

The Lighthouse Green Fuels Order

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Glossary

Acronym	In Full / Term
AGI	Above Ground Installation
ASU	Air Separation Unit
CHP	Combined Heat and Power
CO ₂	Carbon dioxide
DCO	Development Consent Order
DML	Deemed Marine Licence
ES	Environmental Statement
kV	Kilovolt
LGF	Lighthouse Green Fuels
MMO	Marine Management Organisation
MWe	Megawatts electrical
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
RCBC	Redcar and Cleveland Borough Council
SAF	Sustainable Aviation Fuel
SHA	Statutory Harbour Authority
SoS	Secretary of State
STBC	Stockton-on-Tees Borough Council

Executive Summary

- 1.1.1 This document explains the purpose and effect of each article of, and Schedule to, the draft Lighthouse Green Fuels Order (the Order), as required by Regulation 5(2)(c) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations), which requires explanatory memoranda to explain “*the purpose and effect of provisions in the draft order*”.

2 Introduction

2.1 Overview

- 2.1.1 This **Explanatory Memorandum (Application Document Ref. 3.2)** has been prepared by Burges Salmon LLP on behalf of LGF Projects Limited (the Applicant), to support an application (the Application) seeking development consent for the construction, operation, maintenance and decommissioning of the Lighthouse Green Fuels (LGF) project (the Proposed Development) on land within the administrative boundaries of Stockton-on-Tees Borough Council (STBC) and Redcar and Cleveland Borough Council (RCBC).
- 2.1.2 The Order limits for the Proposed Development are made up of the Main Site and Wider Site, together ‘the Site’. A more detailed description of the Site is set out at Section 2.4.
- 2.1.3 The Application has been submitted to the Planning Inspectorate (PINS), and the decision whether to grant a Development Consent Order (DCO) will be made by the Secretary of State (SoS) for Energy Security and Net Zero pursuant to the Planning Act 2008 (the PA 2008) [Ref 1].
- 2.1.4 The Proposed Development comprises a commercial-scale second generation Sustainable Aviation Fuel (SAF) production facility and associated infrastructure.

2.2 The Applicant

- 2.2.1 The Applicant is wholly owned by Alfanar Energy Limited (Alfanar). Alfanar is part of a global project development, manufacturing, and engineering group headquartered in Saudi Arabia. Alfanar has developed significant in-house feedstock-to-SAF expertise. This experience will be utilised to construct and operate the Proposed Development.

2.3 Overview of the Proposed Development

- 2.3.1 The Proposed Development is anticipated to be the UK’s first commercial-scale second generation SAF production facility.
- 2.3.2 The Proposed Development includes the construction, operation, maintenance and decommissioning of a commercial-scale facility that will produce approximately 180 million litres of advanced SAF and approximately 30 million litres of renewable naphtha each year.
- 2.3.3 The Proposed Development includes the following elements (the location of each Work No. is shown on the **Works Plans** (Application Document Ref. 2.4)):

Table 2-1 Works Description Summaries

Work Number:	
Work No. 1	SAF production facility comprising: • 1A - feedstock pre-treatment facility including flue gas treatment and stack • 1B - SAF processing facility including thermal oxidiser, flue gas treatment, and stack • 1C - up to two flare structures
Work No. 2	Combined heat and power (CHP) generating station comprising: • 2A - boilers and steam turbine generators • 2B - flue gas treatment and stack
Work No. 3	Feedstock and intermediate and final product handling and storage
Work No. 4	Cooling infrastructure for SAF production facility and CHP plant
Work No. 5	Bridge and culvert crossings of existing infrastructure
Work No. 6	Marine infrastructure comprising: • 6A - construction of permanent quay • 6B - permanent quay • 6C - capital and maintenance dredging
Work No. 7	Electrical connection works comprising: • 7A - underground and overground cable connections to the existing North Bank Supply Point • 7B - electrical connection works
Work No. 8	Modified or new natural gas connection and above ground infrastructure (AGI)
Work No. 9	Supply of industrial gases: Only one of Work No. 9A or Work No. 9B would be developed. • 9A - industrial gases connection works comprising installation of new and repurposing of oxygen and nitrogen pipeline connections, and connection to existing low pressure nitrogen supply • 9B - air separation unit (ASU) facility and connections to Work No. 1
Work No. 10	Modification or removal and replacement of industrial wastewater pipeline connection works
Works No. 11	• Export connection works: 11A - pipeline(s) for the export of SAF and renewable naphtha • 11B or 11C - a pipeline for the export of carbon dioxide (CO₂) connecting to AGI by others (being either AGI C1 or C2 of the Northern Endurance Partnership (NEP) transport and storage pipeline) Only one of Work No. 11B or Work No. 11C would be developed
Works No. 12	Surface water attenuation, and drainage and discharge works
Works No. 13	Laydown areas comprising:

	• 13A - temporary construction compounds and laydown areas • 13B - permanent laydown and storage
Work No. 14	Access works and private street improvements

- 2.3.4 In addition a range of associated development, both specified and unspecified, is proposed in relation to the above.
- 2.3.5 The new quay on the River Tees (**Work No. 6**) will allow delivery of modular plant and construction materials by ship during construction and biomass and waste wood feedstock during operation, reducing reliance on road transport. Feedstock will be stored (**Work No. 3**) then pre-treated at the Main Site and processed into SAF through gasification and gas-to-liquids processes (**Work No.1**).
- 2.3.6 To support operations, the Proposed Development will include a biomass and waste wood-fired CHP plant (**Work No. 2**) with an electrical output capacity of up to 200 megawatts electrical (MWe), providing a low-carbon energy supply for the SAF process. Cooling infrastructure (**Work No. 4**) will be required for the SAF process and the CHP plant. Connections will provide electricity for start-up and to maintain ancillary site supplies (**Work No. 7**), natural gas for start-up and as auxiliary fuel for some processes during operation (**Work No. 8**), and oxygen and nitrogen which will either be delivered to the Site via pipelines or produced by a new ASU in the Main Site (**Work No. 9A or 9B** respectively). Waste materials, including off-specification materials will be exported from the Main Site by road. Finished products (SAF, and a secondary product of the process, renewable naphtha) will be transferred via pipeline(s) (**Work No. 11A**) to local marine loading facilities for marine export or export by road. CO₂ from the acid gas removal unit in Work No. 1B will be exported via pipeline (**Work No. 11B or Work No. 11C**) subject to a suitable agreement to connect to one of two proximate AGIs in the NEP project.
- 2.3.7 The Proposed Development will also include replacement and new wastewater pipeline connection works (**Work No. 10**), surface water drainage systems (**Work No. 12**) and access and street improvements (**Work No. 14**). Space within the Wider Site is identified for temporary construction and laydown and space within the Main Site identified for permanent laydown and storage areas (**Work No. 13**).
- 2.3.8 The preliminary layout of the Proposed Development is shown on **Indicative General Arrangement Plan** (Application Document Ref. 2.5.1) and **Indicative General Arrangement Isometric** (Application Document Ref. 2.5.2).

2.4 The Site

- 2.4.1 The Site location and boundary (which is also known as the 'Order limits') are shown on **Site Location Plan** (Application Document Ref. 2.1). The Site is located in Teesside on land to the north and south of the River Tees with connection corridors crossing the Tees.
- 2.4.2 The Main Site is located in the industrial area of Seal Sands approximately 5km east of Billingham town centre and 4km north-east of Middlesbrough town centre, on the north bank of the River Tees in the borough of Stockton-on-Tees. The majority of the Main Site lies south of Seal Sands Road and largely comprises previously developed land formerly used as a chemical plant from the early 1970s. It was last operated by INEOS Nitriles.
- 2.4.3 The Main Site comprises the main SAF facility development area of the Site, lying to the south and north sides of Seal Sands Road and bounded by the proposed quay in the River Tees, with the River Tees to the east.
- 2.4.4 The eastern boundary of the Main Site is formed by the River Tees, where existing jetties will be demolished and a new quay developed.
- 2.4.5 The Wider Site comprises the connection corridors, including land required for road access, pipelines (including under the River Tees), dredging near to the Main Site, and utility connections and construction laydown in both North Tees and (in the borough of Redcar and Cleveland) South Tees.

2.5 The DCO Process

- 2.5.1 Part 3 of the PA 2008 defines which projects constitute a nationally significant infrastructure project (NSIP). Once classed as an NSIP, development consent (in the form of a DCO) is required under Part 4 of the PA 2008.
- 2.5.2 In legislative terms the Proposed Development comprises both a SAF production facility and a CHP generating station together with development associated with the SAF production facility and the CHP generating station.

- 2.5.3 The construction and operation of the main SAF production facility does not automatically fall within the definition of an NSIP. Therefore, on 12 August 2025, the Applicant formally requested a direction by the SoS for Energy Security and Net Zero, pursuant to section 35(1) of the PA 2008, that the following elements be treated as one for which development consent is required. The Section 35 direction request was made in respect of: a main gasification facility to process sustainably sourced biomass; feedstock pre-treatment, syngas clean-up apparatus; Fischer-Tropsch process units; refining units; feedstock, intermediates and finished product storage; quayside with ship loading/ offloading infrastructure; supporting infrastructure and utility connections (hereafter called the ‘Specified Elements’).
- 2.5.4 The SoS for Energy Security and Net Zero issued a direction under Section 35 of the PA 2008 [Ref 1] on 08 September 2025 to confirm that the Specified Elements of the Proposed Development, together with any matters/ development associated with them, should be treated as development for which development consent under the PA 2008 is required.
- 2.5.5 The CHP plant (Work No. 2) surpasses the 50 Megawatt (MW) threshold for generating stations defined in Section 15 of the PA 2008 and is therefore a NSIP in its own right.
- 2.5.6 An application for development consent for the Proposed Development has been submitted to PINS acting on behalf of the SoS. Subject to the Application being accepted, PINS will then examine it and make a recommendation to the SoS who will then decide whether to grant a DCO.
- 2.5.7 The application for development consent for the Proposed Development supersedes a previous application that was being progressed by Lighthouse Green Fuels Limited centred on a site off Huntsman Drive in Seal Sands, TS2 1TT (PINS ref. EN010150). Statutory consultation on that application took place between 16 May 2024 and 20 June 2024. As shown on the PINS website¹, that application is discontinued.

2.6 The Purpose and Structure of this Document

- 2.6.1 This document explains the purpose and effect of each article of, and Schedule to, the draft Order, as required by Regulation 5(2)(c) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, which requires explanatory memoranda to explain “*the purpose and effect of provisions in the draft order*”.
- 2.6.2 Section 3 provides further background to the Proposed Development, setting out the purpose of the Order.

- 2.6.3 Section 4 details the authorised project.
- 2.6.4 Section 5 sets out the purpose and effect of the provisions of the Order, including the precedent DCOs used in preparing the draft Order.

¹ <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010150>

3 Purpose of the Order

3.1 Matters for which development consent is sought

- 3.1.1 Development consent is sought for the authorised project as described in Schedule 1 of the Order. These are summarised at section 4 below and reflect the description of the Proposed Development set out above and included in Chapter 4 of the **Environmental Statement (ES) (Application Document Ref. 6.1.4)**.
- 3.1.2 The Order adopts the 'Rochdale Envelope' approach whereby the maximum permitted consent envelope is provided for and assessed, allowing some of the scheme detail to be approved post-consent. The approval of that detail is provided for within the Requirements in Schedule 2 of the Order.

3.2 Compulsory Acquisition

- 3.2.1 In addition, the Order seeks to confer upon the undertaker powers of compulsory acquisition of land or rights over land which are required for the authorised project or to facilitate it, or are incidental to it, within the meaning of section 122 of the PA 2008.
- 3.2.2 As the Order seeks to apply and modify statutory provisions under section 120(5) of the PA 2008 including in relation to the compulsory acquisition of land, it has been drafted as a statutory instrument as required under section 117(4) of the PA 2008.

3.3 Statutory undertaker's land and apparatus

- 3.3.1 The interests held by each statutory undertaker identified by the Applicant as owning land or having a right to keep or access apparatus within the Order Land are identified in the **Book of Reference** (Application Document Ref. 4.3).
- 3.3.2 Section 127(2) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of statutory undertakers' land to the extent that:
- 3.3.2.1 The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
 - 3.3.2.2 The land can be replaced by other land belonging to or available for acquisition by the undertakers without serious detriment to the carrying on of the undertaking.

- 3.3.3 Section 127(5) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of a right over statutory undertaker's land by the creation of a new right over land to the extent that:
- 3.3.3.1 the right can be purchased without serious detriment to the carrying on of the undertaking; or
 - 3.3.3.2 any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertaker by the use of the other land belonging to or available for acquisition by them.
- 3.3.4 Section 138 of the PA 2008 states that an order granting development consent may only include provision for the extinguishment of rights of way, or rights to lay down, erect, continue or maintain apparatus on, under or over the land belonging to statutory undertakers for the purposes of their undertakings only if the SoS is satisfied that the extinguishment is necessary for the purpose of carrying out the development to which the order relates.
- 3.3.5 The Order includes protective provisions in respect of statutory undertakers (see Article 40 and Schedule 11). The Applicant is currently seeking to agree the form of protective provisions with the affected undertakers. Further details as to how the tests under sections 127 and 138 of the PA 2008 have been satisfied are set out in the **Statement of Reasons** (Application Document Ref. 4.1).
- 3.3.6 In addition, the Order includes protective provisions in relation to various other parties who are not statutory undertakers for the purposes of sections 127 and 138 of the PA 2008 and those provisions do not therefore apply to them. However, these parties own and operate apparatus within the Order limits and the Applicant considers their apparatus should be protected by virtue of the inclusion of appropriate protective provisions. The **Statement of Reasons** (Application Document Ref. 4.1) also sets out who these parties are and the need for protective provisions for them.
- 3.4 **Marine licence**
- 3.4.1 A marine licence is required before carrying out any licensable marine activities under the Marine and Coastal Access Act 2009 (the 2009 Act). The Order includes a marine licence which is deemed to be granted under Part four of the 2009 Act for activities in the River Tees.

4 The Authorised Project

- 4.1.1 Schedule 1, Part 1 (Authorised Development) to the Order contains a list of numbered works comprising the authorised development. These are summarised at section 2.3 above.
- 4.1.2 The extent of these works is shown on the **Works Plans (Application Document Ref. 2.4)**.

4.2 Associated development

- 4.2.1 Guidance on associated development is set out in the ‘Planning Act 2008: Guidance on preparing an application – Part 3: Contents of a draft Development Consent Order’ issued by the SoS in July 2006, (the Guidance) [Ref 3]. Paragraph 4.10 of the Guidance sets out the principles which should be taken into account when deciding whether or not development should be treated as associated development. In summary, associated development:
 - 4.2.1.1 “requires a direct relationship with the principal development”;
 - 4.2.1.2 “should therefore either support the construction or operation of the principal development or help address its impacts”;
 - 4.2.1.3 “should not be an aim in itself”; and
 - 4.2.1.4 “in most cases, it will be typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project.”

- 4.2.2 Taking into account the above principles, the associated development which is considered necessary for the delivery of the Proposed Development is identified in Schedule 1, Parts 1 and 2 of the Order. Further details are also provided in Annex 1 to this Explanatory Memorandum.

4.3 Ancillary matters

- 4.3.1 Part 3 of the Schedule details the ancillary works. These are works that do not constitute development but are required to facilitate the construction of the authorised development.
- 4.3.2 In addition to providing for the construction, operation and maintenance of the authorised project, the Order will, in accordance with Part 7 of the PA 2008, authorise the acquisition of land and rights over land, the imposition of restrictions and the extinguishment of, or interference with, interests in or rights over land. **The Book of Reference (Application Document Ref.4.3)** sets out a description of the land and interests included in the Order. The Order and the Book of Reference should be read together with the **Statement of Reasons (Application Document Ref. 4.1)** which accompanies the Application and sets out the justification for the acquisition of or interference with the Order land.
- 4.3.3 Other ancillary matters include the application and disapplication of legislation, the power to undertake works to streets, and the ability to take temporary possession of land.

5 The Draft Order

5.1 Approach to drafting

- 5.1.1 The purpose and effect of the provisions of the Order are explained below in sequence.
- 5.1.2 The current approach to drafting a DCO is set out in the PINS Guidance ‘Guidance on preparing an application: Part 3 - Contents of a draft Development Consent Order (the 2026 Guidance) (Ref 2), supplemented by precedents from made DCOs in recent years. The relevant PINS advice and the 2026 Guidance has been taken into account when preparing the Order.
- 5.1.3 The requirement under the PA 2008 to have regard to the Model Provisions has been removed, nevertheless, to aid consistency and drafting of a comprehensive set of lawful provisions, where possible, the Order is based on the model provisions set out in Schedule 1 to The Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (the Model Provisions) as well as relevant precedents. The 2026 Guidance acknowledges that applicants find it useful to have reference to the Model Provisions.
- 5.1.4 The form of the Order has had regard to comparable precedent orders, in particular recently granted or examined projects of a similar type and recently granted projects in the same area of Teesside, where it is considered that similar issues apply, so as to avoid developing drafting which the SoS and interested parties would be unfamiliar with. The following orders have been particularly relevant for the reasons explained in Table 6-1 below and where appropriate, are referenced in relation to specific drafting points within the relevant sections below:

Table 5-1 Precedented Orders

Order	SI Number	Comments
The York Potash Harbour Facilities Order 2016 (“the York Potash Order”)	S.I. 2016/772	This is a DCO in the Teesside area which included rights packages for dredging works. The rights packages in the schedule for compulsory acquisition of rights for dredging has largely followed the approach in the York Potash Order as an example.
The East Anglia ONE North Offshore Wind Farm Order 2022 (“EA1N”)	S.I.2022/432	This Order has been relied on for precedent drafting in the consent to transfer the benefit of the Order article.
The Keadby 3 (Carbon Capture Equipped Gas Fired	S.I.2022/1396	This Order is referenced as precedent for the drafting in the compulsory acquisition of rights article, where the Applicant has

Generating Station) Order 2022 ("the Keadby Order")		options for constructing the Proposed Development.
The Boston Alternative Energy Facility Order 2023 ("BAEF")	S.I 2023/778	This Order has been relied on for precedent drafting in the use of private roads article.
The Net Zero Teesside Order 2024 ("the NZT Order")	S.I.2024/174	This is the most recently consented relevant DCO within the area of Teesside, where the Proposed Development is located. The NZT Order is referenced in particular for the drafting of discharge of requirements procedure, the overlapping planning permission article, and the deemed marine licence ("DML").
The National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 ("Yorkshire Green")	S.I.2024/393	This Order is relied on for precedent drafting in Schedule 2, Requirements, for an extension of the time to implement the project where legal proceedings are begun.
The Hynet Carbon Dioxide Pipeline Order 2024 ("Hynet")	S.I 2024/436	This Order has been relied on for precedent drafting in the use of private roads article.
Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024 ("the SSDE Order")	S.I. 2024/564	This is an offshore wind farm which is referenced to demonstrate precedence for drafting in the funding article.
The Cottam Solar Project Order 2024 ("Cottam Solar")	S.I.2024/943	This Order includes precedent drafting to authorise the crossing of motor vehicles on public right of way necessary for the authorised project.
The North Lincolnshire Green Energy Park Order 2025 ("the North Lincs Order")	S.I.2025/362	This is one of the most recently consented DCOs containing similar infrastructure and considerations.
The Cambridge Waste Water Treatment Plant Relocation Order 2025 ("Cambridge WWTP")	S.I 2025/452	This Order has been relied on for precedent drafting in the interpretation article and power to override easements and other rights article.
The A122 (Lower Thames Crossing) Development Consent Order ("Lower Thames")	S.I 2025/462	This Order has been relied on for precedent drafting in the interpretation article.
The London Luton Airport Expansion Development Consent Order 2025 ("London Luton")	S.I 2025/463	This Order has been relied on for precedent drafting in the Statutory nuisance article.
The Morgan Offshore Wind Project Generation Assets Order 2025 ("Morgan Generation")	S.I.2025/1012	This Order is referenced to demonstrate the precedent drafting in Schedule 2, Requirements, for an extension of the time

		to implement the project where legal proceedings are begun.
Gatwick Airport (Northern Runway Project) Development Consent Order 2025 ("the Gatwick Order")	S.I.2025/1054	This is a recently granted DCO which is referenced to demonstrate precedent for drafting in the no double recovery article.
Five Estuaries Offshore Wind Farm Order 2025 ("the Five Estuaries Order")	S.I.2025/1376	This Order has been relied on for precedent drafting in the transfer of benefit article and the arbitration schedule.
The Fenwick Solar Farm Order 2026 ("Fenwick Solar")	S.I.2026/151	This Order has been relied on for precedent drafting in the use of private roads article.

5.1.5 The H2Teesside application was withdrawn during the SoS decision making period. The Applicant has used the Examining Authority's recommended DCO (the H2T rDCO) when drafting the Order, as this is the most recently drafted order for the Teesside area.

5.1.6 The Applicant received advice from the PINS that it was not strictly necessary to include page numbers on the table of contents. Due to the number of protective provisions included in the Order, thereby increasing the length of the Order, the Applicant considers that page numbers are useful for navigational purposes and has retained these for the examination phase of the Application.

5.2 Part 1 – Preliminary

Article 1 – Citation and commencement

5.2.1 Article 1 sets out the name of the Order and the date on which it comes into force. This article did not appear in the Model Provisions but is a standard article that is included in all DCOs.

Article 2 – Interpretation

5.2.2 Article 2(1) defines the terms used in the Order. It is a standard article and was included in the Model Provisions as article 1. Definitions to note include:

5.2.2.1 "authorised development" which describes the development and further associated development for which consent is granted;

5.2.2.2 "authorised project" which means both the authorised development and the ancillary works described in Part 3 of Schedule 1;

5.2.2.3 "commence" which defines when development begins for the purposes of triggering requirements. The definition distinguishes between the onshore and offshore components of the authorised project. In respect of

the offshore works, “commence” is defined as the first carrying out of those activities, save for specific pre-construction operations. These include pre-construction surveys, monitoring surveys and unexploded ordnance surveys, as approved under the DML. These exclusions ensure that essential preliminary surveys may proceed without triggering the requirement to discharge conditions, while still being subject to appropriate controls under the DML.

- 5.2.2.4 For all other works, “commence” is defined as the first carrying out of any material operation (as defined in section 155 of the PA 2008, except for certain preliminary works. Those preliminary works are works which can ordinarily be undertaken without specific planning permission because they either do not fall within the meaning of development for which permission is required or they benefit from permitted development rights. The Order therefore includes a definition of “preliminary works” which is used in certain requirements to enable those preliminary works to be undertaken with appropriate controls in place, without necessitating prior discharge of those requirements. The preliminary works are separately controlled through and included in the relevant framework management plans, which are secured under the Order. This is also referenced in each relevant requirement. This approach to “commence” and “preliminary works” is consistent with numerous other DCOs including the NZT Order and the H2T rDCO;
- 5.2.2.5 “commissioning” and “date of final commissioning”. “commissioning” is defined as the process of testing all systems and components of Work No. 1 (SAF production facility) and Work No. 2 (CHP generating station) (which are installed or in relation to which installation is nearly complete) in order to ensure that they function in accordance with the plant design specifications and the undertaker’s operational and safety requirements. The definition of “date of final commissioning” means the date on which commissioning of Work No.1 is completed and it commences operation on a commercial basis;
- 5.2.2.6 “crossing design details” refers to a figure and details set out in Chapter 5 of the ES. The definition is used in the context of requirement 3 (detailed design), whereby the Applicant must carry out Work No.5 in accordance with these details. The Applicant has provided the details at submission to enable parties affected by Work No.5 to comment on the design with the aim of enabling a shorter consenting process at the time of construction, both in terms of discharge of the requirement with the relevant planning authority, and under the protective provisions with affected statutory undertakers and operators.

- 5.2.2.7 "main site" means the area shown on **Site Location Plan** (Application Document Ref. 2.1) which, as set out at section 2.4 above comprises the main SAF facility, and CHP generating station development area of the Site lying to the south and north sides of Seal Sands Road and the proposed quay in the River Tees. The definition of main site has been used within Schedule 1, Part 2 of the Order to identify where certain associated development works are relevant to the main site area only;
- 5.2.2.8 "maintain" which defines what maintenance activities are authorised under article 4 which grants the power to maintain the authorised project. Together, article 4 and the definition permit the undertaker to inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised project provided that such activities do not give rise to any materially new or materially different adverse effects that have not been assessed in the ES. This definition is preceded in the NZT Order and H2T rDCO;
- 5.2.2.9 "Order land" which means the land shown on the land plans and described in the Book of Reference;
- 5.2.2.10 "Order limits" which means the limits within which the authorised project may be carried out as shown on the works plans; and
- 5.2.2.11 "undertaker" which means LGF Projects Limited.

- 5.2.3 Article 2(3) provides that all distances, directions, measurements and lengths referred to in the Order are approximate. The purpose of this is to ensure that if upon construction of the works it transpires that the distances are marginally different to those listed in the Order, there is no issue over whether the Order permits the works. This provision allows for a small tolerance, although all works can only take place within the Order limits.

5.3 Part 2 – Principal Powers

Article 3 – Development consent etc. granted by this Order

- 5.3.1 Article 3 provides the principal power to construct and operate the authorised project described in Schedule 1 within the Order limits. Paragraph (1) confirms that development consent is subject to the provisions of the Order, including the requirements listed in Schedule 2. This is based on article 2 of the Model Provisions. Paragraph (2) provides that each numbered work must be situated within the corresponding numbered area shown on the works plans.

Article 4 – Maintenance of authorised project

- 5.3.2 Article 4 grants the undertaker the power to maintain the authorised project. Together, article 4 and the definition (as explained above) permit the undertaker to inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised project provided that such activities do not give rise to any materially new or materially different adverse effects that have not been assessed in the ES.

Article 5 – Operation of authorised project

- 5.3.3 Article 5 authorises the undertaker to use and operate the authorised project. Paragraph (2) clarifies that this article, save as provided under the Order (see for example Article 8 (Application and modification of legislative provisions)), does not relieve the undertaker of any requirement to obtain any permit or licence or any obligation under any legislation that may be required to authorise the operation of the authorised project. A list of other consents and licences required for the construction and/or operation of the authorised project are set out in the **Other Consents and Licences Statement** (Application Document Ref. 5.4).

Article 6 – Benefit of the Order

- 5.3.4 Article 6 confirms that the provisions of this Order have effect solely for the benefit of the undertaker. This article is subject to Article 7 and is based on article 4 of the Model Provisions and ensures that only the undertaker can exercise the powers granted by the Order. Paragraph (2) provides an exception for works consented for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised project.

[Article 7 – Consent to transfer the benefit of the Order](#)

- 5.3.5 Article 7 allows the benefit of the Order to be transferred or leased to others by the undertaker with the consent of the SoS. This article is necessary to provide the undertaker with appropriate commercial freedom to sell or lease the authorised project whilst ensuring that the SoS can control such transfer through the need to obtain consent. Without the ability to transfer the benefit, no party other than the undertaker could construct, operate or maintain the development without committing a criminal offence.
- 5.3.6 This article is therefore necessary to ensure that the project is fundable and could be sold or leased in the future.
- 5.3.7 The consent of the SoS is needed before the undertaker can transfer or lease the benefit of the Order, except where the transferee or lessee is:
- a) a subsidiary of, or parent company of, the undertaker; or
 - b) a subsidiary of a parent company of the undertaker; or
 - c) the holder of a licence under section 6 of the Electricity Act 1989 or section 7A of the Gas Act 1986; or
 - d) in relation to a transfer or lease of utility or other infrastructure connection works the relevant statutory undertaker or licence holder; or
 - e) where the compensation provisions for the acquisition of rights or interests in land or for effects on land have been discharged or are no longer relevant.

- 5.3.8 The justification for these provisions is that in such cases, the transferee or lessee would either be of a similar regulatory standing to the Applicant, or there are no outstanding actual or potential compulsory acquisition compensation claims, and there is therefore no need for regulatory oversight of any transfer. The carve outs from the need for consent at (c)-(e) above have precedent in orders such as NZT Order and North Lincs Order. The carve outs from the need for consent relating to affiliates of the undertaker have precedent in many DCOs, with the Applicant relying here on precedented wording from EA1N. The Applicant considers this carve out necessary to enable a swift transfer of the benefit to an affiliate, given the Applicant may adopt a strategy where affiliated entities take a lead in distinct operations such as that of the CHP generating station or the quay.
- 5.3.9 The same process applies for the transfer or grant of a DML under Schedule 10 of the Order, except that the SoS must consult the Marine Management Organisation ('MMO') before giving consent.
- 5.3.10 Sub-paragraph 7(4) specifies that where a transfer of grant is made under Article 7(1) or (2) references in the Order to the undertaker include any such transferee or lessee.
- 5.3.11 Sub-paragraph 7(7) provides that where the consent of the SoS is not needed, the undertaker must still notify the SoS in writing prior to the transfer or grant of the benefit of the provisions of the Order. Sub-paragraphs 7(9) to (12) provide further detail on the notification that is to be given.
- 5.3.12 Sub-paragraph 7(12) provides that where entering into an agreement under sub paragraphs 7(1) or 7(2) which relates to transferring any of the benefit of a DML to another person, the Environment Agency and the MMO must be notified in writing within 10 working days of the agreement.
- 5.3.13 Sub-paragraph 7(13) disapplies section 72(7) and 72(8) of the Marine and Coastal Access Act 2009, which requires the licensing authority to vary the marine licence where so applied for by a licensee. This amend uses drafting preceded in the Five Estuaries Order. It allows the MMO to amend a DML to correct the name of the undertaker to the name of a transferee or lessee where this is done under article 7.
- 5.3.14 Sub-paragraph 7(14) notes that for the purposes of this article, references to "statutory undertaker" includes any person who has apparatus within the Order limits. This is to reflect the factual position that many operators of pipelines and other apparatus within the Order limits do not strictly fall within the definition of "statutory undertaker" as defined in article 2, however, they would fall within the same principles set out at 5.3.8 above.

Article 8 – Application and modification of legislative provisions

- 5.3.15 Article 8 provides for the disapplication of certain requirements which would otherwise apply under public general legislation, as well as local legislation as authorised by section 120(5)(a) of the PA 2008. Section 120(5)(a) provides that an order granting development consent may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the Order.
- 5.3.16 Paragraphs (1) and (2) have the effect of amending the York Potash Order and NZT Order respectively. This approach was taken by the applicant for the NZT Order and H2T rDCO. The modifications are made pursuant to the power contained in section 120(5) of the PA 2008, which permit in certain circumstances the amendment of 'statutory provisions', defined in section 120(6) as including an instrument made under an Act. The named Orders are both a statutory instrument, and the amendments fall within the circumstances within which amendments are permitted. They are amendments of provisions which relate to matters for which provision may be made in the Order or which it is necessary or expedient to make in connection with this Order, being the means by which conflicts between the works and powers contained within the two DCOs are to be avoided.
- 5.3.17 Paragraphs (3)(a) – (c) disapply the requirement to seek additional licences from PD Teesport Limited as statutory harbour authority (SHA) under sections 22 and 23 of the Tees and Hartlepoons Port Authority Act 1966 (the 1966 Act). The Applicant has included consultee provisions in requirement 3 of Schedule 2 and the DML to ensure the SHA maintains a role in detailed design of the quay works and is provided with relevant notifications they would otherwise expect to receive under the aforementioned licence provisions. This ensures the Applicant has sufficient flexibility to build the scheme efficiently and is not unduly restricted by further licensing requirements post consent where sufficient controls are already included within the DCO (including the DML).
- 5.3.18 This article also disapplies section 25 of the 1966 Act, which makes it an offence to carry out construction or dredging works where a licence under section 22 or 23 would be required. Notably, the Applicant is not seeking to disapply the byelaws and directions made under various other Tees and Hartlepoons Port Authority legislation so that the SHA's statutory powers to ensure safe operation of the harbour are not interfered with. The Applicant is continuing to engage with the SHA in relation to these provisions.
- 5.3.19 Paragraph (3)(d) disapplies the provisions of the Neighbourhood Planning Act 2017 relating to temporary possession of land, as temporary possession is dealt with by articles 29 and 30 of this Order.

5.4 Part 3 – Streets

Article 9 – Street Works

- 5.4.1 Article 9 allows the undertaker to interfere with and execute works in or under the streets specified in Schedule 4 for the reasons listed in sub-paragraph (1). The undertaker may do the same to any streets within the Order limits for the purposes of the authorised project, subject to the consent of the street authority, not to be unreasonably withheld or delayed. The authority given by this article is a statutory right for the purposes of sections 48(3) and 51(1) of the New Roads and Street Works Act 1991. This article is based on article 8 of the Model Provisions and is commonly included in DCOs, where street works are required to facilitate construction and operation of the authorised project. Inclusion of this power avoids the need to obtain separate consents for these works.

Article 10 – Application of the 1991 Act

- 5.4.2 This article provides for the application of some of the provisions of the 1991 Act the carrying out of street works under article 9. The relevant provisions are referred to in sub-paragraph 2 of the article. Paragraph (4) provides that certain provisions of the 1991 Act listed in that paragraph will not apply. The disapplication of these provisions is appropriate given the scale of works proposed under the Order, the specific authorisation given for those works by the Order and the specific provisions in the Order which regulate the carrying out of the Order works.
- 5.4.3 Although this article was not included in the Model Provisions, there is precedent for these provisions in previous orders and is required to ensure the safe and efficient management of street works. For example, the application of section 60 of the 1991 Act requires that an undertaker use best endeavours to cooperate with a street authority and other undertakers in the interests of safety, the needs of disabled people and protecting the structure and integrity of the street and apparatus in situ.

Article 11 – Power to alter layout, etc. of streets

- 5.4.4 Article 11 allows the undertaker to alter the layout of any street within the Order Limits for the purposes of construction, operation, or maintenance. A general power to alter the layout of streets is considered necessary in order to ensure that any unforeseen works may be carried out within the Order Limits and to ensure the construction of the Proposed Development can be completed.

- 5.4.5 This power is subject to obtaining the consent of the street authority and to the restoration of such streets to the reasonable satisfaction of the street authority. This is based on Article 10 of The NZT Order.

[Article 12 – Access to works](#)

- 5.4.6 Article 12 allows the undertaker to form or layout means of access to the authorised project or improve existing accesses as reasonably required to undertake works or maintain and operate the authorised project. Save for those works identified under Schedule 5, the power is constrained by a requirement for the undertaker to first secure approval from the relevant street authority, noting that the relevant street authority would be deemed to have given their approval if they fail to notify the undertaker of their decision within 28 days of the application being made.

[Article 13 – Temporary closure, alteration or diversion of streets and public rights of way](#)

- 5.4.7 Article 13 allows the undertaker, where it is for the purposes of or in connection with the authorised project, to temporarily close, alter or divert any streets or public rights of ways in the Order limits. Sub-paragraph (3)(a) confirms this power can only be exercise once notification has been provided to the street authority not less than 28 days prior to the undertaker's intention to do so, for the streets specified in Part 1 of Schedule 6 and the public rights of way in Part 2 of Schedule 6. Sub-paragraph (3)(b) confirms this power can only be exercised for any other street and public right of way with the consent of the street authority.
- 5.4.8 This article is necessary to provide the undertaker with sufficient powers to manage traffic and pedestrians, including authorising the crossing of motor vehicles on public rights of way, minimise disruption to users of public rights of way and ensure safety during construction. The power to authorise the crossing of motor vehicles on public rights of way is precededented in Cottam Solar and is necessary for the authorised project because the Applicant will need to cross a public right of way with a motor vehicle. The power is subject to the consent of the street authority, where the street or public right of way is not specified in Schedule 6. This follows the approach in the H2T rDCO. Compensation by the undertaker is provided for in respect of the loss or suspension of any private rights of way.

[Article 14 – Agreements with street authorities](#)

- 5.4.9 Article 14 allows street authorities and the undertaker to enter into agreements relating to the strengthening, improvement, repair or reconstruction of any street under the powers conferred by the Order, or any works the parties may agree. This article is based on a modified model provision but has been amended to reflect the fact that the streets within the Order limits are privately maintained and are not streets maintained by the relevant highway authority.

Article 15 – Use of private roads

- 5.4.10 Article 15 authorises the temporary passage by the undertaker, in common with other permitted users, over those private roads within the Order limits which are captured within the **Access and Rights of Way Plan** (Application Document Ref. 2.4), by persons or vehicles for the purposes of, or in connection with, the construction or maintenance of the authorised project. The article creates a power to ‘use’ a private road for a temporary period that is proportionate to the limited nature of the use, rather than extinguishing, suspending or permanently interfering with the private rights of a landowner, which is in accordance with the statutory test and guidance for compulsory acquisition under a DCO, notably that the interference with rights is necessary and proportionate.
- 5.4.11 There are many private roads in the Order limits, where multiple companies access rights for the purposes of their businesses. This article is therefore necessary because the undertaker will also need to use private roads inside the Order limits. Whilst the undertaker will continue to aim to regulate their use of private roads through voluntary agreements, the undertaker could use this article rather than relying on compulsory acquisition or temporary possession powers.
- 5.4.12 Paragraph (2) provides that the undertaker will compensate any person who has suffered loss or damage as a result of the exercise of this power. Paragraph (3) clarifies that any dispute as to a person’s entitlement to compensation, or as to the amount of compensation, is to be determined under Part 1 of the Land Compensation Act 1961.
- 5.4.13 This Article is preceded in Fenwick Solar, Hynet and BAEF.

Article 16 – Traffic Regulation

- 5.4.14 This article allows, with the consent of the traffic authority, the undertaker to regulate traffic on roads (defined under sub-paragraph (4) as a public highway maintained by and at the expense of the traffic authority) to the extent that it is necessary.

- 5.4.15 There is a precedent for this article in article 16 of the NZT Order. This article is considered necessary to ensure that the undertaker has the necessary powers to be able to safely carry out the authorised project, and that it can be constructed without unnecessary delay.

5.5 Part 4 – Supplemental Powers

Article 17 – Discharge of water

- 5.5.1 Article 17 establishes the statutory authority for the undertaker to use any watercourse or any public sewer or drain for the drainage of water for the purposes of or in connection with the authorised project. This article is based on Model Provision 14. Provisions are included to ensure that appropriate consents are obtained where necessary and that the undertaker makes reasonable payment to the person in whom the sewer or drain is vested for the use of such sewer or drain for the purposes of the authorised project. Compensation is payable to any person who suffers damage by reason of the exercise of the powers under this article.
- 5.5.2 This element of the article follows the model provisions although the reference in sub-paragraph (6) to the Environmental Permitting (England and Wales) Regulations 2016 reflects that section 85 of the Water Resources Act 1991 has been deleted as this section has been repealed. This follows the approach in the NZT Order and North Lincs Order.
- 5.5.3 The construction of a long sea outfall will require a permit for discharge into the River Tees; in accordance with sub-paragraph (6), this article does not seek to avoid the need for a permit. Sub-paragraph (6) therefore does not conflict with section 146 of the Planning Act 2008.

Article 18 – Felling or lopping of trees

- 5.5.4 This article provides that the undertaker may fell or lop or cut back the roots of any tree or shrub within or overhanging the Order limits to prevent it obstructing or interfering with the construction, maintenance or operation of the authorised project. Compensation is provided for loss or damage if caused. It is necessary due to the presence of trees and shrubs on and around the main site (as defined in the Order) which need to be removed in order to construct the authorised project.

Article 19 – Authority to survey and investigate the land

- 5.5.5 Article 19 allows the undertaker to enter land within the Order limits to survey or investigate the land for the purposes of the Order. The power extends to land "which may be affected by the authorised project.

- 5.5.6 The purpose of this article is to enable the undertaker to undertake surveys and investigations to inform the detailed design of the authorised project. The article includes provisions for notice to be given before entry and for compensation to be paid for any loss or damage arising from the exercise of the powers. It is also subject to other controls including obtaining consent of the relevant authority prior to making trial holes or boreholes.
- 5.5.7 The Article applies section 13 of the Compulsory Purchase Act 1965 (refusal to give possession to acquiring authority) thereby providing an enforcement mechanism (by way of a warrant) where entry onto land under the Article is refused. This is considered necessary so that there is no delay in the implementation of the authorised project.

5.6 [Part 5 – Compulsory Acquisition](#)

[Article 20 – Compulsory acquisition of land](#)

- 5.6.1 Article 20 authorises the acquisition of land by compulsory purchase. It grants the undertaker the power to acquire land that is required for the authorised project, or necessary to facilitate or is incidental to the authorised project. This is a wide power, however, the article is subject to article 21 (time limit for exercise of authority to acquire land), article 22 (compulsory acquisition of rights), article 24 (private rights), article 27 (acquisition of subsoil or airspace only), article 28 (rights under or over streets) and article 29 (temporary use of land for carrying out the authorised development). The practical effect of this is that the overarching power to acquire land is limited to acquisition of land plots identified on the land plan for freehold acquisition (these are the land plots coloured pink on the land plans).

[Article 21 – Time limit for exercise of authority to acquire land and rights compulsorily](#)

- 5.6.2 Article 21 sets the time limit for exercising compulsory acquisition powers. This article gives the undertaker five years beginning on the day the Order comes into force to issue notices to treat or to execute a general vesting declaration to acquire the land that may be compulsorily acquired under the Order. These are the two main procedural methods by which the process of compulsorily acquiring land may be undertaken should the Order be made. The article also sets a five-year time limit on the power to take temporary possession of land under article 26, although it does not prevent the undertaker from remaining in possession of land after that time.

- 5.6.3 This five year period aligns with Regulation 6 of The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. The 2026 Guidance acknowledges that five years is the standard time frame for use in a DCO.
- 5.6.4 As set out at 2.3 above, the Applicant is developing a complex project which would deliver the UK's first commercial-scale second generation SAF production facility together with a CHP generating station and multiple associated utilities connections. In that context, it is considered appropriate to facilitate delivery of a complex project of this kind to provide for a five-year time limit.

[Article 22 – Compulsory acquisition of rights](#)

- 5.6.5 Article 22 authorises the undertaker to acquire rights over land within the Order limits (which is required for, or is necessary to facilitate, or is incidental to the construction or maintenance of the authorised project) either by acquiring existing rights or by creating new rights, including the power to impose restrictive covenants. This flexibility allows for a more proportionate approach to land acquisition, where outright ownership is unnecessary. It is therefore in the public interest. The article provides that for the land described in Schedule 7, the undertaker's powers of compulsory acquisition are limited to the acquisition of such rights, and the imposition of such restrictive covenants, as set out in the schedule.
- 5.6.6 The article also allows for new rights to be created over land for the benefit of the undertaker and for the potential benefit of statutory undertakers (and others with apparatus) where apparatus is required to be diverted or relocated (as identified in the table in Schedule 7 to the Order).
- 5.6.7 Sub-paragraphs (2)-(3) provide for the exercise of the power by statutory undertakers (for the reasons noted above), where the Applicant has secured consent from the SoS to transfer such powers to a statutory undertaker (or others with apparatus).
- 5.6.8 Sub-paragraph (4) confirms that where land is coloured blue on the land plans, the undertaker may only carry out the powers under this article.

- 5.6.9 Sub-paragraph (5) prevents the undertaker from exercising powers under sub-paragraph (1) to acquire rights and impose restrictions in land to carry out both Work No. 11B and 11C. It would only be necessary to carry out either the Work No. 11B (export pipeline works) or Work No. 11C (export pipeline works) which would be agreed post consent with the relevant operator. If Work No. 11B is to be developed, the undertaker must serve written notice on those with interests in the plots falling within Work No. 11C confirming that the undertaker no longer intends to implement any powers of compulsory acquisition in relation to such plots for the purposes of carrying out Work No. 11B and vice versa if Work No. 11C is to be developed.
- 5.6.10 Sub-paragraph (6) provides that in the event the undertaker constructs Work No. 9B (an ASU) which would only be constructed in the event the undertaker decides that Work No. 9A (industrial gases connection works) cannot be delivered, the undertaker must serve written notice on those with an interest in plots falling within Work No. 9A that the undertaker no longer intends to implement any powers of compulsory acquisition in relation to such plots for the purposes of carrying out Work No. 9A.
- 5.6.11 Sub-paragraphs (5) and (6) are based on the approach taken in the Keadby Order.

[Article 23 – Power to override easements and other rights](#)

- 5.6.12 Article 23 provides that by virtue of section 158 of the PA 2008 in carrying out or using the development authorised by the Order and doing anything else authorised by the Order, the undertaker may interfere with any easement, liberty, privilege, right or advantage annexed to land and affecting other land, including any natural right to support, or breach any restriction as to use of land arising by virtue of contract. It also provides that by virtue of section 152 of the PA 2008, compensation may be payable under section 10 of the Compulsory Purchase Act 1965 for any such interference or breach, unless otherwise agreed. This provision is included to clarify the position regarding rights burdening land required for the authorised project. This article has precedent in the NZT Order and Cambridge WWTP.

[Article 24 – Private rights](#)

- 5.6.13 Article 24 provides for the extinguishment of private rights over land that is subject to compulsory acquisition under the Order. The article applies to all private rights over land subject to compulsory acquisition under article 20 (Compulsory acquisition of land) and article 22 (Compulsory acquisition of rights). It provides that where land is compulsorily acquired, such private rights or restrictive covenants are suspended and unenforceable or (where the beneficiaries are notified by the undertaker), extinguished as far as their continuance would be inconsistent with the acquisition of the land; where new rights or restrictive covenants are acquired over land, private rights cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant; and where temporary possession of land is taken, private rights are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken for as long as the undertaker remains in lawful possession of the land.
- 5.6.14 Reference to section 152 of the PA 2008 is included in paragraph (4) to confirm that compensation payable under this article is in accordance with the principles for the payment of compensation for injurious affection to land that would ordinarily apply to schemes where statutory authority is relied upon and a claim under section 10 of the Compulsory Purchase Act 1965 arises. Such claims instead arise under section 152 of the PA 2008 rather than section 10 of the Compulsory Purchase Act 1965 as a result of the contents of section 152 of the PA 2008. Paragraphs 6 and 7 allow the undertaker to provide notice to the contrary to the provisions of the article, allowing the undertaker to confirm to the relevant owner of a dominant tenement that the rights that would by operation of this article be suspended and unenforceable are not so suspended or unenforceable.

[Article 25 – Application of the 1981 Act](#)

- 5.6.15 Article 25 applies the provisions of the Compulsory Purchase (Vesting Declarations) Act 1981 (with minor modifications to ensure consistency between the terms of the Order and the 1981 Act) to compulsory acquisition under the Order so that the undertaker has the option to acquire land via the general vesting declarations procedure. General vesting declarations are one of two ways of acquiring land that is subject to compulsory purchase (the other being by means of a notice to treat). They allow several parcels to be acquired at once and therefore more efficiently than under the notice to treat procedure. The article follows the approach in the NZT and North Lincs Order, which reflect changes brought about by the Housing and Planning Act 2016.

[Article 26 – Application of Part 1 of the 1965 Act](#)

- 5.6.16 Article 26 modifies Part 1 of the Compulsory Purchase Act 1965 to ensure consistency between the terms of the Order and the 1965 Act, as applied by section 125 of the PA 2008. The modifications ensure that the provisions of the 1965 Act operate appropriately in the context of this Order.
- 5.6.17 This article also clarifies, by applying an amendment for the purposes of the Order to Schedule 2A of the Compulsory Purchase Act 1965, that the counter-notice provisions in that schedule that are available to landowners where part only of land is acquired compulsorily do not apply where the land has only been taken possession of under the temporary possession powers set out in article 29 (Temporary use of land for carrying out the authorised project) or article 30 (Temporary use of land for maintaining authorised project).

Article 27 – Acquisition of subsoil or airspace only

- 5.6.18 Article 27 allows the undertaker to acquire, or acquire or create rights in, the subsoil or airspace of land, rather than having to acquire the land itself. The purpose of this article is to give the undertaker the flexibility to minimise so far as is possible the extent of interests to be acquired, with consequently less impact on landowners which is in the public interest in compliance with the tests at section 122 of the PA 2008. Where the undertaker acquires any part of, or rights in, the subsoil or airspace of land under this article, the undertaker is not required to acquire an interest in any other part of the land. This article is based on article 24 of the Model Provisions. The Applicant considers that this article is appropriate in the context of this Order due to the laying of cables and pipes underground and overground.

Article 28 – Rights under or over streets

- 5.6.19 Article 28 allows the undertaker to appropriate and use the subsoil beneath or airspace above streets within the Order limits for the purposes of the authorised project, without having to acquire the street or any associated right or easement in it. This provision minimises the extent of permanent land acquisition required for the authorised project. Provision is made for the payment of compensation in certain circumstances (with slight refinements to the wording of the model provisions). This wording is preceded in the NZT Order.

Article 29 – Temporary use of land for carrying out the authorised development

- 5.6.20 Article 29 allows the undertaker to take temporary possession of land for the purposes of or in connection with the authorised project. This article authorises the undertaker to enter and take temporary possession of land as specified in Schedule 9 (Land of which only temporary possession may be taken) or any other land within the Order limits in respect of which no notice of entry has been served under section 11 of the Compulsory Purchase Act 1965 and no declaration made under section 4 of the 1981 Act. This allows Article 29 to apply to land which may later be the subject of compulsory acquisition. This reflects a common approach to designing and building infrastructure projects, whereby possession is taken of a wider area required for the purposes of construction, and once the location of new apparatus is known definitively, then the final area of land required permanently is defined and acquired. This allows a more proportionate approach to the extent of land acquisition and is in compliance with the tests at section 122 of the PA 2008.
- 5.6.21 Sub-paragraphs (4) and (5) include wording to take into account that the Applicant may, pursuant to Article 29(1)(a)(ii), temporarily use land that it may compulsorily acquire. This is also subject to a one-year limit beginning with the date of final commissioning of the authorised project.
- 5.6.22 Sub-paragraph (9) makes clear that the undertaker cannot compulsorily acquire the land specified in Article 29(1)(a)(i) (which is land of which temporary possession only is required).
- 5.6.23 The undertaker must not remain in possession for longer than is necessary and in any case, not more than 1 year on from the earlier of:
- a) where Schedule 9 specifies a purpose for which possession may be taken relating to particular Work Nos., the end of the period of one year beginning with the date of final completion of these Work Nos.; or
 - b) for any other Order land, the end of the period of one year beginning with the date of final commissioning of the part of the authorised project for which temporary possession was taken.

- 5.6.24 The article includes provisions requiring the undertaker to give not less than 14 days' notice before entering and taking temporary possession of land, to remove all temporary works and restore the land to the reasonable satisfaction of the owners when it gives up possession, and to compensate the owners or occupiers for any loss or damage arising from the exercise of the powers. This approach avoids the unnecessary permanent acquisition of land, instead allowing for a proportionate use of the land.

[Article 30 – Temporary use of land for maintaining the authorised development](#)

- 5.6.25 Article 30 allows the undertaker to take temporary possession of land for maintaining the authorised project during the maintenance period, which is defined in sub-paragraph (13) as five years from the date of final commissioning. This article provides that the undertaker may at any time during the maintenance period enter upon and take temporary possession of any land within the Order limits for the purpose of maintaining the authorised project. This article is necessary to ensure that the undertaker can access land for necessary maintenance activities without having to acquire permanent rights over that land. Provision is also made at article 30(5) for taking temporary possession without notice, or at a shorter notice than is usually permitted, in an emergency - at which point the undertaker must provide notice as soon as reasonably practicable. This approach is preceded in the North Lincs Order. The provision would only be relied upon in exceptional circumstances, but the undertaker considers that it is of paramount importance, in light of the nature of the authorised project, to access and use the land on a shorter notice period in an emergency.

[Article 31 – Statutory undertakers](#)

- 5.6.26 Article 31 allows, subject to the provisions of Schedule 11 (Protective Provisions), the undertaker to create or acquire new rights, or impose restrictive covenants over statutory undertakers land within the Order land. Further, in respect of apparatus, subparagraph (1)(b) allows the undertaker to extinguish or suspend the rights of, remove, relocate or reposition the apparatus belonging to statutory undertakers over or within the Order land. This article applies broadly to all apparatus within the Order land, rather than being limited to what is specifically shown on the land plans or described in the **Book of Reference (Application Document Ref. 4.3)**. This broad application is necessary because in practice it is impractical to precisely show and describe all such apparatus. Therefore, a general power for the extinguishment of rights and the removal or relocation of apparatus belonging to statutory undertakers over or within any of the Order land is required. The protective provisions in Schedule 11 are designed to safeguard the interests of statutory undertakers while allowing the authorised project to proceed effectively.

[Article 32 – No double recovery](#)

- 5.6.27 Article 32 provides that compensation will not be paid under both the Order and other compensation regimes in respect of the same loss or damage. In addition, the Article provides that there is not to be double recovery under two or more different provisions of this Order. The principle of equivalence, namely that a claimant in a compulsory purchase matter will be compensated for no more than and no less than their loss, is long established and no part of the compensation code conflicts with this principle.
- 5.6.28 This Article is based on and follows precedent in Article 50 in the Gatwick Order.

[Article 33 – Apparatus and rights of statutory undertakers in streets](#)

- 5.6.29 Article 33 preserves the rights of statutory undertakers whose apparatus is affected by street alterations under the Order. Where a street is altered or diverted under the Order, any apparatus of statutory undertakers in that street remains in place and may be accessed, maintained and renewed by the relevant statutory undertaker, subject to the protective provisions in Schedule 11. This article ensures that statutory undertakers are able to continue to exercise their functions in relation to their apparatus.

[Article 34 – Recovery of costs of new connections](#)

5.6.30 Article 34 provides for the recovery of costs of new connections where the undertaker's works make it necessary to move or remove apparatus and provide new connections, save for public sewers. This article ensures that the undertaker bears the reasonable costs of providing new connections to the same standard as the original connections. Sub-paragraph (2) sets out that in the case of removal of a public sewer under article 31, any person who is the owner or occupier of premises where the drains communicated with the sewer, or is the owner of a private drain which communicated with the sewer, is entitled to recover compensation in respect of expenditure reasonably incurred by them.

5.6.31 Subparagraph (3) confirms the article does not have effect in relation to apparatus to which article 33 applies.

[Article 35 – Compulsory acquisition of land – incorporation of the mineral code](#)

5.6.32 Article 35 incorporates Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981, exempting existing rights in minerals from the scope of compulsory acquisition unless they are expressly named and conveyed. It also makes provision for a situation where the owner of mines or minerals wishes to work such mines or minerals. This article safeguards the rights of mineral owners, whilst allowing the undertaker to proceed with the authorised project without unintentionally acquiring existing rights in minerals. The Applicant considers this is a necessary article to include, as the Order contains the ability to acquire rights in the subsoil of land only. The Applicant is aware that there are some minerals within the land subject to compulsory acquisition.

[Article 36 – Funding](#)

5.6.33 Article 36 requires the undertaker to put in place a guarantee or alternative form of security before exercising powers of compulsory acquisition. This article ensures that the undertaker has sufficient funding in place to meet any liability to pay compensation under the Order. The relevant powers include compulsory acquisition of land, compulsory acquisition of rights, private rights, acquisition of subsoil only, rights under or over streets, temporary use of land for carrying out and maintaining the authorised project, statutory undertakers and recovery of costs of new connections. This article is based on precedent in other DCOs for similar developments.

- 5.6.34 The article also allows for the undertaker to demonstrate to the SoS that neither a parent company guarantee or an alternative form of security is required because the undertaker is sufficiently funded to meet any liability to pay compensation under the Order. The inclusion of this drafting reflects the fact that in many other DCOs, where an undertaker is considered to be sufficiently funded to meet its liabilities, there is no equivalent provision requiring a parent company guarantee or another alternative form of security to be provided by the relevant undertaker. A clear example of this are DCOs where National Highways are the undertaker. There is precedent for this drafting being applied in the case of a non-government body applicant, in the SSDE Order.

5.7 Part 6 – Miscellaneous and General

Article 37 – Operational land for the purposes of the 1990 Act

- 5.7.1 The effect of this article is that the land within the Order limits is to be treated as the operational land of a statutory undertaker for the purposes of the Town and Country Planning Act 1990 (the 1990 Act). Although section 264 of the 1990 Act is entitled “cases in which land is to be treated as not being operational land”, subsections (3) and (4) set out cases in which land is to be treated as operational land. This article is necessary to ensure that development is correctly classified under the 1990 Act and benefits from the appropriate permitted development rights. This article is included in precedent orders including the NZT Order and aforementioned SSDE Order

Article 38 – Planning permission

- 5.7.2 Article 38 addresses the relationship between the Order and planning permissions granted under the Town and Country Planning Act 1990 or other DCOs granted under the PA 2008. As set out above, the Proposed Development is located in an industrial area where multiple businesses and operators of significant assets are located. These provisions are necessary to address matters which relate to long term interactions between the Order and other consents. In particular, the Article safeguards against enforcement risks and potential barriers to implementation of the Order or the other consent. In the absence of the provision, there is a high potential for an otherwise avoidable amendment to the Order to be required. Sub-paragraph (1) and (3) provides that if planning permission under the 1990 Act or development consent under the PA 2008 is granted for other development within the Order limits, prior to or following the coming into force of this Order, the carrying out of such development under the other consent does not constitute a breach of the terms of the Order, does not prevent the undertaker from carrying out the authorised project or prevent the exercise of any rights or powers under the Order.

- 5.7.3 Sub-paragraph (2) addresses the converse situation where another consent is implemented within the Order limits and provides for any inconsistency or incompatibility to be disregarded for the purposes of establishing whether that other consent can be delivered and prevents enforcement action being carried out pursuant in respect of that other consent.
- 5.7.4 Sub-paragraph (4) confirms that any works carried out under the Order are deemed to be work requiring development consent under section 31 (when development consent is required) of the PA 2008 for the purpose of paragraph 7(3) of Schedule 3 to the Flood and Water Management Act 2010. Section 31 of the PA 2008 confirms that consent under the PA 2008 is required for development to the extent that the development is or forms part of a nationally significant infrastructure project. The Order includes works to which both a section 35 direction applies as well as works which are a nationally significant infrastructure project under the PA 2008 and therefore this Article is considered necessary to ensure all elements of the authorised project are treated as falling within section 31 of the PA 2008 to ensure that the authorised project as a whole benefits from paragraph 7(3) of Schedule 3 of the Flood and Water Management Act 2010 and means separate consent is not required for approval of any of the drainage systems required for the authorised project.

[Article 39 – Deemed marine licence](#)

- 5.7.5 Article 39 provides that the marine licence set out in Schedule 10 is deemed to have been issued under Part 4 of the Marine and Coastal Access Act 2009 for the licensed activities set out in Part 1, and subject to the conditions set out in Part 2. This is a standard provision included in all DCOs which include offshore or marine development where marine licences are required for licensable marine activities under the 2009 Act.

[Article 40 – Protective provisions](#)

- 5.7.6 Article 40 gives effect to Schedule 11 (Protective provisions), which contains provisions protecting the interests of third parties including statutory undertakers. This article is a standard article in DCOs that include protective provisions. The protective provisions ensure that the interests of identified parties are safeguarded while allowing the authorised project to proceed.

[Article 41 – Saving for Trinity House](#)

- 5.7.7 Article 41 provides that nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House. This is a model provision for harbours and is commonly used in DCOs for developments with marine elements. It is intended to provide protection to Trinity House in exercising its functions relating to navigation and maritime safety.

[Article 42 – Crown rights](#)

- 5.7.8 Article 42 ensures that nothing in the Order prejudicially affects any estate, right, power, privilege, authority, or exemption of the Crown. It specifically requires the consent of the Crown Estate Commissioners or the relevant government department for any use or interference with Crown land or rights of any description. This safeguard is crucial for protecting Crown interests and ensuring that the undertaker's activities do not encroach on Crown land without appropriate permissions. Paragraph (2) provides that the prohibition in paragraph (1) does not apply where it is proposed to compulsorily acquire an interest in Crown land which for the time being is held otherwise than by or on behalf of the Crown. This article reflects the terms of section 135 of the PA 2008.

[Article 43 – Arbitration](#)

- 5.7.9 Article 43 gives effect to Schedule 12 (Arbitration), requiring that any disagreement about any provision of the Order, unless already provided for elsewhere, shall be referred to and settled in accordance with the rules at Schedule 12. Schedule 12 (Arbitration) largely follows the precedent in the Five Estuaries Order, save for amends made by the Applicant to the timescales for hearings, confidentiality of hearings and the ability for multiple cases of arbitration to be joined. Given the number of operators with apparatus in close proximity to each other at Teesside, the additional drafting is necessary to deal with the potential situation where more than one dispute arises concerning the same issues. The drafting provides an option to enable those disputes to be joined and resolved together in a reasonable and proportionate manner.
- 5.7.10 Paragraph (2) provides that any matter for which the consent or approval of the SoS is required under any provision of this Order shall not be subject to arbitration.

[Article 44 – Application of landlord and tenant law](#)

- 5.7.11 Article 44 provides that any agreement for the transfer of the benefit of the Order overrides landlord and tenant law so far as it would prejudice the operation of any agreement for leasing the whole of the authorised project or the right to operate it, or any agreement entered into by the undertaker for the construction, maintenance, use or operation of the authorised project. No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies. This article has been included in case a lease of the Proposed Development is granted in the future. It ensures the operation of the Project will not be prejudiced by the terms of a separate legislative regime which regulates landlords and tenants.

[Article 45 – Defence to proceedings in respect of statutory nuisance](#)

- 5.7.12 Article 45 provides a defence to proceedings brought in a magistrates' court under section 82(1) of the Environmental Protection Act 1990 in relation to certain nuisances set out in paragraph 79(1) of that Act as identified in the **Statutory Nuisance Statement (Application Document Ref. 5.5)**. Section 158 of the PA 2008 confers statutory authority for the purposes of a defence in civil or criminal proceedings for nuisance.
- 5.7.13 A broad defence to civil and criminal proceedings for nuisance is provided by section 158 of the PA 2008. However, the view taken under the NSIP regime is that section 158 does not extend to the relatively rare situation by which if, somebody considers that the local authority ought to be tackling a nuisance using its statutory nuisance powers, but it is not, that person may apply to the magistrates' court under section 82 of the 1990 Act. Accordingly, this article is seeking to fill in a legislative gap by extending the effect of section 158.
- 5.7.14 As section 158 does not distinguish between different types of nuisance, the logical position is that this article should apply to all categories of nuisance. However, as a matter of practice other projects have been more discriminating and have considered whether there is any possibility of a statutory nuisance occurring, leading to specific types of nuisance being referred to. In accordance with this approach, the Applicant has restricted the application of this article to nuisances that have been identified as potentially resulting from the Proposed Development, as set out in the **Statutory Nuisance Statement (Application Document Ref. 5.5)**. This ensures that this article is focused only on those nuisances that may be of relevance, whilst also reflecting the logic and correct interpretation of section 158.

- 5.7.15 Given the mitigation measures and protections secured under the Order, it is considered appropriate and proportionate to make provision for a defence to any proceedings in respect of statutory nuisance relating to the nuisances listed above.

[Article 46 – Service of notices](#)

- 5.7.16 Article 46 governs the service of notices required to be given under the Order. In particular it allows service by email with the consent of the recipient and deals with the situation of service on an unknown landowner. Although this article was not included in the Model Provisions, it is a sensible addition that has been included in similar orders. The inclusion of this provision ensures flexibility and practicality in the service of notices.

[Article 47 – Procedure in relation to certain approvals](#)

- 5.7.17 Article 47 provides that where an application is made to a consenting authority for any consent, agreement or approval required by any of the provisions of the Order, such consent, agreement or approval must be given in writing and must not be unreasonably withheld. If the consenting authority has not notified the undertaker of its decision within six weeks after the application has been submitted (or such other period as may be agreed in writing), it is deemed to have approved the application. This deemed consent provision ensures that the authorised project is not delayed due to failure to respond to applications for consent. This article does not apply to applications made in relation to requirements, DML conditions or where deemed consent is otherwise provided in the Order.

[Article 48 – Certification of plans, etc.](#)

- 5.7.18 Article 48 provides for various application plans and documents listed in Schedule 13 (documents and plans to be certified) to be certified by the SoS as true copies of those documents following the making of the Order. A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

6 Schedules

6.1 Schedule 1 – Authorised Development

- 6.1.1 Schedule 1 describes the authorised project by splitting it out into 'work numbers', each of which represents different elements of the authorised project. This split between different work numbers enables the Order to refer to different parts of the authorised project by citing the relevant work number. The split also enables the **Order and Works Plans** (Application Document Ref. 2.4) to delineate the area within which each 'work' can be constructed, maintained, and operated (pursuant to Articles 3 to 5). The areas within which each work can be constructed are therefore shown on the Works Plans. The works set out in Schedule 1 to the Order and which must be constructed within the corresponding areas shown on the Works Plans are summarised at Table 2-1 above.
- 6.1.2 Part 2 describes the further associated development that can be carried out in connection with the authorised project described in Part 1. Part 2 has been split into 3 sections as follows:
- a) The first section covers those works which may be carried out in connection with all elements of the authorised project;
 - b) The second covers those works which are associated with Work No. 6 (marine infrastructure) only; and
 - c) The third section covers those works which are associated with those parts of the authorised project that fall within the main site only. These elements of associated development cannot therefore be carried out within the wider site area.
 - d) The further associated development listed is not exhaustive and other works falling within the scope of associated development may be carried out provided they are unlikely to give rise to any materially new or materially different environmental effects which are worse than those assessed in the environmental impact assessment.

6.1.3 The further associated development listed is not exhaustive and other works falling within the scope of associated development may be carried out provided they are unlikely to give rise to any materially new or materially different environmental effects which are worse than those assessed in the environmental impact assessment.

6.1.4 Part 3 includes the ancillary works.

6.2 [Schedule 2 – Requirements](#)

6.2.1 The requirements in Schedule 2 are the equivalent of planning conditions. They apply to the carrying out and operation of the authorised project and reflect the processes and procedures usually employed by an undertaker when implementing a project such as this. The requirements provide that the various details and plans to be approved must, where appropriate, reflect the mitigation measures included in the ES and ensure that the development is carried out in accordance with the Environmental Impact Assessment. The requirements also provide that the approved details and plans must be implemented as approved, unless further amendments to them are approved. Part 1 contains the requirements themselves and Part 2 contains the procedure for discharge of requirements, including an appeal process for the refusal or non-determination of any details under a requirement.

6.3 [Part 1 – Requirements](#)

6.3.1 Requirement 1 (Commencement of the authorised development) - this Requirement is based upon the model provisions and requires that the authorised project can only be commenced within five years of the date of the Order coming into force. This time period would be subject to subparagraph (3) which replicates the provisions of Section 91(3B) of the Town and Country Planning Act 1990 whereby if proceedings are begun to challenge the validity of the grant of a planning permission the period before the end of which development is required to be begun is extended by one year. There is precedent for including wording to replicate Section 93(3B) in Yorkshire Green and Morgan Generation. It is considered to be appropriate to ensure that there is no risk of the DCO lapsing if challenge proceedings are drawn out.

6.3.2 The undertaker is required to give the relevant planning authority at least 14 days' notice of its intention to commence the authorised project.

- 6.3.3 Requirement 2 (Notice of start and completion of commissioning) - this requirement aligns with the approach taken on the NZT Order. It requires the undertaker to give notice to the relevant planning authority of the intended start of commissioning, and the date of final commissioning of Work Nos. 1 and 2. The terms 'commissioning' and 'date of final commissioning' are defined in article 2 as set out above.
- 6.3.4 Requirement 3 (Detailed design) – sub-paragraph (1) provides that the authorised project must be constructed in accordance with the approved details and must not exceed the maximum design parameters at Part 3 of Schedule 2 of the Order. These maximum design parameters are the key parameters used for the assessment of effects in the ES and are included in accordance with the application of the Rochdale Envelope approach (as set out at section 3.1 above). In addition, this requirement requires specific design details to be submitted to and approved by the relevant planning authority, following consultation with named bodies, before commencement of the authorised project. This drafting has been split into separate sub-paragraphs for each relevant Work No. This enables the information required to be provided to the relevant planning authority for approval to be appropriate and proportionate to the Work No. concerned, unless otherwise agreed with the relevant planning authority. Sub-paragraph (6) provides that Work No. 5 must be constructed in accordance with the crossing design details. As set out in **the Statement of Reasons** (Application Document Ref. 4.1), the Applicants are continuing to discuss the details of the required crossing of the Linkline corridor with the relevant operators who own pipelines within the Linkline corridor. It is necessary to cross the corridor in order to carry out construction of the authorised project. Sub-paragraphs (11) and (13) also require notifications to be provided to the relevant planning authority to provide necessary controls to the Applicant's optionality to carry out either Work No.9A or 9B, and 11B or 11C.

- 6.3.5 Requirement 4 (Construction Environment Management) - this is a modified version of the model provision on 'Code of Construction Practice'. It requires detailed Construction and Environmental Management Plans (which must be in accordance with the framework construction environmental management plan) to be submitted to and approved by the relevant planning authority (in consultation with the Environment Agency and, in relation to Work No. 6, the statutory harbour authority and the MMO) before commencement of any part of the authorised project. Each plan must include, where relevant to the part of the authorised project it relates, all of the details set out in sub paragraph (2). All preliminary works and construction works associated with the authorised project must be carried out in accordance with the framework Construction Environmental Management Plan or approved Construction and Environmental Management Plan(s) respectively, unless otherwise agreed with the relevant planning authority.
- 6.3.6 Requirement 5 (Piling Risk assessment) – this requirement prevents piling works from being carried out until a piling risk assessment for those works have been submitted to and approved by the relevant planning authority in consultation with the Environment Agency. The piling works must then be carried out in accordance with the approved piling risk assessment unless otherwise agreed. The piling risk assessment must be in accordance with any relevant details in the framework construction environmental management plan.
- 6.3.7 Requirement 6 (Landscape and biodiversity enhancement) - under this requirement, no part of the authorised project may commence until a landscape and biodiversity enhancement plan for that part has been submitted and approved by the relevant planning authority in consultation with Natural England, each such plan to be implemented as approved unless otherwise agreed. Each plan must be in accordance with the framework landscape and biodiversity enhancement strategy and preliminary works must also be carried out in accordance with the same.
- 6.3.8 Requirement 7 (Construction hours) - This requirement specifies the hours in the day within which all construction work and HGV deliveries associated with the authorised project must be carried out. It also specifies where these restrictions do not apply, including where certain works are approved in advance by the relevant planning authority or are associated with an emergency. The requirement also permits 30 minute start-up and shut-down periods at the beginning and the end of the construction hours.

- 6.3.9 Requirement 8 (Construction traffic management) - requires a construction traffic management plan to be submitted to and approved by the relevant planning authority, following consultation with the relevant highway authority, before commencement, save for preliminary works. The plan submitted and approved must be in accordance with the framework plan and preliminary works must also be carried out in accordance with the same.
- 6.3.10 Requirement 9 (Construction workers travel plan) - requires a travel plan for construction workers to be submitted to the relevant planning authorities following consultation with the relevant highway authority prior to commencement of the authorised project. The plan submitted and approved must be in accordance with the framework plan.
- 6.3.11 Requirement 10 (Fencing and other means of enclosure) – this requirement addresses fencing during construction and operation. Sub-paragraph (1) requires all construction areas or sites associated with the authorised project to remain securely fenced at all times during construction and commissioning of the authorised project, with temporary means of enclosure being removed in accordance with the framework construction environmental management plan, unless otherwise agreed with the relevant planning authority.
- 6.3.12 Requirement 11 (External lighting) - requires the undertaker to submit details of all external lighting to be installed during construction to the relevant planning authority for approval before the authorised project may commence, save for the preliminary works. Sub-paragraph (2) contains an equivalent provision for the operation of the authorised project which requires any proposed permanent means of lighting to be submitted and approved by the relevant planning authority prior to the date of final commissioning. The strategies approved under this requirement must be implemented as approved, unless otherwise agreed with the relevant planning authority in writing.
- 6.3.13 Requirement 12 (Fire prevention) - provides that no part of the authorised project, save for the preliminary works, may commence until a fire prevention method statement has been submitted to and approved by the relevant planning authority in consultation with the Health and Safety Executive and the Cleveland Fire Authority. The approved details must be implemented and the measures maintained throughout the operation of Work Nos. 1 and 2.

- 6.3.14 Requirement 13 (Aviation warning lighting) - requires details of the aviation warning lighting to be installed for the construction and operation of any part of the authorised project where the constructed work would be over 90m above ordnance datum must be approved before that part may commence. It requires the planning authority to consult with the Civil Aviation Authority on the submitted details and for the aviation warning lighting to be installed and operated as approved.
- 6.3.15 Requirement 14 (Air safety) - requires details of the information required by the Defence Geographic Centre of the Ministry of Defence to be submitted to and approved by the planning authority before commencement of Work Nos. 1 and 2, save for the preliminary works.
- 6.3.16 Requirement 15 (Noise) – states that no part of Work Nos. 1 or 2 may be brought into commercial use until a scheme for management and monitoring of operational noise has been approved by the relevant planning authority. Paragraph (2) provides decibel limits for operational noise in the daytime and night time. The scheme must be implemented as approved unless otherwise agreed with the relevant planning authority.
- 6.3.17 Requirement 16 (Local employment and skills) - requires that a plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction, and employment opportunities during operation, of the authorised project has been submitted to and approved by the relevant planning authority before commencement of the authorised project, save for the preliminary works. The plan shall be in accordance with the approach presented in chapter 17 of the ES.
- 6.3.18 Requirement 17 (Operational surface and foul water drainage) sets out that no part of the authorised project may be commissioned until a detailed operational surface and foul water drainage strategy (in accordance with the framework strategy) has been approved by the relevant planning authority in consultation with the Environment Agency and Northumbrian Water Limited, each only on matters related to their functions. Sub-paragraph (2) requires the strategy to be implemented and maintained as approved unless otherwise agreed and sub-paragraph (3) allows for the undertaker to submit separate foul and surface water strategies.

- 6.3.19 Requirement 18 (Groundwater and contamination) sets out that no part of the authorised project (save for certain surveys and investigations which are required to prepare the scheme) may commence until a scheme for groundwater and contamination has been approved by the relevant planning authority in consultation with the Environment Agency. Such scheme is to be consistent with the principles of the ES and any construction environmental management plan submitted under requirement 4. The requirement contains the details to be provided in the report and any ongoing monitoring and remediation measures to be implemented. Where a report has been produced and agreed with the Environment Agency that no such scheme is required, or where the undertaker carries out works which do not involve breaking ground, the undertaker does not need to comply with this requirement for that part of the authorised project.
- 6.3.20 Requirement 19 (Decommissioning) – this requirement sets out the undertaker must submit a decommissioning environmental management plan to the relevant planning authority for approval within two years of the date the undertaker decides to decommission any part of the authorised project. Each plan must include the specified details and must be implemented as approved unless otherwise agreed.
- 6.3.21 Requirement 20 (Requirement for written approval) - is based on a model provision and confirms that approval or agreement under the requirements must be given in writing.
- 6.3.22 Requirement 21 (amendments to approved details) requires that all details submitted to the relevant planning authority for approval must be in accordance with the parameters in the ES and reflect the principles of the documents submitted for certification (in accordance with Article 48). It expressly states that "approved details" includes any amendments which may be subsequently approved by the relevant planning authority.

6.4 [Part 2 – Procedure for Discharge of Requirements](#)

- 6.4.1 This Part of the Schedule follows a well precedented approach to the procedure for discharge of Requirements. It provides a clear procedure for the discharge of Requirements by the relevant planning authority. It sets out a time limit for decisions to be made within, with the ability to extend this period by agreement between the relevant planning authority and the undertaker, and a power for the relevant planning authority to request further information from the undertaker. Deemed consent provisions come into effect when decisions are not made during this time. This process, including the time periods and deemed consent, is considered to be appropriate in order to ensure that the delivery of the authorised project is not delayed.

6.5 Schedule 3 – Amendments to Legislation

- 6.5.1 As set out at 3.3 above, this schedule contains amendments to the NZT Order and York Potash Order including the insertion of protective provisions for the benefit of the undertaker into the relevant Orders.

6.6 Schedule 4 – Streets Subject to Street Works

- 6.6.1 Schedule 4 lists the streets subject to street works under the Order. This schedule identifies the streets in which the undertaker may carry out works pursuant to article 9 (Street works).

6.7 Schedule 5 – Access

- 6.7.1 Schedule 5 lists the accesses to be created, improved or altered pursuant to article 12.

6.8 Schedule 6 – Closure of Streets and Public Rights of Way

- 6.8.1 Schedule 6 lists the public rights of way to be temporarily closed, altered or diverted. This schedule is relevant to the exercise of powers under article 13 (Temporary closure, alteration or diversion of streets and public rights of way).

6.9 Schedule 7 – Land in which Only New Rights etc. may be Acquired

- 6.9.1 Schedule 7 identifies land in which only new rights may be acquired or restrictive covenants may be imposed, rather than outright acquisition of land. The undertaker's powers of compulsory acquisition in respect of this land are limited to the acquisition of such rights, and the imposition of such restrictive covenants, as set out in this schedule. The undertaker has sought rights only where these have been absolutely necessary and has sought to limit those rights to those which are the least intrusive.

6.10 Schedule 8 – Modification of Compensation and Compulsory Purchase Enactments for Creation of New Rights

- 6.10.1 Schedule 8 modifies compensation and compulsory purchase enactments for the creation of new rights and imposition of restrictions. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant.

6.11 Schedule 9 – Land of which Temporary Possession may be Taken

- 6.11.1 Schedule 9 identifies land of which only temporary possession may be taken for the purposes of the authorised project. This schedule ensures that the land identified for temporary occupation only is not inadvertently subject to permanent acquisition, maintaining the integrity of the landowners' rights.

6.12 Schedule 10 – Deemed Marine Licence

- 6.12.1 Schedule 10 contains the DML which is deemed to be granted under Part 4 of the Marine and Coastal Access Act 2009 by virtue of article 39 of the Order. The licence is deliberately drafted such that it can be read independently of the rest of the Order. Part 1 sets out the licensed marine activities authorised by the licence, including interpretation provisions, details of the licensed activities, and the coordinates for the authorised works. Part 2 sets out the conditions which apply to the carrying out of the licensed activities, including requirements relating to design parameters, notifications, pre-construction plans, construction methods, and post-construction obligations.
- 6.12.2 In recognition of the disapplications of sections 22, 23 and 25 of the 1966 Act, the DML includes provisions requiring consultation with the statutory harbour authority (currently PD Teesport Limited) and provision of copies of various notices and documents.

6.13 Schedule 11 – Protective Provisions

- 6.13.1 Schedule 11 contains protective provisions for the benefit of specified statutory undertakers and other operators (who for the purposes of providing protective provisions are being treated by the Applicant as akin to statutory undertakers in line with the approach taken in both the NZT DCO and the H2T rDCO) whose apparatus or interests may be affected by the authorised project. The protective provisions are designed to safeguard the interests of these parties while allowing the authorised project to proceed effectively. The schedule is split into multiple parts, each providing protection for a different party as set out below.
- 6.13.2 The provisions under Part 1 which are for the protection of electricity, gas, water and sewerage undertakers. These are based on the standard provisions included in all DCOs save for some necessary project specific amendments. These provide for:
- 6.13.2.1 a deemed approval process (precedented in Lower Thames);
- 6.13.2.2 the exclusion of approval for Work No. 5 on the basis the Applicant is seeking to consent the details of that work as part of its DCO (see Requirement 3(6) of the draft DCO (**Application Document Ref. 3.1**) and it is unnecessary for that to be subject to further approvals or restrictions in the protective provisions; and

- 6.13.2.3 some additional drafting in paragraph 7 (Facilities and rights for alternative apparatus) to make additional provision relating to the way in which any disputes under this paragraph are dealt with by arbitration.
- 6.13.3 This additional drafting reflects the drafting routinely sought by statutory undertakers in their bespoke provisions and is considered reasonable and proportionate to include in the Part 1 provisions.
- 6.13.4 The provisions under Part 2 which are the standard provisions included across all DCOs for the protection of operators of electronic communications code networks.
- 6.13.5 The provisions under Part 3 which are generic provisions for the protection of third parties who have apparatus within the Order limits, but do not have bespoke protective provisions. This follows the approach taken on the H2T rDCO.
- 6.13.6 Following Part 3, a number of bespoke protective provisions are included for various statutory undertakers and operators whom the Applicant has identified as having apparatus within the Order limits and with whom pre-application discussions and engagement have been ongoing as set out in the annex to the Pre Application Land and Rights Negotiations Tracker (**Application Document Ref. 4.4**). This includes protections for:
- 6.13.6.1 Anglo American Woodsmith Limited,
 - 6.13.6.2 Anglian Water Services Limited,
 - 6.13.6.3 BOC Limited,
 - 6.13.6.4 CATS North Sea Limited,
 - 6.13.6.5 CF Fertilisers UK Limited,
 - 6.13.6.6 Exolum Riverside Limited and Exolum Seal Sands Limited,
 - 6.13.6.7 INEOS E&P (UK) Limited,
 - 6.13.6.8 Teesside Gas and Liquids Processing, Teesside Gas Processing Gas Processing Plant Limited and Northern Gas Processing Limited (together NSMP),
 - 6.13.6.9 National Gas Transmission PLC,
 - 6.13.6.10 National Grid Electricity Transmission PLC,
 - 6.13.6.11 Navigator Terminals Seal Sands Limited and Navigator Terminals North Tees Limited,
 - 6.13.6.12 Northern Gas Networks Limited and Northern Gas Processing Limited,

- 6.13.6.13 Northern Powergrid (Northeast) PLC,
- 6.13.6.14 Northumbrian Water Limited,
- 6.13.6.15 Net Zero North Sea Storage Limited,
- 6.13.6.16 Sabic UK Petrochemicals Limited and
- 6.13.6.17 Sembcorp Utilities (UK) Limited.

6.14 [Schedule 12 – Arbitration](#)

- 6.14.1 Schedule 12 contains the procedure to be followed in the event of dispute under the Order.

6.15 [Schedule 13 – Documents and Plans to be Certified](#)

- 6.15.1 Schedule 13 lists the documents and plans to be certified by the SoS for the purposes of the Order. This includes the ES, framework management plans, works plans, land plans, access and rights of way plans, and other application documents. A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

7 Annex 1

7.1.1 Further to section 2.5 above, this table sets out which elements of the works described in Part 1 of Schedule 1 to the Order fall within the definition of development requiring development consent under the PA 2008, the S.35 Direction or are associated development.

7.1.2 For purposes of this table “S.35 Direction” means the direction given 8 September 2025 by the SoS for Energy and Net Zero.

Table 7-1 Development Categories

Part 1 – Authorised Development	Development requiring development consent under the PA 2008	Development requiring development consent under the S.35 Direction	Associated development
<i>Work No. 1</i> — a SAF production facility including— (a) <i>Work No. 1A</i> – feedstock pre-treatment, flue gas treatment, waste heat boilers, exhaust stack and storage of pre-treated feedstock. (b) <i>Work No. 1B</i> – SAF processing including— (i) feedstock preparation, gasification, syngas clean-up, acid gas removal and carbon dioxide vent, Fischer-Tropsch reactors and product upgrading; (ii) compression; and (iii) thermal oxidiser, flue gas treatment, exhaust stack; <i>Work No. 1C</i> – up to two flare structures.		X	
<i>Work No. 2</i> — a CHP generating station of over 50MWe including— (a) <i>Work No. 2A</i> – boilers and steam turbine generators; and (b) <i>Work No. 2B</i> - flue gas treatment and stack.	X		
<i>Work No. 3</i> —		X	

Part 1 – Authorised Development	Development requiring development consent under the PA 2008	Development requiring development consent under the S.35 Direction	Associated development
(a) feedstock handling and storage; and (b) intermediate and final product handling and storage, including conveyors, storage silos, tanks and buildings.			
<i>Work No. 4</i> — cooling infrastructure including towers and basins for SAF production facility and CHP generating station.			X – in relation to S.35 Direction and NSIP
<i>Work No.5</i> — provision of a means of crossing over or under existing infrastructure including bridges, culverts embankments and supporting structures.			X – in relation to S.35 Direction and NSIP
<i>Work No. 6</i> — marine infrastructure including— (a) <i>Work No. 6A</i> – construction of permanent quay and associated wing walls including— demolition of existing jetties and associated infrastructure; demolition and reinstatement of existing mooring infrastructure; relocation of existing navigational buoys; and extension of existing outfall; (b) <i>Work No. 6B</i> – permanent quay; and (c) <i>Work No. 6C</i> – capital and maintenance dredging activities.		X	
<i>Work No. 7</i> — electrical connection works including— (a) <i>Work No. 7A</i> – underground and overground 132kV electrical cabling connections and associated equipment from the existing North Bank Supply Point to the main site; and (b) <i>Work No. 7B</i> - 11kV electrical connection works.		X	

Part 1 – Authorised Development	Development requiring development consent under the PA 2008	Development requiring development consent under the S.35 Direction	Associated development
<i>Work No. 8</i> — natural gas connection works comprising modification of existing or construction of new AGI.		X	
<i>Work No. 9</i> — supply of industrial gases including— (a) <i>Work No. 9A</i> – industrial gases connection works including— oxygen pipeline connection works between existing industrial gases facility and Work No.1 comprising upgrade of existing oxygen pipeline up to 355 millimetres nominal external diameter; and high pressure nitrogen pipeline connection works between existing industrial gases facility and Work No.1 comprising installation and repurposing of new and existing pipelines, up to 355 millimetres external diameter; and connection to existing low pressure nitrogen supply; or (b) <i>Work No. 9B</i> – air separation unit facility and connecting pipework and utilities to the main site.		X	
<i>Work No. 10</i> — removal of existing pipelines and replacement with a new industrial wastewater pipeline, up to 324 millimetres external diameter, connecting the main site into existing wastewater infrastructure.		X	
<i>Works No. 11</i> — export pipeline works including— <i>Work No. 11A</i> – up to two pipelines of up to 355 millimetres external diameter for the export of SAF and renewable naphtha from the main site to third party marine export facilities; and		X	
<i>Work No. 11B</i> – a pipeline of up to 610 millimetres external diameter between the main site and the NEP AGI C1 for the export of carbon dioxide; or <i>Work No. 11C</i> – a pipeline of up to 610 millimetres external diameter between			X – in relation to S.35 Direction

Part 1 – Authorised Development	Development requiring development consent under the PA 2008	Development requiring development consent under the S.35 Direction	Associated development
the main site and the NEP AGI C2 for the export of carbon dioxide.			
<i>Work No. 12</i> — surface water attenuation infrastructure and drainage and discharge works in connection with the main site.			X – in relation to S.35 Direction and NSIP
<i>Work No. 13</i> — (a) <i>Work No. 13A</i> – temporary construction compounds and laydown areas; and (b) <i>Work No. 13B</i> – permanent laydown and storage.			X – in relation to S.35 Direction and NSIP
<i>Work No. 14</i> — access and private street improvements, including works to create, improve, repair, or maintain access roads and access points.			X – in relation to S.35 Direction and NSIP

References

- Ref 1 UK Government (2008) Planning Act 2008. Available at:
<https://www.legislation.gov.uk/ukpga/2008/29/contents> (Accessed 21 August 2026)
- Ref 2 Planning Act 2008: Guidance on preparing an application: Part 3 - Contents of a draft Development Consent Order - GOV.UK Available at:
<https://www.gov.uk/guidance/planning-act-2008-guidance-on-preparing-an-application-part-3-contents-of-a-draft-development-consent-order> (Accessed 21 August 2026)
- Ref 3 Planning Act 2008: associated development applications for major infrastructure projects. Available online: <https://www.gov.uk/government/publications/planning-act-2008-associated-development-applications-for-major-infrastructure-projects> (Accessed 21 August 2026)

