions to this should be subject to the approval of SCC.</p>
Schedule 7 Paragraph 2.8	Young Sizewell C	<p>SCC question whether the obligation to provide this service should end at the end of the Construction Period and whether this should also include the Operational Phase.</p> <p>SCC also consider that the final detail of Young Sizewell C and any revisions to this should be subject to the approval of SCC.</p>
Schedule 7 Paragraph 2.9	Economic Review Group	<p>The operation of this group is subject to further discussion between SCC and the Applicant.</p> <p>SCC requests the Applicant provides a definition of “Tier 1 Contractors”.</p> <p>Is it correct that <u>each</u> Tier 1 Contractor may have a representative on this group or should this be a nominee on behalf of them?</p> <p>With regard to 2.9.1 it is suggested that this refers to “[one]” representative of the Suffolk Chamber of Commerce (or alternative provider)”</p>
Schedule 7 Paragraph 2.10	Employment, Skills and Education Working Group	<p>The operation of this group is subject to further discussion between SCC and the Applicant.</p>
Schedule 7 Paragraph 3	Supply Chain Strategy	<p>SCC question whether the obligation to implement the Supply Chain Strategy measures should end at the end of the Construction Period and whether this should also include the Operational Phase.</p>

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Schedule 7 Paragraph 2.10	Supply Chain Working Group	<p>The operation of this group is subject to further discussion between SCC and the Applicant.</p> <p>In particular, provisions on quorum are required.</p>
Schedule 8 Paragraph 3.1	<p>3.1 SZC Co shall pay the SCC Archaeological Monitoring Contribution to Suffolk County Council in the following instalments:</p> <p>3.1.1 the sum of up to £[●] to be used for the purposes of Suffolk County Council monitoring the archaeological mitigation measures at the Sites (to be carried out by SZC Co pursuant to the Development Consent Order), to be paid in tranches against the presentation of invoices for reasonable and proper attendance costs at the Sites; and</p> <p>3.1.2 the sum of £[●] to be used for the purposes of Suffolk County Council reviewing the evaluation and mitigation reporting prepared by SZC Co to disseminate the results of the archaeological investigations carried on at each of the Sites, to be paid in tranches against the presentation of invoices for reasonable and proper review costs for each report.</p>	<p>SCC would prefer lump sum payments agreed now rather than payment against invoices presented once the cost has been incurred.</p>
Schedule 9 Implementation Plan		<p>The operation of this group is subject to further discussion between SCC and the Applicant, particularly with regard to whether any of these obligations may fall into the DCO.</p>
Schedule 9 "Implementation Plan"		<p>SCC is reviewing the draft Implementation Plan provided by the Applicant and further discussions are required on this.</p> <p>The main site works such as the main site entrance, level crossing improvements on the Leiston Branch Line and</p>

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		improvements on Lovers Lane are not included within the list of key environmental mitigation but are included within the Planning Statement Appendix 8.4I Implementation Plan. Thus it is unclear if the obligations in Schedule 9 are applicable to these works. The green rail route is within the key environmental mitigation list and as a separate definition.
Schedule 9 Paragraph 2.1	With effect from the Commencement Date, SZC Co shall use reasonable endeavours to carry out and complete the Key Environmental Mitigation in accordance with the Implementation Plan.	<p>SCC draw the ExA's attention to our general comments in these Deadline 2 submissions on the use of the term "reasonable endeavours" in the Deed.</p> <p>SCC does not agree with the use of the term "reasonable endeavours" in this provision. Instead, SCC requires an obligation to complete the Key Environmental Mitigation in accordance with detailed triggers (relating to timing, scope of works permitted until the measures are in place, caps on certain activities until the measures are in place etc.), unless otherwise agreed in writing with the Councils.</p>
Schedule 9 Paragraph 2.2	At least one month prior to Commencement of works to construct any Key Environmental Mitigation, SZC Co shall prepare and submit to the Councils a detailed implementation programme for that Key Environmental Mitigation which shows how the relevant development will be delivered with other Key Environmental Mitigation.	A one month period is not sufficient here. In addition, the Applicant needs to be under an obligation not to Commence until the Councils have approved this detail.
Schedule 9 Paragraph 2.6	SZC Co shall determine (taking into account the results of the review carried out pursuant to paragraph 2.4 and any reasonable representations of the Councils) the appropriate course of action to be taken in respect of the anticipated or actual delay, including a timetable for the implementation of the appropriate course of action, which shall be determined with the objective of reducing the delay so far as reasonably practicable having regard to the timely delivery of the Project as a whole.	SCC do not agree that the Applicant should be able to determine the appropriate course of action (even having taken the Councils reasonable representations into account). Alternative courses of action should be a matter for the Councils to approve.

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Schedule 9 Paragraph 2.7	The course of action determined by SZC Co pursuant to paragraph 2.6 may include (as relevant and subject to the terms of Schedule 16) drawing forward Contingent Effects Fund 1 and Contingent Effects Fund 2.	SCC request the Applicant confirms why it considers it appropriate to refer to the Contingent Effects Funds here.
Schedule 10 Leisure, Public Rights of Way and Amenity		This Schedule is subject to further consideration by SCC. The Rights of Way and Access Strategy will help inform the obligations to be secured in the Deed.
Schedule 10 "Leiston Sports Facilities"	means Work No. 5 in Schedule 1 to the Development Consent Order, being a 3G pitch and two multi-use games areas in Leiston to be provided [or procured] and managed by East Suffolk Council and which are to be available for use by the Sizewell C Construction Workforce during the Construction Period;	The reference to the Work No. will need to be checked once the DCO is in a final draft form. ESC will need to enter into a management agreement with the Alde Valley Academy. SCC's position is that these facilities should be available for use by school pupils and the general public, in addition to the Sizewell C Construction Workforce during the Construction Period. Use by the Sizewell C Construction Workforce should not be at the exclusion of use by others during this time.
Schedule 10 "PROW Fund"	means the fund to be established and funded by SZC Co in the amount of £[●] to be applied by the Rights of Way Working Group in accordance with this Schedule for the purpose of providing financial support for initiatives designed to improve the existing public rights of way network in East Suffolk and to mitigate any potential adverse effects on the existing public rights of way network that might arise from the Project; and	It is unclear if officer costs of council officers supporting the Public Rights of Way Working Group, managing and implementing projects funded by the PROW fund are included within this Schedule or Schedule 2. The Applicant to clarify.
Schedule 10 Paragraph 3.2.1	physical improvements to the existing rights of way network, including repairs, wayfinding, improving	SCC note that sub-paragraphs 3.2.1 – 3.2.4 are subject to further consideration by the Applicant.

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	connectivity, provision of new or upgraded gates or signage;	Revision: physical improvements to the existing rights of way network, creation of new public rights of way and/or public rights of way to link existing and/or new public rights of way, including repairs, wayfinding, improving connectivity, provision of new or upgraded gates or signage;
Schedule 10 Paragraph 4	Rights of Way Working Group	The operation of this group is subject to further discussion between SCC and the Applicant. This includes a need for a provision dealing with the quorum of meetings.
Schedule 10 Paragraph 4.1	On or before Commencement, SZC Co shall establish the Rights of Way Working Group which shall exist until the end of the Construction Period unless otherwise agreed by the members of the Rights of Way Working Group	SCC consider that agreements by the members of this working group should be on a majority basis. SCC also consider that this group should exist until at least five years after the end of the Construction Period.
Schedule 11 Natural Environment		This Schedule is subject to further consideration by SCC.
Schedule 11 "Marine Technical Forum Terms of Reference"	means the terms of reference annexed to this Deed at Annex [●], as amended by the Marine Technical Forum from time to time;	These terms of reference are subject to further discussion with the Applicant.
Schedule 11 "Year 10"	means the 12 months following the tenth (10th) anniversary of Commencement of Work No. 1A in Schedule 1 to the Development Consent Order.	SCC request clarity from the Applicant as to why the 10 year period runs from the Commencement of Work No.1A and questions whether there needs to be an alternative trigger relating to any other works that would trigger the Commencement Date (if earlier).

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Schedule 11 Paragraph 2.1	On or before [Commencement], SZC Co shall establish the Natural Environment Improvement Fund.	<p>SCC consider this provision should also include an obligation on the Applicant to maintain and ensure this fund is available after it is established.</p> <p>SCC consider that this fund should be available beyond the Construction Period and during the Operational Period too.</p>
Schedule 11 Paragraphs 2.2 – 2.10		SCC are considering this mechanism and the acceptability of the Applicant holding this fund and inviting applications, instead of this sum being paid to SCC to use.
Schedule 11 Paragraphs 4.1 and 4.2	<p>4.1 SZC Co shall pay to Suffolk County Council the sum of £[●] on or before [Commencement] and annually thereafter for the duration of the Construction Period and the following three years for the purpose of employing a Natural Environment Improvement Project Officer.</p> <p>4.2 The Suffolk County Council shall, for the duration of the Construction Period and the following three years:</p> <p>4.2.1 employ a Natural Environment Improvement Project Officer; and</p> <p>4.2.2 procure that the employed Natural Environment Improvement Project Officer shall carry out the Natural Environment Improvement Management.</p>	<p>SCC consider this period (Construction Period and three years thereafter) is not appropriate for the Natural Environment Improvement Project Officer and is needed for the life of the Project (construction and operation phases).</p> <p>SCC notes paragraph 5 of this Schedule 11 in terms of the Applicant's proposed review of the measures that should apply following the end of the Construction Period. SCC considers the Fund should cover the life of the Project (construction and operation phases).</p>
Schedule 11 Paragraph 9	Environment Review Group	The operation of this group is subject to further discussion between SCC and the Applicant.
Schedule 11 Paragraph 11	Ecology Working Group	The operation of this group is subject to further discussion between SCC and the Applicant.

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		In particular, SCC question why no representative of the Applicant is proposed to join the group.
Schedule 11 Paragraph 12	Natural Environment Awards Panel	The operation of this panel is subject to further discussion between SCC and the Applicant. This includes a need for a provision dealing with the quorum of the panel.
Schedule 12 Noise		SCC awaits the Applicant's proposed drafting on this Schedule.
Schedule 13 Third Party Resilience Funds		This Schedule is subject to further consideration by SCC.
Schedule 14 Sizewell C Community Fund		This Schedule is subject to further consideration by SCC.
Schedule 14 Paragraph 2.2	2On or before Commencement, SZC Co shall enter into a Deed of Transfer and an Administration Agreement with the Suffolk Community Foundation to provide for the payment and administration of the first instalment of the Sizewell C Community Fund to the Suffolk Community Foundation pursuant to paragraph 2.3.1. Thereafter SZC Co shall enter into a Deed of Transfer and (if necessary) an Administration Agreement in respect of each subsequent instalment of the Sizewell C Community Fund to be paid by SZC Co to the Suffolk Community Foundation pursuant to paragraph 2.3.	SCC consider the Deed of Transfer and Administration Agreement need to be enforceable by the Councils.

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Schedule 14 Paragraph 2.4.6	the Suffolk Community Foundation shall use reasonable endeavours to liaise with Community Action Suffolk to help to ensure that potential recipients of Grants have the required skills and capacity to apply to and meet the relevant criteria for the application of the Sizewell C Community Fund;	SCC's general comment above on the use of the term "reasonable endeavours" applies here too. In the context of this obligation, SCC suggests whether the term "all reasonable endeavours" could be used.
Schedule 14 Paragraph 2.4.7	the Suffolk Community Foundation shall have regard to any advice provided by the Oversight Partnership in respect of the provision of Strategic Grants;	Revision: the Suffolk Community Foundation shall have regard to any reasonable advice provided by the Oversight Partnership in respect of the provision of Strategic Grants;
Schedule 14 Paragraph 2.4.8	the Suffolk Community Foundation shall use reasonable endeavours to liaise with the East Suffolk Community Partnerships in respect of the promotion of the Sizewell C Community Fund and in assisting communities to identify projects suitable for the receipt of Grants; and	SCC's general comment above on the use of the term "reasonable endeavours" applies here too. In the context of this obligation, SCC suggests whether the term "all reasonable endeavours" could be used.
Schedule 14 Paragraph 2.5		SCC is considering the proposal that no less than £[●] from the Sizewell C Community Fund shall be applied solely for such projects within the wards of Aldeburgh, Leiston and Saxmundham, and in particular those in Leiston-cum-Sizewell, Eastbridge, and Theberton.
Schedule 14 Paragraph 2.7	Paragraph 2.8 shall apply if following a review carried out by SZC Co pursuant to 2.6, SZC Co in its absolute discretion determines that it no longer wishes the Sizewell C Community Fund to be administered and applied by the Suffolk Community Foundation and serves notice on the Suffolk Community Foundation to that effect.	SCC do not agree that this determination should be at the Applicant's absolute discretion.
Schedule 14 Paragraph 2.8.3	as soon as reasonably practicable, complete the Trust Documents to establish a new trust to administer and apply the remainder of the Sizewell C Community Fund for the purposes of mitigating the intangible and residual	A longstop date to complete the Trust Documents, establish the new trust and apply the remainder of the fund needs to be included.

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	impacts of the Project by enhancing the quality of life of communities within the Area of Benefit; and	
Schedule 14 Paragraph 2.10	In the event that after using reasonable endeavours SZC Co is unable to enter into a Deed of Transfer and an Administration Agreement with the Suffolk Community Foundation pursuant to paragraph 2.2, SZC Co shall establish a new trust established to administer and apply the Sizewell C Community Fund for the purposes of mitigating the intangible and residual impacts of the Project by enhancing the quality of life of communities within the Area of Benefit and all references to the Suffolk Community Foundation in this Schedule 14 shall be deemed to be references to such new trust.	<p>SCC's general comment above on the use of the term "reasonable endeavours" applies here too.</p> <p>In the context of this obligation, SCC suggests whether the term "all reasonable endeavours" could be used.</p>
Schedule 15 Tourism		This Schedule is subject to further consideration by SCC.
Schedule 15 "Annual Tourism Fund Implementation Plan"		SCC question whether the reference to "different phases and effects of the construction phase" at (a) of this definition should refer to the "Construction Phase" as defined and whether this should also refer to the Operational Phase too.
Schedule 16 Transport		This Schedule is subject to further discussion and negotiation between SCC and the Applicant.
Schedule 16 "AIL"		AIL requires definition
Schedule 16 "AIL Structural Surveys"	means a detailed audit and structural survey of the highway structures on each of the AIL Routes;	The applicant would also be responsible for any strengthening work or mitigation required to highway structures necessary to allow the passage of SZC AILs.
Schedule 16 "B1078 Road Safety Contribution"	means the cost of designing and implementing the B1078 Road Safety Improvements up to a maximum cost of sum of £[●], to be used by Suffolk County Council for the B1078 Road Safety Improvements;	Not agreed by SCC. Proposal is for the Applicant to deliver these highway works.

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Schedule 16 "B1078 Road Safety Improvements"	means safety improvements to the B1078, to include the measures set out in paragraph 5.1, an outline design of which is set out in Annex [●];	The Annex referred to here is subject to further discussion and negotiation between SCC and the Applicant.
Schedule 16 "B1122 Post-SLR Contribution"	means the cost of making good any damage to the B1122 caused by Sizewell C construction traffic prior to the opening of the Sizewell Link Road, up to a maximum total cost of £[●], to be used by Suffolk County Council to carry out these works;	SCC are considering the impact of traffic which still uses the B1122 after the opening of the Sizewell Link road. SCC consider there should be a mechanism to monitor construction traffic routes.
Schedule 16 "Contingent Effects 1" and "Contingent Effects 2"	"Contingent Effects 1" means the potential effects of the Project set out in Annex [●], considered on the basis set out in that Annex; "Contingent Effects 2" means the potential effects of the Project set out in Annex [●] considered on the basis set out in that Annex;	The Annexes referred to here are subject to further discussion and negotiation between SCC and the Applicant. The same comment applies to the Annexes mentioned at paragraphs 3.6 and 3.7 of Schedule 16.
Schedule 16 "Contingent Effects Fund 1" and "Contingent Effects Fund 2"	means the sum of £[●] to be used to address Contingent Effects 1; means the sum of £[●] to be used to address Contingent Effects 2;	This requires further clarification with the Applicant.
Schedule 16 "Construction Traffic Management Plan"	means the construction traffic management plan attached at Annex [●] to this Deed (as the same may be amended from time to time by SZC Co subject to the approval of the Transport Review Group in accordance with paragraph 3.7);	The Annex referred to here is subject to further discussion and negotiation between SCC and the Applicant. In particular, SCC is considering the controls that need to be included in this document.
Schedule 16 "Construction Worker Travel Plan"	means the construction worker travel plan attached at Annex [●] to this Deed (as the same may be amended from time to time by SZC Co subject to the approval of the Transport Review Group in accordance with paragraph 3.7);	The Annex referred to here is subject to further discussion and negotiation between SCC and the Applicant.

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Schedule 16 “Highway Design and Supervision Fees”	means the sum of £[●];	Still to be agreed with the Applicant. Rather than a sum the authority would propose a mechanism by which the time spent on technical approval, supervision and traffic management relating to SZC and the associated sites is calculated recovered on a quarterly basis. This allows for variations in the work as sufficient details are not available to quantify overall costs for the whole construction period. Note: this does not include other council resources such as management of legal orders.
Schedule 16 “Implementation Plan”		As referred to above in the comments on Schedule 9 of the draft Deed of Obligation, SCC is reviewing the draft Implementation Plan provided by the Applicant and further discussions are required on this.
Schedule 16 “Leiston Improvement Scheme”	means transport improvements in Leiston to prioritise walking and cycling as well as enhancement to the public realm in the centre of Leiston, to include the measures set out in paragraph 4.9, an outline design of which is set out in Annex [●];	The Annex referred to here is subject to further discussion and negotiation between SCC and the Applicant.
Schedule 16 “Leiston Transport Fund”	means the cost of designing and implementing the Leiston Improvement Scheme up to a maximum cost of £[●], to be used by Suffolk County Council for the Leiston Improvement Scheme;	Not agreed by SCC. Proposal is for the Applicant to deliver these highway works.
Schedule 16 “Marlesford and Little Glemham Improvement Scheme”	means proposed transport improvements in Marlesford and Little Glemham to include the measures set out in paragraph 4.14, an outline design of which is set out in Annex [●];	The Annex referred to here is subject to further discussion and negotiation between SCC and the Applicant.
Schedule 16 “Marlesford and Little Glemham	means the cost of designing and implementing the Marlesford and Little Glemham Improvement Scheme up to a maximum cost of £[●], to be used by Suffolk County	Not agreed by SCC. Proposal is for the Applicant to deliver these highway works.

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Transport Contribution"	Council for the Marlesford and Little Glemham Improvement Scheme;	
Schedule 16 "Monitoring Reports"	means reports in the format set out in Annex [●] to this Deed (or such other format as agreed by the Transport Review Group from time to time), providing information in relation to the implementation and operation of the Transport Management Plans, including the measurement of Contingent Effects 1 and Contingent Effects 2;	The Annex referred to here is subject to further discussion and negotiation between SCC and the Applicant.
Schedule 16 "Operational Travel Plan"	means a travel plan to manage and monitor operational workforce movements to Sizewell C after the end of the Construction Period (as the same may be amended from time to time pursuant to this Schedule);	Submission of an operational travel plan by the end of the construction period would not be acceptable. The employment of operational staff will begin before the end of the construction period. While there may be some overlap between a travel plan for construction workers and operational workers there will also be differences.
Schedule 16 "Proposed Mitigation"	means the measures proposed to mitigate the impact of Contingent Effects 1 or Contingent Effects 2 (as the case may be);	SCC consider that the measures should also include the timescales for implementation which can then be enforced under the covenant at paragraph 3.8 of this Schedule 16
Schedule 16 "Proposed Sum"	means the estimated cost of the Proposed Mitigation to address Contingent Effects 1 or Contingent Effects 2 (as the case may be), to include the cost of designing the Proposed Mitigation, any associated works to services and/or utilities, professional fees and the cost of tendering and entering into any contract in respect of the Proposed Mitigation;	The Applicant needs to clarify this. An issue subject to further discussion and negotiation between SCC and the Applicant.
Schedule 16 "Traffic Incident Management Plan"	means the traffic incident management plan attached at Annex [●] to this Deed (as the same may be amended from time to time by SZC Co subject to the approval of the Transport Review Group in accordance with paragraph 3.7);	The Annex referred to here is subject to further discussion and negotiation between SCC and the Applicant.
Schedule 16	means proposed changes to the highway design and public realm in Wickham Market to include the measures	The Annex referred to here is subject to further discussion and negotiation between SCC and the Applicant.

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"Wickham Market Improvement Scheme"	set out in paragraph 4.4, an outline design of which is set out in Annex [●];	
Schedule 16 "Wickham Market Transport Contribution"	means the cost of designing and implementing the Wickham Market Improvement Scheme up to a maximum cost of £[●], to be used by Suffolk County Council for the Wickham Market Improvement Scheme;	Not agreed by SCC. Proposal is for the Applicant to deliver these highway works.
Schedule 16 Paragraph 2.2	2.2 During the Construction Period, SZC Co will implement the : 2.2.1 Construction Traffic Management Plan; 2.2.2 Construction Worker Travel Plan; and 2.2.3 Traffic Incident Management Plan.	Revision: 2.2 Throughout the duration of the Construction Period, SZC Co shall implement the: 2.2.1 Construction Traffic Management Plan; 2.2.2 Construction Worker Travel Plan; and 2.2.3 Traffic Incident Management Plan.
Schedule 16 Paragraph 2.3	Prior to the end of the Construction Period, SZC Co shall submit a draft Operational Travel Plan for the approval of Suffolk County Council following consultation with East Suffolk Council and Highways England.	The trigger for submission is too late as this needs to be in place for the start of the Operational Period and therefore needs to be submitted in time for this to be considered and approved. SCC consider this should be submitted at least 6 months before the end of the Construction Period.
Schedule 16 Paragraph 2.4	For five years following the end of the Construction Period, SZC Co will implement the Operational Travel Plan, any changes to which from time to time must be approved by Suffolk County Council after consulting East Suffolk Council and Highways England.	SCC are considering the five year period referred to here. SCC are considering whether this should endure for the full operational life of the Project. SCC also observe that it may be the case that the employment of operational staff may begin before the end of the Construction Period. (Subject to comments above) Revision: Throughout the [five years following the end of the Construction Period/Operational Period], SZC Co will

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		implement the Operational Travel Plan, any changes to which from time to time must be approved by Suffolk County Council after consulting East Suffolk Council and Highways England
Schedule 16 Paragraph 3	TRANSPORT REVIEW GROUP	<p>The operation of this group is subject to further discussion between SCC and the Applicant.</p> <p>SCC are considering the suitability of the Applicant having up to three representatives on this group and whether SCC should have the final decision as the Highway Authority.</p>
Schedule 16 Paragraph 3.3.1	On or before Commencement, SZC Co will appoint a Transport Co-ordinator and will ensure that a Transport Co-ordinator is in place until the end of the Construction Period.	SCC is considering whether the Transport Co-ordinator should be in place beyond the end of the Construction Period.
Schedule 16 Paragraph 3.4.1	consider Monitoring Reports received from SZC Co, and any mitigation measures proposed by SZC Co, and make decisions in accordance with paragraph 3.3;	SCC request the Applicant to clarify whether the Monitoring Reports referred to here would be from the Transport Co-ordinator rather than the Applicant.
Schedule 16 Paragraph 3.4.3	consider the minutes of the Working Groups meetings insofar as they relate to transport matters which have been directed for the attention of the Transport Review Group, including the approval of the Wickham Market Improvement Scheme, the Leiston Improvement Scheme and the Marlesford and Little Glenham Improvement Scheme;	<p>Revision:</p> <p>consider the minutes of the Working Groups meetings insofar as they relate to transport matters which have been directed for the attention of the Transport Review Group, including the approval of the Wickham Market Improvement Scheme, the Leiston Improvement Scheme and the Marlesford and Little Glenham Improvement Scheme;</p>
Schedule 16 Paragraph 3.5.3	The Transport Review Group shall not be entitled to approve any amendments to the Construction Worker Travel Plan, the Construction Traffic Management Plan or	SCC are considering whether this provision needs to be clarified to ensure that amendments that could give rise to less adverse/positive effects on the environment in

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	the Traffic Incident Management Plan unless it is reasonably satisfied that the amendments are unlikely to give rise to any materially new or materially different environmental effects in comparison with those assessed in granting the Development Consent Order.	comparison with those assessed in granting the Development Consent Order should be permitted. In addition, SCC consider this should refer to the relevant section of the EIA which deals with the effects assessed.
Schedule 16 Paragraphs 3.6 and 3.7		The Annexes referred to here are subject to further discussion and negotiation between SCC and the Applicant.
Schedule 16 Paragraph 3.8	Implementation of Proposed Mitigation	The approach to the implementation of this mitigation is subject to further discussion and negotiation between SCC and the Applicant.
Schedule 16 Paragraph 4	Working Groups (Community Safety Working Group, Rights of Way Working Group, Wickham Market Working Group, Leiston Working Group and Marlesford and Little Glemham Working Group)	<p>The operation and function of these groups are subject to further discussion and negotiation between SCC and the Applicant.</p> <p>In particular, the obligation on SCC to undertake the detailed design and to implement the Wickham Market Improvement Scheme, Leiston Improvement Scheme and Marlesford and Little Glemham Improvement Scheme is not acceptable to SCC. This is particularly so as these provisions anticipate the cost of this work would be estimated by the Applicant. SCC expects the Applicant to design and implement these schemes.</p>
Schedule 16 Paragraph 5.1.1	A14 signage strategy – a signage strategy to be developed and agreed with Highways England, as the strategic highway authority, to direct all Sizewell C traffic to route via the A14 in order to reduce Sizewell C car and LGV related traffic on the B1078 corridor;	This is not acceptable to SCC. SCC expect the Applicant will deliver the A14 signage strategy.

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Schedule 16 Paragraph 5.1.3	B1078/B1079 junction, Otley - improvements including vegetation maintenance to improve forward visibility on the B1078 between Easton and Otley College and the B1079 and additional signage and road markings on the B1078 approach to the B1079.; and highlighting the centre warning line of the carriageway with studs to increase driver awareness;	Revision: B1078/B1079 junction, Otley - improvements including vegetation maintenance to improve forward visibility on the B1078 between Easton and Otley College and the B1079 and additional signage and road markings on the B1078 approach to the B1079.; and highlighting the centre warning line of the carriageway with studs to increase driver awareness;
Schedule 16 Paragraph 6	B1122 HIGHWAY CONDITION SURVEY AND CONTRIBUTIONS	Whilst the Applicant welcomes the commitment to undertake surveys SCC expects those parts of the A12 which have not been designed and built to modern standards (i.e. Marlesford to Farnham, Saxmundham to Lowestoft) are also surveyed. Details of the type of survey and frequency are to be agreed.
Schedule 16 Paragraph 7	AIL ROUTES	The Applicant also needs to be responsible for any strengthening work or mitigation required to highway structures necessary to allow the passage of the AILs (e.g. structural repairs to any structures an any other modifications of the public highway on a particular AIL Route).
Schedule 16 Paragraph 9.1	<p>9.1 SZC Co shall pay to Suffolk County Council:</p> <p>9.1.1 [50%] of the Highway Design and Supervision Fees on or before Commencement ; and</p> <p>9.1.2 [50%] of the Highway Design and Supervision Fees on or before the first anniversary of the Commencement Date</p> <p>to be applied to cover the full audit and supervision fees which would apply to transport schemes to be implemented by SZC Co under the Development Consent Order including the Sizewell Link Road, the Two Village</p>	<p>SCC are considering the timing of these contributions and whether these payments would ensure the funds are received when this work would be carried out.</p> <p>Rather than a sum the SCC would propose a mechanism by which the time spent on technical approval, supervision and traffic management relating to the Project (and the associated sites) is calculated and recovered on a quarterly basis. This allows for variations in the work as sufficient details are not available to quantify overall costs</p>

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	Bypass, the Yoxford Roundabout, the Other Highway Works, the Southern Park and Ride Access, the Northern Park and Ride Access and the Freight Management Facility Access.	<p>for the whole construction period. Note: this does not include other council resources such as management of legal orders.</p> <p>This provision should make clear that SCC will be paid for all reasonable costs incurred to design and supervision of all highway works within the public highway that are related to the Project. The list in in this paragraph does not include those works around Leiston associated with the main site, Green Rail Route, Lovers Lane and Abbey Road.</p>
Schedule 17 Governance		This Schedule and governance arrangements are subject to further discussion between SCC and the Applicant.
LIST OF PLANS AND ANNEXES		Plans need to include a drawing number.