

**Application by RWE Renewables UK Solar and Storage Limited for Peartree Hill Solar Farm**

**National Grid Electricity Transmission plc – Responses to ExQ3**

**Question 3.3.4:**

(a) In response to part (a), please see the table below for NGET's position on each of the provisions outstanding from the protective provisions.

(b) In response to part (b), discussions remain ongoing between NGET and the Applicant, but the dDCO does not contain NGET's Protective Provisions (as submitted at Deadline 1 (REP1-103)). NGET remains confident of reaching agreement with the Applicant, but this is contingent on the dDCO containing NGET's Protective Provisions. Until satisfactory agreement has been reached with the Applicant, NGET reserves its right to make further submissions to the Examination at a later date.

**Table 2: Status of Protective Provisions for the benefit of National Grid Electricity Transmission (NGET)**

Ref	Provision in dispute	Applicant's proposed amendments to NGET protective provisions	Applicant's position	NGET position
<b>Sch 12, Part 6, Para 54</b>	Definition of "acceptable insurance"	"acceptable insurance" means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event <b>unless otherwise agreed in writing by National Grid Electricity Transmission Plc.</b> Such insurance shall be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised works by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance shall include (without limitation):	The Applicant considers that there should be an option to agree a lower amount. Including the wording offers flexibility to both NGET and the Applicant and would only be allowed if NGET agreed to it. This is precededented in other recently made DCOs for example the East Yorkshire Solar Farm Order 2025 and has added wording to that effect.	NGET is considering their position in relation to this amendment as this has not previously been raised to NGET in discussions with the undertaker.
<b>Sch 12, Part 6, Para 54</b>	Definition of "apparatus"	"apparatus" means:  (a) electric lines or electrical plant as defined in the 1989 Act, belonging to or	The Applicant considers that the protective provisions should apply to apparatus belonging to NGET and not what they may have in the future. The	The inclusion of obligations in protective provisions for the protection of future infrastructure is well established and has been granted by

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		<p>maintained by National Grid Electricity Transmission Plc together with any replacement apparatus; and</p> <p>(b) such other apparatus constructed pursuant to the Order that becomes operational apparatus of the undertaker for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or must be lodged or which gives or will give access to apparatus; and</p> <p><del>(c) any electrical lines or electrical plant as defined in the 1989 Act, any mains, pipes, plant or other apparatus belonging to, operated or maintained by National Grid Electricity Transmission Plc for the purposes of the construction, operation and maintenance of the North Humber to High Marnham Project, whether temporary or permanent, and includes, where the context so requires, apparatus constructed as part of the authorised works and intended for the beneficial use by National Grid Electricity Transmission Plc ("North Humber to High Marnham apparatus"); and</del></p>	<p>Applicant does not consider it is appropriate for provisions to apply to prospective schemes to afford onerous protective provisions which relate to unidentified land, or assets which are not constructed. The Applicant considers paragraph 55 offers sufficient protection for NGET's future projects. Nonetheless, the Applicant has provided appropriate protections (see below). These additional provisions were not included in the protective provisions for NGET in the East Yorkshire Solar Farm Order 2025.</p>	<p>the Secretary of State in all recent decisions where future NGET infrastructure interacts with third-party projects i.e. Awel y Mor Offshore Wind Farm DCO, the Mona Offshore Wind Farm DCO and the Byers Gill Solar Farm DCO.</p> <p>The Wanlass Beck Project and the Birkhill Wood Project directly overlap with the proposed Authorised Development (as set out in NGET's Written Representation [REP1-103]) and as such NGET does not consider that there is any reason to derogate from established precedent here.</p>

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		<del>(d) any electrical lines or electrical plant as defined in the 1989 Act, any mains, pipes, plant or other apparatus belonging to, operated or maintained by National Grid Electricity Transmission Plc for the purposes of the construction, operation and maintenance of the Wanlass Beck Project, whether temporary or permanent, and in includes, where the context so requires, apparatus constructed as part of the authorised works and intended for the beneficial use by National Grid Electricity Transmission Plc ("Wanlass Beck apparatus");</del>		
<b>Sch 12, Part 6, Para 54</b>	Definition of "authorised works"	"authorised works" has the same meaning as is given to the term "authorised development" in article 2(1) of this Order and includes any associated development authorised by the Order <del>and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;</del>	The Applicant has deleted this wording as it is considered superfluous in light of the definition of authorised development in the DCO which is sufficiently wide to cover associated development and any other development authorised by the DCO.	NGET considers that use and maintenance is not covered by the definition of development under section 32 of the 2008 Act, and the definition under Article 2 of the dDCO would not cover those works constructed under the Schedule e.g. replacement apparatus. On this basis, the deletion cannot be accepted.
<b>Sch 12, Part 6, Para 54</b>	Definition of "specified works" and its application in the	"specified works" means any of the authorised works <del>or activities</del>	The Applicant does not consider the additional wording in the definition proposed by NGET is needed as the	NGET considers that the deleted wording is required to ensure adequate

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	protective provisions at paragraph 63 and 64 in relation to the indemnity and expenses offered.	<p><del>undertaken in association with the authorised works</del> which:</p> <p>(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 56(6) or otherwise; and/or</p> <p>(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 56(6) or otherwise; and/or</p> <p>(c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".</p>	<p>definition of authorised development, which is how the authorised works are defined, is already drafted widely to encompass any relevant related activities that the Applicant undertakes in connection with the powers sought under the dDCO. The words proposed by NGET are ambiguous as to what would be included and the Applicant needs to have clarity in light of the obligations under the protective provisions.</p> <p>The Applicant has replaced 'authorised works' with 'specified works' in 63 and 64. The Applicant considers that as the intention of the protective provisions is to address the position where the Applicant's works are in proximity to NGET assets or otherwise adversely affect them and this is covered in the broad definition of specified works. Further the Applicant considers that it should only be liable to indemnify and cover expenses of NGET for specified works as this has been drafted widely and includes any works which would adversely affect NGET apparatus.</p>	<p>protection beyond the authorised works.</p> <p>With regards to the point regarding references to 'specified works' in relation to indemnity and expenses provisions, references to specified works instead of authorised works is not sufficiently broad to cover the range of interactions arising as a result of the development that could lead to costs or losses being incurred by NGET, particularly where assets are not being retained in situ and are instead being removed under paragraph 7(2). 'Specified works' excludes apparatus which has been removed as a result of paragraph 7(2). Referring only to 'specified works' and not 'authorised works' within paragraph 10 (Expenses) and paragraph 11 (Indemnity) would preclude costs or losses associated with this removal which the remaining drafting e.g. at paragraph 10(1) clearly anticipates being covered. Similarly, reference to authorised works at paragraph 11 clearly anticipates overage in relation to these removal works.</p>

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				<p>For example, at paragraph 10(1), reference to 'specified works' here does not allow for coverage of costs relate to the removal of apparatus as the removal of apparatus under paragraph 7(2) is not a specified work. The drafting of the rest of paragraph clearly indicates that such costs should be covered.</p> <p>It is a standard position that the indemnity / expenses provisions cover 'authorised works'.</p>
<b>Sch 12, Part 6, Para 56</b>	Peartree Hill Project works	<p><b>Peartree Hill Project works</b></p> <p><del>49. The undertaker must not construct except with the prior written agreement of National Grid Electricity Transmission Plc carry out the shared area works, or any part of it.</del></p> <p><del>56. (1) The undertaker must not construct any Peartree Hill Project works Before beginning to construct any shared area works, or any part of it, without consulting the undertaker must submit to National Grid Electricity Transmission Plc on the proposed plans of the relevant Peartree Hill</del></p>	<p>It has been agreed between the parties that this provision is to be headed Peartree Hill Project works from 'Shared area works' in light of agreed amendments to the definitions.</p> <p>The Applicant does not consider it appropriate for NGET to have a power to refuse or impose requirements on any proposals for works no. 6 and 8. This would, in the Applicant's view, "negate" the provisions of the DCO which authorise those works, contrary to Government guidance which states that protective provisions "should also not simply negate other provisions of</p>	<p>As set out above, NGET does not consider that seeking protections over apparatus (future or existing) negates the provisions of the DCO and inclusion of such drafting is well-precedented.</p>

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		<p><del>Project works shared area works, (or part of it) and considering their representations such further particulars available to it as National Grid Electricity Transmission Plc may request within 21 days of receipt of the plans reasonably requested.</del></p> <p><del>(3) Any shared area works must not be constructed except in accordance with such plans as may be approved in writing by National Grid Electricity Transmission Plc.</del></p> <p><del>50. (1) Any approval of National Grid Electricity Transmission Plc required under this Schedule</del></p> <p><del>(a) must not be unreasonably withheld or delayed;</del></p> <p><del>(b) in the case of a refusal must be accompanied by a statement of grounds or refusal; and</del></p> <p><del>(c) may be given subject to such reasonable requirements as National Grid Electricity Transmission Plc may have in connection with the safe, economic and efficient construction,</del></p>	<p>the DCO". There is a duty on the Applicant to cooperate with NGET on its future projects under paragraph 55 and to undertake certain steps to avoid any conflict with NGET's future projects. The protective provisions put forward by the Applicant include a duty to consult NGET on the proposed plans for works no.6 and 8, a duty to consider any representations received, an obligation to give NGET notice of its intention to commence construction and provide a copy of the final plans with NGET entitled to watch and inspect the construction of those works.</p> <p>Without Works No. 6 and 8, the Project cannot progress given the solar farm must connect into the substation, and it is not considered appropriate for a Project that has under-gone through examination and then given approval by the Secretary of State to then be placed at risk due to NGET having a power of approval over these works.</p>	

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		<p><del>com ——— missioning, ——— operation, maintenance ——— and ——— future decommissioning of the North Humber to High Marnham Project and/or the Wanlass Beck Project or otherwise for the protection of the North Humber to High Marnham apparatus and/or the Wanlass Beck apparatus,</del></p> <p><del>provided always that in relation to a refusal under sub-paragraph (b) or any requirements re-quested pursuant to sub-paragraph (c) the undertaker shall be permitted to refer such matters to dispute ——— resolution ——— pursuant to paragraph [20]</del></p> <p>(4) National Grid Electricity Transmission Plc must employ reasonable endeavours to respond to the submission of any plans within a period of 56 days from the date of submission of the plans.</p> <p>If National Grid Electricity Transmission Plc require further particulars, such particulars must be requested by National Grid Electricity Transmission Plc no later than 21 days from the submission of plans and thereafter</p>		



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		<p>National Grid Electricity Transmission Plc must employ reasonable endeavours to respond to the submission within 56 days from receipt of the further particulars.</p> <p>(5) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid Electricity Transmission Plc notice as soon as is reasonably practicable and a plan of those works.</p> <p>(6) The undertaker must give to National Grid Electricity Transmission Plc not less than 14 days' notice in writing of its intention to commence construction of any Peartree Hill Project works and provide a copy of the final plans for the Peartree Hill Project works and National Grid Electricity Transmission Plc will be entitled by its officer to watch and inspect the construction of such works.</p> <p>(5) The undertaker must give to National Grid Electricity Transmission Plc <del>shared area works and</del> notice in</p>		

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		<p>writing of its completion of any <b>Peartree Hill Project works</b> not later than 7 days after the date on which it is completed and <del>National Grid Electricity Transmission Plc will be entitled by its officer to watch and inspect the construction of such works.</del></p> <p>(6) If any part of the <b>Peartree Hill Project works</b> <del>shared area works</del> is constructed otherwise than in accordance with <b>the final plan provided under</b> sub-paragraph (1) above National Grid Electricity Transmission Plc may by notice in writing identify the extent to which the <b>Peartree Hill Project works</b> <del>shared area works</del> do not comply with the <b>final plans provided approved details</b> and request the undertaker at the undertaker's own expense carry out remedial works so as to comply with <b>the final plans provided</b> <del>the requirements of paragraph 5(2) of this Schedule</del> or such alternative works as may be agreed with National Grid Electricity Transmission Plc or as otherwise may be agreed between the parties.</p>		

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Sch 12, Part 6, Para 59	Protective works to Buildings	59. <b>Except in an emergency</b> the undertaker, in the case of the powers conferred by article 21 ( <i>protective work to buildings</i> ), must exercise those powers so as not to obstruct or render <b>materially</b> less convenient the access to any apparatus, the Wanlass Beck Site or the Birkhill Wood Site without the prior written consent of National Grid Electricity Transmission Plc <b>which must not unreasonably be withheld or delayed</b> .	<p>The Applicant considers that the words 'Except in emergency' should be added and is considered a reasonable addition so that they can act quickly in the case of an emergency without being put at risk of delay in having to gain NGETs prior consent. It is not considered appropriate to prevent emergency protective works, which would be a detriment to landowners and give rise to potential health and safety concerns.</p> <p>The wording "which must not unreasonably be withheld or delayed" is considered a reasonable addition and similar to that included in the East Yorkshire Solar Farm Order 2025 and the Byers Gill Solar Order 2025. The Applicant and NGET disagree on the inclusion of a protective provision relating to the exercise by the Applicant of its powers of acquisition under the DCO. The Applicant does not consider there should be any restrictions on the use of the compulsory acquisition powers in the DCO.</p>	<p>There are provisions with the protective provisions already which specify what happens in the event of an emergency, and so this additional drafting is not required.</p> <p>In relation to the inclusion of materially, as a statutory undertaker, NGET require access to apparatus. It cannot accept a qualification to this requirement.</p>
Sch 12, Part 6	Acquisition of Land	<b>Acquisition of land</b>	Government guidance, "Guidance on the content of a Development Consent	The removal of these provisions cannot be agreed. The inclusion of provisions

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		<p><del>51. (1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid Electricity Transmission Plc otherwise than by agreement.</del></p> <p><del>(2) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not unless otherwise agreed in writing with National Grid Electricity Transmission Plc appropriate, acquire or take temporary possession of any land forming part of the North Humber to High Marnham Site or the Wanlass Beck Site, (such agreement not to be unreasonably withheld or delayed) and/or any access thereto.</del></p> <p><del>(3) As a condition of an agreement between the parties in sub paragraph (1), prior to the carrying out of any part of the authorised works (or in such</del></p>	<p>Order required for a Nationally Significant Infrastructure Project" states:</p> <p><i>"Most statutory undertakers have now developed their own preferred form of protective provisions which is very helpful to the preparation of the draft DCO. However, these must be adapted as necessary so they accurately reflect the proposed development. <u>They should also not simply negate other provisions of the DCO, particularly concerning proposed compulsory acquisition of statutory undertakers' land.</u>"</i></p> <p>The result of this provision would be the effective disapplication of powers within the DCO and this is not consistent with Government guidance on the drafting of DCOs. <i>The Applicant does not consider that in the case of the Project this provision is necessary, particularly in light of the other protections in the protective provisions.</i></p> <p><i>The Applicant notes from the recent A122 Lower Thames Crossing DCO decision, that the Secretary of</i></p>	<p>regarding the acquisition of land is a longstanding position in the case of statutory undertakers and there is no reason to derogate from it here. To do so would cut across a well-established and accepted protection for all statutory undertake.</p> <p>In addition, and critically, under the terms of its licence, NGET cannot simply allow the disposal of its assets. There are additional processes that must be followed and therefore agreeing to removal of this provision would be contrary to NGET's statutory obligations under its licence.</p> <p><b><u>Guidance:</u></b></p> <p>In any event, the Guidance quoted above refers to negating other provisions of the DCO. The Acquisition of Land provisions within these PPs do not negate the compulsory acquisition provisions within the dDCO. The provisions still allow for compulsory acquisition to take place, in accordance with the terms of these PPs.</p>

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		<p><del>other timeframe as may be agreed between National Grid Electricity Transmission Plc and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid Electricity Transmission Plc or affect the provisions of any enactment or agreement regulating the relations between National Grid Electricity Transmission Plc and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid Electricity Transmission Plc reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid Electricity Transmission Plc and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid Electricity Transmission Plc unless otherwise agreed by National Grid Electricity Transmission Plc, and it will be the responsibility of the undertaker to procure and/or secure the consent</del></p>	<p><i>State/ExA did not permit an equivalent provision which would negate the powers sought. The same principle applies in this case, with the Examining Authority in that case finding that "The ExA concludes that a balance has to be struck between the HS1 role as a statutory undertaker managing its high speed railway and assets and the ability of the LTC undertaker to construct the Pro-proposed Development, and declines to recommend the inclusion of a consent or veto provision: the protective provisions in the dDCO."</i></p>	<p><b><u>LTC Decision:</u></b></p> <p>We note from the LTC Decision that the argument for removal of Acquisition of Land was progressed in relation to HS1 interests. However, provisions concerning the Acquisition of Land have been included for the following statutory undertakers:</p> <p>Part 1: For the Protection of Electricity, Gas, Water and Sewerage Undertakers;</p> <p>Part 2: For the Protection of Specified Gas Undertakers;</p> <p>Part 3: For the Protection of National Gas Transmission Plc;</p> <p>Part 4: For the Protection of National Grid Electricity Transmission Plc.</p> <p>There are also multiple examples of DCOs being granted subsequent to the LTC decision where these provisions have been include. Again, there is no reason to derogate from established principles of protection here.</p>

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		<p><del>and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.</del></p> <p><del>(4) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker the undertaker and National Grid Electricity Transmission Plc agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid Electricity Transmission Plc and/or other enactments relied upon by National Grid Electricity Transmission Plc as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.</del></p>		<p>In addition, the Applicant's objection to the inclusion of this paragraph is based on an incorrect premise. Paragraph 6 would not prevent the Applicant from being able to build out the Development, for the reasons set out below.</p> <p>The suggestion that this approach is in line with paragraph 012 of the Planning Act 2008: Content of a Development Consent Order is incorrect. Paragraph 012 is making the point that protective provisions must be bespoke to the development under consideration, as is clear from the sentence following the words quoted by the Applicant. In this case, there are good reasons why NGET requires the protection it is seeking by the inclusion of paragraph 6. Again, these reasons are set out below,</p> <p>NGET is a statutory undertaker within the meaning of section 127(8) of the Planning Act 2008. In these circumstances, section 127(2) and (5) provide that any order granting development consent for the Project may only include provision authorising the compulsory acquisition of NGET's</p>

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		<p><del>(5) Any agreement or consent granted by National Grid Electricity Transmission Plc under paragraph 15 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub paragraph (1).</del></p>		<p>land or rights therein if this can be done without serious detriment to the carrying on of NGET's undertaking (whether by the provision of replacement land or otherwise) or any detriment in consequence of the acquisition of a right can be made good.</p> <p>As matters stand, serious detriment to NGET's undertaking would result from the Project due to the interference with the Wanlass Beck project and the interplay with Park Lane. The Applicant's proposal to compulsorily acquire rights and impose restrictions on land where the Projects will be being developed would make it more challenging for NGET to undertake the works that are necessary for development of its projects.</p> <p>Paragraph 13(1) of the Protective Provisions provides that whenever NGET's consent, agreement or approval is required for the taking of any action by the Applicant, this must not be unreasonably withheld or delayed. To the extent that the Applicant considers a refusal by NGET to agree to the use of powers of</p>

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				<p>compulsory acquisition to be unreasonable, it would be able to use the arbitration procedure in the DCO to resolve the dispute by virtue of paragraph 15 of the Protective Provisions.</p> <p>NGET considers that this represents a reasonable balance between the interest of the Applicant and of NGET's undertaking.</p>
<b>Sch 12, Part 6, Para 60</b>	Removal of apparatus	<p><b>60.</b>(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid Electricity Transmission Plc <del>may in its sole discretion</del> will, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus</p>	<p>The Applicant does not agree to the inclusion of the wording 'may in its sole discretion'. To include such wording suggests that NGET may not assist the Applicant in getting any facilities and rights in land that would enable the Applicant to provide the alternative apparatus. This would be counterproductive to the intention of the protective provisions and would prevent the Applicant from fulfilling its obligations under the protective provisions. The Applicant's proposed wording is that NGET will take reasonable steps to assist the Applicant to obtain the necessary rights and facilities in land for alternative apparatus. The Applicant's drafting is</p>	<p>NGET considers that it should have sole discretion in these circumstances, as a statutory undertaker.</p>



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		is to be constructed save that this obligation <del>shall</del> must not extend to the requirement for National Grid Electricity Transmission Plc to use its compulsory purchase powers to this end unless it elects to so do.	precedented in the Byers Gill Solar Order 2025.	
<b>Sch 12, Part 6, Para 62</b>	<p>Retained apparatus: protection of National Grid Electricity Transmission Plc as Electricity Undertaker</p> <p>The Applicant and NGET disagree on the need for timeframes to be set out in approval processes.</p>	<p><b>62.</b> (5) Any approval of National Grid Electricity Transmission Plc required under sub-paragraphs (4)-</p> <p>(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8) <b>provided that any conditions are communicated to the undertaker within a period of 28 days beginning with the date on which a plan is submitted to National Grid Electricity Transmission Plc in accordance with sub-paragraph (1);</b> and,</p> <p>(b) may be given subject to such reasonable requirements as National Grid Electricity Transmission Plc may have in connection with the safe and efficient construction, commissioning, operation and</p>	<p>The Applicant has programme constraints to meet connection dates and as a result it is important that approvals are given promptly. The Applicant has therefore included wording to note that any approval given may be subject to reasonable conditions and reasonable requirements provided they are communicated to the Applicant within 28 days. Timeframes have been added to provide clarity and are considered essential to enable the Applicant to programme its works.</p>	<p>NGET cannot agree to timescales here, as it may cut across a well-established and followed access to NGET land process.</p>

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		<p>maintenance of the Birkhill Wood Project or the Wanlass Beck Project <b>provided that any requirements are communicated to the undertaker within a period of 28 days beginning with the date on which a plan is submitted to National Grid Electricity Transmission Plc in accordance with sub-paragraph (1); and</b></p> <p>(c) must not be unreasonably withheld <b>or delayed</b>.</p>		
<b>Sch 12, Part 6, Para 63</b>	Expenses	<p><b>63.</b>(1) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid Electricity Transmission Plc within 30 days of receipt of an itemised invoice or claim from National Grid Electricity Transmission Plc all charges, costs and expenses <b>(but always excluding any con-sequential or indirect loss ) reasonably anticipated within the following three months</b> or reasonably and properly incurred by National Grid Electricity Transmission Plc in, or in</p>	<p>The Applicant's proposed protective provisions make clear that the Applicant is not liable for any consequential or indirect loss. The Applicant does not consider it appropriate for the protective provisions to cover indirect and consequential loss; a principle well preceded in relation to indemnities and accepted by NGET in the protective provisions and therefore the Applicant considers it reasonable to extend to recoverable expenses as well. Further, the Applicant does not consider it reasonable for anticipated costs to be included if indirect and</p>	<p>The principle of anticipated costs is well established. NGET should not be unduly financially burdened as a result of the Peartree Hill project.</p> <p>With regards to indirect and consequential loss, one of the significant risks to NGET is the risk of service interruption. NGET should not be liable in this case.</p> <p>To our knowledge, NGET has not agreed to exclude consequential or indirect loss previously and as such it will not be doing so here.</p>

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		connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any <del>authorised</del> specified works including without limitation-	consequential loss is not excluded from the protective provisions.	
Sch 12, Part 6, Para 64	Indemnity	64.(1)(b)indemnify National Grid Electricity Transmission Plc for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid Electricity Transmission Plc, by reason or in consequence of any such damage or interruption or National Grid Electricity Transmission Plc becoming liable to any third party <del>and including STC claims or an Incentive Deduction</del> as aforesaid other than arising from any default of National Grid Electricity Trans-mission Plc.	The Applicant and NGET disagree as to the inclusion of STC Claims or an Incentive De-duction within the indemnity. It is not acceptable for the Applicant to be liable for STC Claims or an Incentive Deduction. It is excessively broad. The Applicant's drafting is precededented in the A122 Lower Thames Crossing Order 2025.	<p>This provision addresses a situation where the Undertaker does something which causes de-energisation which then results in either:</p> <ul style="list-style-type: none"> <li>a) Ofgem deducting from an Incentive scheme payment (Incentive Deduction); or</li> <li>b) A third party bringing a claim against NGET under the STC (STC Claims).</li> </ul> <p>"Incentive Deduction" means any incentive deduction National Grid Electricity Transmission Plc Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and</p>

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				<p>which arises as a result of the authorised works</p> <p>"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGESO as modified from time to time</p> <p>"STC Claims" means any claim made under the STC against National Grid Electricity Transmission Plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission Plc's transmission system which arises as a result of the authorised works</p> <p>NGET does not consider that these provisions are excessively broad, as is demonstrated by the level of detail provided in the definitions in the PPs (as set out above). These are obligations which NGET must comply</p>

Ref	Provision in dispute	Applicant's proposed amendments to NGET protective provisions	Applicant's position	NGET position
				<p>with and NGET does not consider it reasonable for it to be penalised under these obligations as a result of a third party project.</p> <p>NGET would also note that these only apply where the undertaker has done something to cause damage to NGET's apparatus or cause an interruption to service, which would not have occurred but for the undertaker's actions.</p>
<b>Sch 12, Part 6, Para 64</b>	<p>Indemnity</p> <p>The Applicant and NGET disagree on the role of the Applicant in managing third party claims that fall within the scope of the indemnity.</p>	<p><b>64.</b>(4) National Grid Electricity Transmission Plc must give the undertaker reasonable <b>written</b> notice of any such third party claim or demand <b>as soon as reasonably practicable after National Grid Electricity Plc become aware of any such claims or demands</b>, and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made <b>without the prior consent of the undertaker (which must not be unreasonably withheld or delayed)</b> (which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceeding <b>necessary to resist the claim or</b></p>	<p>Whilst the Applicant welcomes communication from NGET as to any third party claims or demands, the Applicant's proposed wording ensures that the consent (not to be unreasonably withheld or delayed) of the Applicant is needed before any settlement or compromise is reached. The Applicant considers that if it is to indemnify NGET then it is entirely reasonable that NGET do not settle or compromise on any claims before the Applicant has an opportunity to consider and give their agreement. Similar wording is included in the protective provisions for Network Rail on the National Grid (Richborough Connection Project) Development</p>	<p>NGET cannot agree to a third-party taking control of any claims, as there is a risk of reputational damage.</p>

Ref	Provision in dispute	Applicant's proposed amendments to NGET protective provisions	Applicant's position	NGET position
		<del>demand) without first consulting the undertaker and considering their representations.</del>	Consent Order 2017 and the A122 (Lower Thames Crossing) Development Con-sent Order 2025. It also reflects the position in Part 1 of Schedule 12 to the Draft DCO.	
<b>Sch 12, Part 6, Para 68</b>	Arbitration  The Applicant and NGET disagree on the procedure for dispute resolution.	<del>Save for differences or disputes arising under paragraph 62(2), 62(4) 63(1) and 64(1)(a)</del> Any difference or dispute arising between the undertaker and National Grid Electricity Transmission Plc under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, be determined by arbitration in accordance with article 48 (arbitration).	The Applicant does not agree that there should be any carve outs and considers that the arbitration clause in the DCO is appropriate for all disputes. The Arbitration clause al-lows for expert evidence. Without clarity, the Applicant would will unable to progress with the project in a timely manner should there be dispute unresolved and no opportunity for arbitration. This is preceded in the protective provisions for NGT in the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024.	The excluded paragraphs go to issues which should not fall to a third-party arbitrator to decide on, namely issues that go to NGET's exercise of its statutory undertaking.

**Addleshaw Goddard LLP**

**For and on behalf of National Grid Electricity Transmission plc**

**28 November 2025**