

NATIONAL GAS TRANSMISSION PLC

THE PROPOSED LIME DOWN SOLAR PROJECT DEVELOPMENT CONSENT ORDER

SPEAKING NOTES

ISH9

23.ix.26

APPEARANCES

- MWS KC,FTB, appear on behalf of National Gas Transmission Plc (“NGT”)
- Instructed by:

[REDACTED] es LLP
[REDACTED]

- Potentially call on [REDACTED], who is Chief Engineer, Assets, NGT
- Intend to speak to Agenda Item 3 on Protective Provisions

AGENDA ITEM 3

- (1) The ExA will invite the applicant to provide an update on protective provisions in Schedule 15.
- (2) The ExA will also invite statutory undertakers and other parties that would benefit from the protective provisions to comment on their outstanding issues, the steps/redrafting required to address those issues, and the implications if the applicant’s draft protected provisions are retained in the recommended DCO submitted to the Secretary of State.

NGT

- NGT is the owner and operator of the gas National Transmission System (“NTS”) in Great Britain.
- It operates under a licence established under the Gas Act 1986.

- NGT is required to develop, maintain and operate economic and efficient networks and to facilitate competition in the supply of gas in Great Britain
- Its primary responsibility is to transport gas safely, efficiently and reliably across the NTS, by managing the day-to-day operation of the network.
- This includes maintaining system pressures within safe operating limits, ensuring gas quality standards are met and acting as the residual balancer for supply and demand if there is an imbalance in the market
- NGT set out in its WR the relevant regulatory framework in terms of standards and protocols for working in the vicinity of high pressure gas pipelines
- For the purposes of these proceedings the key points are that:
 - NGT is a statutory undertaker
 - It is responsible for nationally significant infrastructure
 - That infrastructure has particular safety considerations given the combustible natures of gas and NGT has the statutory responsibility for the safety of the NTS
 - The NTS is vital to the UK economy
- Critically, as a responsible statutory undertaker with responsibility for the national gas transmission network, National Gas needs to ensure that damage to its assets is avoided or, where such damages arises, that it is appropriately indemnified

INTERACTION WITH SCHEME

- NGT has no issue with the principal of the scheme, only concern relates to protective provisions and ensuring that the interaction with between the Scheme and NTS is properly managed
- As set out in the NGT's WR [REP1-165], NGT has a number of assets that form an essential part of the gas transmission network in either within, or in close proximity to, the Order limits.
- This principally comprises the Feeder Main 14 (Wormington to Pucklechurch) (a high-pressure gas transmission pipe)
 - Shown on the plans at Appendix 1 ("NGT Assets Plans") to the NGT WR
- Any interference with, damage to, or restriction of access to the NGT Assets would present an unacceptable risk to public safety and network integrity. Therefore, in respect of the NGT Assets

WHAT ARE THE RISKS?

- The risk of damage to NGT's assets can be considered in three parts of the asset lifecycle:
 - Construction

- Operation and
- Decommissioning
- Construction
 - The risks here are predominantly arising from damage by construction plant and equipment either when undertaking construction work or crossing the pipeline (feeder).
 - These risks are well understood and do not appear to be the subject of debate.
- Decommissioning and site remediation
 - The risks here are similar in nature to those arising during the construction activities although risks are generally greater as demolition is generally undertaken with less precision, care and control than the construction phase
- Operation
 - There are also significant risks that arise during the operational life of the Project. NGT's pipelines are constructed of carbon steel and are protected from corrosion by an external coating applied at the time of manufacture, including at weld joints. That coating (ordinarily comprised of epoxy resin) inevitably degrades over time and can be damaged by contact with stones and other material in the ground, exposing the underlying steel. To guard against corrosion where the coating has failed, NGT applies cathodic protection, which maintains the surrounding ground at a more negative electrical potential so that, in the event of a coating defect, current flows to the ground rather than to the pipe and causing further corrosion.
 - NGT inspects its pipelines internally on a regular basis using an in-line inspection device which measures, among other things, the remaining wall thickness of the pipe, enabling NGT to build up a cumulative corrosion profile over time. If, following the commissioning of a solar development such as the Project, a subsequent inspection reveals materially accelerated corrosion, or the presence of pitting or holing consistent with stray current activity, this would indicate a causal link
 - The introduction of a large number of new electrical assets and cables in proximity to the pipeline, as in a solar development of this scale, increases the risk of stray earth currents. Stray currents can cause leakage of current at any point where the pipeline's coating is compromised, which in turn accelerates corrosion at that location.
 - Where this risk materialises, NGT would need to increase the frequency of internal inspection of the pipeline and, in a worse case, could suffer a loss of containment
 - In those circumstances there are clear safety issues and NGT is required to set up an exclusion cordon around the loss of containment. The cordon distances are considerable (214m for a 3inch hole at 70bar; 419m 6inch hole and full bore rupture of this asset would be 609m)

- To repair the pipeline would need to be isolated or depressurised causing loss of or interference with supply
- As to the solar farm it would likely need to be shut down as it comprises a number of electrical sources not rated for operation near gas which means they could ignite
- The extent to which stray currents travel is affected by soil conditions. In periods of high soil moisture or a high water table, stray currents can travel considerable distances, potentially well beyond the pipeline easement, whereas dry conditions tend to reduce their reach. NGT has not historically needed to track or measure this in detail, given that its pipelines have generally been kept well clear of other development, but it is a growing concern as development in proximity to the network increases.
- A further risk arises from the cables associated with the Project. Cables carrying alternating current can, in the event of a fault, overheat, and NGT is aware of instances in which such faults have resulted in fires. For example, there was an electrical fire in the Kingsway Tunnel in London which damaged a gas pipeline which in turn fuelled the fire.
- A fire of this kind occurring in proximity to the pipeline could adversely affect the pipeline directly or could raise sufficient concern as to the integrity of the pipeline that NGT is required to reduce its operating capability or take it out of service pending investigation and repair.
- Where damage of this kind occurs, establishing its cause is more straightforward in principle than for the gradual corrosion associated with stray currents.

ISSUES

- Issues were set out in NGT's Deadline 6 submissions **[REP6-077]**
- To which the Applicant responded at Deadline 6B **[REP6B-013]**

- There remain issues to be resolved
- NGT has sought a further meeting with the Applicant to seek to resolve the issues and from NGT's perspective we think the issues are resolvable and at the very least can be narrowed.
- We hope to be able to have that meeting before Deadline 7 and report progress in the Deadline 7 submissions/ post hearing submissions
- Perhaps the key issues to draw your attention to is the need for adequate insurance to be in place to protect NGT assets.
- Does not seem to be a disagreement that insurance needs to be in place for construction and maintenance and we assume that there is no disagreement in principle re decommissioning
- The issue relates to operation and to as to whether provision ought to be made to lower the quantum

NEED FOR INSURANCE

- Already explain the risks that arise during operation.
- Those risks are particularly acute where it is a scheme of this nature that includes electrical currents in the ground in proximity to the pipeline and which have the potential to interfere directly with the pipeline's system of protection and the risk of electrical fault
- It is not acceptable to fail to mitigate such risks in particular where it the NTS and where as here the part of the network affected is the primary supply to an important city (Bristol)
- That is the operational need.
- As to quantum, the question is whether or not provision should be made to enable the amount to be lowered from £50m
- NGT's position is that it should not:
 - The £50 million of third-party liability insurance reflects a starting position that provides NGT with a reasonable minimum level of comfort generally
 - The pipeline affected by the Project is a particularly critical section of the network, given that it forms the primary supply into Bristol and the surrounding area, as well as large power stations.

- If NGT were unable to supply sufficient gas through this pipeline, whether due to total isolation of the pipe line or restriction of its capacity, this would trigger significant compensatory claims, in addition to the costs of repairing the pipeline itself and the costs associated with any loss of supply.
- NGT has not experienced an incident of this kind on this pipeline to date and so there are no historic claims data to refer to
- However, by way of example Feeder Main 14 serves in addition the conurbation of Bristol to two power stations at Seabank in Avonmouth station
- NGT's potential liabilities just for loss of supply to the power station would be of the order of £3.5 to £5.5 million per day (depending on gas prices)
- Given that in the event of a serious loss of containment supplies could be lost for 7 – 10 days it is easy to get to the figure £50 million *before even contemplating* an any additional costs for loss of residential and commercial supplies are incurred in an urban area such as Bristol
- The £50 million limit represents NGT's assessment of a reasonable minimum level of cover, having regard to the potential scale of claims that could arise from a catastrophic incident affecting a pipeline of this criticality.
- NGT notes that gas undertakers tend to put in place insurance in the multiples of £50m per claim in respect of their own assets, which provides so context for the £50m and indicates it is a reasonable minimum requirement.
- There is no reason to contemplate lower amounts. Such amounts are not realistically feasible and requests and bespoke assessments are not proportional in the circumstances
- Particularly so where one contemplates the thousands of potential interactions over the NTS as a whole – NGT simply does not have the resources to deal with such levels of bespoke work
- NGT considers that £50m is a reasonable minimum amount. Given it is minimum, a provision to lower it is unnecessary and work that would be caused by it an unnecessary distraction

PRECEDENT

Of the 21 solar DCOs granted during that period, only seven contain protective provisions for the benefit of NGT.

- In five of those seven orders, NGT's standard requirement for £50 million of insurance in respect of the construction, operation and maintenance of the authorised development is included on the face of the Order, *with no mechanism permitting the parties to agree a lower level of cover.*
- The remaining two orders do not contain insurance provisions on the face of the Order, with those matters instead being addressed through side agreements.
- We can confirm that, in each case, NGT secured its standard insurance protections, **with no mechanism to lower.**
- The Applicant has referred to three other DCOs in its Deadline 6B submissions [REP6B-013] but
 - Two were not projects where NGT was involved (Cottom and West Burton) and
 - In the other (Tillbridge Solar) NGT secured the same protection it is seeking here, with no provision to lower the quantum.
 - These therefore tend to support NGT's position

OTHER MATTERS

- Generally for discussion and see scope to resolve

Contractor's ability to take out acceptable insurance

- For meeting but :
 - Accept that it is not unusual for contractors to take out insurance in connection with a Project (particularly the construction and maintenance phases), however for the purposes of the PPs this needs to remain the responsibility of the Promoter to procure the taking out of acceptable insurance.

Facilities and rights for alternative apparatus

- For meeting but
 - NGT can concede this point.

Introduction of inflexible time period for approval of works plans

- For meeting but
 - Can live with time period of 56 days and a carve out for emergencies draining NGT resources

Matters excluded from arbitration

- Principally for meeting but issue in relation to the extent of carve out from arbitration and whether carve out should apply to paragraph 42 of the PPs which is the protection of assets on which NGT must be final arbiter

This submission sets out National Gas Transmission's position on its preferred form of protective provisions to assist the ExA in determining the appropriate drafting should the parties be unable to reach agreement (as requested by the ExA at ISH9).

Dated 2 October 2026

**APPLICATION BY LIME DOWN SOLAR PARK LIMITED FOR THE LIME DOWN SOLAR PROJECT
DEVELOPMENT CONSENT ORDER 202[x]**

PLANNING INSPECTORATE REFERENCE NUMBER: EN010168

INTERESTED PARTY IDENTIFICATION NUMBER: [REDACTED]

**POSITION STATEMENT REGARDING THE PROTECTIVE PROVISIONS TO BE INCLUDED WITHIN
THE ORDER FOR THE PROTECTION OF NATIONAL GAS TRANSMISSION PLC'S ASSETS**

submitted on behalf of National Gas Transmission plc ("NGT")

1 Introduction

This position statement ("**Statement**") is submitted on behalf of NGT following Issue Specific Hearing 9, held on 23 September 2026 ("**ISH9**"), in connection with the application by Lime Down Solar Park Limited (the "**Applicant**") for the Lime Down Solar Project Development Consent Order (the "**Order**") for the construction of the Lime Down Solar Project (which will comprise a new solar and energy storage project with associated infrastructure (defined in the draft Order submitted at Deadline 6 [REF APP/3.1] (the "**Draft DCO**") as the "**Authorised Development**", and referred to herein as the "**Project**"). It is submitted, in particular, in response to the Examining Authority's ("**ExA**") request for a written submission at deadline 7 on 2 October 2026 ("**Deadline 7**") regarding the form of protective provisions to be included on the face of the Order (as made) (the "**Protective Provisions**") for the protection of NGT's assets in connection with the Project, being Feeder Main 14 (Wormington to Pucklechurch) together with Cathodic Protection Groundbeds/Transformer Rectifiers and ancillary apparatus (the "**NGT Assets**") which are located within and in close proximity to the Order limits.

- 1.1 At ISH9, the ExA requested that NGT and the Applicant meet and seek to narrow the outstanding issues regarding the Protective Provisions ahead of Deadline 7. Where the parties were not able to reach an agreed position regarding the Protective Provisions, the ExA requested that both parties submit a position statement at Deadline 7 attaching their preferred form of Protective Provisions and setting out their respective positions in relation to the matters that were expressed to be outstanding between the parties at ISH9.
- 1.2 Whilst some positive progress has been made between the parties, NGT submits this Statement to the ExA in order to confirm and reserve its position in relation to the material outstanding matters discussed at ISH9 pertaining to the Protective Provisions, in order to ensure that the NGT Assets are adequately protected, pending agreement regarding the same with the Applicant or, in the event that the ExA is required to impose the Protective Provisions on the parties, in which case, NGT has appended its preferred form of Protective Provisions (the "**NGT PPs**") to this Statement at Appendix 1, and respectfully requests that the ExA include the same at Part 4, Schedule 15 of the Order as made (in the event that it is made).
- 1.3 To assist the ExA in identifying where the drafting of the NGT PPs departs from the Applicant's position in the Draft DCO, NGT has also appended:
 - (a) a redline comparison of the NGT PPs against the corresponding provisions of Part 4, Schedule 15 of the Draft DCO at Appendix 2 ("**Redline**"). Each section below identifies the relevant paragraph(s) of the Draft DCO and the NGT PPs in issue and should be read alongside the Redline which highlights the specific

wording in dispute; and

- (b) a summary table at Appendix 3 setting out for each outstanding matter: the relevant paragraph(s) of the Protective Provisions in issue; a summary of NGT's position; a summary of the Applicant's position; and a summary of NGT's justification for its position.

2 Status of negotiations

- 2.1 As requested by the ExA at ISH9, a meeting between the Applicant and NGT (together with their respective solicitors) took place on 25 September 2026, and negotiations have also continued via email correspondence, with direct discussions taking place between representatives from the Applicant and NGT as required. NGT is therefore pleased to report that the parties have made positive progress on a number of points. However, for the avoidance of doubt, until satisfactory agreement has been reached between the parties on all of the remaining provisions, NGT must continue to **object** to the Applicant's application for the Order in order to ensure the adequate protection of the NGT Assets, and reserves its right to make further submissions to the ExA at Deadline 8 as may be necessary to further this aim.
- 2.2 Each outstanding matter in relation to the Protective Provisions is addressed in turn below setting out NGT's position in relation to each, and to confirm NGT's preferred drafting in relation to each of these points, which is reflected in the NGT PPs.

3 Acceptable insurance: duration and scope of cover (see the definition of 'acceptable insurance' at paragraph 35 of Part 4, Schedule 15 of the Draft DCO, and at paragraph 2 of the NGT PPs)

- 3.1 The principal outstanding issue between the parties concerns the duration and scope of the public liability insurance to be maintained by the Applicant in connection with the Project. NGT maintains the position detailed at ISH9 in relation to its insurance requirements in connection with the Project, being that the following insurance coverage is required to be in place in connection with the construction, use, maintenance and decommissioning of the Project:

General third party liability insurance 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, with such insurance to include (without limitation):

A) a waiver of subrogation and an indemnity to principal clause in favour of National Gas; and

B) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate.

("Acceptable Insurance")

- 3.2 The requirement for Acceptable Insurance throughout the lifespan of the Project (and indeed all third party projects that interact with NGT's assets or interests) is critical in ensuring that the broad indemnity given by the Applicant pursuant to the NGT PPs (see paragraph 11 of the NGT PPs, and equivalent provision at paragraph 44 of Part 4, Schedule 15 of the Draft DCO (the provision of which has not been contested by the Applicant)) is appropriately underwritten by adequate insurance and security provisions to ensure that NGT is not left out of pocket in the event of damage to the NGT Assets in connection with the Project.
- 3.3 In support of this position, NGT relies on the following matters (which were addressed (in part) at ISH9):
- (a) the NGT Assets constitute a particularly critical section of the gas National Transmission System ("**NTS**"). For context, the NTS is responsible for the transportation of high-pressure natural gas from the various entry locations around the country to where it is required, typically supplying major population centres, large power stations, industrial consumers and, increasingly, data centres. Any disruption to the supply of gas via the NTS can result in supplies being constrained and in extreme cases, consumers having to be isolated. Any restriction of supply to a customer (such as a power station) can trigger significant financial penalties for NGT and, in the event of a generator customer being unable to supply power when required, could result in local or regional power outages;
 - (b) The worst-case damage scenario in relation to the NTS Assets would be an almost total gas power outage to the Bristol area, and to two large power stations located at Seabank;
 - (c) the Applicant appears to accept that Acceptable Insurance must be in place in connection with the construction of the Project and also in connection with any maintenance activities, so NGT has not sought to explore the associated risks in any great detail in this submission, however, the risks arising during decommissioning of the Project will be similar in nature to those that will be inherent in construction of the Project (and are if anything greater, as demolition is generally undertaken with less precision, care and control than construction). It is for this reason that NGT considers that the requirement for Acceptable Insurance to be in

place should extend to decommissioning, and NGT has included this requirement in the NGT PPs (and does not consider that this is a controversial requirement);

- (d) there are also significant risks that arise throughout the operational life of the Project, and it is important that these are set out in detail here, as NGT understands that it is the quantum of insurance required in connection with the use of the Project to which the Applicant objects (and, as such, is seeking a mechanism for the parties to agree a reduced level of cover in this regard at a later date, please see section 4 below in this regard):

- NGT's pipelines are constructed of carbon steel and are protected from corrosion by an external coating, which can degrade over time and be damaged by contact with stones and other material in the ground, exposing the underlying steel. To protect against corrosion of the pipeline (which could lead to a loss of containment) in the event of damage to the coating, NGT applies cathodic protection to the pipeline. The cathodic protection system maintains the pipeline at a more negative electrical potential than the surrounding ground. In the event of any damage to the coating, the imposed current preferentially flows to ground preventing corrosion of the pipeline material. NGT also carries out regular internal inspections of its pipelines, enabling it to build up a cumulative corrosion profile over time. If a subsequent inspection following the Project's inception were to reveal materially accelerated corrosion, or pitting or pin-holing consistent with stray current activity, this would indicate a causal link with the Project. This is therefore a foreseeable risk which arises out of the use of the Project which could result in damage to the NGT Assets;
- the introduction of a large number of new electrical assets and cables in proximity to the NGT Assets, as in a solar development of this scale, increases the risk of stray earth currents, which can cause leakage of current and accelerate corrosion at any point where the pipeline's coating is compromised. This risk is continuous and cumulative throughout the operational life of the Project which is not limited to construction, maintenance and/or decommissioning;
- the extent to which stray currents travel is affected by soil conditions (which demonstrates the unpredictability of such risks, and consequently why it is not appropriate to agree variable coverage levels on an ad hoc basis throughout the lifecycle of a particular project). In periods of high soil moisture or a high water table, stray currents can

travel considerable distances, potentially well beyond the pipeline easement, whereas dry conditions tend to reduce their reach. NGT has not historically needed to track or measure this in detail, given that its pipelines have generally been kept well clear of other development, but it is a growing concern as development in proximity to its network increases;

- a further risk arises from the cables associated with the Project, being that cables carrying alternating current can, in the event of a fault, overheat, and NGT is aware of instances in which such faults have resulted in fires. This risk is present for as long as the electrical infrastructure remains in situ and operational. A fire of this kind occurring in proximity to the NGT Assets could adversely affect the same directly or could raise sufficient concern as to the integrity of the pipeline that NGT is required to reduce its operating capability or take it out of service pending investigation and repair.
- (e) in the event of a loss of containment (“**LoC**”) on the pipeline, which could arise in the event that any of the risks set out at paragraph 3.3(d) above come to fruition, NGT would recommend to the Emergency Services that a safety cordon be put in place around the affected area to ensure the safety of the public and emergency services personnel in the event of the leak igniting, isolate the pipeline and depressurise it before remediation works could take place. Taking a conservative view of a 3 inch equivalent diameter hole in the pipeline (which typically operates at 70 barg and up to 75 barg), the outer cordon distance (the area outside of which there is no risk of injury from thermal radiation even without any specialist personal protective equipment) would be 214 metres, rising to 419 metres for a 6 inch equivalent diameter hole, and up to 609 metres in the case of a full bore failure. The corresponding inner cordon distances (the area within which thermal radiation levels are such that only fire service personnel would enter to facilitate a ‘snatch’ rescue and only when wearing specialist protective equipment) are 26 metres, 84 metres, and 288 metres respectively. A LoC event of this kind would require excavation works to remediate, and, in the case of a more serious failure, cutting out and re-welding sections of pipeline. As such a LoC would be reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR), the HSE will require an investigation to be undertaken to establish the cause of the failure and any broader risks which may occur and this may result in prosecution. This risk exists throughout the operational life of the Project, which underlines why having Acceptable Insurance in place only for construction,

maintenance and decommissioning would leave the NGT Assets exposed to unacceptable risk during operation of the Project; and

- (f) additionally, the Acceptable Insurance is a standard public liability policy of the nature required to be put in place by businesses generally (including high street operators), rather than a bespoke policy for the insurance of the NGT Assets specifically. NGT considers the required quantum justifiable in the context of the nature of the assets involved and the potential risks and outcome of the same (as detailed below), and it is a matter that can be dealt with by appropriate structuring of insurance coverage.

3.4 Therefore, NGT's position is that Acceptable Insurance must be maintained for the duration specified in the NGT PPs (i.e. in respect of construction, use, maintenance and decommissioning) and not simply in respect of construction or maintenance activities. NGT notes that the Draft DCO does contain provision for the Acceptable Insurance to be in place for the use of the Project, so it would appear that the principle of Acceptable Insurance being in place in connection with the use of the Project is accepted and agreed by the Applicant.

4 Acceptable insurance: quantum and the proposed reduction mechanism (see the additional approval/agreement wording contained within the definition of 'acceptable insurance' at paragraph 35 of Part 4, Schedule 15 of the Draft DCO and at paragraph 44(7)(b) of the same (which is deliberately not present in the definition of 'acceptable insurance' at paragraph 2 of the NGT PPs, nor at paragraph 11(7)(b) of the same))

4.1 The Protective Provisions in the Draft DCO require Acceptable Insurance to be maintained at a fixed minimum level of £50 million. The Applicant has, however, queried the quantum of the Acceptable Insurance required to be in place in connection with the use of the Project, and has proposed that the Protective Provisions include a mechanism permitting a lower amount of cover to be approved by NGT. NGT's position remains that £50 million is the minimum appropriate level of insurance cover, and that no mechanism for a reduced amount should therefore be included in the Protective Provisions.

4.2 In support of this position, NGT relies on the following matters (which were addressed in part at ISH9):

- (a) NGT has historically not sought to differentiate the level of acceptable insurance required as between different pipelines within its network, notwithstanding that individual pipelines carry different levels of criticality. NGT does not have the resources to undertake (potentially multiple) assessments as to the appropriate level of insurance coverage required in connection with each third party project

that interacts with its assets, nor is it able to agree a reduction in coverage that would, in its opinion, expose the NGT Assets to unacceptable risk (which a reduction in the quantum of the Acceptable Insurance would in NGT's opinion). Rather, the quantum of the Acceptable Insurance reflects a starting position providing a reasonable level of comfort across NGT's network generally, rather than a bespoke assessment for any particular project.

- (b) As explained at paragraph 3.3(a), the NGT Assets constitute a particularly critical section of the NTS, forming the primary supply into the Bristol area, including two large power stations located at Seabank. If NGT were unable to supply sufficient gas through this pipeline, whether due to total isolation or restriction of capacity, this would be liable to trigger significant compensatory claims, in addition to the costs of repairing the pipeline itself.
- (c) NGT has not experienced an incident of this kind in connection with the NGT Assets to date, and it is therefore not possible for NGT to substantiate the £50 million figure by reference to historic claims data or a bespoke quantification of potential losses specific to this Project and/or the NGT Assets.
- (d) NGT also recognises that the potential cost of a loss of supply is likely to vary depending on the time of year at which an incident occurs, given that demand (and therefore the impact of any supply restriction) is materially higher during periods of low ambient temperature.
- (e) Bearing the above in mind, NGT's chief engineer's assessment is that, in the worst case, NGT's potential exposure arising from a loss of supply to the Seabank power stations alone could be in the region of £3.5 million to £5.5 million per day (worst case), and more probably in the region of £1.5 million to £2.2 million per day, with a loss of supply of this kind potentially lasting in the region of 7 to 10 days depending on the extent of repair works required. On this basis, a single incident could readily give rise to compensatory claims approaching, or exceeding, the £50 million limit before the costs of repairing the pipeline itself, and any consequential claims from other affected parties, are taken into account.
- (f) The £50 million minimum insurance coverage requirement represents NGT's assessment of a reasonable minimum level of cover having regard to the potential scale of claims that could arise from a catastrophic incident affecting the NTS, and particularly apparatus of the criticality of the NGT Assets, rather than a figure derived from a bespoke risk assessment of the Project, and NGT considers it remains a reasonable and proportionate basis for the requirement.
- (g) As to precedent, NGT has reviewed the development consent orders relied upon

by the Applicant in its Deadline 6 submission. NGT's review indicates that these precedents in fact support NGT's position and this was confirmed to the ExA at ISH9 as follows: of the 21 solar development consent orders granted or applied for in the last five years, seven required PPs for the benefit of NGT and of those seven, five secured Acceptable Insurance for the construction, maintenance and use of the relevant project on the face of the order, with no mechanism permitting a lower amount to be approved. The remaining two did not include insurance provisions on the face of the order which suggests that equivalent provisions were dealt with by way of a commercial arrangement between the parties (the existence of which may itself be confidential) but from the risks set out above the ExA can draw inference as to the likely arrangements in relation to those projects.

- (h) By contrast, the three orders referred to by the Applicant in its Deadline 6B submission (being Cottam Solar Project, West Burton Solar Project and Tillbridge Solar Project) did not engage NGT, and as such none of these orders included protective provisions for the benefit of NGT. NGT notes that a mechanism permitting a reduced level of cover has, in the small number of cases where one exists, been agreed with a gas distribution undertaker in different circumstances, and that reliance on such precedents does not support the inclusion of an equivalent mechanism in the NGT PPs.

5 Acceptable security: proposed reduction mechanism and fixed quantum (see the additional approval/agreement wording, and the deletion of 'not less than' contained within the definition of 'acceptable security' at paragraph 35 of Part 4, Schedule 15 of the Draft DCO and at paragraph 44(7)(a) of the same (noting that these amendments are deliberately not present in the definition of 'acceptable security' at paragraph 2 of the NGT PPs, nor at paragraph 11(7)(a) of the same))

- 5.1 In a separate but related point to the matter of quantum of Acceptable Insurance cover (and one which was not expressly addressed at ISH9), the Applicant has also included a mechanism within the Draft DCO permitting the amount of security (being a parent company guarantee, bank bond, or letter of credit in favour of NGT, capped at £50,000,000 in total (with a minimum of £10,000,000 per asset per event where a bank bond or letter of credit is used) (the **"Acceptable Security"**)) to be reduced below £50 million by agreement between the parties. As with Acceptable Insurance, NGT's position is that no such mechanism should be included, for the reasons set out below.
- 5.2 As explained at paragraph 3.2 above, the indemnity given by the Applicant to NGT in connection with the Project pursuant to the protective provisions included within the Draft DCO is only as good as the insurance and security that underwrite it. It is envisaged that the Acceptable Insurance is intended to address the majority of situations in which damage

to the NGT Assets may arise, but wherever insurance is relied upon there is always a residual risk of (a) events which are not covered by the relevant policy; and (b) insurer insolvency. The requirement to put Acceptable Security in place exists precisely to address that residual risk by addressing any gaps that may arise where the Acceptable Insurance falls short.

- 5.3 For the same reasons set out at paragraphs 3 and 4 above in relation to the risk posed by the Project to the NGT Assets during operation and the resulting requirement for Acceptable Insurance to be in place at the required quantum for the lifespan of the Project, a reduction in the amount of security cannot and will not be agreed by NGT.
- 5.4 An additional point of difference in relation to the security requirements, is that the Applicant has sought to limit the Acceptable Security as a fixed amount of £50 million within the Draft DCO (rather than being “not less than” £50 million as envisaged by the NGT PPs). NGT does not agree to this change, for the reasons set out below.
- 5.5 As set out at section 3 above, £50 million represents NGT's assessment of the minimum appropriate level of cover having regard to the potential scale of claims that could arise from an incident affecting the NGT Assets, rather than a figure derived from a bespoke risk assessment of the Project. The function of the Acceptable Security (like the Acceptable Insurance, which it serves to supplement and underwrite) is to ensure that NGT is not left exposed in respect of uninsured or uninsurable gaps in cover. It follows that £50 million must operate as a floor, and not a ceiling, on the level of security cover that NGT is entitled to require (as is the case with the Acceptable Insurance).
- 5.6 NGT already retains the ability, in respect of Acceptable Insurance, to require an increase in the minimum level of cover to be maintained where this is reasonably necessary having regard to the risk profile of the Project (see paragraph 2 of the NGT PPs). The same ability must be retained in respect of Acceptable Security, since the two mechanisms perform the same underlying function of ensuring that NGT's exposure in connection with the Project is adequately covered. Fixing the Acceptable Security at exactly £50 million, with no ability for NGT to require more, would sever this alignment and could leave NGT under-secured if, for example, the nature or intensity of Project activity taking place in the vicinity of the NGT Assets were to change, or were found to present a materially greater risk than currently anticipated.
- 5.7 NGT's position is therefore that the definition of Acceptable Security should continue to specify a minimum of £50 million (i.e. the inclusion of the wording of “not less than” £50 million, consistent with the drafting of the NGT PPs).

6 Contractor's ability to procure Acceptable Insurance (definition of 'acceptable insurance' at paragraph 35 of Part 4, Schedule 15 of the Draft DCO, and paragraph 2

of the NGT PPs)

- 6.1 The Applicant has sought an amendment to the NGT PPs to allow its contractor to put the Acceptable Insurance in place, rather than the Applicant itself.
- 6.2 NGT does not object in principle to a contractor arranging the Acceptable Insurance provided that the cover meets the requirements of Acceptable Insurance in all other respects (including for the required duration, as addressed in section 4 above) and that the Applicant remains ultimately responsible for procuring and maintaining the Acceptable Insurance throughout the lifespan of the Project. NGT considers that the Applicant's drafting in this regard at the definition of 'acceptable insurance' at paragraph 35 of Schedule 15 of the Draft DCO is insufficient in that it does not secure this ultimate responsibility against the Applicant. NGT has therefore addressed this deficiency within the definition of 'acceptable insurance' at paragraph 2 of the NGT PPs.

7 Acquisition of land (paragraph 39 of Part 4, Schedule 15 of the Draft DCO, and paragraph 6(2) of the NGT PPs)

- 7.1 Where NGT agrees that the Project may conflict with, breach, or otherwise interfere with any of NGT's existing easements or interests in respect of apparatus laid or erected in land belonging to or secured by the Applicant (noting that there is an absolute prohibition on such interference in the absence of express agreement by NGT (see paragraph 39(2) of Schedule 15 of the Draft DCO), the NGT PPs require the Applicant to (i) enter into deeds of consent replacing or varying those rights on terms no less favourable to NGT overall, and (ii) procure any necessary third-party consents or participation to give effect to those arrangements. The Applicant has proposed that limb (ii) of this obligation is subject to a "reasonable endeavours" caveat.
- 7.2 NGT's position is that the function of this wording is to clarify that the responsibility for securing any such third party consents sits squarely with the Applicant, and as such this qualification is not acceptable, for the following reasons:
- (i) if the Applicant cannot secure the necessary third-party consents despite reasonable endeavours, NGT could be left with less favourable arrangements and no fallback mechanism. There is a resulting risk that NGT could be impaired in its ability to retain, access and maintain its apparatus, and consequently its ability to manage and operate its statutory undertaking in a safe and efficient manner. That is not a position that NGT can accept; and
 - (j) in practice, the Applicant would need to identify which (if any) third-party consents are needed to secure appropriate alternative arrangements for NGT, and to secure the same (potentially on a conditional basis) before NGT would agree to any

extinguishment or interference, rather than leaving this to a reasonable endeavours effort after the event.

- 7.3 However, NGT understands that the Applicant's solicitor has identified a concern with the existing drafting in that it could be read as requiring a landowner to enter into an unnecessary deed of consent for works NGT has already approved by reason that they have an interest in the affected land. That is not NGT's intention and as such NGT has updated paragraph 6(2) of the NGT PPs to correct this. In light of this, NGT does not consider that the addition of a "reasonable endeavours" caveat is necessary or appropriate.

8 Time period for approval of works plans (paragraph 42(4)(b) of Part 4, Schedule 15 of the Draft DCO, and paragraph 9(4)(c) of the NGT PPs)

- 8.1 The Applicant has sought a fixed 42 day period within which NGT must respond to requests for approval of plans, sections, and descriptions of works under the NGT PPs.

- 8.2 NGT can agree a period of 56 days for approval of plans, which is consistent with the minimum timeframe within which the Applicant must submit plans for approval, with this timeframe being subject to the works plans in question being accompanied by a sufficiently detailed method statement to allow NGT to properly assess the application, and also subject to an appropriate extension of time in the case of an anticipated delay to plan approval by reason of an emergency. The NGT PPs contain drafting to reflect this. The period of 56 days means that there is consistency of time periods across paragraph 9 of the NGT PPs.

9 Matters excluded from arbitration (paragraph 48, Part 4, Schedule 15 of the Draft DCO, and paragraph 15 of the NGT PPs)

- 9.1 The Applicant has proposed drafting amendments to the NGT PPs that would enable decisions of NGT under paragraph 42 of Part 4, Schedule 15 of the Draft DCO (pertaining to the submission and approval of the Applicant's works plans, ahead of works being undertaken in proximity to NGT Assets) to be referred to an arbitrator pursuant to Article 48 of the Draft DCO (whereas the referral of a decision of this type is prohibited under paragraph 15 of the NGT PPs). The Applicant has stated that the intention is only for an arbitrator to deal with the question of whether NGT's refusal/delay to approval of a particular plan constitutes unreasonable withholding or delaying of the requested approval for the purposes of paragraphs 42(4)(b) of Part 4, Schedule 15 of the Draft DCO (with the corresponding paragraphs of the NGT PPs being 9(4)(c) respectively).

- 9.2 NGT's position is that the removal of *all* matters dealt with by paragraph 42 of Part 4, Schedule 15 of the Draft DCO from the list of matters carved out from the general arbitration article (Article 44) of the Draft Order does not achieve the Applicant's stated purpose of

limiting the scope of any arbitration to matters of unreasonable withholding or delaying of a requested approval.

9.3 Further NGT does not consider that it is possible to properly 'divorce' that question from a substantive assessment of the merits of the plans in question, which requires the application of specialist technical and safety judgement concerning the integrity of nationally significant gas infrastructure. NGT does not consider that such matters can properly be delegated to a third-party arbitrator, who would in practice be likely to need to rely on NGT's own technical expertise in any event.

9.4 NGT has, however, agreed a 56-day timeframe for approval (at paragraph 9(4)(c) of the NGT PPs) (as detailed at section 8 above) which should address the Applicant's underlying concern as to certainty of timing for approvals, without exposing the substance of NGT's technical decisions to assessment by an arbitrator (which is not a position that NGT can accept).

10 Conclusion

10.1 For the reasons set out above, NGT requests that the ExA acts to ensure that the NGT PPs are included on the face of the Order as made (if it is indeed made) to ensure the adequate protection of the NGT Assets, and to enable the continued safe and efficient operation of NGT's statutory undertaking.

10.2 Should the ExA have any queries or questions in relation to the contents of this submission please do not hesitate to contact [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2 October 2026

Mills & Reeve LLP

For and on behalf of National Gas Transmission PLC

APPENDIX 1
NGT PPs

NATIONAL GAS TRANSMISSION PLC

SCHEDULE [●] PROTECTIVE PROVISIONS

PART [●]

FOR THE PROTECTION OF NATIONAL GAS TRANSMISSION PLC AS GAS UNDERTAKER

Application

1.(1) For the protection of National Gas as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Gas.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Gas, where the benefit of this Order is transferred or granted to another person under article [37] (*consent to transfer benefit of Order*) –

(a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between National Gas and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to National Gas on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Gas (but without prejudice to paragraph 11(3)(b)).

Interpretation

2. In this Part of this Schedule—

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: (i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker or its contractor, 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], provided that where the undertaker's contractor has effected the said insurance the undertaker shall remain responsible for ensuring that the same is in place and maintained as required in accordance with the relevant requirements set out in this Part of this Schedule. Such insurance must be maintained (a) during the construction period of the authorised works; (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and (c) in connection with the decommissioning of the authorised works such insurance must be arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation):

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Gas; and

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than

£10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either:

(a) a parent company guarantee from a parent company in favour of National Gas to cover the undertaker’s liability to National Gas to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas and where required by National Gas, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Gas to cover the undertaker’s liability to National Gas for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Gas to enable National Gas to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by National Gas for the purposes of gas supply, together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Gas for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 (interpretation) of this Order and includes any associated development authorised by the Order 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;

“commence” and “commencement” has the same meaning as in article 2 (interpretation) of this Order save that for the purposes of this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Gas (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Gas’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

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

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Gas, including to construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Gas” means National Gas Transmission plc (Company Number 02006000) whose registered office is at National Grid House, Warwick Technology Park, Gallows Hill, Warwick,

CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Network Code” means the network code prepared by National Gas pursuant to Standard Special Condition A11(3) of its Gas Transporter’s Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of National Gas’s Gas Transporters Licence, as both documents are amended from time to time;

“Network Code Claims” means any claim made against National Gas by any person or loss suffered by National Gas under the Network Code arising out of or in connection with any failure by National Gas to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised works or any costs and/or expenses incurred by National Gas as a result of or in connection with, it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which may arise as a result of the authorised works;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by National Gas acting reasonably;

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

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which:

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus, including where the removal of such apparatus has been required by the undertaker under paragraph 7(2) or otherwise; and/or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; and/or

(c) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 National Gas's policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Gas, High pressure Gas pipelines and associated installation requirements for third parties”.

On Street Apparatus

3. Except for paragraphs [●] (*apparatus of National Gas in closed or restricted streets*), [●] (*retained apparatus: protection*), [●] (*expenses*) and [●] (*indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Gas, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Gas are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Gas in closed or restricted streets

4.—

(1) (2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 12 (*temporary closure, restriction or prohibition of use of streets and public rights of way*), National Gas is at liberty at all times to take all necessary access across any such closed or restricted 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 closure or restriction was in that highway.

Protective works to buildings

5.

The undertaker, in the case of the powers conferred by article 19 (*protective works to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Gas.

Acquisition of land

6.

(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 belonging to National Gas; or

(b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Gas otherwise than by agreement.

otherwise than by agreement (such agreement not be unreasonably withheld or delayed)-

(2) 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 other timeframe as may be agreed between National Gas 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, or extinguish, any easement or other land or legal interest of National Gas or affect the provisions of any enactment or agreement regulating the relations between National Gas 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 Gas reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Gas and the undertaker acting reasonably, so as to secure easements or other land or legal interests for National Gas rights which are no less favourable on the whole than, those conflicted with, breached or extinguished, unless otherwise agreed by National Gas, and it will be the responsibility of the undertaker to procure and/or secure the consent of, and/or entry 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, to the extent necessary to facilitate and secure any such easements or other land or legal interests for National Gas.

(3) Save where otherwise agreed in writing between National Gas and the undertaker the undertaker and National Gas 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 Gas and/or other enactments relied upon by National Gas as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Gas under paragraph 9 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Gas 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 National Gas in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Gas advance 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 and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Gas reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Gas to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) 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 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 Gas may, 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 is to be constructed save that this obligation shall not extend to the requirement for National Gas to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by 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 National Gas and the undertaker.

(5) National Gas must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Gas of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Gas facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Gas and must be no less favourable on the whole to National Gas than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Gas.

(2) 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 less favourable on the whole to National Gas 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 matter may be referred to arbitration in accordance with paragraph 15 (*Arbitration*) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Gas as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of gas undertaker

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Gas a plan and, if reasonably required by National Gas, a ground monitoring scheme in respect of those works.

(2) In relation to specified works the plan to be submitted to National Gas under sub-paragraph (1) must include a sufficiently detailed method statement and describe, to National Gas's satisfaction —

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until National Gas has given written approval of the plan so submitted.

(4) Any approval of National Gas required to be obtained under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (6);
- (b) must not be unreasonably withheld;
- (c) must be given or refused by National Gas (by way of written notice providing reasons in the event of refusal) within 56 days of receipt of the plan to be provided under sub-paragraph (1) (which must include a sufficiently detailed method statement as required by sub-paragraph (2)), save in the case of an emergency, in which case National Gas must notify the undertaker of the occurrence of an emergency event as soon as practicable, and the parties shall (both acting reasonably) agree an extension to the said 56 day period.

..

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, National Gas may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (5), as approved or as amended from time to time by agreement between the undertaker and National Gas and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by National Gas for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Gas will be entitled to watch and inspect the execution of those works.

(7) Where National Gas requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Gas' satisfaction prior to the commencement of any specified works for which protective works are required and National Gas must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Gas in accordance with sub-paragraphs (5) or (7) 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 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(9) 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 the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) 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 Gas notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub paragraph (11) at all times;

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with National Gas's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Gas, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that National Gas retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 10.

Expenses

10.(1) Save where otherwise agreed in writing between National Gas and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Gas within 30 days of receipt of an itemised invoice or claim from National Gas all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Gas in, or in 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 authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Gas in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Gas as a consequence of National Gas;
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3); or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Gas;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will 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 and which is not re-used as part of the alternative apparatus, 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 paragraph 15 (*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 National Gas by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not 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 will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Gas in respect of works by virtue of sub-paragraph (1) will, 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 National Gas any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these 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 the authorised works) or property of National Gas, or there is any interruption in any service provided, or in the supply of any goods or energy, by National Gas, or National Gas becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Gas the cost reasonably and properly incurred by National Gas in making good such damage or restoring the supply; and
- (b) indemnify National Gas for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Gas, by reason or in consequence of any such damage or interruption or National Gas becoming liable to any third party and including Network Code Claims other than arising from any default of National Gas.

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

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Gas, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Gas as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 8 (*consent to transfer benefit of Order*) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-

section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11; and/or

- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) National Gas must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Gas must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Gas must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Gas's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Gas's control and if reasonably requested to do so by the undertaker National Gas must provide an explanation of how the claim has been minimised, where relevant.

(7) The undertaker must not commence construction (or permit the commencement of such construction) of the authorised works or operate any of the authorised works on any land owned by National Gas or in respect of which National Gas has an easement or wayleave for its apparatus or any other interest, or to carry out or operate any of the authorised works within 15 metres of National Gas's apparatus unless and until the following conditions are satisfied:

- (a) National Gas is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security, (and has also provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas has confirmed the same to the undertaker in writing; and
- (b) National Gas is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance, and has also provided evidence to National Gas that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Gas has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with Paragraph 11(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Gas from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

12. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Gas and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Gas in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13.(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Gas requires the removal of apparatus under paragraph 7(2) or National Gas makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account

the need to ensure the safe and efficient operation of National Gas's undertaking and National Gas shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Gas's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

14. If in consequence of the agreement reached in accordance with paragraph 6(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Gas to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Save for differences or disputes arising under paragraph 7(2), 7(4) 8(1) and 9 any difference or dispute arising between the undertaker and National Gas under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Gas, be determined by arbitration in accordance with article 44 (*arbitration*).

Notices

16. Notwithstanding article 46 (*service of notices*), any plans submitted to National Gas by the undertaker pursuant to paragraph 9 must be submitted using the LSBUD system (<https://lsbud.co.uk/>) or such other address as National Gas may from time to time appoint instead for that purpose and notify to the undertaker in writing.

APPENDIX 2

REDLINE COMPARISON OF THE PPs IN THE DRAFT DCO WITH THE NGT'S PPs

NATIONAL GAS TRANSMISSION PLC

SCHEDULE [●]

PROTECTIVE PROVISIONS

PART 4[●]

FOR THE PROTECTION OF NATIONAL GAS TRANSMISSION PLC AS GAS
UNDERTAKER

Application

~~31.1.~~—(1) For the protection of National Gas as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Gas.

(2) ~~(2)~~ Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Gas, where the benefit of this Order is transferred or granted to another person under article [37] (*consent to transfer the benefit of the Order*)—~~—~~—

(a) ~~(a)~~ any agreement of the type mentioned in ~~sub-paragraph~~subparagraph (1) has effect as if it had been made between National Gas and the transferee or grantee (as the case may be); and

(b) ~~(b)~~ written notice of the transfer or grant must be given to National Gas on or before the date of that transfer or grant.

(3) ~~(3)~~ Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Gas (but without prejudice to paragraph ~~4411~~(3)(b)).

Interpretation

~~32.2.~~ In this Part of this Schedule—

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: (i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and ~~(ii)~~ “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker or its contractor, 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 ~~or such lower amount~~, provided that where the undertaker's contractor has effected the said insurance the undertaker shall remain responsible for ensuring that the same is in place and maintained as approved by National Gas required in accordance with the relevant requirements set out in this Part of this Schedule. Such insurance must 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 development by or on behalf of the undertaker which constitute specified works; ~~and~~ and (c) in connection with the decommissioning of the authorised works such insurance must be arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance ~~to shall~~ include (without limitation)—~~—~~;

Appendix 2

~~(a)~~ ~~(a)~~ a waiver of subrogation and an indemnity to principal clause in favour of National Gas; and

~~(b)~~ ~~(b)~~ pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than

£10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either—:

~~(a)~~ ~~(a)~~ a parent company guarantee from a parent company in favour of National Gas to cover the undertaker’s liability to National Gas to a total liability cap of ~~not less than~~

£50,000,000.00 (fifty million pounds) ~~or such lower amount as approved by National Gas~~ (in a form reasonably satisfactory to National Gas and where required by National Gas, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

~~(b)~~ ~~(b)~~ a bank bond or letter of credit from an acceptable credit provider in favour of National Gas to cover the undertaker’s liability to National Gas for an amount of not less than

£10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) ~~or such lower amount as approved by National Gas~~ (in a form reasonably satisfactory to National Gas);

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Gas to enable National Gas to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by National Gas for the purposes of gas supply, together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Gas for the purposes of ~~any or all of~~ transmission, distribution ~~and/or~~ supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(4) (interpretation) of this Order and includes any associated development authorised by the Order 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;

“commence” and “commencement” ~~has the same meaning as in this article 2 (interpretation) of this Order save that for the purposes of this~~ Part of this Schedule ~~includes~~ shall include any below ground surveys, ~~intrusive~~ monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Gas (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National ~~Gas’s~~ Gas’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

Appendix 2

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

“maintain” and “maintenance” shall include the ability and right to do any of ~~National Gas, the following~~ in relation to any apparatus or alternative apparatus of National Gas, including ~~to do any of~~ construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Gas” means National Gas Transmission plc (Company Number 02006000) whose registered office is at National GasGrid House, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986~~(a)~~;

“Network Code” means the network code prepared by National Gas pursuant to Standard Special Condition A11(3) of its Gas Transporter’s Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of National ~~Gas’s~~ Gas’s ~~Gas Transporter~~ Transporters Licence, as both documents are amended from time to time;

“Network Code Claims” means any claim made against National Gas by any person or loss suffered by National Gas under the Network Code arising out of or in connection with any failure by National Gas to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised works or any costs and/or expenses incurred by National Gas as a result of or in connection with, it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which may arise as a result of the authorised works;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by National Gas acting reasonably;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed; ~~and~~

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which—;

~~(a)~~ (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus, including where the removal of ~~which such apparatus~~ has ~~not~~ been required by the undertaker under paragraph 407(2) or otherwise; and/or

~~(b)~~ (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 407(2) or otherwise; and/or

~~(c)~~ (c) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 ~~(National Gas’s policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid Gas, High pressure Gas pipelines and associated installation requirements for third parties” T/SP/SSW/22).~~ “Specification for safe working in the vicinity of National Grid Gas, High pressure Gas pipelines and associated installation requirements for third parties” T/SP/SSW/22).

On Street Apparatus

~~33.3.~~ Except for paragraphs ~~37~~ 37 ~~(apparatus of National Gas in closed or restricted streets), 42~~ (retained apparatus: protection), 43 ~~(expenses) and 44~~ (indemnity) ~~of this Part~~ of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Gas, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Gas are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Gas in closed or restricted streets

4.—

Appendix 2

~~34.(1) (2)~~ Notwithstanding the temporary stopping up, ~~closure~~ or diversion of any highway under the powers of article 12 (*temporary closure, restriction or prohibition of use of streets and public rights of way*), National Gas is at liberty at all times to take all necessary access across any such ~~stopped-up or closed~~ or restricted 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~~closure or ~~diversion~~restriction was in that highway.

Protective works to buildings

5.

~~35.~~ The undertaker, in the case of the powers conferred by article 19 (*protective works to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Gas.

Acquisition of land

6.—(

~~36.~~ (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 ~~otherwise than by agreement (such agreement not to be unreasonably withheld or delayed)—~~

(a) ~~(a)~~ appropriate or acquire or take temporary possession of any land or apparatus belonging to National Gas; or

(b) ~~(b)~~ appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Gas otherwise than by agreement.

otherwise than by agreement (such agreement not to be unreasonably withheld or delayed)-

(2) ~~(2)~~ 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 other timeframe as may be agreed between National Gas 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, or extinguish, any easement or other land or legal ~~or land~~ interest of National Gas or affect the provisions of any enactment or agreement regulating the relations between National Gas 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 Gas reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Gas and the undertaker acting reasonably ~~and, so as to secure easements or other land or legal interests for National Gas rights~~ which ~~must bear~~ no less favourable on the whole ~~to National Gas than, those conflicted with, breached or extinguished,~~ unless otherwise agreed by National Gas, and it will be the responsibility of the undertaker ~~must use reasonable endeavours~~ to procure and/or secure the consent of, and entering/or entry 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, to the extent necessary to facilitate and secure any such easements or other land or legal interests for National Gas.

(3) ~~(3)~~ Save where otherwise agreed in writing between National Gas and the undertaker, the undertaker and National Gas 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 Gas and/or other

Appendix 2

enactments relied upon by National Gas as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

~~(4)~~ (4) Any agreement or consent granted by National Gas under paragraph ~~429~~ or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

~~37.7.—(1)—(1)~~ If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Gas 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 National Gas in accordance with sub-~~paragraphs~~paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Gas advance 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 and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Gas reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Gas to its satisfaction (taking into account paragraph ~~418~~(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) 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 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 Gas may, 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 is to be constructed save that this obligation shall not extend to the requirement for National Gas to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by 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 National Gas and the undertaker.

~~(5)~~ National Gas must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Gas of any such facilities and rights as are referred to in sub-paragraph

(5) (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

~~(6) The provisions of this paragraph only apply to the extent that the apparatus to be removed by the undertaker forms part of National Gas' undertaking and has not already been abandoned or decommissioned by National Gas and any existing rights in respect of the abandoned or decommissioned apparatus have been surrendered.~~

Appendix 2

Facilities and rights for alternative apparatus

~~38.8.~~—(1)—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Gas facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Gas and must be no less favourable on the whole to National Gas than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Gas.

(2) ~~(2)~~—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 less favourable on the whole to National Gas 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 matter may be referred to arbitration in accordance with paragraph ~~48~~—~~(arbitration)~~ 15 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Gas as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of gas undertaker

~~39.9.~~—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Gas a plan and, if reasonably required by National Gas, a ground monitoring scheme in respect of those works.

(2) In relation to specified works the plan to be submitted to National Gas under sub-paragraph (1) must include a sufficiently detailed method statement and describe, to National Gas's satisfaction —

~~(1) must include a method statement and describe —~~

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any ~~specified~~ works to which sub-paragraphs (1) and (2) apply until National Gas has given written approval of the plan ~~so~~ submitted ~~pursuant to sub-paragraph (1).~~

(4) Any approval of National Gas required to be obtained under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or ~~(7); and (6);~~

(b) must not be unreasonably withheld and;

~~(b)(c)~~ must be provided given or refused by National Gas (by way of written notice providing reasons in the event of refusal) within 4256 days of submission receipt of the plan to be provided under sub-paragraph (1) (which must include a sufficiently detailed method statement as required by sub-paragraph (2)), save in the case of an emergency, in which case National Gas must notify the undertaker of the occurrence of an emergency event as soon as practicable, and the parties shall (both acting reasonably) agree an extension to the said 56 day period.

(5) In relation to any work to which sub-~~paragraph~~ paragraphs (1) ~~applies~~ and/or (2) apply, National Gas may require such modifications to be made to the plans as may be reasonably necessary for the

Appendix 2

purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) ~~The specified works~~ Works executed under sub-paragraphs (1) or (2) must be ~~carried out~~ executed in accordance with the plan, submitted under sub-paragraph (1) ~~or as relevant sub paragraph (5)~~, as approved or as amended from time to time by agreement between the undertaker and National Gas and in accordance with such reasonable ~~modifications and~~ requirements as may be made in accordance with sub-~~paragraph~~ paragraphs (5) or (7) by National Gas ~~for the alteration or otherwise for the protection of the apparatus, or for securing access to it~~, and National Gas will be entitled to watch and inspect the execution of those works.

(7) Where National Gas requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Gas' satisfaction prior to the commencement of ~~the any~~ specified works for which protective works are required and National Gas must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Gas in accordance with sub-~~paragraph~~ paragraphs (5) or (7) 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 ~~341 to 363~~ and ~~396 to 418~~ apply as if the removal of the apparatus had been required by the undertaker under paragraph ~~407~~(2).

(9) 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 the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) 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 Gas notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times-;

(11) At all times when carrying out any works authorised under the Order ~~National Gas~~the undertaker must comply with National ~~Gas's~~Gas's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Gas, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that National Gas retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph ~~43~~10.

Expenses

~~40.10.—(1)(1)~~ Save where otherwise agreed in writing between National Gas and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Gas within 30 days of receipt of an itemised ~~VAT~~ invoice or claim from National Gas all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Gas in, or in 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 authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Gas in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Gas as a consequence of National Gas—;

Appendix 2

- (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph ~~40~~7(3); or
- (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Gas;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; ~~and~~
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will 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 and which is not re-used as part of the alternative apparatus, 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 paragraph ~~48~~15 (*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 National Gas by virtue of sub-paragraph

(1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not 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 will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Gas in respect of works by virtue of sub-paragraph (1) will, 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 National Gas any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

~~41.11.~~—~~(1)~~—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the

Appendix 2

construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these 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 the authorised works) or property of National Gas, or there is any interruption in any service provided, or in the supply of any goods or energy, by National Gas, or National Gas becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Gas the cost reasonably and properly incurred by National Gas in making good such damage or restoring the supply; and
- (b) indemnify National Gas for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Gas, by reason or in consequence of any such damage or interruption or National Gas becoming liable to any third party and including Network Code Claims other than arising from any default of National Gas.

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

(3) Nothing in sub-paragraph (1) ~~imposes~~shall impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Gas, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Gas as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article ~~378~~ (~~consent to transfer the benefit of the Order~~) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this ~~paragraph~~sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph ~~44; 11~~; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) National Gas must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Gas must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Gas must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Gas’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Gas’s control and if reasonably requested to do so by the undertaker National Gas must provide an explanation of how the claim has been minimised, where relevant.

(7) The undertaker must not commence construction (~~and not to~~ permit the commencement of such construction) of the authorised works or operate any of the authorised works on any land owned by National Gas or in respect of which National Gas has an easement or wayleave for its apparatus or

Appendix 2

any other interest, or to carry out or operate any of the authorised works within 15 metres of National Gas's apparatus unless and until the following conditions are satisfied—:

- (a) ~~unless and until~~ National Gas is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security ~~and (unless otherwise agreed with National Grid acting reasonably), (and has also~~ provided evidence that it shall maintain such acceptable security for the construction period of the authorised works ~~referred to in sub paragraph (7)~~ from the proposed date of commencement of construction of ~~those~~the authorised works) and National Gas has confirmed the same to the undertaker in writing; and
- (b) ~~unless and until~~ National Gas is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance ~~and (unless otherwise agreed with National Grid acting reasonably), and has also~~ provided evidence to National Gas that it shall maintain such acceptable insurance for the construction period of the authorised works ~~referred to in sub paragraph (7)~~ from the proposed date of commencement of construction of ~~those~~the authorised works) and National Gas has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with ~~paragraph~~Paragraph 11(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Gas from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

~~42.12.~~ Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Gas and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Gas in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

~~43.13.—(1)~~ Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Gas requires the removal of apparatus under paragraph ~~407~~(2) or National Gas makes requirements for the protection or alteration of apparatus under paragraph ~~429~~, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Gas's undertaking and National Gas shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Gas's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

~~44.14.~~ If in consequence of the agreement reached in accordance with paragraph ~~396~~(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Gas to maintain or use the apparatus no less effectively than was possible before such obstruction.

Appendix 2

Arbitration

~~45.15.~~ Save for differences or disputes arising under ~~paragraphs 40~~ paragraph 7(2), ~~407(4)~~ 8(1) and ~~41(1)9~~ any difference or dispute arising between the undertaker and National Gas under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Gas, be determined by arbitration in accordance with article 44 (*arbitration*).

Notices

~~46.-~~ Notwithstanding article 46 (*service of notices*), any plans submitted to National Gas by the undertaker pursuant to paragraph 429 must be submitted ~~to <https://lsbud.co.uk/> using the~~ LSBUD system [REDACTED] or such other address as National Gas may from time to time appoint instead for that purpose and notify to the undertaker in writing.

16.

APPENDIX 3
SUMMARY TABLE

Item Number	PPs	Applicant's Position	NGT's Position	Summary of justification for NGT's Position
1.	Acceptable insurance: quantum and proposed reduction mechanism: paragraph 35 of Part 4, Schedule 15 and paragraph 44(7)(b) of the Draft DCO	The Protective Provisions should include a mechanism permitting a lower amount of Acceptable Insurance cover to be approved by NGT.	£50 million is the minimum appropriate level of cover and no mechanism for a reduced amount should be included.	NGT does not differentiate cover levels between pipelines and lacks resources to conduct bespoke assessments; the NGT Assets are a critical NTS section serving the Seabank power stations, with potential exposure of £1.5-5.5 million per day in the event of damage; precedent from comparable solar DCOs supports a fixed £50 million requirement with no reduction mechanism.
2.	Acceptable security: proposed reduction mechanism and fixed quantum: paragraph 35 of Part 4, Schedule 15 and paragraph 44(7)(a) of the Draft DCO	The amount of Acceptable Security (parent company guarantee, bank bond or letter of credit, capped at £50 million) should be capable of being reduced below £50 million by agreement between the parties. The Acceptable Security should also be defined as a fixed amount of £50 million, rather than "not less than" £50	No mechanism to reduce Acceptable Security below £50 million should be included, and the definition of Acceptable Security should continue to specify a minimum of £50 million (i.e. retaining "not less than" £50 million) rather than being fixed at that amount.	Acceptable Security addresses the residual risk of gaps in, or non-payment under, the Acceptable Insurance, so it must be maintained at full value for the same reasons that justify the £50 million insurance requirement (which is the minimum level of coverage required, rather than a fixed requirement).

		million.		
3.	Contractor's ability to procure Acceptable Insurance: definition of "acceptable insurance" at paragraph 35 of Part 4, Schedule 15 of the Draft DCO; paragraph 2 of the NGT PPs	The Applicant's contractor should be permitted to put the Acceptable Insurance in place, rather than the Applicant itself.	NGT does not object in principle, provided the Applicant remains ultimately responsible for procuring and maintaining Acceptable Insurance throughout the lifetime of the Project.	The Draft DCO drafting does not secure the Applicant's ultimate responsibility if a contractor effects the insurance; NGT has addressed this gap directly in the NGT PPs definition of "acceptable insurance".
4.	Acquisition of land: paragraph 39 of Part 4, Schedule 15 of the Draft DCO; paragraph 6(2) of the NGT PPs	The Applicant's obligation to procure third party consents or participation needed to grant NGT replacement rights should be qualified by a "reasonable endeavours" caveat.	No "reasonable endeavours" qualification should apply; responsibility for securing third party consents sits squarely with the Applicant.	A reasonable endeavours caveat could leave NGT with less favourable arrangements and no fallback if consents are not secured, impairing its ability to maintain and operate its apparatus safely. NGT has in any event amended paragraph 6(2) of the NGT PPs to address the Applicant's separate drafting concern, making the caveat unnecessary.
5.	Time period for approval of works plans: paragraph 42(4)(b) of Part 4, Schedule 15 of the Draft DCO; paragraph 9(4)(c) of the NGT PPs	NGT should be required to respond to requests for approval of works plans within a fixed 42-day period.	NGT can agree to a 56-day period, subject to the works plan being accompanied by a sufficiently detailed method statement and an extension where approval is delayed by an emergency.	56 days is consistent with the minimum timeframe within which the Applicant must itself submit plans for approval and ensures consistency of time periods across paragraph 9 of the NGT PPs.
6.	Matters excluded from arbitration: paragraph 48,	Decisions of NGT under paragraph 42 of the Draft	Paragraph 42 matters should remain excluded from	Removing all paragraph 42 matters from the arbitration carve-out would not achieve the Applicant's

	Part 4, Schedule 15 of the Draft DCO; paragraph 15 of the NGT PPs	DCO (approval of works plans) should be capable of referral to arbitration, limited to whether NGT unreasonably withheld or delayed approval.	arbitration in their entirety, as currently provided in paragraph 15 of the NGT PPs.	stated aim of limiting arbitration to unreasonable withholding/delay, because that question cannot properly be divorced from a substantive technical and safety assessment of the plans. NGT has instead agreed a fixed 56-day approval period to address the Applicant's timing concern without exposing technical decisions to arbitral review.
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