

Question No.	Question to:	Question:	Thames Water's Response
1.5.34	Statutory Undertakers	<p><b>Acquisition of Statutory Undertakers' Land</b></p> <p>The SoR, paragraph 10.3.4 [AS-015], states that adequate protection for statutory undertakers will be included within protective provisions in the dDCO [AS-009] (updated at DL1). SolarFive Ltd therefore considers that statutory undertakers will not suffer serious detriment to the carrying on of the undertaking as a result of the CA of land or rights over land or powers of TP. For those statutory undertakers who have been sent the draft protective provisions but have not confirmed agreement, please explain for each one why these protective provisions are considered to provide adequate protection and why SolarFive Ltd considers that the land and rights can be acquired without serious detriment to the carrying on of the undertaking.</p>	<p>The provisions as currently drafted in the Order do not provide sufficient protection for TWUL as the Parties have not agreed on the appropriate wording to protect TWUL from the exercise of powers of compulsory acquisition over property interests of TWUL listed in the Book of Reference submitted with the Application. Negotiations are ongoing and TWUL are hopeful that these negotiations shall be resolved, noting that the property arrangements are currently under discussion simultaneously. TWUL is keen to ensure that the final form of protective provisions will fully protect them from the compulsory purchase of operational land which has been identified as being subject to Order powers, as such land is crucial to TWUL's delivery of its statutory undertaking.</p>

1.5.35	Statutory Undertakers	<p><b>Planning Act 2008</b></p> <p>Set out your position with regards to the tests under s127 and s138 of PA2008 as applicable to your respective interests.</p>	<ol style="list-style-type: none"> <li>1. Section 127: TWUL does not consider the test in s.127 satisfied such that it is not able to remove its representations to the Application until such time as its operational land is protected from the exercise of compulsory acquisition powers. Should the land and interests in land identified in the Book of Reference be subject to the compulsory acquisition powers in the dDCO, it would present serious detriment to TWUL's statutory undertaking. Specifically, TWUL is concerned that the exercise of any such powers over operation land would risk the following detrimental impacts:               <ol style="list-style-type: none"> <li>a. Compromise to TWUL's ability to effectively discharge its statutory and licence obligations,</li> <li>b. Safeguard against construction activities at Farmoor Reservoir.</li> </ol> </li> <li>2. Section 138: TWUL does not consider the test in s.138 satisfied - the land listed in the Book of Reference in which TWUL has a 'relevant right' is necessary for the effective discharge of TWUL's statutory and licence obligation and such relevant rights must be preserved.</li> </ol> <p>Additionally, the Applicant's Book of Reference contains more than 120 plots of land in which TWUL has an interest. Some examples of land which is impacted by the proposed development include:</p> <ul style="list-style-type: none"> <li>• Angelinos Water Pumping Station;</li> <li>• Randolph Avenue Sewage Pumping Station;</li> <li>• Woodstock Booster Station;</li> <li>• Yarnton Road Sewage Works; and</li> <li>• Access Road to Farmoor Reservoir.</li> </ul> <p>Due to the large-scale and significant impact on TWUL's land and operations as a result of the proposed rights, TWUL must ensure that its operations and statutory functions are in no way impacted by any</p>
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			<p>permanent, temporary or access rights. It is TWUL's preference that insofar as it is possible, licences are agreed through mutual agreement with the Applicant.</p> <p>Our position in relation to both tests is that the Order, as currently drafted, does not satisfy these tests and until a time which the protective provisions are agreed by TWUL, these tests shall not be satisfied.</p>
1.7.4	<p><b>All local authorities</b></p> <p><b>Natural England</b></p> <p><b>Environment Agency</b></p> <p><b>Statutory Undertakers</b></p>	<p><b>Disapplication of legislative provisions</b></p> <p>Article 6, together with Schedule 3, of the dDCO relate to the disapplication of legislative provisions. Set out whether there are any anomalies on the list, whether there is any disagreement in respect of any provision being disappplied and set out any reasons behind this disagreement (if any exist)</p>	<p>TWUL has undertaken a review of the proposed legislative provisions to be disappplied, as set out in Article 6 and Schedule 3 of the dDCO. TWUL can confirm that there are no anomalies or disagreements as to the proposed disapplication by the Applicant and has no further comments to raise in response to this question.</p>

1.7.22	<b>Applicant</b>  <b>Statutory Undertakers</b>	<b>Protective Provisions</b> Please review the protective provisions contained in the dDCO. 1) Advise whether there is written agreement or disagreement on the protective provisions as drafted. 2) If there is disagreement, highlight those areas where dispute exists and the positions of the parties behind this dispute. 3) If the Statutory Undertaker(s) are unhappy, the Statutory Undertakers to provide a full copy/ transcript of their preferred protective provisions and set out the reasons behind the differences with those submitted by the Applicant.	A copy of the preferred form of Protective Provisions for the benefit of TWUL is attached to the submission. The areas that remain to be agreed are as follows: <ul style="list-style-type: none"> <li>- Protective Provisions must include adequate provision for the ability of TWUL to comment on and approve detailed bespoke method statement for works near the Farmoor Reservoir relating to the mitigation of noise, vibration and other disturbances;</li> <li>- Protection from compulsory acquisition powers;</li> <li>- Access to apparatus; and</li> <li>- Compensation for losses incurred by TWUL as a consequence of the authorised works affecting third parties.</li> </ul> <p>The key issue is to afford sufficient protection to TWUL so that as above, TWUL may continue to carry out their statutory undertaking without impediment from the proposed scheme – otherwise, TWUL will be in breach of its statutory and regulatory obligations.</p>
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## SCHEDULE 15

### Article 44

#### PART 5

#### FOR THE PROTECTION OF THAMES WATER UTILITIES LIMITED

##### *Application*

1. — For the protection of the utility undertaker referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker.

##### *Interpretation*

2. — In this Part of this Schedule—

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

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker to fulfil its statutory functions in a manner no less efficient and effective than previously;

“apparatus” means—

- (i) any mains, pipes, other water apparatus or accessories (as defined in section 219 of the Water Industry Act 1991) belonging to, maintained or used by the utility undertaker for the purposes of water supply: and
- (ii) any water mains or service pipes which are the subject of a notice of intention to adopt made under section 51A of the Water Industry Act 1991; and
- (iii) any sewer, drain or disposal works vested in the utility undertaker under the Water Industry Act 1991; and
- (iv) any sewer, drain or disposal works which is so vested, or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act, and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps, inspection chambers or other accessories (as defined in section 219(1) of the Water Industry Act 1991) forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;'

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, sections, descriptions, soil reports, bespoke method statements, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“utility undertaker” means Thames Water Utilities Limited (Company Number 02366661) whose registered office is at Clearwater Court, Vastern Road, Reading, Berkshire, RG1 8DB or any successor in function as the relevant water or sewerage undertaker.

##### *On street apparatus*

3. — This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

*Apparatus in closed public rights of way or altered streets*

4. — (1) Where any public right of way is closed under article 12 (permanent closure of public rights of way), and the utility undertaker has apparatus that is in the public right of way or accessed by virtue of that public right of way, the utility undertaker has the same powers and rights in respect of that apparatus as it enjoyed immediately before the closure and the undertaker must grant to the utility undertaker, or procure the granting to the utility undertaker of, legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 6 (removal of apparatus) or the power of the undertaker to carry out works under paragraph 8 (retained apparatus).

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 11 (temporary closure of public rights of way), the utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

(3) Regardless of any works done to streets under Article 8 (street works) or Article 9 (power to alter layout, etc. of streets), the utility undertaker is at liberty at all times to take all necessary access across any such street notwithstanding the carrying out of such street works and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the street works were commenced was in that highway.

*Acquisition of land*

5. — (1) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not appropriate, acquire, extinguish, interfere with or override any interest in land, easement or other interest or right of the utility undertaker nor acquire any of its apparatus otherwise than by agreement.

*Removal of apparatus*

6. — (1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of the utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in accordance with sub-paragraphs (2) to (8).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give 56 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed for approval by the utility undertaker in accordance with sub-paragraph (4) and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (4), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed the utility undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for the utility undertaker to use its compulsory purchase powers to this end unless it elects (in its absolute discretion) to so do.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker and the undertaker or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(5) The utility undertaker must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 42 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (4), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker) and if the utility undertaker gives its consent in writing (which shall not be unreasonably withheld or delayed and shall be subject to the provisions of sub-paragraph (7)), that work, instead of being executed by the utility undertaker, may be executed by the undertaker without unnecessary delay under the superintendence (if the utility undertaker determines, in its absolute discretion, that this is necessary) to the reasonable satisfaction of the utility undertaker.

(7) If by the end of the period of 56 days from the submission of the details relating to required removal works under sub-paragraphs (2) and (4) or the carrying out of works pursuant to sub-paragraph (6) the utility undertaker has not intimated its disapproval of those details and the grounds of such disapproval, the undertaker may give the utility undertaker written notice requiring the utility undertaker to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the utility undertaker receives written notice from the undertaker and if by the expiry of the further 28 days the utility undertaker has not intimated approval or disapproval, the utility undertaker will be deemed to have approved the details as submitted provided that such notification has been made in accordance with paragraph 19 (*notices and applications*). For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which must remain the sole responsibility of the utility undertaker or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker must, before taking or requiring any further step in such substitution works, use best endeavours to comply with the utility undertaker's reasonable requests for a reasonable period of time to enable the utility undertaker to:

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

#### *Facilities and rights for alternative apparatus*

7. — (1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to the utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the arbitrator will—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with the proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or on the land for which the alternative apparatus is to be substituted; and

(c) give effect to the statutory obligations of the utility undertaker and the undertaker.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to the utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(4) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2010 or other legislation.

#### *Retained apparatus*

8. — (1) Not less than 56 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect any apparatus (except where it is a pipe, in which case sub-paragraph (8) will apply), (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 6(2) (removal of apparatus), the undertaker must submit to the utility undertaker a plan of the works to be executed.

(2) The undertaker must not commence any works to which sub-paragraph (1) applies until the utility undertaker has given written approval of the plan so submitted (such approval not to be unreasonably withheld or delayed) and such approval may be given subject to reasonable requirements or modifications for the purposes mentioned in sub-paragraph (3).

(3) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements or modifications as may be made in accordance with sub-paragraph (2) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(4) Any requirements or modifications made by the utility undertaker under sub-paragraph (3) must be made within a period of 35 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(5) If the utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2) (removal of apparatus).

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(7) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency works but in that case must:

(a) give the utility undertaker notice in accordance with paragraph 19 as soon as is reasonably practicable;

(b) provide utility undertaker with a plan of those works as soon as reasonably practicable subsequently;

(c) carry out the works in accordance with industry best practice and guidelines on safe working near utilities;

(d) comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances; and

(e) keep the impact of those emergency works on the utility undertaker's apparatus to a minimum.

(8) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near the utility undertaker's



apparatus (where it is a pipe) if those works fall within the following distances measured from the outside face of such apparatus:

- (a) 3 meters in the case of distribution mains and sewers; and
- (b) 5 meters in the case of trunk water mains.

#### *Expenses and costs*

9. — (1) Subject to the following provisions of this paragraph, the undertaker must repay to the utility undertaker all expenses, costs and charges reasonably incurred and any compensation properly paid by the utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraphs 6(2) or 8(2) or 8(3).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 42 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker by virtue of sub- paragraph (1) must be reduced by the amount of that excess.

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

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

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

10. — (1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 6(2) (removal of apparatus), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by the utility undertaker, the undertaker must—

(a) bear and pay within 30 days of submission of an invoice or relevant breakdown from the utility undertaker the cost reasonably and properly incurred by the utility undertaker, accompanied by an invoice or claim, in making good such damage or restoring the supply;

(b) make reasonable compensation for any loss reasonably sustained by it as a result of such event; and

(c) indemnify the utility undertaker against claims, demands, proceedings, damages, penalty or costs reasonably and properly incurred by or recovered from the utility undertaker, by reason or in consequence of any such damage or interruption or the utility undertaker becoming liable to any third party as aforesaid.

(2) The fact that any act or thing may have been done by the utility undertaker on behalf of the undertaker or in accordance with a plan approved by the utility undertaker or in accordance with any requirement of the utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless the utility undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of the utility undertaker, its officers, servants, contractors or agents.

(4) The utility undertaker will, having regard to its statutory functions, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, damages, penalties or costs.

(5) The utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

#### *Access*

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

(2) The undertaker must not exercise the power conferred by Article 13 (use of private roads) of this Order without first obtaining the written consent of the utility undertaker to such use.

#### *Cooperation*

**12.** — Where in consequence of the proposed construction of any of the authorised development, the undertaker or the utility undertaker requires the removal of apparatus under paragraph 6(2) (removal of apparatus) or the utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 8 (retained apparatus), the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and the utility undertaker must use all reasonable endeavours to co-operate with the undertaker for that purpose.

**13.** — Where the undertaker identifies any apparatus which they have reason to believe may belong to or be maintainable by the utility undertaker, but which does not appear on any statutory map kept for the purpose by the utility undertaker, it must inform the utility undertaker of the existence and location of the apparatus as soon as reasonably practicable.

**14.** — Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and the utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

**15.** — The undertaker must procure that its employees, contractors and subcontractors take all reasonable and proper precautions in exercise of powers conferred by this Order, including compliance with these provisions at Part 5 of Schedule 15 of the Order, save that this obligation will not prevent the construction or operation of the authorised development.

### *Authority for the works*

**16.—** (1) Any works involving the laying or construction of pipes or accessories thereto to form part of the utility undertaker's undertaking, or inspection, adjustment, repair or alteration (including moving or removing and replacing) of such apparatus, or any works requisite for or incidental to the purpose of any such works, shall, unless otherwise agreed in writing by the utility undertaker, be undertaken pursuant to the utility undertaker's statutory powers following the service of statutory notice of entry onto land, such notice to be served by the utility undertaker.

(2) In the event that utility undertaker carries out any works involving new or existing TW assets under its own statutory powers then the Protective Provisions shall apply to such works and utility undertaker covenants to observe and comply with the Protective Provisions irrespective of whether it is carrying out the works under its own statutory powers or in reliance on the powers conferred by the Order.

(3) In the event that utility undertaker carries out any works involving new or existing utility undertaker assets under its own statutory powers but then fails to carry out those works in accordance with the Protective Provisions or within a reasonable timeframe (including in accordance with such programme for the carrying out of those works as may be agreed in writing between Highways England and utility undertaker) then this shall not prevent or otherwise prejudice the exercise of the powers to carry out the works conferred by the Order.

**17. —** The undertaker must inform the utility undertaker as soon as practicably possible if they determine to alter the ground level more than 300mm within 3 metres laterally of the outside face of any apparatus. Subsequently the utility undertaker must determine if works under paragraph 6 (removal of apparatus) or 8 (retained apparatus) are necessary.

### *Survey works*

**18. —** The undertaker must provide written notice to the utility undertaker as soon as practicably possible if they intend to survey using ground intrusive methods within 3 metres laterally of the outside face of any apparatus. Subsequently the utility undertaker must determine if works under paragraph 6 (removal of apparatus) or 8 (retained apparatus) are necessary.

### *Notices and applications*

**19.** Notwithstanding any other provision of this Order, any:

- (a) written notice to the utility undertaker provided for in this Order; or
- (b) application for the approval of the utility undertaker made pursuant to article 17 (discharge of water) (as may be required),

must be made by email to [devcon.team@thameswater](mailto:devcon.team@thameswater) or [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk) or such other contact details as may be provided by the utility undertaker to the undertaker from time to time. In the case of emergencies, notice must also be given via the Thames Water website or such other contact details as may be provided by the utility undertaker to the undertaker from time to time.