

## Application by Enso Green Holdings D Ltd for the Helios Renewable Energy Project

### The Examining Authority's schedule of proposed changes to the draft Development Consent Order (dDCO)

Issued on 2 May 2025

This document sets out the Examining Authority's (ExA) proposed changes to the version of the Applicant's dDCO submitted at deadline 7 of the Examination [REP7-003].

Column 1 of the table sets out the unique reference number for each proposed change. Column 2 sets out the provision in the dDCO to which the proposed change relates. Column 3 describes the recommended change, with proposed deletions shown as ~~strikethrough~~ and proposed additions shown in **red text**. Column 4 provides the ExA's reasoning as to the recommended change and any further commentary.

There may be further changes to the dDCO which the ExA recommends to the Secretary of State to take account of other matters that have been and continue to be examined. This is more likely in the event that there remain differences between parties on such matters. These will need to be reported to the Secretary of State along with the ExA's conclusions when all the evidence has been submitted and considered by the ExA.

Should the Applicant or any other interested party wish to make any comments on this schedule of proposed changes then these should be submitted by **deadline 8: 16 May 2025**.



Ref No.	Provision	Proposed change	ExA Reasoning
DCO-PC01	Whole dDCO	<ol style="list-style-type: none"><li>1. Please check internal references, statutory citations and references and legal footnotes and update as required.</li><li>2. Please review additions to the dDCO ensuring that the titles and numbering of all provisions remains consistent throughout and with the Table of Contents. Also please undertake a check to ensure spelling and punctuation is correct throughout.</li></ol>	To ensure the accuracy of the final dDCO.
DCO-PC02	PART 1 PRELIMINARY Interpretation 2.—(1)	<del>“apparatus” has the same meaning as in section 105(1) of the 1991 Act (except where stated to the contrary);</del>	The ordinary meaning is considered to be sufficient for the purposes of the dDCO, other than within Schedule 9 on protective provisions which is accepted. The New Roads and Street Works Act 1991 (the 1991 Act) definition is limited. In fact, s105 of the 1991 Act is entitled “ <i>minor definitions</i> ” and s105 (1) says “ <i>“apparatus” includes any structure for the lodging therein of apparatus or for gaining access to apparatus</i> ” This strongly suggests that the 1991 Act itself relies upon the ordinary meaning of apparatus.



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DCO-PC03	PART 2 PRINCIPAL POWERS	<del>Defence to proceedings in respect of statutory nuisance 9.—(1) Where proceedings are brought under section 82(1) (summary proceedings brought by person aggrieved by statutory nuisances) of the Environmental Protection Act 1990(d) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine is to be imposed, under section 82(2) of that Act if— (a) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(e); Act; or (ii) is a consequence of the construction, maintenance or decommissioning of the authorised development and cannot reasonably be</del>	This provision includes modification to s82 of the Environmental Protection Act 1990 (the 1990 Act). It proposes to add as a defence to s82 proceedings, brought by an aggrieved person, the situation where the work is covered by a construction noise notice issued by the local authority under s60 or s61 of the Control of Pollution Act 1974 (the 1974 Act). Under the 1990 Act, this defence only applies to proceedings brought by the local authority under s80 of the 1990 Act, that is to say the same authority that would have issued the notice under the 1974 Act. The applicant's proposed powers seek to add to the range of defences available to alleged noise nuisance by an aggrieved person over and above those provided by the 1990 Act. At the same time the applicant is saying in its assessment that such an occurrence would be unlikely through its conclusion that the noise effect is negligible. More explicitly the applicant says in its statutory nuisance statement [APP-237] "As informed by the ES, it is considered



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		<p><del>avoided; or (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and cannot reasonably be avoided. (2) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974 Act does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction, maintenance or decommissioning of the authorised development.</del></p>	<p><i>that no claim against statutory nuisance in respect of noise and vibration is therefore envisaged in respect of a statutory nuisance under section 79(1)(g) or (ga) of the EPA”</i></p> <p>This additional defence is therefore considered unnecessary and disproportionate. Removing the corresponding subparagraphs 9 (1) (a) (i) and 9 (2) would render the provision equivalent to what is provided in the 1990 Act on the basis that the reasonableness test in Article 9 would likely be interpreted as equivalent to the test of best practicable means as defined in the 1990 Act at s79. Hence it is recommended that the whole of Article 9 is struck out.</p> <p>The ExA has not during its investigations found any reasoned argument put forward by IPs in support of or against very similar provisions in other recently completed solar project examinations, for example Heckington Fen, Gate Burton, Byers Gill, East Yorkshire, and Oaklands.</p>



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	PART 5 POWERS OF ACQUISITION		
DCO-PC04	Application of the 1981 Act 25 (3)	compulsory <b>purchase</b> order	Drafting correction
DCO-PC05	Modification of Part 1 of the Compulsory Purchase Act 1965 28 (2)	447- <b>118</b>	Drafting correction
	SCHEDULE 1 Article 3 AUTHORISED DEVELOPMENT 1.		
DCO-PC06		<p>“electrical cables” means— <b>electric line as defined in section 64 of the 1989 Act</b>; <del>(a) cables of differing types and voltages installed for the purposes of conducting electricity, auxiliary cables, cables connecting to direct current (DC) boxes, earthing cables and optical fibre cables; (b) excavations to install trenching, including storage of excavated material; and (c) provision of ducting or alternative means of conducting media including jointing pits hardstanding adjoining the jointing pits, combiner boxes, fibre bays, cable ducts, cable protections, joint protection, manholes, kiosks, marker posts, underground cable</del></p>	<p>This is considered appropriate because the definition of electric line in the Electricity Act 1989 (the 1989 Act) is inclusive. Furthermore, Schedule 4 paragraph 6 (1) (a) of the 1989 Act refers to “<i>an electric line on, under or over any land</i>” so the 1989 Act envisages an electric line, as defined, being overhead, on the surface, or underground. This would seem to address the reason why the applicant considered it inappropriate to rely upon this definition in its response to ExQ2 [REP6-035].</p>



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		<del>marker, tiles and tape, send and receive pits for trenchless installation techniques, trenching, lighting, and a put or container to capture fluids associated with drilling;</del>	
DCO-PC07		<del>“inverter” means electrical equipment required to convert direct current power to alternating current;</del>	The ordinary meaning is considered to be sufficient for the purposes of this schedule of the dDCO
DCO-PC08		<del>“solar panel” means a solar photovoltaic panel or module designed to convert solar irradiance to electrical energy;</del>	The ordinary meaning is considered to be sufficient for the purposes of this schedule of the dDCO
DCO-PC09		<del>“substation” means a compound containing electrical equipment required to switch, transform, convert electricity and provide reactive power compensation with welfare facilities, means of access and other associated facilities</del>	The ordinary meaning is considered to be sufficient for the purposes of this schedule of the dDCO
DCO-PC10		<del>“switchgear” means a combination of electrical disconnect switches, fuses or circuit breakers used to control, protect, and isolate electrical equipment;</del>	The ordinary meaning is considered to be sufficient for the purposes of this schedule of the dDCO
DCO-PC11		<del>“trenchless installation techniques” means the installation of new electrical cabling and/or associated equipment by means of boring techniques including horizontal directional drilling, auger boring and micro-tunnelling.</del>	The ordinary meaning is considered to be sufficient for the purposes of this schedule of the dDCO



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	SCHEDULE 2 Article 43 REQUIREMENTS PART 1 REQUIREMENTS		
DCO-PC12	Construction environmental management plan (CEMP) 4 (2)	(a) site and construction working hours	This allows NYC's usual approach and any exceptions to be set out in the oCEMP and CEMP respectively. This appears to be consistent with the positions of the applicant [REP6-035] and the council [REP6-037].
DCO-PC13	Battery safety management plan 9 (3)	<del>the Health and Safety Executive and</del>	Recognising the HSE's submission to the Oaklands Farm Solar Park examination <a href="#">EN010122-000871-DCOs containing consultation with HSE on Battery Safety Management Plans.pdf</a>
DCO-PC14	Landscape and ecological management plan (LEMP) 10 (2) (b)	a commitment to a minimum of 10% biodiversity net gain in habitat units and details of how this will be achieved details of habitat creation	With reference to NYC's response to ExQ2 [REP6-037] and the Heckington Fen Solar Park Order 17 February 2025.
DCO-PC15	Landscape and ecological management plan (LEMP) 10 (2)	and ; and (f) detailed arrangements for the monitoring of ground nesting birds and bats.	With reference to NYC's response to ExQ2 [REP6-037]
DCO-PC16	Construction hours 13	<del>Construction hours 13. (1) Subject to sub-paragraphs (2) and (3), no construction works are to take place except between the hours of (a) 08:00</del>	See responses on this topic from the applicant [REP6-035] and the council [REP6-037] and DCO-PC12



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		<p>to 18:00 Monday to Friday; and (b) 08:00 to 13:00 on Saturdays, with no activity on Sundays or bank holidays. (2) The following works are permitted outside the hours referred to in sub-paragraph (1)— (a) emergency works; (b) trenchless construction techniques which cannot be interrupted; and (c) works which do not cause noise that is audible at the boundary of the Order limits. (3) Nothing in sub-paragraph (1) precludes— (a) the receipt of oversize deliveries to site and the undertaking of non-intrusive activities; (b) start-up and shut-down activities up to an hour either side of the core working hours and undertaken in compliance with the CEMP; and (c) works on a traffic sensitive street where so directed by the relevant highway authority. (4) Any emergency works carried out under sub-paragraph (2)(a) must be notified to the local planning authority within 72 hours of their commencement. (5) In this requirement—“emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh</p>	





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		<del>the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action; and “trenchless construction techniques which cannot be interrupted” means drilling, tunnelling, boring or similar construction methods used to create an underground route for electrical cables without trenching from the surface, and includes any necessary ancillary activities to that drilling, tunnelling or boring; but does not include operations to prepare for drilling, tunnelling and boring, and specifically does not include works of excavation of pits, or works to remediate the site of pits used for drilling, tunnelling and boring.</del>	
DCO-PC17	New requirement	<b>Operational Noise</b> The rating level (LAr) of noise from the operation of the authorised development shall not exceed: 40 dB LAr for any fifteen-minute period between 23:00 and 07:00; and 50 dB LAeq for any one-hour period between 07:00 and 23:00, determined one metre free-field external to any window or door of any existing permanent residential premises using the definitions and methods described in ‘Methods for rating industrial and	Securing mitigation through the design and procurement process to meet policy NPS-EN1 5.12.17 and 5.12.18. Based on The North Lincolnshire Green Energy Park Order 2025 4 April 2025 <a href="#">North Lincolnshire Green Energy Park Order 2025 (For Signature) signed.pdf</a> adjusted for context.



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		commercial sound' British Standards Institution BS4142 2014+A1:2019.	