

**INITIAL PRELIMINARY COMMENTS ON THE DRAFT DCO AND DCO REQUIREMENTS – TO BE
DISCUSSED FURTHER WITH APPLICANT PRE-SUBMISSION**

Provision	LRCH dDCO	Suggested amendments	Commentary
General			<p>While it is noted that the new link road is to be "unadopted" EDC and DBC note that there is no provision in the dDCO that would deal with the process for the construction to an appropriate standard, of highways generally, and their subsequent handover and adoption in the case of highways, or works to existing adopted highways. While this is a matter primarily for the relevant highway authorities EDC and DBC is concerned to ensure that highways in and connecting to its areas are appropriately maintained.</p> <p>Similarly EDC and DBC wish to ensure that the link road does not form a barrier preventing the laying of utilities and other services in or crossing the link road, and other important services, are not impeded from serving the urban development area.</p>
Art 2(1)	<p>Definition of maintain:</p> <p>"maintain" includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part, but not replace the whole of the authorised development, but only insofar as such activities do not give rise to any materially new or materially different environmental effects than those identified in the environmental statement and "maintenance" and "maintaining" are to be construed accordingly;</p>		<p>In respect of the power to maintain please see comments in respect of article 4 below. There are concerns that this definition of maintain appears to be very wide. EDC and DBC would expect LRCH's environmental statement to very clearly demonstrate that "maintenance" in these terms has been fully assessed.</p>

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<p>Art 2(1)</p>	<p>Definition of relevant planning authority:</p> <p>“the relevant planning authority” means the planning authority for the area in which land to which the provisions of this Order apply is situated and, in respect of the requirements, means the planning authority in whose administrative district the part of the authorised development to which the requirement relates is located;</p>	<p>Definition of relevant planning authority:</p> <p>"the relevant planning authority" means—</p> <p><u>(a) the planning authority for the area in which land to which the provisions of this Order apply is situated and, or, in respect of land within the urban development area, Ebbsfleet Development Corporation; or</u></p> <p><u>(b) in respect of the requirements, means the planning authority in whose administrative district the part of the authorised development to which the requirement relates is located, or, in the case of Requirements that relate to the parts of the authorised development within the urban development area, Ebbsfleet Development Corporation.</u></p> <p><i>[Insert the following new definitions in alphabetically in article 2(1)]</i></p> <p><u>"Ebbsfleet Development Corporation" means the urban development corporation established by the Ebbsfleet Development Corporation (Area and Constitution) Order or its successors to its planning functions;</u></p> <p><u>"urban development area" means the urban development area designated by the Ebbsfleet Development Corporation (Area and Constitution) Order 2015;</u></p>	<p>As drafted the definition of "the relevant planning authority" does not appropriately reflect EDC's planning functions for its urban development area.</p> <p>EDC's development area was designated by the Ebbsfleet Development Corporation (Area and Constitution) Order 2015. Its planning functions over its urban development area were transferred to it by the Ebbsfleet Development Corporation (Planning Functions) Order 2015 ("Planning Functions Order"). The effect of article 3(a) of the Planning Functions Order is that EDC is the local planning authority for the urban development area, for all purposes for Part 3 (control over development) of the Town and Country Planning Act 1990, save for in respect of section 61E to 61Q (which deal with neighbourhood planning).</p> <p>Once EDC has completed its statutory objective of the regeneration of the urban development area the Secretary of State may decide to transfer its planning functions and wind up the development corporations affairs. Should this occur then the reference in the definition of "Ebbsfleet Development Corporation" would ensure that the recipient of those planning functions would also fall within the definition of "relevant planning authority".</p> <p>The definition of "urban development area" cross refers to the Secretary of State's designation of EDC's urban development area</p>
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			by the Ebbsfleet Development Corporation (Area and Constitution) Order 2015.
Art 3(3)	<p>Development consent granted by the Order</p> <p>(3) Subject to the provisions of this Order, including the requirements in Schedule 2, the undertaker may at any time replace any part of the authorised development comprised in Works Nos. 1 and 2.</p>		<p>This article allows for the wholesale replacement of Work Nos.1 and 2. Unlike "maintain" (which includes "replace") this is not constrained to not giving rise to any materially new or materially different environmental effects to those assessed in the environmental statement. At a minimum this wording must be added.</p> <p>The EM does not explain why this power is required in addition to the wide power to "maintain" in article 4, the definition of which includes "replace". Nor does it explain, if this power is different, how it is intended to differ from "maintenance."</p>
Art 3(4)	<p>(4) Subject to article 6 (parameters of authorised development) the works numbered in Schedule 1 (authorised development) must be constructed in the lines and situations shown on the works plans and to the levels shown on the sections.</p>		<p>It is not clear how the parameter plans, works plans, highways plans and sections relate to one another. See comments below in respect of article 6.</p>
Art 4	<p>Maintenance of the authorised development</p> <p>4. The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.</p>	<p>Maintenance of the authorised development</p> <p>4. <u>Subject to the Requirements</u>, the undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.</p>	<p>Given the breadth of the power to maintain that is sought (including its wholesale replacement), it is appropriate that it is clear, for the avoidance of any doubt, that the power to maintain is subject to the requirements. This is necessary to ensure that appropriate mitigation for the maintenance of the authorised development, in line with the</p>

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			environmental statement when it is complete, is secured.
Art 5(1)	<p>Maintenance of drainage works</p> <p>(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.</p>	<p>Maintenance of drainage works</p> <p>(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.</p>	Please correct the typographical errors identified.
Art 6	<p>Parameters of the authorised development</p> <p>6.—(1) The authorised development is to be carried out within the parameters shown and described on the parameters plans and in carrying out the authorised development the undertaker may—</p> <p>(a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans;</p> <p>(b) deviate vertically from the levels shown on the sections—</p>		<p>Lateral deviations are determined by reference to the Works Plans.</p> <p>Vertical deviations are determined by reference to the Sections. No Section drawings have been provided for statutory consultation.</p> <p>Highway works may deviate vertically 1.5m upwards or downward by reference to the levels shown on the highways plans. No highways plans have been provided in the consultation.</p> <p>Given that both the highways plans and the sections have not been made available for the statutory consultation EDC and DBC are not able to provide a comprehensive view on this article. Given those limitations EDC offer the</p>

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	<p>(i) to any extent upwards within the limits of deviation shown on the sections; or</p> <p>(ii) to any extent downwards as may be necessary, convenient or expedient;</p> <p>(c) in respect of the highway works deviate vertically from the levels shown on the highways plans to any extent not exceeding 1.5 metres upwards or downwards; and</p> <p>(d) in respect of any boundary between the areas of two numbered works deviate laterally by 20 metres either side of the boundary as shown on the works plans, except that these maximum limits of deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation by the undertaker with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p> <p>(2) Part 2 (procedure for discharge of requirements) of Schedule 2 (requirements) applies to an application to the Secretary of State for certification under paragraph (1) as though it were an approval required by a requirement under that Schedule.</p>		<p>following comments and looks forward to further detail being made available to it in advance of LRCH submission of its application for development consent.</p> <p>Boundaries between the areas of numbered works shown on the Works Plans may deviate laterally by 20m either side. This is a significant deviation that may affect impacts, when those are appropriately assessed and it will be important that the environmental statement demonstrates how deviations have been assessed.</p> <p>Layered on top of the above permitted deviations is a requirement for the development to be carried out "within the parameters shown on the parameter plans". The parameter plans show particular subdivisions but these do not necessarily align with the numbered works shown on the Works Plans. It is not clear to what extent the Parameter Plans are intended to govern the lateral location of the numbered works, or the whether they are concerned only with the vertical parameters for those parts of the authorised development shown on the parameter plans.</p> <p>The parameter plans do not establish parameters for other key areas of the authorised development, for example, the highway works.</p> <p>LRCH should clearly explain how it envisages these plans are intended to establish the</p>
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			parameters of the proposed development against which it will carry out its environmental assessment for the construction, operation, maintenance and decommissioning of the authorised development.
Art 8(4)	<p>Transfer of Benefit of Order</p> <p>(4) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where—</p> <p>(a) the transferee or lessee is the holder of a licence under section 6 of the Electricity Act 1989(a);</p> <p>(b) the time limits for all claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—</p> <p>(i) no such claims have been made;</p> <p>(ii) any such claims that have been made have all been compromised or withdrawn;</p> <p>(iii) compensation has been paid in final settlement of all such claims has taken place;</p> <p>(iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or</p> <p>(v) it has been determined by a tribunal or court of competent jurisdiction in respect of all claims that no compensation is payable.</p>		<p>There is a missing conjunction between article 8(4)(a) and 8(4)(b).</p> <p>It is suggested it should be an "or".</p>

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<p>Art 10</p>	<p>Planning permission</p> <p>10.—(1) This article applies where the land is used for temporary construction works.</p> <p>(2) Where this article applies, section 57(2) (planning permission required for development) of the 1990 Act applies as if the development consent granted by this Order were planning permission granted for a limited period.</p> <p>(3) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.</p>	<p>Planning Permission</p> <p>10.—(1) This article applies where the Order land is used for temporary construction works.</p> <p>(2) Where this article applies, section 57(2) (planning permission required for development) of the 1990 Act applies as if the development consent granted by this Order were planning permission granted for a limited period.</p> <p>(3) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act</p>	<p>"Land" in this context is insufficiently precise and it is suggested that it is replaced with the defined term "Order land".</p> <p>With respect to article 10(3) a resort operator is not a class of person to which section 264(3)(a) of the 1990 Act applies. It is therefore unclear what the purpose or effect is of this general declaration and no specific justification or explanation is provided in the EM.</p> <p>Amusement parks do benefit from permitted development (Class B of Part 18 of the Town and Country Planning (General Permitted Development) (England) Order 2015) however such permitted development does not employ the concept of "operational land" which is the preserve of statutory undertakers.</p> <p>Note the heading in the EM refers to the heading for this article being "Application of the 1990 Act" whereas the dDCO refers to it as "Planning permission".</p>
<p>Art 11</p>	<p>Application of the Community Infrastructure Levy Regulations 2010</p> <p>1) The Community Infrastructure Levy Regulations 2010(a) apply to the authorised development as if regulation 5(2) of those Regulations (meaning of "planning permission") referred to development consent which is deemed to be granted for a limited period by an order made under section 114(1)(a) (grant or</p>		<p>The intention of the drafting appears, as is explained in the EM, to be to ensure that temporary construction, including temporary construction that may yet be in place for a long period of time, is made subject to CIL.</p> <p>EDC is supportive of this general principle.</p> <p>However, paragraph (2) is far from clear as to its scope. What would be temporary</p>

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	<p>refusal of development consent) of the 2008 Act rather than to planning permission which is granted for a limited period.</p> <p>(2) Development consent is deemed to be granted for a limited period for temporary construction works and any other temporary buildings or works authorised by this Order.</p>		<p>construction works and other temporary buildings? The Applicant should clarify this, perhaps by reference to a schedule.</p>
<p>Art 12</p>	<p>Planning Permission</p> <p>12.—(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—</p> <p>(a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and/or</p> <p>(b) required to complete or enable the construction, use, operation or replacement of any part of the development authorised by this Order,</p> <p>then the carrying out, use or operation of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.</p> <p>(2) Nothing in this Order is to prejudice the operation of, and the powers and duties of the undertaker under the 1980 Act, the 1991 Act and the Town and Country Planning (General</p>	<p>Planning Permission</p> <p>12.—(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—</p> <p>(a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and/or</p> <p>(b) required to complete or enable the construction, use, operation or replacement of any part of the development authorised by this Order,</p> <p>then the carrying out, use or operation of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.</p> <p>(2) Nothing in this Order is to prejudice the operation of, and the powers and duties of the undertaker under the 1980 Act, the 1991 Act and the Town and Country</p>	<p>Note, this is the second article to be headed "Planning Permission".</p> <p>The use of "and/or" is generally considered to be inappropriate in a statutory instrument.</p> <p>There is an argument to say that this provision is <i>ultra vires</i>. The development within the scope of the section 35 direction is development for which development consent is <i>required</i>. There simply is no option to obtain planning permission for it. The section 35 direction is drawn in very broad terms covering "the project known as "London Paramount" at Swanscombe Peninsula and land to the south towards Ebbsfleet Station, Kent".</p> <p>In respect of (2) what functions will the undertaker have under the Highways Act 1980 that merits this "carve out"? It is not, nor will be, a highway authority.</p> <p>In respect of paragraph (3) EDC is concerned that this very widely drawn provision, which applies to planning permissions granted in respect of land within, or "adjacent to", the Order limits will have on its ability to properly</p>

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	<p>Permitted Development) (England) Order 2015(b).</p> <p>(3) As from the date on which the authorised development is commenced any conditions of a planning permission granted under section 57(f) (requirement of planning permission) of the 1990 Act which relate to land within the Order limits or land adjacent to the Order limits cease to have effect to the extent they are inconsistent with the authorised development or with anything done or approved under the requirements in Schedule 2 (requirements).</p>	<p>Planning (General Permitted Development) (England) Order 2015(b).</p> <p>(3) As from the date on which the authorised development is commenced any conditions of a planning permission granted under section 57(f) (requirement of planning permission) of the 1990 Act which relate to land within the Order limits or land adjacent to the Order limits cease to have effect to the extent they are inconsistent with the authorised development or with anything done or approved under the requirements in Schedule 2 (requirements).</p>	<p>discharge its development management functions for the Ebbsfleet Garden City. DBC have concerns that it will not deliver the housing, employment and infrastructure identified in their Local Plan. LRCH's justification for this provision in the EM does not explain why it is necessary or appropriate to interfere with planning permissions, in or on land adjacent to, the authorised development. Without any clear and precise justification, it should be deleted.</p>
Art 13	Street works		<p>We note the statutory authorisation for street works is intended to apply only to specified streets within Schedule 4, albeit that Schedule 4 has yet to be populated. EDC is supportive of an approach that would limit the street works authorisation to specified streets where it is required, rather than of general application within the Order limits.</p> <p>Notwithstanding the above, LRCH should clearly and precisely justify the powers sought.</p>
Art 14	Application of the 1991 Act		
Art 15	Power to alter layout, etc. of streets	<p>(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing, operating and maintaining the authorised development, permanently or temporarily alter the layout of any street within the Order limits and the layout of any street</p>	<p>This article is drafted in incredibly wide terms and would authorise the alteration of any street within the Order limits <i>and any street having a junction with such street</i>, for the purposes of both construction and <i>maintenance</i> of the authorised development. This is therefore a wide ranging provision temporally and geographically, especially in light of their being</p>

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		<p>having a junction with such a street; and, without limiting the scope of this paragraph, the undertaker may—</p> <p>4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority, <u>following consultation with the relevant planning authority.</u></p>	<p>no envisaged "end date" for the LRCH Scheme.</p> <p>This has the potential to interfere with the proper planning of the development envisaged in the Ebbsfleet Garden City and the wider area given that key distributor roads are included within the Order limits. It is not clear that LRCH, who is not otherwise a highway authority or other body with significant experience of the management of highways, streets and traffic, ought to be authorised to make such wide ranging alterations to the layout of streets. In this regard it is noted that consent of the street authority is required, where LRCH is not the street authority. However, that provision is subject to article 28 deemed consent provision.</p> <p>It is not clear that the environmental effects of such works have been considered in the PEIR and EDC and DBC would be looking to LRCH to ensure that such effects are thoroughly assessed, and the requirement for the temporal and geographical scope of the function is fully justified.</p>
Art 16	Permanent stopping up of streets and rights of access		<p>EDC and DBC note that Schedule 6, which sets out the streets and public rights of way to be stopped up under this article, has yet to be populated.</p> <p>EDC and DBC also note that very little information has been published during this statutory consultation in respect of stopped up, new or diversionary rights of way nor how the Applicant has considered what opportunities</p>

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			there may be to improve access to the rights of way network (per paragraph 5.184 of the National Policy Statement for National Networks). EDC and DBC consider this to be a missed opportunity to seek views of the relevant authorities and the public on its proposals in this regard.
Article 17	Temporary stopping up of streets and rights of access		Please correct the typographical error in the final line of paragraph (4) (reference to Part 1 of Schedule "78").
Art 18	<p>Access to and from works</p> <p>18.—(1) The undertaker may, for the purposes of the authorised development and with the consent of the relevant planning authority, after consultation with the relevant highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.</p> <p>(2) If a relevant planning authority which receives an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.</p>	<p>Access to and from works</p> <p>18.—(1) The undertaker may, for the purposes of the <u>construction of the</u> authorised development and with the consent of the relevant planning authority, after consultation with the relevant highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.</p> <p>(2) If a relevant planning authority which receives an application for consent under paragraph (1) where the formation and laying out of a new means of access or the improvement of the existing means of access is for the purposes of the</p>	<p>The power in this article persists indefinitely. LRCH has not set out in its Explanatory Memorandum why such a wide ranging power (affecting any highway within the Order limits) is required, beyond referring to the model provision. The exercise of the power should be limited to the construction phase.</p> <p>EDC and DBC also have concerns with the application of the deemed consent provision in and take the view that procedures in Part 2 of Schedule 2 (as is suggested are to be modified) should apply.</p>

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		construction or maintenance of the authorised development, fails to notify the undertaker of its decision before the end of the period of 28 days weeks beginning with the date on which the application was made, it is deemed to have granted consent.	
Article 20(7)	<p>Discharge of water</p> <p>(7) Subject to article 50 (application and modification of legislative provisions) nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(b).</p>		It is not clear why article 20(7) cross refers to article 50. Article 50 deals with amendments to provisions relating to compulsory acquisition compensation.
Art 22(1)	<p>Authority to survey and investigate land</p> <p>22.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development or upon which entry is required in order to carry out monitoring or surveys in respect of the authorised development and—</p>	<p>22.—(1) The undertaker may for the purposes of <u>the construction of the authorised development</u> this Order enter on any land shown within the Order limits or which may be affected by the authorised development or upon which entry is required in order to carry out monitoring or surveys in respect of the authorised development and—</p>	<p>Contrary to what LRCH states in paragraph 7.6 of the EM, as drafted, article 22(1) would authorise surveys or investigations of land beyond the Order limits. No specific justification is given for the requirement to carry out surveys beyond the Order limits, so the article should be amended to reflect the intention expressed in the EM.</p> <p>The article as drafted can be exercised for "the purposes of the authorised development". It is not limited temporally to the construction phase or to any other specific purposes relating to the authorised development. The Applicant has not justified why it would be appropriate for it, as a private commercial operation, to benefit from a power to occupy private land for the purposes</p>

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			of carrying out surveys without any meaningful constraint on its exercise temporally or geographically.
Art 23(2)	<p>Compulsory acquisition of land</p> <p>(2) As from the date on which a compulsory acquisition notice is served or the date on which the Order land, or any part of it, is vested in the undertaker, whichever is the later, that land or that part of it which is vested (as the case may be) is discharged from all rights, trusts and incidents to which it was previously subject.</p>	<p>Compulsory acquisition of land</p> <p>(2) As from the date on which a compulsory acquisition notice is served or the date on which the Order land, or any part of it, is vested in the undertaker, whichever is the later, that land or that part of it which is vested (as the case may be) is discharged from all rights, trusts and incidents to which it was previously subject.</p>	<p>A "compulsory acquisition notice" as defined in article 2(1) of the dDCO, as a notice under section 134 of the Planning Act 2008. The purpose of a section 134 Planning Act 2008 notice is to notify the recipient that powers of compulsory acquisition have been granted in respect of their interest in land and to inform those persons, if aggrieved, that the DCO may be challenged under section 118 of the Planning Act 2008 within 6 weeks of its publication.</p> <p>The effect of this article would be to extinguish all private rights in land within the Order limits as soon as notice is served under section 134 Planning Act 2008. If the DCO is granted, a section 134 notice is required to be served on each person who would qualify under section 12(1) Acquisition of Land Act 1981.</p> <p>As the dDCO seeks authorisation of permanent rights over land required temporarily (see art 26 below) this would affect all land within the Order limits.</p> <p>This would be wholly disproportionate and would deprive persons of their interests in land before formal acquisition powers are exercised (if indeed they ever are required to be exercised).</p>

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			<p>Given that Article 27 already deals with private rights (including the suspension of private rights during periods of temporary possession under article 33) and does so in a less disproportionate way, this provision should be deleted.</p> <p>Note, if LRCH deletes paragraph (2) it should also delete the definition of "compulsory acquisition notice" in article 2(1). In any event, it is not necessary to define that term given that it is defined in section 134(7) of the Planning Act 2008.</p>
Art 26	<p>Compulsory acquisition of rights and imposition of restrictive covenants</p> <p>26.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights over the Order land, or impose restrictive covenants affecting the Order land, as may be required for any purpose for which that land may be acquired under article 23 (compulsory acquisition of land) by creating them as well as by acquiring rights already in existence.</p> <p>(2) In the case of the Order land specified in column (1) of Schedule 8 (compulsory acquisition of rights) the undertaker may acquire compulsorily the rights, and impose restrictions, over the Order land described in the book of reference, by creating them as well as by acquiring rights and the benefits of restrictions already in existence.</p>		<p>The EM at paragraph 8.9 indicates that the imposition of restrictive covenants is common place in Transport and Works Act 1992 Orders, PINS Advice Note 15 at section 24 discusses the circumstances where it may be appropriate for a DCO to authorise the imposition of restrictive covenants, where it states "<i>In order to enable the Secretary of State to consider whether the imposition of Restrictive Covenants is necessary for the purposes of implementing a DCO, and appropriate in human rights terms, applicants should be prepared to fully explain and justify the need for including such powers in the Statement of Reasons. DCO provisions seeking to impose Restrictive Covenants should not be broadly drafted and should identify the land to which they relate and the nature of the Restrictive Covenant.</i>"</p> <p>EDC and DBC note that LRCH is not consulting on the nature of the rights required or restrictive</p>

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			<p>covenants to be imposed, or the justification for such rights. As such, its ability to meaningfully respond in its capacities as local planning authority and landowner is significantly diminished.</p> <p>Notwithstanding that it is not at this time in a position to engage on the substance of the justification for such powers EDC has serious concerns that dDCO would authorise the imposition of restrictive covenants and acquisition of rights over land over which temporary possession is sought.</p> <p>This is the case because:</p> <ol style="list-style-type: none"> 1. article 23(1) authorises the outright compulsory acquisition of all of the Order land. 2. Article 26(1) includes a general power to impose restrictive covenants over land that might be acquired under article 23. 3. Article 26(2) "carves out" of the general power in article 26(1) the power to acquire rights and impose restrictive covenants over the Order land specified in Schedule 8. 4. However, article 33(10) while clarifying that the land for which temporary possession for the purposes of construction is authorised and ultimately to be detailed in Schedule
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			<p>10 may not be acquired outright; it may nonetheless be subject to the acquisition of rights or imposition of restrictive covenants.</p> <p>Should it be the case that LRCH genuinely requires such wide powers across the Order limits, EDC and DBC would expect its Statement of Reasons to make a clear and convincing case that such a power is justified in the public interest and that the Book of Reference clearly spells out the nature of rights and restrictions to which the Order land may be subject.</p>
Art 30	<p>Modification of Part 1 of the 1965 Act</p> <p>(3) In section 11A (powers of entry: further notices of entry)—</p> <p>(a) in subsection (1)(a) after “land” insert “under that provisions”; and</p> <p>(b) in subsection (2) after “land” insert “under that provision”.</p>	<p>Modification of Part 1 of the 1965 Act</p> <p>(3) In section 11A (powers of entry: further notices of entry)—</p> <p>(a) in subsection (1)(a) after “land” insert “under that provisions”; and</p> <p>(b) in subsection (2) after “land” insert “under that provision”.</p>	<p>Please correct the typographical error in article 30(3)(a).</p>
Art 33(2) & (10)	<p>Temporary use of land for carrying out the authorised development</p> <p>(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.</p>	<p>(2) Not less than 14 days 3 months before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.</p> <p>(10) The undertaker may not compulsorily acquire under this Order the land referred</p>	<p>As noted above in respect of article 26 EDC and DBC have serious concerns with the prospect of the acquisition of rights or imposition of restrictive covenants over land over which only powers of temporary use are sought. Such a wide general power over such land would need to be fully justified and the reference in paragraph 8.35 of the EM of it being consistent with articles 23 and 31 is</p>

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	<p>(10) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not precluded from—</p> <p>(a) acquiring new rights or imposing restrictive covenants over any part of that land under article 26 (compulsory acquisition of rights and imposition of restrictive covenants); or</p> <p>(b) acquiring any part of the subsoil of or air-space over (or rights in the subsoil of or airspace over) that land under article 30 (acquisition of subsoil or air-space only).</p>	<p>to in paragraph (1)(a)(i) except that the undertaker is not precluded from—</p> <p>(a) acquiring new rights or imposing restrictive covenants over any part of that land under article 26 (compulsory acquisition of rights and imposition of restrictive covenants); or</p> <p>(b) acquiring any part of the subsoil of or air-space over (or rights in the subsoil of or airspace over) that land under article 30 (acquisition of subsoil or air-space only).</p>	<p>inadequate justification for the disproportionately wide power.</p> <p>EDC and DBC has concerns that the 14 days notice LRCH is required to give before dispossessing a person of their land is inadequate and has not been specifically justified in the EM. This is particularly the case given that section 20 of the Neighbourhood Planning Act 2017, when it comes into force, would mandate a minimum 3 month period of notice.</p> <p>In addition, this article would authorise the construction of permanent works on land possessed temporarily. The EM does not explain why this measure is required or is appropriate in the circumstances of this project.</p>
Art 42	Felling or lopping of trees		<p>This article would authorise LRCH to fell or lop any tree, shrub or hedgerow "near any part of the authorised development".</p> <p>The effect of paragraph (4) is to authorise the removal of any such tree even were it subject to a TPO.</p> <p>EDC would remind LRCH of PINS Advice Note 15, section 22, which advises applicants to include a plan showing the location of any protected tree or protected hedgerows for which authorisation for the removal is sought. No such plan appears to have been included within the statutory consultation documents.</p>

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			Furthermore, the EM, while noting that this drafting follows the equivalent provision in the now repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, it does not justify why the inclusion of such a provision is justified in the circumstances of this scheme.
Art 43	Trees subject to tree preservation orders		Please see comments above in respect of article 42. It is not clear why two similarly worded articles are required or are appropriate in the circumstances of this project.
Art 45(1)(a)(i) and (2)	Defence to proceedings in respect of statutory nuisance		EDC notes the two references to section 65 Control of Pollution Act 1974, which was repealed on 1 October 2015 by the Deregulation Act 2015 (see paragraph 11 of Part 5 of Schedule 13). EDC and DBC are not in a position to consider whether the defence provided by this article is appropriate in the circumstances of this scheme.
Art 49	Procedure in relation to approvals, etc., under Schedule 2		Please correct the typographical error in the penultimate line of paragraph (1) ("such agreement not to b"). Please see Part 2 of Schedule 2 for comments on the substance of this provision.
Art 50	Disapplication and modification of legislative provisions		The purpose and effect of this article are unclear. The EM at paragraphs 9.27 and 9.28 refer to the modifications to compensation provisions in Schedule 9. That Schedule has already been introduced by article 26(3) and so it is unnecessary to introduce it a second time. Paragraph 9.28 refers to article 43 which EDC

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			<p>and DBC suspects is an incorrect cross reference, given that article 43 is concerned with trees subject to preservation orders.</p> <p>EDC and DBC suggest that the position would be clearer were this article to be deleted in the interests of drafting economy as it appears to serve no other purpose than to introduce Schedule 9. If it is intended to serve some other function, LRCH is invited to set out and justify that function.</p>
<p>Art 51</p>	<p>Permitted development</p> <p>51. The authorised development constitutes an amusement park for the purposes of Class B of Part 18 (miscellaneous development) of the Town and Country Planning (General Permitted Development) (England) Order 2015(a).</p>		<p>EDC and DBC have concerns that the effect of this provision is far wider than is explained in the EM at paragraph 9.29.</p> <p>The authorised development, as defined in article 2(1) comprises 28 numbered works, together with "further associated development". Not all of that development will comprise an "amusement park". If LRCH wishes the certainty of such a declaration it should be related to an appropriately discrete parcel of the land within the Order limits that would be used as an "amusement park".</p> <p>EDC queries whether there is in fact any need to add any gloss on the application of permitted development under the Town and Country Planning (General Permitted Development) Order 2015.</p> <p>EDC and DBC have serious concerns that it would be inappropriate to maintain, for example and without limitation, that the Essex Site or the Highway Works, the services and</p>

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			infrastructure works or the "conferention centre" would comprise an "amusement park" upon which it is appropriate to carry out the development permitted by Class B of Part 18.
Art 53 and 54	Byelaws		<p>EDC and DBC note that LRCH is seeking the power to make byelaws for a broad range of purposes which are not limited by the scope of paragraph (2).</p> <p>In this regard it isn't clear why it would be appropriate to extend byelaw making powers, usually the preserve of local authorities or transport undertakers, to a private commercial developer. The EM does not justify why byelaw making powers are required, or are appropriate in the specific circumstances of this proposal.</p> <p>EDC and DBC also note that no Schedule containing byelaws has been provided, which has increasingly been the practice where byelaw making powers are sought in a DCO.</p> <p>EDC and DBC further query who would have the responsibility, and powers, to enforce such byelaws if they are made and whether LRCH has given any consideration to the resource requirements of the enforcing bodies?</p>
Art 56	Guarantees in respect of payment of compensation		<p>EDC reserves its position pending the opportunity to review LRCH's Funding Statement.</p> <p>EDC notes that the EM explains that the purpose of this provision is to ensure a suitable guarantee or appropriate form of security is in</p>

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			<p>place prior to the exercise of compulsory acquisition powers. The relevant powers are listed in paragraph (2).</p> <p>It should be noted that other powers within the draft DCO would also give rise to a right to compensation for compulsory interferences with interests in land, for example:</p> <ul style="list-style-type: none"> • article 16 (permanent stopping up of streets and rights of access); • article 17 (permanent stopping up of streets and rights of access); • article 21(protective works to buildings); • article 22 (authority to survey and investigate land); • article 24 (power to override easements and other rights); • article 37 (recovery of costs of new connection); • article 41 (temporary closure of, and works in, the River Thames); • article 42 (felling or lopping trees); and • article 43 (trees subject to tree preservation orders).
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			<p>It is not clear from the EM why LRCH ought to be permitted to exercise the above functions before appropriate financial provision is in place.</p> <p>Additionally, given the limited information provided on the proposed timing of the build out of the proposed development it isn't clear that the 15 year limitation on the form of financial provision set out in paragraph (4) is appropriate given the uncertainties surrounding the timing of all of the authorised development coming forward. Several of the provisions listed in paragraph (2) may be exercisable beyond this 15 year period, for example, the power in article 34 to temporarily possess land for the purposes of maintenance (the five year maintenance period does not begin to run until the part of the authorised development to which it relates is completed).</p>
<p>New Article 57</p>	<p>-</p>	<p>Enforcement</p> <p>57. For the purposes of this Order and subject to section 173(4) of the 2008 Act, Ebbsfleet Development Corporation is deemed to be the relevant planning authority for any part of the authorised development within the urban development area, for the purposes of Part 8 (enforcement) of the 2008 Act.</p>	<p>This new article is required to ensure that there is certainty that EDC is entitled to enforce the Order within the urban development area.</p>
<p>Schedule 1</p> <p>Authorised Development</p>			

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Schedule 1			<p>Given the limited information available and the absence of other key plans that establish the spatial parameters of the proposed development it is difficult for EDC and DBC to comment on Schedule 1 in detail. In that context the following observations are offered.</p> <p>Schedule 1 ought to acknowledge the urban development area of Ebbsfleet Development Corporation.</p> <p>It is noted that there is an inconsistent approach to defining the maximum areas of the numbered works e.g. Work No.2 is expressed as being “the construction of buildings and facilities for tourism and leisure uses up to 22 ha in area include-“ whereas other descriptions of numbered works do not contain such helpful clarifications.</p> <p>The works listed under the heading "other relevant works" are of concern, in particular the very widely drawn paragraph (u) which would authorise anything necessary or expedient for the "use" of the authorised development.</p> <p>Finally it is noted that the LRCH is not specifying the location of construction compounds. Given that such compounds are likely to be a concentration of environmental effects relating to noise, air quality, traffic, the water environment, and subsequent effects on ecology, it will be important that the flexibility to site such compounds anywhere within the Order limits is clearly assessed in the environmental statement and appropriate</p>
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			enforceable measures are in place to mitigate and regulate those environmental effects.
Schedule 2			
Part 1 - Requirements			
General	“No phase of the authorised development may commence”	<p><u>“No part of the authorised development is to be commenced until a [written scheme] for the phase containing that part of the authorised development is approved by ...”</u></p>	<p>EDC and DBC note that it is LRCH’s intention to bring forward the authorised development in phases. EDC has no concerns with the principle of that approach.</p> <p>However, it does have some concerns that the use of the term “No phase of the authorised development may commence” as the trigger for the obligation to discharge requirements is uncertain. This is because the term “phase” is defined by reference to the written scheme to be submitted under requirement 5. If no scheme is submitted, yet nonetheless development commences, the requirements featuring that drafting would be unenforceable.</p> <p>EDC and DBC have suggested the outline of an approach and would expect LRCH to address the point wherever it arises in the requirements for the draft DCO submitted with its application for development consent (save in requirement 5 itself for which a different approach would be appropriate – see below).</p>
R1	Interpretation		LRCH should provide a definition for "operational use" so it is clear what is meant by that trigger when it is employed in the requirements

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R2	<p>Time limits</p> <p>2. The authorised development must commence no later than the expiration of 5 years beginning with the date that this Order comes into force.</p>	<p>Time limits</p> <p>2.—(1) The authorised development must commence no later than the expiration of 53 years beginning with the date that this Order comes into force.</p> <p><u>(2) Each phase of the authorised development approved pursuant to Requirement 5 must not commence after the expiry of the period of 2 years from the date specified in the delivery programme for that phase approved by the relevant authority pursuant to Requirement 5.</u></p>	<p>In order to reflect the assumed development timescales in the consultation documents, development needs to commence within the standard 3 years, not 5 years.</p> <p>In addition, uncertainties surrounding when, whether and what form LRCH's proposals for the development of Swanscombe peninsula would come forward have persisted for many years, since at least from the date of the Secretary of State's section 35 Planning Act 2008 direction in May 2014. This has exerted a blighting influence on the development of EDC's development area. If LRCH's proposals are granted development consent then it is important that they are progressed promptly to limit any further harm caused by uncertainty.</p> <p>As such, it is considered that a standard three year time limit on commencement is required.</p> <p>A 3 year commencement limit would not wholly address this concern, as only modest operations on the land would be sufficient to meet the definition of "commence" in article 2(1). Consequently, further phasing requirements are proposed, please see requirement 5 below.</p>
R3	<p>Design drawings</p> <p>3.—(1) Subject to Requirement 4, the authorised development must be carried out in general accordance with the design drawings.</p>	<p>Design drawings</p> <p>3.—(1) Subject to Requirement 4, the authorised development must be carried out in general accordance with the design drawings.</p>	<p>EDC and DBC notes that the design drawings referred to in this requirement have not been published for consultation. Consequently, EDC reserves its position to comment further once that further level of detail becomes available. It is not clear at this stage which parts of the</p>

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	<p>(2) The authorised development will not be in general accordance with the design drawings to the extent that any departure from the design drawings gives rise to any materially new or different environmental effects from those assessed in the Environmental Statement.</p>	<p>(2) <u>Without prejudice to the generality of paragraph (1)</u> the authorised development will not be in general accordance with the design drawings to the extent that any departure from the design drawings gives rise to any materially new or different environmental effects from those assessed in the Environmental Statement.</p>	<p>authorised development would be encompassed by the design drawings.</p> <p>In the meanwhile EDC and DBC offer the following observations. At this stage EDC has significant concerns that only “general accordance” is required with the design drawings, but welcomes the confirmation that a materially new or materially different environmental effect would constitute a departure from “general accordance”. However, EDC and DBC is concerned that this is an exclusive test, that is to say, it sets the yardstick by which “general accordance” is measured only in terms of environmental effects. While environmental effects are important, it can be envisaged that departures from the design drawings could be material in planning terms in respect of the proper management of the emerging Ebbsfleet Garden City, yet not hitting the high threshold of a materially new or different environmental effect. At a minimum, paragraph (2) should be amended to make it clear that other factors may be of relevance to the determination of “general accordance” with the design drawings.</p>
R4	<p>Detailed design approval</p> <p>4.—(1) The details of Works Nos. 1 and 2 must be in accordance with the detailed design statement (Document X.X) as may be reviewed and updated by the undertaker in agreement with the relevant planning authorities.</p>	<p>Detailed design approval</p> <p>4.—(1) The <u>detailed design of the authorised development Works Nos. 1 and 2</u> must be in accordance with the detailed design statement (Document X.X) as may be reviewed and updated by the undertaker in agreement with <u>and</u></p>	<p>EDC welcomes the general principle of the requirement for the detailed design to be in accordance with the detailed design statement.</p> <p>However it has a number of concerns with the requirement as currently drafted.</p>

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	<p>(2) The details of each work must include details of the following, if they form part of the work—</p> <p>(a) events spaces;</p> <p>(b) themed rides and attractions;</p> <p>(c) entertainment venues;</p> <p>(d) cinemas;</p> <p>(e) theatres;</p> <p>(f) night clubs;</p> <p>(g) retail facilities;</p> <p>(h) dining facilities;</p> <p>(i) entertainment facilities;</p> <p>(j) visitor entrance areas;</p> <p>(k) hotels;</p> <p>(l) hard and soft landscaping;</p> <p>(m) pedestrian and cycle access routes and infrastructure;</p> <p>(n) built development design (including external materials and sustainable energy measures) and layout;</p> <p>(o) site levels and finished floor levels;</p>	<p><u>approved by</u> the relevant planning authorities.</p> <p>(2) The details of each work must include details of the following, if they form part of the work—</p> <p>(a) events spaces;</p> <p>(b) themed rides and attractions;</p> <p>(c) entertainment venues;</p> <p>(d) cinemas;</p> <p>(e) theatres;</p> <p>(f) night clubs;</p> <p>(g) retail facilities;</p> <p>(h) dining facilities;</p> <p>(i) entertainment facilities;</p> <p>(j) visitor entrance areas;</p> <p>(k) hotels;</p> <p>(l) hard and soft landscaping;</p> <p>(m) pedestrian and cycle access routes and infrastructure;</p>	<p>Firstly, it would appear to be the case that LRCH intends to produce the detailed design statement with its application for development consent and that the document would become a document certified under the Order, should it be made. EDC and DBC would welcome early consultation on the substance of the detailed design statement in advance of the submission of LRCH’s application. EDC and DBC’s further comments below are without prejudice to any further comments it may have once it has had sight of the detailed design statement.</p> <p>Notwithstanding their in principle support of an appropriate design statement, EDC and DBC would expect that the relevant planning authorities ought to also be responsible for approving the detailed design itself, before commencement.</p> <p>Secondly, EDC has concerns regarding the propriety of the detailed design statement being "reviewed and updated by agreement with the relevant planning authorities". To the extent that the document is to be updated it should be via a formal application under the requirements to which Part 2 of Schedule 2 applies. This is to ensure that any updates are appropriately considered and consulted upon. This is particularly important given that the proposed development straddles multiple local planning authority areas.</p> <p>Thirdly, sub-paragraph (3) is drafted in confusing language and lacks certainty. It is unnecessary to refer to any updated detailed</p>
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	<p>(p) buildings and structure elevations;</p> <p>(q) surface and foul drainage; and</p> <p>(r) fencing, walls and other means of enclosure.</p> <p>(3) Any works carried out in accordance with the approved design must be carried out in accordance with the approved design or with any amended design that may subsequently be approved by the relevant planning authority.</p>	<p>(n) built development design (including external materials and sustainable energy measures) and layout;</p> <p>(o) site levels and finished floor levels;</p> <p>(p) buildings and structure elevations;</p> <p>(q) surface and foul drainage; and</p> <p>(r) fencing, walls and other means of enclosure.</p> <p>(3) Any works carried out in accordance with the approved design must be carried out in accordance with the approved design or with any amended design that may subsequently be approved by the relevant planning authority.</p> <p><u>(4) No part of the authorised development is to be commenced until written details of the design to be constructed for the phase containing that part of the authorised development have been approved by the relevant planning authority.</u></p> <p><u>(5) The written details referred to in paragraph (4) must include—</u></p> <p><u>(a) a visual illustration, including annotation, of how the proposals respond to the context and the design framework</u></p>	<p>design statement as this matter is covered in requirement 1(3). EDC has suggested proposed amendments to refer to the development being carried out in accordance with the approved detailed design statement to achieve this.</p> <p>Fourthly, LRCH have not justified why only Work Nos. 1 and 2 are to be governed by a detailed design statement or approved by the relevant planning authority. EDC and DBC consider that such measures should extend to the whole of the authorised development.</p> <p>Finally, EDC notes that paragraph 4(2)(f) refers to "nightclubs" which are not expressly provided for in Schedule 1 (authorised development) and, if such is proposed, it ought to be.</p>
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		<p><u>established within the master planning design statement;</u></p> <p><u>(b) proposed uses, floor space and locations</u></p> <p><u>(c) site levels and finished floor levels;</u></p> <p><u>(d) buildings and structure elevations;</u></p> <p><u>(e) fencing, walls and other means of enclosure;</u></p> <p><u>(f) finishes and materials;</u></p>	
R5	<p>Phases of the development</p> <p>5.—(1) No phase of the authorised development may commence until a written scheme setting out all the phases of the authorised development has been submitted to and approved by the relevant planning authority.</p> <p>(2) The written scheme must include phasing details of—</p> <p>(a) ecological mitigation;</p> <p>(b) earthworks;</p> <p>(c) surface water and foul drainage; and</p>	<p>5.—(1) No part phase <u>may is to be commenced</u> until a written scheme setting out all the phases of the authorised development has been submitted to and approved by the relevant planning authority.</p> <p>(2) The written scheme must include phasing details of—</p> <p>(a) ecological mitigation;</p> <p>(b) earthworks;</p> <p><u>(c) details of the development to be constructed in each phase to include the quantum of floor space for use for each of the following purposes—</u></p>	<p>EDC welcomes the principle of this requirement, which would require LRCH to submit a phasing plan, setting out phasing details including ecological mitigation, earthworks, drainage and mains services.</p> <p>However EDC and DBC do have concerns with the drafting and with the scope of what must be included in the phasing scheme.</p> <p>In terms of the drafting, the “trigger” point of “no phase of the authorised development may commence...” is defective. “Phase” is defined in paragraph 1(1) by reference to the written scheme to be approved under requirement 5. It is therefore circular. If LRCH were to commence construction without first having obtained the approval of the phasing scheme, there would be no “phase” against which</p>

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	<p>(d) mains services.</p> <p>(3) The authorised development must be carried out in accordance with the phasing plan and the written scheme as approved from time to time in writing by the relevant planning authority.</p>	<p><u>(i) events spaces;</u></p> <p><u>(ii) themed rides;</u></p> <p><u>(iii) entertainment venues;</u></p> <p><u>(iv) theatres;</u></p> <p><u>(v) cinemas;</u></p> <p><u>(vi) ancillary retail;</u></p> <p><u>(v) dining;</u></p> <p><u>(vi) entertainment facilities;</u></p> <p><u>(vii) guest facilities;</u></p> <p><u>(viii) commercial uses ancillary to each of the internal visitor entrance areas referred to Work No. 1(e);</u></p> <p><u>(ix) the quantum of motor vehicle parking spaces;</u></p> <p><u>(x) hotels;</u></p> <p><u>(xi) conferention centre and ancillary accommodation and loading bay;</u></p> <p><u>(xii) enclosed water park;</u></p> <p><u>(xiii) visitor centre;</u></p>	<p>compliance would be measured. EDC has suggested amendments to address this issue.</p> <p>Additionally, paragraph (3) refers to a “phasing plan” and it is not apparent whether this is intended to be a separate document (in which case it ought to be subject to approval under paragraph (1)) or part of the written scheme.</p> <p>For the reasons outlined above in respect of requirement 2, EDC and DBC consider that it is of paramount importance that appropriate provisions are in place to ensure that adequate detail of each phase is provided, that each phase is completed and brought into operation promptly and that appropriate provision is made for the monitoring of the effectiveness of mitigation employed at each phase.</p>
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		<p>(d)-(e) surface water and foul drainage; and</p> <p>(e) (d) mains services;</p> <p>(f) confirmation of adequate funding for the completion of the phase;</p> <p>(f) any other proposed use; and</p> <p>(g) details of a programme for the anticipated implementation, completion and occupation or use of each phase ("delivery programme").</p> <p>(3) The authorised development must be carried out in accordance with the phasing plan and the written scheme as approved from time to time in writing by the relevant planning authority.</p> <p>(4) Other than the first phase, no phase of the authorised development may commence until the undertaker has notified the relevant planning authority in writing of the completion and operation of the preceding phase and approved the monitor and manage report referred to in sub-paragraph (5).</p> <p>(5) The notification of completion and operation of a phase referred to in sub-paragraph (4) must be accompanied by a monitor and manage report detailing the environmental and transport impacts of</p>	
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		<p><u>the previous phase and the effectiveness of the mitigation measures implemented to avoid or mitigate such impacts and details of any proposed additional, or changes to, existing mitigation measures to improve the effectiveness of such mitigation ("monitor and manage mitigation") prior to the commencement of the next phase of the authorised development and a programme for their implementation ("a monitor and manage report"). Any approved monitor and manage report must be implemented in accordance with the approved programme.</u></p> <p><u>(6) If after the expiry of the period of 2 years from the date specified in the delivery programme for commencement of a phase approved pursuant to Requirement 5, that phase has not commenced, the undertaker must not construct any works authorised by this Order, or exercise any functions under this Order in relation to that phase unless otherwise approved by the relevant planning authority.</u></p> <p><u>(7) If, after the expiry of the period of 6 years from the date of publication of the Order the undertaker has commenced but not completed the first phase of the</u></p>	
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		<p><u>authorised development approved pursuant to Requirement 5, the undertaker must submit for the approval of the relevant planning authority a scheme and timetable for either—</u></p> <p><u>(i) the decommissioning and removal of any part of the first phase which has commenced but remains incomplete and a restoration scheme for the land upon which such phase has been commenced;</u> <u>or</u></p> <p><u>(ii) the completion and bringing into use of the whole of the first phase of the authorised development within a period of 8 years from the date of publication of the Order.</u></p> <p><u>(8) The undertaker must complete the works and operations set out in the approved scheme and timetable pursuant to sub-paragraph (7) not more than twenty four months from the date of such approval or such longer or shorter date as has been approved pursuant to sub-paragraph (7) including that to the extent it is an approved requirement that the whole of the first phase of the authorised development must be completed and brought into use within a period of 8 years from the date of</u></p>	
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		<u>publication of the Order, that shall be complied with</u>	
R6	<p>Ecological management plan</p> <p>6.—(1) No phase of the authorised development may commence until a written ecological management plan for that phase has been submitted to and approved in writing by the relevant planning authority in consultation with the Environment Agency, Natural England and Kent County Council where required.</p> <p>(2) The ecological management plan must contain on-site biodiversity mitigation to address the biodiversity loss resulting from the construction of the authorised development, unless off-site compensation or “offsetting” is provided to address this biodiversity loss (in full or in part) to the satisfaction of the relevant planning authority.</p> <p>(3) The ecological management plan must include an implementation timetable and be implemented as approved.</p>	<p>Ecological management plan</p> <p>6.—(1) No phase of the authorised development may commence until a written ecological management plan for that phase has been submitted to and approved in writing by the relevant planning authority in consultation with the Environment Agency, Natural England and Kent County Council where required.</p> <p>(2) The ecological management plan must contain on-site biodiversity mitigation to address the biodiversity loss resulting from the construction of the authorised development, unless off-site compensation or “offsetting” is provided to address this biodiversity loss (in full or in part) to the satisfaction of the relevant planning authority.</p> <p><u>(3) Where the ecological management plan provides off-site compensation or "offsetting" it must contain a statement giving the undertaker's reasons why sufficient on-site mitigation can not be provided, to the satisfaction of the relevant planning authority.</u></p> <p>(3) (4) The ecological management plan must include an implementation timetable and be implemented as approved.</p>	<p>EDC and DBC broadly welcome the principle of a requirement requiring the approval of an ecological management plan to secure on-site biodiversity mitigation.</p> <p>EDC and DBC would expect the application to detail the extent of the biodiversity loss and include a clear outline of how biodiversity net gain would be achieved. The requirement should also properly reflect the established hierarchy of seeking to avoid biodiversity loss in the first instance, where that is not possible seeking on-site compensation, then off-site compensation before considering further "offsetting".</p> <p>Where offsetting is proposed EDC would expect details of the offsetting proposal to be made available to the examination to enable proper scrutiny of the proposals.</p>

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R7	<p>Construction Environmental Management Plan</p> <p>7.—(1) [No phase of the authorised development may commence until a CEMP for that phase has been submitted to and approved in writing by the relevant with the relevant planning authority.]</p> <p>(2) All construction works for the authorised development must be carried out in general accordance with the CEMP, unless otherwise agreed with the relevant planning authority</p> <p>(3) The CEMP, which specifies measures to be used to minimise the impacts of construction works, incorporates the following plans and strategies—</p> <p>(a) archaeological written scheme of investigation;</p> <p>(b) biodiversity mitigation strategy;</p> <p>(c) construction traffic management plan;</p> <p>(d) ecological construction mitigation plan;</p> <p>(e) noise and vibration management plan;</p> <p>(f) rights of access management plan; and</p> <p>(g) waste management plan.</p> <p>(4) Any works carried out pursuant to the plans, scheme and strategy referred to in</p>	<p>Construction Environmental Management Plan</p> <p>7.—(1) [No phase of the authorised development may commence until a CEMP for that phase has been submitted to and approved in writing by the relevant with the relevant planning authority.]</p> <p>(2) All construction works for the authorised development must be carried out in general accordance with the CEMP, unless otherwise agreed with the relevant planning authority</p> <p>(3) The CEMP, which specifies measures to be used to minimise the impacts of construction works, incorporates the following plans and strategies—</p> <p>(a) archaeological written scheme of investigation;</p> <p>(b) biodiversity mitigation strategy;</p> <p>(c) construction traffic management plan;</p> <p>(d) ecological construction mitigation plan;</p> <p>(e) noise and vibration management plan;</p> <p>(f) rights of access management plan; and</p> <p>(g) waste management plan.</p>	<p>EDC and DBC note that at this stage the contents of the CEMP and the range of other measures to be incorporated within it, is not available.</p> <p>EDC and DBC are however very concerned that the requirement would require only "general accordance" with the measures outlined in the approved CEMP. This would seriously undermine the ability of the requirement to be enforced and as such EDC and DBC are of the firm view that only "accordance" (and not "general accordance") with those approved measures is sufficiently precise and enforceable.</p> <p>EDC and DBC are also concerned at the proposed "tail piece" in sub-paragraphs (2) and (5). Given that the draft DCO accommodates changes to approved documents in requirement 1(3) and includes a process for the approval of requirements in Part 2 of Schedule 2, the formal process should be used to ensure transparency.</p>
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	<p>subparagraph (3) must be carried out in general accordance with the approved plan, scheme or strategy unless otherwise agreed with the relevant planning authority.</p> <p>(5) The plans, scheme and strategy referred to in sub-paragraph (3) must be implemented as approved unless otherwise agreed with the relevant planning authority.</p>	<p>(4) Any works carried out pursuant to the plans, scheme and strategy referred to in subparagraph (3) must be carried out in general accordance with the approved plan, scheme or strategy unless otherwise agreed with the relevant planning authority.</p> <p>(5) The plans, scheme and strategy referred to in sub-paragraph (3) must be implemented as approved —unless otherwise agreed with the relevant planning authority.</p>	
R8	<p>Approval and implementation of construction mitigation plans</p> <p>8.—(1) No phase of the authorised development may commence until, for that phase, the following plans and scheme to minimise the impacts of construction works have been submitted to and approved by the relevant planning authority—</p> <p>(a) [];</p> <p>(b) [];</p> <p>(c) [];</p> <p>(d) [];</p> <p>(e) [];</p> <p>(f) []; and</p>	<p>Approval and implementation of construction mitigation plans</p> <p>8.—(1) No phase of the authorised development may <u>is to</u> commence until, for that phase, the following plans and schemes to minimise the impacts of construction works have been submitted to and approved by the relevant planning authority—</p> <p><u>(a) construction method statement;</u></p> <p><u>(b) construction and logistics traffic management plan;</u></p> <p><u>(c) health and safety management plan;</u></p> <p><u>(d) construction travel plan;</u></p>	<p>It is noted that a significant number of the plans, strategies and schemes referred to in the PEIR do not appear to have been reflected in the requirements. The proposed amendments reflect the plans, schemes and strategies identified as a result of that review.</p>

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	<p>(g) [].</p> <p>(2) The construction works for each phase of the authorised development must be carried out in general accordance with the approved plans and scheme referred to in sub-paragraph (1), unless otherwise agreed with the relevant planning authority.</p>	<p><u>(e) construction delivery and servicing plan (including details of waste collections);</u></p> <p><u>(f) construction traffic management plan</u></p> <p><u>(g) construction river transport safety management plan;</u></p> <p><u>(h) construction vessel movement and terminal operation management plan (to include measures to manage biofouling and ballast discharge and invasive non-native species);</u></p> <p><u>(i) construction landscape and ecology initiatives plan;</u></p> <p><u>(j) construction landscape and ecology management plan;</u></p> <p><u>(k) biodiversity management plan;</u></p> <p><u>(l) habitat provision and management plan;</u></p> <p><u>(n) green infrastructure strategy;</u></p> <p><u>(o) clean air strategy;</u></p> <p><u>(p) sustainable drainage and hydrological strategy;</u></p> <p><u>(q) biosecurity plan;</u></p>	
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		<p><u>(r) Emergency incident plan (to include measures to address spillages and pollution incidents);</u></p> <p><u>(s) marine archaeological monitoring plan;</u></p> <p><u>(t) dust management plan;</u></p> <p><u>(u) dust and odour complaint monitoring plan;</u></p> <p><u>(v) exceptional incident tracking plan;</u></p> <p><u>(w) flood risk management plan</u></p> <p><u>(x) water resource management plan</u></p> <p><u>(y) surface water drainage strategy and management plan</u></p> <p><u>(z) wastewater and foul drainage strategy;</u></p> <p><u>(aa) sediment load management plan;</u></p> <p><u>(bb) flood evacuation and management plan</u></p> <p><u>(cc) land contamination and remediation risk management plan;</u></p> <p><u>(dd) leachate management plan</u></p> <p><u>(ee) gas protection management plan</u></p>	
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		<p><u>(ff) unexploded ordnance risk management plan;</u></p> <p><u>(gg) foundation works risk assessment and earthworks management plan;</u></p> <p><u>(hh) construction waste management plan;</u></p> <p><u>(ii) materials management plan;</u></p> <p><u>(jj) sustainable construction management plan;</u></p> <p>(2) The construction works for each phase of the authorised development must be carried out in general accordance with the approved plans and scheme referred to in sub-paragraph (1), unless otherwise agreed with the relevant planning authority.</p> <p><u>(3) No phase of the authorised development is to be brought into operation until, for that phase, the following plans, schemes and strategies to mitigate the impacts of the operation of the authorised development have been submitted to and approved by the relevant planning authority—</u></p> <p><u>(a) safety and security management plan;</u></p> <p><u>(b) health and safety management plan</u></p>	
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		<p><u>(c) inclusive design operational policy monitoring and management plan;</u></p> <p><u>(d) parking and event management plan</u></p> <p><u>(e) operational travel plan;</u></p> <p><u>(f) operational delivery and servicing plan (including details of waste collections);</u></p> <p><u>(g) ticketing management plan ((to include complementary initiatives such as combined resort and public transport tickets);</u></p> <p><u>(h) parking and event management plan (to control onsite and offsite parking and detail measures to discourage visitors arriving by private motor vehicle during peak times);</u></p> <p><u>(i) operational traffic management plan (to include a traffic incident management plan for the operational phase);</u></p> <p><u>(j) operational river transport safety management plan;</u></p> <p><u>(k) operational vessel movement and terminal operation management plan</u></p> <p><u>(l) operational landscape and ecology initiatives plan;</u></p> <p><u>(m) operational landscape and ecology management plan;</u></p>	
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		<p><u>(n) habitat provision and management plan;</u></p> <p><u>(o) green infrastructure strategy;</u></p> <p><u>(p) clean air strategy;</u></p> <p><u>(q) sustainable drainage and hydrological strategy;</u></p> <p><u>(r) operational environmental management plan;</u></p> <p><u>(s) flood risk management plan;</u></p> <p><u>(t) water resource management plan</u></p> <p><u>(u) surface water drainage strategy and management plan</u></p> <p><u>(v) wastewater and foul drainage strategy</u></p> <p><u>(w) gas protection management plan;</u></p> <p><u>(x) operational waste management plan;</u></p> <p><u>(4) The authorised development must be operated in accordance with the plans, schemes and strategies approved under paragraph (3).</u></p>	
R9	<p>Construction hours and noise</p> <p>9.—(1) Construction works (which for the purposes of this requirement exclude archaeological investigations, landscaping</p>	<p>Construction hours and noise</p> <p>9.—(1) Construction works (which for the purposes of this requirement exclude archaeological investigations, landscaping</p>	<p>It is noted that paragraph 15.153 of the PEIR indicates that normal construction hours will be between 08:00 and 18:00 and the requirement ought to reflect the basis of the assessment. The appropriateness of other measures within</p>

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	<p>works and any non-intrusive internal fit-out works but include start up, shut down and deliveries) must not take place other than between 07:00 and 19:00 hours on weekdays and between 07:00 and 13:00 hours on Saturdays, excluding public holidays.</p> <p>(2) The noise level for the construction works measured at a noise sensitive receptor must not exceed Leq, 12hour 75 dB(A) wherever practicable, unless otherwise agreed in writing by the relevant planning authority.</p> <p>(3) Where compliance with sub-paragraph (1) or (2) is not practicable prior consent under section 61 of the Control of Pollution Act 1974(a) must be obtained.</p> <p>(4) Work is permitted outside the periods mentioned in sub-paragraph (1) provided the noise level measured at the boundary of the Order limits does not exceed 45 dB(A).</p> <p>(5) Regardless of sub-paragraphs (1) to (4) the following works are permitted—</p> <p>(a) emergency works; and</p> <p>(b) works which do not cause noise that is audible at the boundary of the Order limits.</p> <p>(6) Any emergency works carried out under sub-paragraph (5)(a) must be notified to the relevant planning authority within 72 hours of their commencement.</p>	<p>works and any non-intrusive internal fit-out works but include start up, shut down and deliveries) must not take place other than between 07:00 08:00 and 19:00 18:00 hours on weekdays and between 07:00 08:00 and 13:00 hours on Saturdays, excluding public holidays.</p> <p>(2) The noise level for the construction works measured at a noise sensitive receptor must not exceed Leq, 12hour 75 dB(A) wherever practicable, unless otherwise agreed in writing by the relevant planning authority.</p> <p>(3) Where compliance with sub-paragraph (1) or (2) is not practicable prior consent under section 61 of the Control of Pollution Act 1974(a) must be obtained.</p> <p>(4) Work is permitted outside the periods mentioned in sub-paragraph (1) provided the noise level measured at the boundary of the Order limits does not exceed 45 dB(A).</p> <p>(5) Regardless of sub-paragraphs (1) to (4) the following works are permitted—</p> <p>(a) emergency works; and</p> <p>(b) works which do not cause noise that is audible at the boundary of the Order limits.</p> <p>(6) Any emergency works carried out under sub-paragraph (5)(a) must be notified to</p>	<p>this requirement will be considered in the light of the corresponding noise assessment, once available.</p>
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		the relevant planning authority within 72 hours of their commencement.	
R10	<p>Noise during the operational phase</p> <p>10.—(1) No phase of the authorised development may be brought into use until a written scheme has been submitted to and approved in writing by the relevant planning authority for the monitoring of noise generated during the operational phases of that phase of the development.</p> <p>(2) The written scheme must specify the locations from where noise will be monitored, the method of noise measurement (which must be in accordance with BS4142: 1997 for fixed plant noise and Calculation of Railway Noise 1995, equivalent successor standards or other measurement methodologies appropriate to the circumstances agreed by the relevant planning authority) and identify maximum noise levels appropriate to each location.</p> <p>(3) The written scheme must also specify the periods within which monitoring of operational noise is to take place.</p> <p>(4) The written scheme must be implemented to establish baseline noise conditions.</p> <p>(5) The written scheme is to be subject to annual reviews to establish the frequency of noise monitoring and the need for continued monitoring.</p>	<p>Noise during the operational phase</p> <p>10.—(1) No phase of the authorised development may be brought into use until a written scheme has been submitted to and approved in writing by the relevant planning authority for the monitoring of noise generated during the operational phases of that phase of the development.</p> <p>(2) The written scheme must specify the locations from where noise will be monitored, the method of noise measurement (which must be in accordance with BS4142: 1997 for fixed plant noise and Calculation of Railway Noise 1995, equivalent successor standards or other measurement methodologies appropriate to the circumstances agreed by the relevant planning authority) and identify maximum noise levels appropriate to each location.</p> <p>(3) The written scheme must also specify the periods within which monitoring of operational noise is to take place.</p> <p>(4) The written scheme must be implemented to establish baseline noise conditions.</p> <p>(5) The written scheme is to be subject to annual reviews to establish the frequency of noise monitoring, and the need for</p>	<p>In respect of paragraph (2) it is not clear why BS4142:1997 is referred to as an appropriate standard to employ considering it has been updated several times in the intervening period and that the latest standard is BS4142:2019.</p> <p>In respect of paragraph (6) it is not clear what the "health and safety requirements" would be that would prevent the use of broadband reversing alarms. These matters ought to be addressed by LRCH.</p> <p>While the requirement does require monitoring, it contains no measures requiring action to remedy any unacceptable impacts that may be identified by such monitoring.</p>

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	<p>(6) Subject to health and safety requirements, broadband reversing alarms must be employed on mobile plant.</p>	<p>continued monitoring <u>and further measures to mitigate the adverse effects of noise if identified by such monitoring together with an implementation timetable, to be approved by the relevant planning authority and implemented by the undertaker.</u></p> <p>(6) Subject to health and safety requirements, broadband reversing alarms must be employed on mobile plant.</p>	
R11	<p>Monitoring of complaints</p> <p>11.—(1) In the event that complaints for noise nuisance are received by a relevant planning authority, which considers those complaints justified, the undertaker must unless otherwise agreed in writing by the relevant planning authority, at its own expense, employ a consultant approved by the relevant planning authority to carry out an assessment of noise from the development, whether relating to noise from construction or operation of the site.</p> <p>(2) The assessment must be carried out to an appropriate methodology agreed in writing by the relevant planning authority and the results of the assessment must be submitted to the relevant planning authority within 28 days of the assessment.</p> <p>(3) Those results must include a comparison of measured data with the requirements, all data which was collected for the purposes of the</p>	<p>Monitoring of complaints</p> <p>11.—(1) In the event that complaints for noise nuisance are received by a relevant planning authority, which considers <u>considers subsequently notifies the undertaker that it considers those complaints to merit investigation justified</u>, the undertaker must unless otherwise agreed in writing by the relevant planning authority, <u>and within seven days</u>, employ a consultant approved by the relevant planning authority to carry out an assessment of noise from the development, whether relating to noise from construction or operation of the site.</p> <p>(2) The assessment must be carried out <u>within 14 days of the notification referred to in paragraph (1) and in accordance with</u> an <u>an appropriate methodology approved agreed in writing</u> by the relevant planning authority and the results of the assessment must be submitted to the relevant planning</p>	<p>EDC is supportive of the inclusion of a requirement to respond to noise complaints. However, as drafted the requirement would require only the monitoring of noise complaints, it would not compel LRCH to take any steps or measures to remedy those complaints where the monitoring concludes that they were justified.</p> <p>As drafted, the requirement does not set any time frame within which the monitoring is required to be undertaken.</p>

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	<p>assessment and certificates of the measuring instrument's calibration.</p>	<p>authority within 28 <u>14</u> days of the assessment.</p> <p>(3) Those results must include a comparison of measured data with the requirements, all data which was collected for the purposes of the assessment and certificates of the measuring instrument's calibration <u>and where the assessment shows that unacceptable noise arises from the construction or operation of the authorised development, the assessment must include measures to mitigate those unacceptable effects and a timetable for their implementation, both of which must be submitted for the approval of the relevant planning authority.</u></p> <p><u>(4) The mitigation measures and timetable approved by the relevant planning authority referred to in paragraph (3) must be implemented by the undertaker.</u></p>	
R12	<p>Access by construction traffic 12.—(1) No phase of the authorised development is to commence until the locations and details of the access points for construction traffic from the public highway into the authorised development have been submitted to and approved in writing by the relevant planning authority for that phase.</p> <p>(2) All construction traffic must at all times access the authorised development using an access point approved under sub-paragraph (1) for that phase.</p>	<p>Access by construction traffic 12.—(1) No phase of the authorised development is to commence until the locations and details of the access points for construction traffic from the public highway into the authorised development have been submitted to and approved in writing by the relevant planning authority, <u>following consultation with the relevant highway authority,</u> for that phase.</p> <p>(2) All construction traffic must at all times access the authorised development using</p>	<p>The relevant highway authority ought to be consulted on the appropriateness of the construction traffic accesses.</p>

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		an access point approved under sub-paragraph (1) for that phase.	
R13	<p>Provision of landscaping 13.—(1) No phase of the authorised development is to commence until a written landscaping strategy has been submitted to and approved in writing by the relevant planning authority.</p> <p>(2) The landscaping strategy may be subject to alteration by prior approval in writing of the relevant planning authority.</p>	<p>Provision of landscaping 13.—(1) No phase of the authorised development is to commence until <u>detailed a landscape proposal and specification for that phase a written landscaping strategy</u> has been submitted to and approved in writing by the relevant planning authority.</p> <p><u>(2) The detailed landscape proposal and specification must contain details of all hard and soft landscaping works including—</u></p> <p><u>(a) location, quantity, species, height and spread, pot size and density of any proposed planting;</u></p> <p><u>(b) full planting specification including cultivation, importation of materials and other operations to ensure plant establishment, including a soil management plan;</u></p> <p><u>(c) landscape management plan for the first years as well as management for longevity (to include measures for the monitoring and maintenance of landscaping during construction and operation of the authorised development and details of management responsibilities);</u></p> <p><u>(d) proposed finished ground levels;</u></p>	<p>EDC and DBC welcome the general principle that details of landscaping should be subject to the approval of the relevant planning authorities. It also notes that at this preliminary stage details of the required landscaping mitigation remain to be assessed as such it is not clear at which stages or phases relevant landscape mitigation must be implemented. It therefore reserves its ability to comment further on this aspect in due course.</p> <p>As drafted, the requirement does not specify the minimum scope of the landscaping strategy. EDC and DBC suggest amendments are made to address these matters.</p>

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		<p><u>(e) hard surfacing materials and street furniture;</u></p> <p><u>(f) a programme for implementation of all landscaping works, including advanced planting;</u></p> <p><u>(i) details of fencing and enclosures;</u></p> <p><u>(j) vehicular and pedestrian access, parking and circulation areas, (including details of areas of public access);</u></p> <p>(2) The landscaping strategy may be subject to alteration by prior approval in writing of the relevant planning authority.</p>	
R14	<p>Replacement planting 14.—(1) Unless otherwise agreed with the relevant planning authority, no phase of the authorised development, may be brought into operation until, for that phase, a scheme for the planting of trees, groups of trees and hedgerows to replace those to be removed during that phase that accords with [] has been submitted to and approved by the relevant planning authority.</p> <p>(2) The planting scheme submitted under sub-paragraph (1) must include details of—</p> <p>(a) the location and a schedule of plants noting number, species, size and planting density of any proposed planting or seeding;</p>	<p>Replacement planting 14.—(1) Unless otherwise agreed with the relevant planning authority, n No phase of the authorised development, may be brought into operation until, for that phase, a scheme for the planting of trees, groups of trees and hedgerows to replace those to be removed during that phase that accords with [] has been submitted to and approved by the relevant planning authority.</p> <p>(2) The planting scheme submitted under sub-paragraph (1) must include details of—</p>	<p>No justification has been provided for the "tail piece" at the beginning of the requirement consequently EDC and DBC recommend that it is deleted.</p>

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	<p>(b) cultivation, importing of materials and other operations to ensure plant and seed establishment; and</p> <p>(c) details of a five year maintenance regime.</p>	<p>(a) the location and a schedule of plants noting number, species, <u>height and spread, pot</u> size and planting density of any proposed planting or seeding;</p> <p>(b) <u>a full planting specification including</u> cultivation, importing of materials and other operations to ensure plant and seed Establishment including a soil management plan; and</p> <p>(c) details of a five year maintenance regime <u>and measures for maintenance for longevity.</u></p>	
R15	<p>Implementation of landscaping and replacement planting</p> <p>15.—(1) All landscaping and replacement planting works referred to in requirements 13 and 14 must be implemented in the first available planting season after that part of the authorised development to which the landscaping or replacement planting works apply is first brought into operational use and must be carried out in general accordance with specification set out at [] and the relevant landscaping scheme for that phase of the authorised development, and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard or other recognised codes of good practice.</p> <p>(2) Any tree or shrub planted on land outside Work No.1 and Work No.2 as part of an approved landscaping or replacement planting scheme that, within a period of five years after</p>	<p>Implementation of landscaping and replacement planting</p> <p>15.—(1) All landscaping and replacement planting works <u>The schemes, detailed landscape proposals and specifications</u> referred to in requirements 13 and 14 must be implemented in the first available planting season after that part phase of the authorised development to which the landscaping or replacement planting works apply is first brought into operational use and must be carried out in general accordance with specification set out at [] and the relevant landscaping—scheme matters approved under requirements 13 and 14, for that phase of the authorised development, and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard or other recognised codes of good practice.</p>	<p>EDC and DBC note that landscaping relating to works other than Work Nos. 1 and 2 is to be maintained for a period of five years. LRCH will have to demonstrate in its application the appropriateness of this period.</p> <p>EDC and DBC consider it is also inappropriate for such works to be carried out in "general accordance" with the relevant standard, full accordance should be required.</p> <p>The requirement is silent on the period for maintenance of landscaping relating to Work Nos. 1 and 2. EDC would anticipate that it ought to be maintained throughout the operation of the authorised development.</p>

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	<p>planting, is removed, dies or becomes in the opinion of the relevant planning authority seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.</p>	<p>(2) Any tree or shrub planted on land outside Work No.1 and Work No.2 as part of an approved landscaping or replacement planting scheme that, within a period of five years after planting, is removed, dies or becomes in the opinion of the relevant planning authority seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.</p> <p><u>(3) Any tree or shrub planted on land in relation to Work No.1 and Work No.2 as part of an approved landscaping or replacement planting scheme that, is removed, dies or becomes in the opinion of the relevant planning authority seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.</u></p>	
R16	<p>Retention and protection of existing trees and hedgerows</p> <p>16.—(1) No phase of the authorised development may commence until, for that phase, a Tree and Hedgerow Protection Strategy (THPS) identifying the trees, groups of trees and hedgerows to be retained during that phase has been submitted to and approved by</p>		<p>Measures to protect existing trees and hedgerows are welcomed. The appropriateness of the measures contained in this requirement will be considered once further detail concerning LRCH's proposals become available. It is considered that consideration should be given to naming further consultees that may have an important</p>

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	<p>the relevant planning authority, following consultation with Natural England.</p> <p>(2) The THPS referred to in sub-paragraph (1) must include—</p> <p>(a) Tree Protection Plans detailing the alignment of temporary physical tree protection measures, in accordance with the details identified in [];</p> <p>(b) a schedule of all proposed tree removal and pruning with annotated plans;</p> <p>(c) a specification for temporary physical protection for trees and hedgerows; and</p> <p>(d) details of an auditable system of compliance with the approved protection measures.</p> <p>(3) The trees, groups of trees and hedgerows identified in the THPS referred to in sub-paragraph (1) must not be felled or otherwise removed in connection with the construction of the authorised development.</p> <p>(4) The relevant phase of the authorised development must not commence until the approved protection measures referred to in sub-paragraph (1) are in place, and they must thereafter be maintained during the construction of the relevant phase of the authorised development.</p>		<p>role to play in approving such measures, including Natural England.</p>
R17	<p>Fencing and other means of enclosure 17.—(1) No phase of the authorised development is to commence until written details of all proposed permanent external</p>	<p>Fencing and other means of enclosure 17.—(1) No phase of the authorised development is to commence until written details of all proposed permanent external</p>	<p>EDC suggests minor amendments are made to paragraph (2) to correctly use the term "authorised development" and to remove the unnecessary reference to details being "from</p>

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	<p>fences, walls or other means of enclosure for that phase have been submitted to and approved in writing by the relevant planning authority.</p> <p>(2) The development must be carried out in accordance with the details as approved from time to time in writing by the relevant planning authority.</p>	<p>fences, walls or other means of enclosure for that phase have been submitted to and approved in writing by the relevant planning authority.</p> <p>(2) The authorised development must be carried out in accordance with the details as approved from time to time in writing by the relevant planning authority.</p>	<p>time to time" approved. The latter being unnecessary as it is addressed in requirement 1(3).</p>
R18	<p>Lighting details 18.—(1) Prior to the commencement of each phase of the authorised development, details of the proposed lighting visible from outside the authorised development in that phase must be submitted to and approved in writing by the relevant planning authority.</p> <p>(2) The approved lighting scheme must be implemented and maintained as approved from time to time during operation of the authorised development and no external lighting other than that approved under this requirement is to be installed.</p> <p>(3) The details submitted under this requirement must include details of any lighting on any gantry cranes.</p>	<p>Lighting details 18.—(1) Prior to the commencement of each phase of the authorised development, details of the proposed lighting visible from outside the authorised development—in that phase must be submitted to and approved in writing by the relevant planning authority.</p> <p>(2) The approved lighting scheme must be implemented and maintained as approved from time to time during operation of the authorised development and no external lighting other than that approved under this requirement is to be installed.</p> <p>(3) The details submitted under this requirement must include details of any lighting on any gantry cranes.</p>	<p>The reference to "approved from time to time" is unnecessary as this is dealt with in requirement 1(3).</p> <p>It is considered that insufficient information has been provided to justify the exclusion of lighting visible only from within the authorised development, from the scope of this requirement. In particular the effects of lighting on any onsite ecological mitigation or compensation are an important consideration.</p> <p>EDC notes the reference to details of the lighting of gantry cranes and would expect the environmental assessment of landscape and visual effects to fully assess the use during construction or operation of gantry cranes.</p>
R19	<p>Flood risk and surface water discharge 19.—(1) No phase of the authorised development which encroaches upon the existing floodplain of the [] is to be brought into use until the Flood Defence Works have been completed.</p>	<p>Flood risk and surface water discharge 19.—(1) No phase of the authorised development which encroaches upon the existing floodplain of the [] is to be brought into use until the Flood Defence Works have been completed.</p>	<p>Generally it is noted that this requirement appears to be in an embryonic and outdated form, noting in particular with respect to paragraph (3) that consents under section 23 Land Drainage Act 1991 would be issued by the "drainage board concerned" in relation to ordinary watercourses rather than Environment Agency, the latter of which is responsible,</p>

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	<p>(2) The Flood Defence Works are to be constructed as part of the authorised development and in advance of the operation of that phase unless another mitigation option approved by the Environment Agency has already been implemented.</p> <p>(3) The details of the Flood Defence Works must accord with the agreement reached with the Environment Agency and consented under section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(a) with consent number [] or any varied consents issued or variation to the works agreed in writing by the Environment Agency or the lead local flood authority.</p> <p>(4) The authorised development must be carried out in accordance with the mitigation measures detailed within the [Flood Risk Assessment] submitted with the application or be carried out in accordance with any variation to the those mitigation measures agreed in writing by the Environment Agency, the lead local flood authority or the approving body under Schedule 3 (sustainable drainage) to the Flood and Water Management Act 2010(a).</p> <p>(5) The elements of the authorised development which encroach or directly impact upon HS1 must not be commenced until such time as the detail of the relevant bridging structure and flow control structure have been submitted to and approved in writing by the relevant planning authority.</p>	<p>(2) The Flood Defence Works are to be constructed as part of the authorised development and in advance of the operation of that phase unless another mitigation option approved by the Environment Agency has already been implemented.</p> <p>(3) The details of the Flood Defence Works must accord with the agreement reached with the Environment Agency and consented under section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(a) with consent number [] or any varied consents issued or variation to the works agreed in writing by the Environment Agency or the lead local flood authority.</p> <p>(4) The authorised development must be carried out in accordance with the mitigation measures detailed within the [Flood Risk Assessment] submitted with the application or be carried out in accordance with any variation to the those mitigation measures agreed in writing by the Environment Agency, the lead local flood authority or the approving body under Schedule 3 (sustainable drainage) to the Flood and Water Management Act 2010(a).</p> <p>(5) The elements of the authorised development which encroach or directly impact upon HS1 must not be commenced until such time as the detail of the relevant</p>	<p>under the Environmental Permitting (England and Wales) Regulations 2016 for the issue of flood risk permits in relation to main rivers. EDC urges LRCH to carefully review and update this requirement in the light of the existing legal landscape.</p> <p>Generally the requirement ought to be clear about which body is ultimately responsible for discharging that part of the requirement, again this should reflect the existing legal landscape, see paragraphs (4), (5), (7)</p> <p>Paragraph (5) should require consultation with HS1.</p> <p>There is a conflict between paragraph (5), which requires details to be approved by the relevant planning authority and requirement (6) which passes the responsibility for approving variations to the approved details to the Environment Agency or LLFA, following consultation with the relevant planning authority.</p> <p>Paragraph (7) ought to be clear as to the process for the approval of the Surface Water Drainage Strategy rather than leave it to be prescribed by the Flow and Water Management Act 2010.</p> <p>In paragraphs (8) and (10) the references to "any variations to the details agreed in writing by the relevant planning authority" is unnecessary and ought to be deleted; this matter is dealt with by requirement 1(4). EDC</p>
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	<p>(6) The structures that fall within sub-paragraph (5) must be implemented as approved or in accordance with any variation to the approved details agreed in writing by the Environment Agency or lead local flood authority, following consultation with the relevant planning authority.</p> <p>(7) No phase of the authorised development is to commence until a surface water drainage scheme for that phase based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development in accordance with the Surface Water Drainage Strategy submitted with the application has been submitted to and approved in writing by the relevant planning authority or in accordance with such other approval process that may be prescribed under the Flood and Water Management Act 2010.</p> <p>(8) The scheme must subsequently be implemented in accordance with the approved details or in accordance with any variations to the details agreed in writing by the relevant planning authority prior to the completion of the authorised development.</p> <p>(9) Prior to the commencement of any element of the authorised development which directly affects a watercourse or floodplain, a construction working method statement for such element to cover all works in, over under or within [] metres of the top of the bank of either watercourse or their floodplains must be</p>	<p>bridging structure and flow control structure have been submitted to and approved in writing by the relevant planning authority.</p> <p>(6) The structures that fall within sub-paragraph (5) must be implemented as approved or in accordance with any variation to the approved details agreed in writing by the Environment Agency or lead local flood authority, following consultation with the relevant planning authority.</p> <p>(7) No phase of the authorised development is to commence until a surface water drainage scheme for that phase based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development in accordance with the Surface Water Drainage Strategy submitted with the application has been submitted to and approved in writing by the relevant planning authority, <u>following consultation with the lead local flood authority and the Environment Agency.</u> or in accordance with such other approval process that may be prescribed under the Flood and Water Management Act 2010.</p> <p>(8) The scheme must subsequently be implemented in accordance with the approved details or in accordance with any variations to the details agreed in writing by the relevant planning authority prior to the completion of the authorised development.</p>	<p>also reserves its position as to whether the scheme ought to be implemented sooner than the completion of the authorised development. Given the multi-phase nature of LRCH's proposal it is concerned that critical mitigation may never be implemented if later phases are not brought forward.</p>
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	<p>submitted to and agreed in writing by the relevant planning authority.</p> <p>(10) Thereafter the development must be carried out in accordance with the approved scheme and any subsequent amendments agreed in writing with the relevant planning authority.</p>	<p>(9) Prior to the commencement of any element of the authorised development which directly affects a watercourse or floodplain, a construction working method statement for such element to cover all works in, over under or within [] metres of the top of the bank of either watercourse or their floodplains must be submitted to and agreed in writing <u>approved</u> by the relevant planning authority.</p> <p>(10) Thereafter the development must be carried out in accordance with the approved scheme and any subsequent amendments agreed in writing with the relevant planning authority.</p>	
R20	<p>Contaminated land and groundwater</p> <p>20.—(1) No phase of the authorised development may commence until a written scheme applicable to that phase to deal with the ground conditions, including contamination of any land or groundwater, within the Order limits which is likely to cause significant harm to persons or pollution of controlled waters or the environment has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.</p> <p>(2) Remediation measures must be carried out in accordance with the approved scheme.</p>	<p>Contaminated land and groundwater</p> <p>20.—(1) No phase of the authorised development may commence until a written scheme applicable to that phase to deal with the ground conditions, including contamination of any land or groundwater, within the Order limits which is likely to cause significant harm to persons or pollution of controlled waters or the environment has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.</p>	<p>This requirement addresses contamination known to be present prior to the commencement of development. It does not deal with measures to address any unexpected contamination encountered during construction. Given the nature that CKD tipping and the deposition of river dredgings have taken place in the area (which is acknowledged in Chapter 5 of the PEIR) the requirement ought also to cater for appropriate mitigation to be employed where previously unknown contamination is encountered during construction or maintenance.</p>

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		<p>(2) Remediation measures must be carried out in accordance with the approved scheme.</p> <p><u>(3) If, during the construction of the authorised development, contamination not previously identified in the written scheme is found to be present, then, unless otherwise agreed by the relevant planning authority (following consultation with the Environment Agency), no further construction operations are to be carried out in the part of the site in which the contamination is identified until a remediation strategy is submitted to and approved by the relevant planning authority (following consultation with the Environment Agency).</u></p> <p><u>(4) The relevant part of the authorised development must be carried out in accordance with the details approved under paragraph (3).</u></p>	
R22	<p>Geology</p> <p>22.—(1) No phase of the authorised development is to commence until a written scheme of geological investigation has been submitted to and approved in writing by the relevant planning authority.</p> <p>(2) The scheme must set out criteria for the assessment of geological exposures of scientific interest for the purposes of deciding</p>		EDC and DBC support the principle of ensuring that geological conservation is given appropriate regard.

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	<p>whether a permanent geological conservation site should be created.</p> <p>(3) The authorised development must be carried out in accordance with the approved scheme.</p>		
R25	<p>Highway works</p> <p>25.—(1) No work to construct or alter any permanent or temporary means of access to a highway to be used by vehicular traffic may commence until written details of the design and layout of that means of access has been submitted to and approved by the relevant highway authority.</p> <p>(2) The highway accesses must be constructed in accordance with the details approved under sub-paragraph (1).</p> <p>(3) The undertaker must carry out stage 2, 3 and 4 road safety audits of the highway works authorised by this Order in accordance with GG 119 of the Department for Transport’s Design Manual for Roads and Bridges or in accordance with any standard that supersedes that Standard and must remedy to the reasonable satisfaction of the relevant highway authority any defects identified in any such road safety audits.</p>	<p>Highway works</p> <p>25.—(1) No work to construct or alter any permanent or temporary means of access to a highway to be used by vehicular traffic may commence until written details of the design and layout of that means of access has been submitted to and approved by the relevant <u>highway planning</u> authority, <u>following consultation with the relevant highway authority</u>.</p> <p>(2) The highway accesses must be constructed in accordance with the details approved under sub-paragraph (1).</p> <p>(3) The undertaker must carry out stage 2, 3 and 4 road safety audits of the highway works authorised by this Order in accordance with GG 119 of the Department for Transport’s Design Manual for Roads and Bridges or in accordance with any standard that supersedes that Standard and must remedy to the reasonable satisfaction of the relevant highway authority any defects identified in any such road safety audits.</p>	<p>This requirement appears to be inconsistent with article 18, which gives the LRCH the power to form accesses to the highway. Consent under article 18 is required to be given by the relevant planning authority, whereas approval under this requirement is to be given by the relevant highway authority.</p> <p>EDC and DBC would suggest that matters referred to in paragraph (1) ought to be for the approval of the relevant planning authority, following consultation with the relevant highway authority.</p>

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<p>R26</p>	<p>HGV traffic 26.—(1) Except in exceptional circumstances, HGV movements associated with the authorised development shall not be permitted between [] at the following highway junctions—</p> <p>(a) []; and</p> <p>(b) [].</p> <p>(2) The restrictions do not apply to the movement of HGVs on the strategic or local road network other than at the junctions referred to in sub-paragraph (1).</p>	<p>HGV traffic 26.—(1) Except in exceptional circumstances, HGV movements associated with the authorised development shall are not be permitted between [] <u>07:00 and 09:00 or between 16:00 and 19:00</u> at the following highway junctions—</p> <p>(a) <u>junctions 1a, 1b and 2 of the M25 motorway-[]; and</u></p> <p>(b) the A2 (T) Bean Junction ; and[]</p> <p><u>(c) Ebbsfleet junction.</u></p> <p>(2) The restrictions do not apply to the movement of HGVs on the strategic or local road network other than at the junctions referred to in sub-paragraph (1).</p>	<p>While the full results of transport and other assessments are awaited, EDC and DBC would anticipate that it would be necessary for HGV movements to avoid these junctions at peak times.</p>
<p>R27</p>	<p>Scheme of marking 27.—(1) No phase of the authorised development may commence until a scheme of marking for HGVs to identify vehicles engaged on work in the authorised development has, after consultation with the relevant planning authority, been submitted to and approved by the relevant highway authority.</p> <p>(2) The authorised development must be carried out in accordance with the approved scheme of marking.</p>	<p>Scheme of marking 27.—(1) No phase of the authorised development may commence until a scheme of marking for HGVs to identify vehicles engaged on work in the authorised development has, after consultation with the relevant planning authority, been submitted to and approved by the relevant <u>highway planning authority, following consultation with the relevant highway authority.</u></p>	<p>The approval of the scheme of marking should be for the relevant planning authority, following consultation with the relevant highway authority. This strikes an appropriate balance between the expertise of the highway authority coupled with accountability at a local level.</p>

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		(2) The authorised development must be carried out in accordance with the approved scheme of marking.	
R28	<p>Highway signage plans</p> <p>28.—(1) No phase of the authorised development may commence until plans for highway signage for that phase have been submitted to and approved by the relevant highway authority.</p> <p>(2) Unless otherwise agreed with the relevant highway authority, no signage may be installed other than in accordance with the plans referred to in sub-paragraph (1).</p>	<p>Highway signage plans</p> <p>28.—(1) No phase of the authorised development may commence until plans for highway signage for that phase have been submitted to and approved by the relevant highway authority.</p> <p>(2) Unless otherwise agreed with the relevant highway authority, No signage may be installed other than in accordance with the plans referred to in sub-paragraph (1).</p>	It is considered that the "tail piece" is unnecessary as requirement 1(3) already contains a formal mechanism for the approval of amended details.
R29	<p>Traffic Incident Management Plan</p> <p>29.—(1) No phase of the authorised development may commence until a Traffic Incident Management Plan for that phase has been submitted to and approved by the relevant highway authority.</p> <p>(2) The Traffic Incident Management Plan must set out measures to be taken in the event that either—</p> <p>(a) any part of the strategic or local road networks in the vicinity of the authorised development is temporarily closed; or</p> <p>(b) traffic from an incident elsewhere is diverted along one of the proposed construction routes for the authorised development.</p>	<p>Traffic Incident Management Plan</p> <p>29.—(1) No phase of the authorised development may commence until a Traffic Incident Management Plan for that phase has been submitted to and approved by the relevant highway authority, <u>following consultation with the relevant planning authority.</u></p> <p>(2) The Traffic Incident Management Plan must set out measures to be taken in the event that either—</p> <p>(a) any part of the strategic or local road networks in the vicinity of the authorised development is temporarily closed; or</p>	It is considered that the relevant planning authority ought to be consulted on the approval of the Traffic Incident Management Plan.

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	<p>(3) In the event of a traffic incident as referred to in sub-paragraph (2) during the construction works, the approved measures in the Traffic Incident Management Plan must be implemented.</p>	<p>(b) traffic from an incident elsewhere is diverted along one of the proposed construction routes for the authorised development.</p> <p>(3) In the event of a traffic incident as referred to in sub-paragraph (2) during the construction works, the approved measures in the Traffic Incident Management Plan must be implemented.</p>	
R30	<p>Residential amenity: information dissemination and complaints handling 30.—(1) The authorised development must not commence until a system for the provision of information to local residents and occupiers about the works and for the handling of complaints has, following consultation with the relevant highway authority, been submitted to and approved by the relevant planning authority.</p> <p>(2) The information to be disseminated must include general provision of information in relation to the phasing and carrying out of construction works for the authorised development and specifically in relation to activities on-site that may lead to nuisance.</p> <p>(3) The approved information dissemination and complaints handling systems must be implemented as approved throughout the construction of the authorised development, unless otherwise approved by the relevant planning authority.</p>	<p>Residential amenity: information dissemination and complaints handling 30.—(1) The authorised development must not commence until a system for the provision of information to local residents and occupiers about the works and for the handling of complaints has, following consultation with the relevant highway authority, been submitted to and approved by the relevant planning authority.</p> <p>(2) The information to be disseminated must include general provision of information in relation to the phasing and carrying out of construction works for the authorised development and specifically in relation to activities on-site that may lead to nuisance.</p> <p><u>(3) The system for handling complaints must include—</u></p> <p><u>(i) provision for the appointment of an independent person to investigate complaints and determine any appropriate remedial actions;</u></p>	<p>EDC and DBC are supportive of the principle of a requirement dealing with the dissemination of information to residents and complaints handling.</p> <p>EDC and DBC would like to see the requirement set out in further detail the scope of the complaints handling procedure together with a clear duty on LRCH to investigate complaints and take remedial action, to log complaints and actions to investigate and remediate them and for that log to be made available to a relevant planning authority or environmental health officers on request.</p>

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		<p><u>(ii) details of the system for logging complaints received, investigations undertaken and remedial actions carried out; and</u></p> <p><u>(iii) provision requiring the log to be provided to the relevant planning authority or environmental health officers on request.</u></p> <p>(43) The approved information dissemination and complaints handling systems must be implemented as approved throughout the construction of the authorised development, unless otherwise approved by the relevant planning authority.</p>	
Additional Requirements (non-exhaustive)			
N/A	Requirement for regulating worker accommodation	It is considered that it is essential that appropriate requirements are in place to regulate the design of any "related housing" and to ensure that such accommodation is used only for the purposes of accommodating workers.	
N/A	Transport	It is noted that LRCH greatly relies on the use of the river for the transportation during the construction and operation of the authorised development. EDC and DBC will want to be assured that there are enforceable measures securing appropriate sustainable transportation.	
N/A	Maintenance and replacement	EDC and DBC consider it essential that appropriate requirements are in place to regulate the effects of the maintenance of the authorised development under article 4 or its replacement under article 3(3), particularly in view of the wide power to maintain that LRCH seeks.	

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N/A	Decommissioning	EDC and DBC will want to be assured that the DCO makes appropriate provision for the decommissioning and restoration of the site should it cease operation.
Schedule 2		
Part 2 – Procedure for Discharge of Requirements		
Paragraph 31	<p>Applications made under requirements</p> <p>31. Where an application has been made to a relevant authority for any consent, agreement or approval required by a requirement included in Schedule 2 (requirements) to this Order, the relevant authority must give notice to the undertaker of its decision on the application within a period of 4 weeks beginning with—</p> <p>(a) where no further information is requested under paragraph 1(2), the day immediately following that on which the application is received by the authority;</p> <p>(b) where further information is requested under paragraph 1(2), the day immediately following that on which further information has been supplied by the undertaker; or</p> <p>(c) such longer period as may be agreed in writing by the undertaker and the relevant authority.</p> <p>(2) Where an application has been made under paragraph 1(1) the relevant authority may request such reasonable further information</p>	<p>It is noted that the time periods within which certain actions must be taken are very short. While it is acknowledged that the LRCH's proposal have been subject to a direction under section 35 of the Planning Act 2008, deeming it to be a nationally significant infrastructure project, LRCH's proposals are for a scheme the nature of which is unlike other projects that have progressed through Planning Act 2008 regime. Given the clear differences, it is apparent the precedent drafting presented (which does not follow the precedent drafted appended to PINS Advice Note 15) here is ill-suited to a complex scheme of a different nature to that usually consented under the 2008 Act.</p> <p>Given the limited detail of the LRCH proposals that are available to date EDC is concerned that much of the important detail will be left over to approval under requirements. There must be adequate time available to it for that detail to be properly scrutinised.</p> <p>The key concerns are:</p> <ul style="list-style-type: none"> • the relevant planning authority is afforded only 7 days to determine whether or not further information is

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	<p>from the undertaker as it considers is necessary to enable it to consider the application.</p> <p>(3) If the relevant authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the relevant authority must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.</p> <p>(4) If the requirement specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within 1 business day of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 1 business day of receipt of such a request and in any event within 21 business days of receipt of the application.</p> <p>(5) If the relevant authority does not give the notification mentioned in sub-paragraph (3) or (4) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.</p>		<p>required to determine an application. Given the complexity of the proposal and the commensurate length and complexity of the documents submitted for approval, combined with the need to draw upon internal and possibly external expertise, it will, in practice, be virtually impossible to adequately scrutinise the documentation to a standard that it is confident no further information is required, within 7 days of receipt.</p> <ul style="list-style-type: none"> • where additional information is provided, the 4 week determination period starts on the day following receipt of that information. The only provision dealing with the scenario whereby the additional information supplied is also insufficient, is that the undertaker may appeal if it disagrees with the relevant authority (see paragraph 33(1)(d)). • it is afforded only one business day to prepare and issue the consultation to a requirement consultee from receipt of the application. This affords a relevant authority no meaningful period of time to handle such consultations. • named consultees are given a maximum of 21 days within which to request any additional information. In practice this will be shorter given that such requests are required to be
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			<p>transmitted to the relevant planning authority which must in turn request the additional information within that 21 day period.</p> <ul style="list-style-type: none"> • it is prevented from requesting further information if requests are not made within the specified, and very short, time periods. • despite paragraph 32(2)(a) recognising the possibility that applications could be invalidly made, there is no provision terminating the "clock" on such a determination. <p>These short time periods and the limitations placed upon the relevant planning authority and other requirement consultees are inconsistent with EDC's duties under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 in respect of subsequent applications (see regulations 22 to 24).</p> <p>At a minimum EDC and DBC would require an 8 week determination period and sufficient time to seek the views of relevant consultees.</p> <p>Furthermore the term "business days" is not defined in either article 2, or paragraph 1 of Schedule 2, and it ought to be for clarity.</p>
Para 32	Fees		While EDC and DBC welcome the provision of a fee in connection with the processing of approvals under the operative provisions of the

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	<p>32.—(1) Where an application is made to a relevant planning authority for any consent, agreement or approval required by a requirement included in Schedule 2 to this Order, a fee must be paid to the relevant planning authority as follows—</p> <p>(a) a fee of £[]; or</p> <p>(b) such other fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission).</p> <p>(2) Any fee paid under this Schedule must be refunded to the undertaker within 4 weeks of—</p> <p>(a) the application being rejected as invalidly made; or</p> <p>(b) the relevant planning authority failing to determine the application within 4 weeks from the date on which it is received,</p> <p>unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application.</p>		<p>draft DCO and its requirements, it is concerned to ensure that the fee is commensurate to the resources that handling such a complex scheme will require. This concern is heightened by the very short time frames specified in paragraph 31.</p> <p>EDC and DBC is also concerned with paragraph (2)(b) which would require it to refund or credit against a future application, a fee paid in connection with an application where that application is considered to be invalid. EDC and DBC's public resources should not be expended reviewing deficient applications.</p>
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