

**THE NATIONAL GRID NEMO LINK LIMITED (PEGWELL BAY)  
COMPULSORY PURCHASE ORDER 2014**

**Statement of Case of the Acquiring Authority**

**1 Introduction**

- 1.1 This is the Statement of Case for Nemo Link Limited (company registration number 8169409 and referred to in this statement as '**the Acquiring Authority**') in respect of the making of the National Grid Nemo Link Limited (Pegwell Bay) Compulsory Purchase Order 2014 ('**the Order**').
- 1.2 The Order was made by the Acquiring Authority on 31 December 2014, when the acquiring authority was known as National Grid Nemo Link Limited. The Order was submitted to the Secretary of State for Energy and Climate Change for confirmation, and advertised in accordance with the relevant statutory requirements. Five objections to the confirmation of the Order were received by the Secretary of State,
- 1.3 The Secretary of State indicated by notice dated 6 May 2015 that a public local inquiry would be held into the confirmation of the order, and required Statements of Case to be submitted by the Acquiring Authority and any objectors wishing to appear at the inquiry within 6 weeks of the date of that notice (that is, by 17 June 2015). This is the Statement of Case of the Acquiring Authority.
- 1.4 The Order, if confirmed, will authorise the Acquiring Authority to purchase compulsorily rights in land in the vicinity of Pegwell Bay, near Ramsgate in Kent. The Acquiring Authority considers that these rights are required for the purpose of its undertaking, in order to enable it to construct an electricity transmission interconnector between the UK and Belgium, known as Nemo Link. Nemo Link is a joint project between the National Grid group and Elia, the Belgian electricity transmission network operator, which will give both countries improved reliability and access to electricity and sustainable generation. The construction of Nemo Link accords with European and national energy policy – Nemo Link having been designated by the European Commission as a 'Project of Common Interest' (PCI) under Regulation (EU) No 347/2013 on guidelines for trans-European energy infrastructure, referred to as '**the TEN-E Regulation**'. The development also complies with national and local planning policy, and has the benefit of planning permission granted by the local planning authorities, Thanet District Council and Dover District Council on 18 December and 19 December 2013, respectively. The offshore elements of Nemo Link also have the benefit of a marine licence from the Marine Management Organisation, and equivalent French and Belgian consents have also been obtained.
- 1.5 Accordingly, the Acquiring Authority considers that there is a compelling case in the public interest for the compulsory acquisition of rights in the Order land under Schedule 3 to the Electricity Act 1989, and that the Secretary of State should conclude that the Order should be confirmed.

## **2 Powers under which the Order is made**

2.1 The Order is made under section 10 of and Schedule 3 to the Electricity Act 1989.

2.2 Paragraph 1(1) of Schedule 3 provides that:

*the Secretary of State may authorise a licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of the activities which the licence holder is authorised by the licence to carry on.*

2.3 Paragraph 1(2) makes it clear that licence holders are authorised to acquire rights in land as well as the title to land, and that this can be done by creating new rights as well as by acquiring existing rights.

2.4 The Acquiring Authority was granted an interconnector licence under section 6(1)(e) of the Electricity Act 1989 on 8 March 2013 from Ofgem.

2.5 The activity which the Acquiring Authority is authorised to carry out is “to participate in the operation of the Nemo Link, an electricity interconnector between Great Britain and Belgium connecting at Richborough 400kV substation in Great Britain”. The interconnector licence granted to the Acquiring Authority incorporates a standard condition which relates to compulsory purchase:

*The powers and rights conferred by or under the provisions of Schedule 3 to the Act (Compulsory Acquisition of Land etc. by Licence Holders) shall have effect in relation to the licensee to enable the licensee to carry on the activities authorised by this licence and which relate to:*

- (a) the construction or extension of the licensee’s interconnector; or*
- (b) activities connected with the construction or extension of the licensee’s interconnector or connected with the operation of the licensee’s interconnector.*

2.6 The Acquiring Authority may therefore be authorised to purchase compulsorily land or rights required to enable the Acquiring Authority to carry on the activities authorised by its licence and in particular to purchase land or rights required to enable it to construct or extend the Nemo Link interconnector or for activities connected with the interconnector’s construction, extension or operation. All of the rights in land proposed to be acquired under the Order are needed for these purposes.

## **3 Nemo Link**

3.1 The Nemo Link is a proposed high voltage direct current (‘HVDC’) electricity transmission interconnector with an approximate capacity of 1,000 megawatts which will allow the transfer of electrical power via subsea cables between the electricity transmission networks of Great Britain (at Richborough) and Belgium (at Herdersbrug) in order to facilitate trading of electricity between the two markets in either direction.

- 3.2 The Nemo Link is being developed by the Acquiring Authority, which is a joint venture between the National Grid group, and Elia System Operator NV/SA ('Elia'). National Grid plc, through its subsidiaries, owns and operates gas and electricity infrastructure in the UK. One of National Grid plc's subsidiary companies, National Grid Electricity Transmission plc ('NGET'), separately owns the electricity transmission network in England and Wales and operates the high voltage electricity transmission system for the whole of Great Britain. Elia is the national electricity transmission operator in Belgium. National Grid plc's subsidiary, National Grid Interconnector Holdings Limited, and Elia each own 50% of the shares in the Acquiring Authority. This joint venture agreement was completed between the two shareholders in February 2015, at which point the Acquiring Authority changed its name to Nemo Link Limited. The Acquiring Authority will develop, construct, own, and maintain the Nemo Link, and will jointly operate it with Elia after commissioning has been completed (under Belgian law, Elia is required to operate the interconnector in Belgium).
- 3.3 The Nemo Link will consist of subsea and underground cables connected to a converter station in each country, thus allowing electricity to flow in either direction between the two countries' electricity transmission networks, depending on the supply and demand in each country. Using subsea cables, the Nemo Link will provide interconnection between two High Voltage Alternating Current ('HVAC') electricity transmission systems currently separated by the North Sea. Using HVDC technology enables the Nemo Link to avoid the need to synchronise the two interconnected AC networks. The proposed subsea cables would run from Pegwell Bay near Ramsgate in Kent to Zeebrugge in Belgium, passing through English, French and Belgian waters. Ofgem's view, as set out in its decision on the funding regime for Nemo Link, is that the Nemo Link will "provide social welfare benefits resulting from trade between the GB and Belgian markets. [Ofgem] also anticipate wider positive impacts (such as a small increase in competition and enhanced security of supply) that will benefit consumers, in addition to those captured by trade benefits".
- 3.4 The interconnector infrastructure in the UK will comprise:
- Two HVDC subsea cables between the landfall and the low water mark
  - Two HVDC onshore underground cables from the converter station to the coast where they will be joined to the subsea HVDC cables
  - Fibre optic cables installed with the onshore and subsea HVDC cables for the purposes of operational telemetry and communications
  - An HVDC converter station on part of the site of the former Richborough Power Station which would convert the HVDC power used in the link to HVAC for use in the national transmission system and vice-versa
  - A connection bay at the Richborough 400 kV electricity substation on part of the site of the former Richborough Power Station
  - Three 400kV HVAC underground electricity land cables to connect the above substation to the HVDC converter station and up to two telecommunications cables.

#### *Onshore cables*

- 3.5 The UK onshore element of the Nemo Link, in relation to which compulsory purchase powers are being sought under the Order, consists of the route of underground cables which will run between the mean low water mark at Pegwell Bay and a converter station on the site of the former Richborough Power Station.

3.6 The HVDC onshore cables will be approximately 15cm in diameter. The fibre optic cables will be installed with the onshore underground cables and will be approximately 5cm in diameter. The onshore underground cables will be installed along the length of the route in three distinct ways:

- Standard trenching;
- Surface laid with capping; and
- Horizontal directional drilling.

#### *Offshore cables*

3.7 The Nemo Link will include two subsea HVDC cables between the landfall points at Pegwell Bay to mean low water and continuing to Zeebrugge. The cables will be rated between 350kV and 400kV. The size of the subsea cables will also be approximately 15cm in diameter.

3.8 The subsea cables will be bundled together in the same trench and jointed to the HVDC onshore underground cables in a transition joint pit ('TJP'). The approximate distance between Low Water and the TJP will be 1,800m.

3.9 The TJP will be an excavated pit (15m long x 5m wide x 2.5m deep) with a reinforced concrete plinth laid in its base. The cables will be jointed on the plinth and once this is undertaken, the excavation will be backfilled to original ground levels. On completion of works, there will not be any visible sign of the TJP on the surface.

3.10 The Pegwell Bay foreshore in which the subsea cables are to be installed is owned by Thanet District Council or the National Trust (who have leased part to the Kent Wildlife Trust). As the cables continue seaward they will be installed on the seabed, which is owned by the Crown Estate. The Order provides for the compulsory purchase of rights over the foreshore owned by Thanet District Council and the National Trust, but not over the seabed owned by the Crown Estate. A licence over the seabed is being negotiated between the Acquiring Authority and the Crown Estate.

#### *Converter Station*

3.11 The converter station will convert the electric current between direct current ('DC'), which is used for the subsea cables, and alternating current ('AC'), which is used by the electricity transmission system.

3.12 The converter station will require a main building which will be constructed at the former Richborough Power Station site. It will also contain the equipment necessary for the conversion between DC and AC, transformers for switching to the correct voltage rating, filter banks and associated switch gear. The converter station also requires 'valve halls' and other buildings to enclose the equipment. The main building will comprise 3 main parts and in total will be approximately 149m long by 93m wide with a maximum height of approximately 30.3m. AC connection gantries of approximately 15m in height will also be required.

3.13 There will also be a service building and a storage building. These buildings will each be approximately 27.4m long, 13.6m wide and 14.5m high, and attached to the main building.

3.14 A National Grid group company, National Grid Holdings One PLC, has entered into a lease with Richborough A Limited, the freeholder of the converter station site, and will enter into a

sub-lease with the Acquiring Authority, granting the Acquiring Authority the necessary interest and rights to construct and operate the converter station.

### *Substation*

- 3.15 A new 400kV Gas Insulated Switchgear (**GIS**) substation is also needed at Richborough to connect the Nemo Link interconnector to the GB electricity transmission system. This will be owned, constructed and operated by NGET. The substation will be within a separately fenced compound adjacent to the proposed converter station to the west. The proposed substation will occupy a footprint of approximately 2.65 ha and will contain a combination of indoor and outdoor electrical equipment.
- 3.16 The substation will include a GIS Hall containing switchgear outdoor gas insulated busbar, overhead line gantries, two Super Grid Transformers, and equipment used to regulate and stabilise transmission voltages.
- 3.17 The GIS Hall will be approximately 52.2m long, 21.5m wide and 15m high and clad in a similar manner to the converter station. The maximum height of the outdoor electrical equipment will be approximately 12.7m.
- 3.18 A voluntary agreement has been reached between NGET and Richborough A Limited, granting NGET the necessary rights to construct and operate the substation.

## **4 The Order Land**

- 4.1 The Order Land covers a site of approximately 335,302 square metres, encompassing 1.8km of subsea underground cable, and 2.3km of onshore underground cable. The route of the subsea cables runs through the foreshore area of Pegwell Bay, between the average low water mark and landfall. The route of the subsea cables to Pegwell Bay has been confirmed by geophysical and geotechnical survey. The two subsea cables will be installed in a single trench, from mean low water to the TJP. The subsea cables will be approximately 15cm in diameter, installed in a trench approximately 1-2m wide and buried to a target depth of between 1m and 3m. The precise depth of burial depends on the nature of the material encountered, with the shallowest depth applying to the most difficult material to excavate. In this area, the cables will be laid on a concrete base, which will be capped to form a box.
- 4.2 The two onshore underground cables (each approximately 15cm in diameter) will be installed in a trench approximately 1m wide and 1m deep, except where it runs through parcels 8 to 12, where the cables will be laid in a concrete tray on the surface, in line with advice from the Environment Agency, to avoid the risk of disturbing any potentially contaminated ground of this former landfill site and opening up potential contamination pathways during cable installation. Where the cables are laid on the surface, the tray will be covered with concrete, capped with chalk and regraded. The Order Land is a strip approximately 10m wide to accommodate the trenches or tray, and working room. Fibre optic cable will also be installed for control and communication along the link.
- 4.3 The onshore underground cables route between the subsea cables' landfall at Pegwell Bay and the converter station was identified taking account of the following factors in particular:

- Designated sites of nature conservation;
- Presence of protected species;
- Quality of saltmarsh habitat;
- Proximity to residential areas;
- Archaeology;
- Highways;
- Planning proposals;
- Watercourses;
- Risk of encountering contamination;
- Utilities and services; and
- Land use.

4.4 Section 3.0 of the Environmental Statement accompanying the planning applications summarises the options and alternatives considered for the Nemo Link, and the full details are set out in the “Nemo Link: Review of Options Report at Appendix 3.1 to that Statement. The options considered included 28 potential convertor station sites along the North Sea and English Channel coast. These led to a shortlist of 3 sites, from which Richborough was selected. Six alternative cable landfall sites were then considered, as set out in that Report, from which the site to the south of the petrol station located at the west of Pegwell Bay on the A256 was selected. The Order Land links the landfall site with the convertor stations. Four alternative routes for that link were considered, as summarised in the Environment Statement and set out in more detail in the Review of options Report. The alternatives considered were:

- 1) routing along the A256,
- 2) routing on the landward side of the A256 within St Augustine’s golf course,
- 3) routing further inland, across the golf course to Cottington Road and around Ebbsfleet Lane;
- 4) routing on the coastal side of the existing cycle track which runs parallel to the A256 Sandwich Road, through Pegwell Bay Country Park, then into Stonelees Nature Reserve and BayPoint sports complex (the Order Land).

4.5 Routing along Sandwich Road (A256) offered the shortest route and avoided potential direct effects on Pegwell Bay nature designations including Sandwich Bay Special Area of Conservation (SAC), Sandwich Bay Special Protection Area (SPA) and Ramsar site, Sandwich Bay to Hacklinge Marshes Site of Special Scientific Interest (SSSI) and Sandwich and Pegwell Bay National Nature Reserve (NNR). The road also comprises made ground, so trenching would be unlikely to impact upon archaeological features as these would previously have been unearthed. A utilities search demonstrated that the ground beneath the road is already congested with electricity and telecommunications cables and foul water and drinking water pipelines. Thanet Offshore Wind Farm cables have also recently been routed beneath Sandwich Road from its landfall north of Pegwell Bay Service Station to where it connects to a substation on the former Richborough Power Station site. There was therefore considered to be insufficient space to accommodate the two HVDC cables along the A256.

4.6 The verge on the landward side of the A256 within St Augustine’s Golf Course offered an alternative routing option. Potential direct effects on designated sites of nature conservation would be avoided. However installation would cause disruption to the use of land for golf. The

owners of the golf club made it clear to the Acquiring Authority that they had development plans to raise and remodel the golf course with an unknown overburden, which make this option unsuitable for the burial of the HVDC cables. The onshore underground cables for each project are designed to function efficiently within a series of parameters including the known depth of burial. Where land above the cables would change substantially, this would affect the capacity or rating of the cables, limiting the effectiveness of the Nemo Link. If the cables are buried deep below ground it can be very difficult to repair them in the event of failure.

- 4.7 Routing further inland, directly across the Golf Course to Cottington Road and around Ebbsfleet Lane would mean a longer route but would result in fewer direct effects on the present golf course. However, the owners of this club also indicated that they too planned to improve the site, including an, as yet, undefined overburden, which would make the maintenance of the buried cables more costly and difficult. There are also 'pinch points' around which it would be difficult to route at St Augustine's Golf Course Club House, Weatherlees Hill Wastewater Treatment Works and the East Kent Access Road.
- 4.8 No feasible alternative route to the landward side of the A256 was found.
- 4.9 The preferred route of the HVDC onshore underground cables (which is comprised in the Order land) was therefore chosen to run on the coastal side of an existing footpath and cycleway which runs parallel to the A256 Sandwich Road, through Pegwell Bay Country Park. In this area the Order Land is predominately rough and scrub land. The route then runs through rough land in the Stonelees Nature Reserve and into the BayPoint sports complex. From the sports complex, the cables will be routed by horizontal directional drilling beneath the highway verge of and the A256, the beneath a small area of trees to the west of the A256 and an anaerobic digestion plant, finally passing below Minster Stream, and a compartment of Hacklinge Marshes SSSI before terminating in the converter station. This route offers a short, technically and environmentally acceptable route which minimised disturbance to local residents, landowners and environmental features.
- 4.10 The converter station itself is on the site of the former Richborough Power Station, which is currently derelict.
- 4.11 The Order Land includes 24 plots of land. The Order Land is in a variety of ownerships and 6 of the plots are unregistered land, 3 of which are in unknown ownership. The largest landowners are Thanet District Council and Kent County Council, neither of which have objected to the confirmation of the Order.
- 4.12 Plots 1 to 13, and 20 to 24 of the Order Land (approximately 331,125 square metres in total) fall within the administrative boundary of Thanet District Council. Plots 14 to 19 (approximately 4,177 square metres in total) are within the administrative boundary of Dover District Council.
- 4.13 Much of the Order Land is designated for its conservation status: running through part of the Thanet Coast and Sandwich Bay SPA and Ramsar site; the Sandwich Bay SAC; the Thanet Coast SAC; the Sandwich Bay to Hacklinge Marshes SSSI; and the Sandwich and Pegwell National Nature Reserve. Natural England was consulted on the Nemo Link proposals, when the Acquiring Authority applied for planning permission and a marine licence, and did not object to the proposals.

4.14 The Order Land generally comprises the following land:

<b>Plot</b>	<b>Size (approximate)</b>	<b>Description</b>	<b>Owner</b>
1	281,128 square metres	Pegwell Bay foreshore to the east of Sandwich Road, Ramsgate	Thanet District Council
2	4,657 square metres	Pegwell Bay foreshore to the east of Sandwich Road, Ramsgate	The National Trust
3	19,044 square metres	Pegwell Bay foreshore to the east of Sandwich Road, Ramsgate	The National Trust (freehold) Kent Wildlife Trust (leasehold)
4	1,204 square metres	Pegwell Bay foreshore to the south east of Sandwich Road, Ramsgate	Kent County Council
5	1 square metre	Foreshore to the east of Sandwich Road, Ramsgate	Thanet District Council
6	85 square metres	Foreshore to the east of Sandwich Road, Ramsgate	Thanet District Council
7	2,541 square metres	Foreshore and cycle path to the southern side of Sandwich Road, Ramsgate	Thanet District Council
8	116 square metres	Highway verge to the southern side of Sandwich Road, Ramsgate	Kent County Council
9	561 square metres	Scrubland to the south east of Sandwich Road, Ramsgate	Kent County Council
10	164 square metres	Scrubland to the east of Sandwich Road, Ramsgate	Kent County Council
11	12,543 square metres	Footpaths and overgrown scrub land within Pegwell Bay Country Park	Kent County Council
12	3,153 square metres	Overgrown scrub land within Pegwell Bay Country Park	Kent County Council
13	3,319 square metres	Rough land within Stonelees Nature Reserve	Kent Wildlife Trust

<b>Plot</b>	<b>Size (approximate)</b>	<b>Description</b>	<b>Owner</b>
14	39 square metres	Hedgerow at Escana, Ramsgate Road, Sandwich	Unknown
15	1,824 square metres	Part of sports ground at Escana, Ramsgate Road, Sandwich	The Bay Point Club Limited
16	1,258 square metres	Part of sports ground at Escana, Ramsgate Road, Sandwich	The Bay Point Club Limited
17	44 square metres	Highway verge to the east side of Ebbsfleet Roundabout, Sandwich	Kent County Council
18	74 square metres	Access track to east of Ebbsfleet Roundabout, Sandwich	Unknown
19	938 square metres	Access road and verge to the east of Ebbsfleet Roundabout, Sandwich	Kent County Council
20	739 square metres	Highway and subsoil at Ebbsfleet Roundabout, Sandwich	Kent County Council
21	184 square metres	Woodland to the west of Ebbsfleet Lane, Ramsgate	Alexandra and James Pace
22	699 square metres	Anaerobic digester site to the northwest of Ramsgate Road, Sandwich	Alexandra and James Pace (freehold) St Nicholas Court Farms Limited (leasehold)
23	72 square metres	Minster Stream	Unknown
24	917 square metres	Grassland in Hacklinge Marshes SSSI	Richborough Estates Limited

## **5 Rights sought under the Order**

- 5.1 Only the onshore cable element of Nemo Link, and the offshore cables to the landward side of mean low water are included in the Order Land. The site of the former Richborough Power Station is not included in the Order Land as the required rights have already been negotiated over this land by National Grid, and will be made available to the Acquiring Authority. Land

below the mean low water mark is also outside of the scope of the Order Land as it is owned by the Crown Estate. Negotiations are underway with the Crown Estate for a licence to place the cables on the sea bed up to 12 nautical miles from low water.

- 5.2 As the onshore cables are to run underground, it is not necessary for the Acquiring Authority to acquire the Order Land outright. Accordingly, in order to minimise impacts on the Order Land, the Acquiring Authority is seeking one of two types of right in the Order Land: one where the infrastructure is to be permanently located or permanent access rights are needed (defined as an 'interconnector right' in the Order), and the other where the land is also to be used as a worksite (defined as a 'work compound right' in the Order).

*Interconnector Right*

- 5.3 This right is sought over plots 1 to 11, 13 to 15, and 17 to 24. It would give the Acquiring Authority all rights necessary:

- 1) to place new electricity interconnector infrastructure within the Order Land and thereafter retain, inspect, maintain, repair, alter, renew, replace, remove and use the electricity interconnector infrastructure;
- 2) to fell, trim and lop all trees, bushes and other vegetation which obstructs or interferes with the exercise of those rights;
- 3) to access the Order Land and access adjoining land in connection with the electricity interconnector infrastructure; and
- 4) to protect the electricity interconnector infrastructure; prevent interference with, damage or injury to the electricity interconnector infrastructure or its operation, or interference with or obstruction of access to it.

*Work Compound Right*

- 5.4 This right is sought over plots 12 and 16 only, which are proposed to be used as work compounds for the duration of construction works, as well as for the permanent infrastructure. It would give the Acquiring Authority all rights necessary:

- 1) to use the Order Land as a working and compound area for construction, inspection, maintenance, repair, alteration, renewal, replacement and removal of the electricity interconnector infrastructure;
- 2) to prevent any works on or use of the Order Land which may interfere with or damage the electricity interconnector infrastructure or which interferes with or obstructs access to the interconnector infrastructure;
- 3) to fell, trim and lop all trees, bushes and other vegetation which obstructs or interferes with the exercise of those rights;
- 4) to access the Order Land and access adjoining land in connection with the electricity interconnector infrastructure; and
- 5) to protect the electricity interconnector infrastructure and prevent interference with, damage or injury to the electricity interconnector infrastructure or its operation, or interference with or obstruction of access to it.

## 6 The Acquiring Authority's Approach to Acquiring Rights in Land by Agreement

- 6.1 The Acquiring Authority has been negotiating with the owners and occupiers of the land over which rights are required under the Order, to seek to agree acquisition or options to make acquisitions on a voluntary basis. It will continue to negotiate in parallel with seeking the confirmation of the Order, which will be used only as a last resort in order to ensure the deliverability of Nemo Link.
- 6.2 The National Grid group has already acquired a lease over the land comprising the site of the former Richborough Power Station, and will sub-lease the necessary rights to the Acquiring Authority.
- 6.3 The Acquiring Authority has attempted to negotiate voluntary agreements with the known landowners providing for the necessary rights to be granted to the Acquiring Authority. These include negotiations with the landowners who have objected to the confirmation of the Order. However while heads of terms have been agreed with Thanet District Council and Richborough Estates Limited, and agreed in principle with Kent County Council, no formal agreements have yet been reached. The Acquiring Authority will update this position prior to the inquiry.
- 6.4 Whilst the Acquiring Authority will continue to seek to reach an agreement with landowners it is considered necessary to also have compulsory acquisition powers over the Order Land for the following reasons:
- 1) The compulsory powers provide a fallback should the voluntary agreements fail and cover instances where the owner is unwilling to grant the relevant land interest or right. As noted in CLG's 2010 Guidance related to procedures for compulsory acquisition<sup>1</sup>, it is not always practicable to acquire by agreement all the interests needed for a linear scheme. This is particularly the case for Nemo Link where 3 parcels are in unknown ownership, and 3 others are unregistered and so unidentified interests may exist.
  - 2) As noted in paragraph 24 of ODPM Circular 06/2004 on Compulsory Purchase and the Crichel Down Rules, comprehensive compulsory purchase powers encourage affected landowners to "enter more readily into serious negotiations" and, importantly, to conduct negotiations in the context of the ultimate compulsory acquisition process with a view to reaching a deal.
  - 3) Including all interests in a compulsory purchase order enables all of the required rights to be obtained in the same way and through one process, potentially by General Vesting Declaration ('GVD').
  - 4) Compulsory acquisition by GVD is effective against all interests in the land, so avoiding the risk of the landowner failing to disclose a relevant interest, which could give rise to a ransom situation; the GVD is effective even against interests that may be unknown to the landowner and the promoter of the scheme.

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<sup>1</sup> Although the guidance relates directly to compulsory acquisition procedures under the Planning Act 2008, there are no relevant differences in relation to this particular issue, which relates to the nature of a project (i.e., long and linear) rather than its consenting route.

- 5) Compulsory powers are more readily enforceable, so reducing additional risk, cost and delay.
- 6.5 Further, the Order Land includes 3 parcels of land where, after using all reasonable endeavours, the ownership remains unknown, and a further 3 where ownership is presumed but unregistered. For these parcels, there is nobody from whom the Acquiring Authority can purchase the necessary rights voluntarily. It is necessary to seek to acquire the rights over this land compulsorily to ensure that Nemo Link can be delivered.
- 6.6 The Acquiring Authority will produce evidence to demonstrate the efforts that have been made to acquire the necessary rights voluntarily.

## **7 The Purpose of the Order and the Need for Compulsory Purchase powers**

7.1 The purpose of the Order is to enable the comprehensive implementation of Nemo Link, an interconnector between the United Kingdom and Belgium's national electricity transmission systems. As set out in its decision on the regulatory regime for Nemo Link, electricity interconnection is considered by Ofgem to have many benefits:

- improving competition by creating larger effective markets, thereby making electricity market prices more efficient;
- making supply more secure by increasing access to generation in periods of system or energy shortage;
- making generation dispatch more efficient by providing access to the most efficient units over a larger area. This can also help to reduce the greenhouse gas emissions; and
- improving integration between variable generation and demand (for example, wind and solar renewable energy generation) by harnessing the diversity between output in different locations and improving access to the balancing services and other production flexibility needed to maintain security and quality of supply.

7.2 The delivery of the Nemo Link electrical interconnector infrastructure is strongly in the public interest, on two principal grounds:

- 7.2.1 Increasing energy from renewable sources and reducing greenhouse gas emissions; and
- 7.2.2 Ensuring the competitiveness, sustainability and security of Europe's energy supply.

### *Renewable Energy*

7.3 Nemo Link will support the domestic and European objective of reaching renewable and climate change targets. The UK has two key environmental targets relating to renewable energy and greenhouse gas emissions. First, the European Union's 20/20/20 vision for energy sets a target of 20% of European energy to come from renewable sources by 2020. The Renewable Energy Strategy published in July 2009 identified that for the UK to meet its share of the EU target, 30% of the UK's electricity would have to come from renewable sources by 2020. The second target is incorporated in the Climate Change Act 2008 and sets a target of

an 80% reduction in UK greenhouse gas emissions from 1990 levels by 2050. This equates to a 34% reduction in greenhouse gas emissions by 2020 as specified by the Climate Change Committee.

- 7.4 The UK Government's vision to ensure safe, secure and affordable supplies for the future involves the construction of a new fleet of nuclear generation, rapid expansion of renewable energy (mainly through offshore wind) and the development of interconnector projects. To meet the targets set out at 6.3 and the targets in the European Commission's 3<sup>rd</sup> energy package which states that 15% of the UK's demand for energy needs to be generated from the renewable sources by 2020, the UK will need an energy portfolio of 34% wind generating capacity by 2020. This is a dramatic increase on the 4% wind generating capacity which the UK has today.
- 7.5 In both the UK and Belgium more electricity is being generated from renewable sources, including onshore and offshore wind. The vast majority of the UK's increased wind generation capacity is expected to be obtained from the Crown Estate's licensed Round 3 Development Zones which have the aim of installing 25GW of offshore wind capacity. By its nature, wind generation is intermittent, and interconnectors such as the Nemo Link support an increase in wind generating capacity by allowing fluctuations in supply and demand to be managed effectively. It does this by enabling renewable energy from one geographical market to be used in another market: if too much renewable energy is generated in one region, the energy that is surplus to requirements can easily be transmitted through the interconnector to a region where the level of demand is higher. This will support the European renewable and climate change targets. It will also reduce the demand for non-renewable energy sources.
- 7.6 In December 2009 the UK and Belgium both became signatories to the North Seas Countries Offshore Grid Initiative, with the objective of co-ordinating offshore wind energy and infrastructure developments in the North Sea. Interconnection between countries is a prerequisite to achieving this co-ordination.

### *Europe's Energy Supply*

- 7.7 Nemo Link also supports European energy supply policies. The European Commission strategy document "Europe 2020" recognises the urgent need to upgrade Europe's energy infrastructure and to interconnect networks across borders to meet the EU's core energy policy objectives of competitiveness, sustainability and security of supply. The particular need to transport and balance energy from renewable sources is also recognised in European policy. Despite the existence of common rules for the internal market in electricity, the European Commission recognises that the internal market remains fragmented due to insufficient interconnections between national energy networks.
- 7.8 Nemo Link is pro-competitive, as it will enhance cross-border electricity flows in Europe. It will increase electricity interconnections across the EU, by directly linking the electricity markets in Great Britain and Belgium without the need to make use of any other countries' electricity transmission networks. Interconnectors play a crucial role in the European Union's strategy to achieve a competitive and integrated European energy market. Greater opportunities for trading with wider European energy markets will contribute to downward pressure on wholesale electricity prices which will create greater liquidity in the national markets and increase the availability of traded energy. Nemo Link will make a significant contribution to the European Commission's key policy objective of creating a single energy market by facilitating

the integration of electricity markets in GB and Belgium. Nemo Link therefore contributes to achieving the European Commission's objectives for a single EU electricity market.

- 7.9 Security of supply is also another major rationale for the development of Nemo Link. By enabling participants in the GB and Belgian markets to trade electricity, Nemo Link will increase security and diversify both countries' electricity supply. The trading of electricity between GB and Belgium will support the electricity security needs of both countries and also wider within Europe. Greater interconnection between GB and mainland Europe provides the opportunity for the creation of new possibilities (between GB – Belgium).
- 7.10 Accordingly, the development of Nemo Link supports the European Commission's requirement for a wider electricity market within Europe, with electricity being traded throughout Europe and utilized more efficiently netting demand with supply. This should also see an overall reduction in the cost of wholesale electricity prices which would be reflected in the cost of electricity for consumers across Europe.
- 7.11 Having identified that a modern infrastructure with adequate interconnectors and reliable networks is crucial for an integrated energy market where consumers get the best value for their money, on 21 December 2013 the European Commission published its first list of 'Projects of Common Interest' (PCI) under Regulation (EU) No 347/2013 on guidelines for trans-European energy infrastructure, referred to as '**the TEN-E Regulation**'. Nemo Link is one of those PCIs. Under the TEN-E Regulation, designated PCIs are considered to be necessary to take forward EU energy networks policy and should be given the most rapid consideration in the permitting process that is legally possible. Consequently PCIs are to benefit from faster and more efficient permit granting procedures, and improved regulatory treatment and potential access to financial support from the Connecting Europe Facility. In order to qualify as a PCI, a project must:
- Deliver significant benefits for at least two European Member States,
  - Further support market integration and competition,
  - Enhance security of energy supply, and
  - Contribute to reducing CO2 emissions.
- 7.12 In 2002 the EU Council set a target for all Member States to have electricity interconnection capacity equivalent to at least 10% of their installed production capacity by 2005. The UK is still failing to meet this target, with current total interconnection capacity of 3.5GW representing just over 4% of the 86GW of installed generation capacity.
- 7.13 The proposed Nemo Link is one of several interconnector projects currently under development. Taking into account these other projects, the Nemo Link will contribute 15% of a total interconnection capacity of 5.4GW for the UK which will represent 6.4% of the UK's installed generation capacity. As such it will provide an important means of responding to the intermittency of wind generation, of responding to periods when wind generation is greater than electricity demand, of helping to meet the challenge of retiring fossil fuel and nuclear plants in the UK and of supporting neighbouring wholesale and supply markets.

## 8 Policy support

- 8.1 The Nemo Link project is supported by European, national and local policy, and has been approved by the local planning authorities.

### *Planning Application*

- 8.2 Hybrid applications for planning permission under the Town and Country Planning Act 1990 for all the UK onshore elements of Nemo Link were submitted to Thanet District Council and Dover District Council. The applications were hybrid in that they were for outline permission for the development of the converter station and substation, and for full permission in relation to the underground cables. In other words, full permission was sought for the development on the Order Land.

- 8.3 The applications were approved on 18 December 2013 by Thanet District Council (reference number F/TH/13/0760) and 19 December 2013 by Dover District Council (reference number 13/00759)<sup>2</sup>. Accordingly, there is full planning permission for the use of the Order Land for Nemo Link.

- 8.4 Documents submitted in support of the applications included:

- 1) Environmental Statement – this includes a description of the proposed Nemo Link Project, an outline of the alternatives considered – including an appendix setting this out in detail, a description of the likely significant effects on the environment and a description of measures envisaged to prevent, reduce or where possible off-set any significant adverse impacts on the environment.
- 2) Planning Statement - provides the planning context and background. It also provides the details of the proposed Nemo Link Project and sets out how it fits with local, regional and national planning policy.
- 3) Design and Access statement - Section 62 of the Town and Country Planning Act 1990 (as amended) requires a Design and Access Statement to be submitted with most forms of planning applications. This statement sets out the design and access principles and concept of the proposed converter station and substation development components including an outline as to how these are reflected in the development layout, visual appearance and landscaping proposals.
- 4) Arboricultural Survey - details the arboricultural implications of development, subsequent mitigation recommendations and protective measures.
- 5) Sustainability appraisal report - sustainability appraisal has been a requirement in the development of certain plans and programmes in the UK since the enactment of the Planning and Compulsory Purchase Act (2004) and its use was extended in order to meet the requirements of Dover District Council. This report is drafted to describe what “sustainability” means with respect to the proposed works and to demonstrate how it has been built into the design of Nemo Link.

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<sup>2</sup> Non-material amendments were subsequently made to the outline permissions, but not to the full permissions for the installation of the cables on the Order land.

- 8.5 A full assessment of European, National and Local policy can be found in the planning statement that accompanied the planning applications. A brief summary of some of the relevant policies is set out below.

#### *European Policy*

- 8.6 As noted above, under the TEN-E Regulation, PCIs are considered to be necessary to implement the EU's energy priority corridors and areas. As Nemo Link has been designated as a PCI, its construction is considered to be necessary to implement EU energy policy.
- 8.7 On 26 March 2010, the European Council agreed to the Commission's proposal to launch a new strategy "Europe 2020". One of the priorities of the Europe 2020 strategy is sustainable growth to be achieved by promoting a more resource efficient, greener and more competitive economy. The strategy put energy infrastructures at the forefront as part of the flagship initiative "Resource efficient Europe", by underlining the need to urgently upgrade Europe's networks, interconnecting them at the continental level, in particular to integrate renewable energy sources.
- 8.8 The Commission Communication "*Energy infrastructure priorities for 2020 and beyond – A Blueprint for an integrated European energy network*", followed by the Transport, Telecommunications and Energy Council conclusions of 28 February 2011 and the European Parliament resolution of 6 July 2011, called for a new energy infrastructure policy to optimise network development at European level for the period up to 2020 and beyond, in order to allow the Union to meet its core energy policy objectives of competitiveness, sustainability and security of supply.
- 8.9 The European Council Conclusion of 4 February 2011 underlined the need to modernise and expand Europe's energy infrastructure and to interconnect networks across borders, in order to make solidarity between Member States operational, to provide for alternative supply or transit routes and sources of energy and develop renewable energy sources in competition with traditional sources.
- 8.10 In linking the UK and Belgian electricity transmission networks, Nemo Link is fully supported by European policy.

#### *National Policy*

- 8.11 There is strong policy support at national level for Nemo Link. The Energy White Paper 2007 set out four key goals for energy policy and identified the challenges currently faced. Nemo Link will support the use of renewable energy which is important in meeting these challenges. The Project will support renewable energy connected to the UK's national electricity transmission system because the opportunity to export power when generation exceeds demand means that there is an additional potential market for renewables developers. This will support the development of renewable energy generation in the UK, assist in meeting the challenges related to security of supply and encourage investment in generation.
- 8.12 The National Policy Statements, approved by Parliament in July 2011, set out the most recent Government policy for the delivery of major energy infrastructure. These are a material consideration in England and Wales, including those which fall under the Town and Country Planning Act 1990 (as amended).

- 8.13 The Overarching National Policy Statement for Energy (EN-1) notes that it is critical that the UK continues to have secure and reliable supplies of electricity as we make the transition to a low carbon economy. The NPS notes that “existing transmission and distribution networks will have to evolve and adapt in various ways to handle increases in demand”.
- 8.14 The National Policy Statement for Electricity Networks Infrastructure (EN-5) highlights that the new electricity generating infrastructure that the UK needs to move to a low carbon economy, while maintaining security of supply, will be heavily dependent on the availability of a fit for purpose and robust electricity network. That network will need to be able to support a more complex system of supply and demand and cope with generation occurring in locations of greater diversity.
- 8.15 The National Planning Policy Framework (“**NPPF**”) published in March 2012 sets out the Government’s planning policies for England. In support of the NPPF goal of delivering sustainable development the Project will help to build a strong and competitive economy by creating jobs and create a cluster of high technology industry in the area. Good design has been incorporated in the Project and the potential effects on the natural environment as a result of the Project have been assessed in accordance with the NPPF. The Project also helps meet the challenge of climate change by supporting the use of renewable energy.

#### *Local Policy*

- 8.16 Tables 4.1 and 4.2 of the Planning Statement accompanying the planning applications set out the local plan policies that apply to the Order Land within Thanet (and also to the Richborough Power Station site). Tables 4.3 and 4.4 set out the policies that apply to the Order Land within Dover. In summary, while Nemo Link is not in full accordance with the local development plans, being as it is a particularly sui generis form of development, nor does it conflict with the policies or aims of the development plans. In particular, as the cables will be buried underground and as the construction impacts will be temporary, the proposed use of the Order land will not conflict with policies for the improvement of the A256, the protection of open spaces, the maintenance of the natural character of undeveloped beaches, and the protection of the integrity of green infrastructure networks (including long-distance paths and cycle tracks).
- 8.17 Both Thanet and Dover District Council concluded that the need for Nemo Link outweighed any harm that would be caused to the character and appearance of the area.

## **9 Compatibility with the Human Rights Act 1998**

- 9.1 The Acquiring Authority recognises that compulsory purchase orders should only be made where there is a compelling case in the public interest. The Acquiring Authority acknowledges that the rights over the Order Land which are sought in the Order interfere with the human rights of those with an interest in the land affected, particularly rights under Article 1 of the First Protocol to the European Convention on Human Rights, and that the purposes for which the rights are sought in the Order must be sufficient to justify this interference with human rights.

- 9.2 The Acquiring Authority is satisfied that there is a compelling case in the public interest for the compulsory purchase of the Order Land, given the public policy support for the construction and operation of the Nemo Link interconnector.
- 9.3 The Acquiring Authority has sought to keep any interference in the rights of those with interests in the Order Land to a minimum. The Order would only permit the acquisition of rights, enabling the existing landowners to continue to own and use their land (subject to reasonable protection for the Nemo Link infrastructure). The land within the Order has been limited to the minimum required for the cables to be installed and maintained. Furthermore, as summarised in section 4 above, and set out in more detail in the Environmental Statement accompanying the planning applications, the route of the underground cables has been selected so as to minimise the impact on land use. The onshore underground cables have been routed so that they will not prevent any future development proposals with Pegwell Country Park, although there will be restrictions on planting above the cable route.
- 9.4 In summary, the Acquiring Authority considers the Order to be necessary and proportionate and that the public interest in the proposals is sufficient to override the private interests in the Order Land where appropriate compensation for the compulsory purchase will be paid to those affected.

## **10 Special land**

- 10.1 Schedule 3 to the Acquisition of Land Act 1981 (**'the 1981 Act'**) applies to compulsory purchase of rights over certain specified types of land. The only type found in the Order Land is inalienable National Trust land.
- 10.2 The Order Land includes approximately 23,701 square metres of foreshore in Pegwell Bay which is owned by the National Trust (parcels 2 and 3), 19,044 square metres of which is leased to the Kent Wildlife Trust (parcel 3). Paragraph 5 of Schedule 3 to the 1981 Act contains restrictions which apply to the acquisition of rights over National Trust land. In particular, where land subject to a CPO is held by the National Trust inalienably and the Trust objects to the confirmation of that CPO, the CPO must be subject to special parliamentary procedure before it can have effect.
- 10.3 At the time at which the Order was made, the National Trust would not confirm to the Acquiring Authority whether parcels 2 or 3 were inalienable. Accordingly, as parcel 3 had been leased to Kent Wildlife Trust, the Acquiring Authority proceeded on the basis that it was not inalienable. The National Trust subsequently objected to the confirmation of the Order, and on 17 March 2015 provided the Acquiring Authority with evidence that parcels 2 and 3 were declared to be inalienable in 1983. As such the compulsory acquisition of rights over it will be subject to special parliamentary procedure if the CPO is confirmed.
- 10.4 The Acquiring Authority has reconsidered whether rights over parcels 2 and 3 are still required in light of the National Trust providing evidence that it is inalienable. As parcels 2 and 3 occupy the foreshore in Pegwell Bay, it would be prohibitively expensive to seek an alternative route that avoids them. Accordingly, therefore, the Acquiring Authority still seeks rights over this land, although it remains the preference of the Acquiring Authority to obtain the rights by agreement, and terms to this effect have been proposed to the National Trust.

10.5 The details of the National Trust's objection are set out and dealt with in section 14 below.

## **11 Environmental Impact Assessment**

11.1 Nemo Link will bring both short and long term local economic benefit, wider benefit to electricity consumers in the UK and Europe and enhanced opportunities for the integration of renewable energy to meet climate change targets. However, the Acquiring Authority recognises that the Project could also bring some detrimental effects, and has sought to minimise these as far as possible.

11.2 The Acquiring Authority has aimed to minimise and mitigate the environmental effects of the Project, and chose to prepare and submit a voluntary Environmental Statement to accompany its application for planning permission for the Nemo Link. The full ES is available on the project website at [www.nemo-link.com](http://www.nemo-link.com). Overall, the ES predicts that Nemo Link will not bring significant environmental detriment, with the majority of environmental effects predicted to be neutral or beneficial. Minor adverse effects on traffic and transport, noise and air quality will be limited to the construction phase and will be localised and brief. As the cable route is underground it will have a neutral effect on landscape. The installation and construction of the Nemo Link is predicted to have no significant impact on ground conditions, hydrology and flood risk, ecology or archaeological and cultural heritage.

## **12 Funding**

12.1 Nemo Link is projected to cost €500m to construct and commission, including land acquisition costs. The costs of acquiring the necessary rights over the Order Land is currently estimated at £200,000. It will be financed directly by the Acquiring Authority, which in turn will be financed in equal sums by National Grid Interconnector Holdings Limited and Elia. In February 2015, the boards of Elia and National Grid plc each determined to provide a full commitment to the funding and long-term investment in Nemo Link. During the construction phase, the Acquiring Authority will make funding requests to each of its shareholders to fund 50% of the payments due to contractors and landowners. Each shareholder has a commitment to fund the sum requested by the Acquiring Authority.

12.2 The Acquiring Authority will repay these sums from its operational revenues. These revenues will be regulated in accordance with a framework jointly developed between Ofgem and the Belgian energy regulator, CREG, which received final approval from each regulator in November and December 2014. This new framework is to be called the "cap and floor" mechanism. Under the cap and floor mechanism, if Nemo Link's revenues exceed the cap, then revenue above the cap is returned to consumers via each country's National Electricity Transmission System Operator, NGET or Elia respectively. If their revenues fall below the floor then consumers top up revenues to the level of the floor, again via the Transmission System Operator. For Nemo Link, Ofgem and CREG have calculated the cap and floor levels based on the final regime design and its assessment of the capital costs (including acquisition of land rights), operational costs and a return on capital; an annual floor level of £50.4m and an annual cap level of £80m (2013/14 prices). These will be subject to final adjustments after construction is completed. This will ensure the implementation of the Order proposals is financially viable.

### **13 Related Applications, Appeals, Orders etc.**

#### *Planning permission*

- 13.1 As noted in 8.3 above, planning permission for the underground cables was granted on 18 December 2013 by Thanet District Council and 19 December 2013 by Dover District Council. Non-material amendments to these permissions have since been made, but not in respect of the Order land.

#### *Marine Licence*

- 13.2 For the subsea cables within UK territorial waters, a marine licence was granted by the Marine Management Organisation on 23 December 2013 (reference number MLA/2013/00072).

#### *International elements*

- 13.3 For the non UK elements of the project, Nemo Link was granted authorisation to lay the offshore electricity cables in Belgian territorial waters by Secretary of State for Energy on 9 April 2014 (reference number EB-2013-0019-A). The environmental permit for these cables was approved by the Federal Minister of the North Sea on 20th March 2014. Consent for the part of Nemo Link which passes through French waters was received from the French Ministry of Ecology, Sustainable Development and Energy on 11 June 2013 (reference number 13014350).
- 13.4 The Belgian on-shore element has the equivalent of spatial planning approval, and Elia has signed an agreement with Electrabel for the transfer of property of the site for the proposed Belgian on-shore converter station at Herdersbrug. Elia will then grant a long-term lease of the site to Nemo Link. The land cable route is mainly (c.90%) located beneath a public road, and negotiations to obtain easements for the remainder of the route are ongoing. There is no reason to suppose that approval is unlikely to be given. The outstanding approval for these elements does not therefore represent an impediment to the implementation of the Order.

### **14 Response to objections received**

- 14.1 Five objections were received to the confirmation of the Order:

- 1) from the National Trust, freeholder of parcels 2 and 3;
- 2) from the Kent Wildlife Trust, lessee of parcel 3 and freeholder of parcel 13;
- 3) from Baypoint Sports Club Limited, freeholder of parcels 15 and 16;
- 4) from Mr and Mrs Pace, freeholders of parcels 21 and 22; and
- 5) from St Nicholas Court Farms Limited, lessee of parcel 22.

#### *Objection of the National Trust*

- 14.2 The National Trust's objection letter does not give grounds for their objection, but simply indicates that "The land in question is held inalienably by the National Trust under section 21

of the National Trust Act 1907. As such any compulsory order shall be subject to special parliamentary procedure under s.18(2) of the Acquisition of Land Act 1981.” The National Trust have since provided proof that the land has been designated as inalienable, and this point is not in issue.

- 14.3 The National Trust has not objected to the purposes of making the Order, the policy support for Nemo Link, or the specific rights to be acquired. Rather, it is understood that their objection is to the acquisition of rights compulsorily, and that the rights could be granted voluntarily if terms can be agreed. The Acquiring Authority and National Trust have since sought to negotiate a voluntary grant of the necessary rights, and remain in negotiations. However, if agreement cannot be reached, the Acquiring Authority considers that it remains in the public interest to acquire the rights compulsorily, to enable the Nemo Link project to be delivered. In particular, once the Nemo Link cables have been installed below the surface of parcels 2 and 3, the parcels will retain their open nature, and Pegwell Bay and the nature reserve will remain accessible by wildlife and members of the public. The acquisition of the rights are not therefore inconsistent with the purposes for which the land was made inalienable, or with the National Trust’s purposes more generally. The mere fact that the Order would be subject to special parliamentary procedure if confirmed and the National Trust maintains its objection does not change this conclusion. The Order should therefore be confirmed.

*Objection of the Kent Wildlife Trust*

- 14.4 Kent Wildlife Trust objected to the confirmation of the Order on 28 January 2015. Their grounds of objection were as follows:

- 1) The designated status of the land both international (RAMSAR, SAC and SPA) and national (SSSI, Sandwich & Pegwell Bay NNR) should offer protection from potentially damaging operations;
- 2) Rare nature of the habitats and vegetative assemblages present (inter-tidal mud flats, salt marsh, dune pasture, coastal shrub) would be lost or damaged;
- 3) The fragile and sensitive nature of the above mentioned habitats have a high potential for permanent damage, and insofar as such is not permanent, would have a very slow recovery rate, from the potentially damaging operations that may occur;
- 4) The sensitive nature of species present in particular overwintering, migrating and breeding birds which are already under considerable recreation pressure and are particularly sensitive to noise disturbance and intrusion such as would result from such works (as supported by bird studies). The site is afforded international protected status for its wetland bird populations;
- 5) The Environmental Statement does not satisfactorily address the management and offset of public access;
- 6) The Environmental Statement does not satisfactorily address the monitoring of the impact of the project during and post scheme;
- 7) Insufficient consideration has been given to an alternative route which could minimise the environmental impact; and

8) The use of compulsory purchase powers is intended as a last resort in the event that attempts to acquire rights by agreement fail. In the present case [the Acquiring Authority] have failed to engage satisfactorily with the objectors concerns. This is contrary to the Government's own guidance (circular 06/04).

14.5 With the exception of point (8), these are all points about the likely impacts of the Nemo Link scheme itself, rather than an objection to the acquisition of the rights proposed. Nor is there any objection to the argument that the Nemo Link proposals are in the public interest or that it has policy support. Rather, Kent Wildlife Trust is seeking to re-run its objection to the applications for planning permission, at which these issues were considered. In particular, the designation and nature of and impacts on the Order Land and the species present were all considered both by the local planning authorities and by the Environment Agency and Natural England, who were consulted, and made representations, on the applications. Following receipt of those representations, the Acquiring Authority met with the Wildlife Trust, the local planning authorities, the Environment Agency and Natural England, and sought ways to address areas of concern. The Wildlife Trust's revised position with regard to the applications is set out in its letter to the planning authorities of 4<sup>th</sup> October 2013. That letter explained that the Wildlife Trust had removed its objections to the planning applications, subject to any grant of planning permission having conditions attached as it suggested or equivalent conditions. The local planning authorities took account of the Wildlife Trust's representations in concluding that the proposals were in accordance with policy, and that the impacts on designated features, as mitigated by the conditions attached to the permission, were acceptable. In particular, the permissions granted have conditions which address the Wildlife Trust's concerns regarding effects on the designated site.

14.6 The Acquiring Authority considers that the position has not changed since then, and that the Wildlife Trust's objections (1) to (7) do not constitute a reason not to confirm the Order.

14.7 So far as point (8) is concerned, the Acquiring Authority has been continuing to negotiate a voluntary transfer with the Wildlife Trust (and other affected landowners). However, for the reasons given in paragraph 6.4 above, compulsory powers are needed in any event. Further, paragraph 24 of Circular 06/04 states clearly that:

“Given the amount of time which needs to be allowed to complete the compulsory purchase process, it may often be sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations. This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.”

14.8 That is exactly what has occurred in this case: the Acquiring Authority has commenced the formal CPO procedures in parallel with continuing to negotiate a voluntary agreement. Ground (8) does not therefore represent a reason to refuse confirmation of the Order.

#### *Objection of Baypoint Club*

14.9 Baypoint Sports Club objected on the basis that:

1) the proposed works will severely affect the use of their land as privately owned Sports Centre, particularly as the Acquiring Authority wish to use part of it, particularly the road frontage, as a compound for the purposes of “thrust boring” the cables under the objector's land and other land. The site is neat, tidy and well maintained and the

works will cause them loss. The club will be perceived by the general public and potential customers as a contractor's site, "such losses unlikely to be difficult to quantify and adequately compensated".

- 2) It is very difficult to quickly and properly restore sports grounds following civil works such as these – the objectors are well aware of similar difficulties following works carried out by the Environment Agency associated with the nearby Sandwich Flood Defence Scheme. Land cannot be reinstated straight away and normal sports uses resumed.
- 3) The land is low lying and subject to waterlogging. There will be an impact on the objector's drainage systems.
- 4) The easement will reduce the objector's future use of part of their land as activities will be restricted. This will include the planting of trees and the construction of buildings and carrying out soil level alterations, together with impacting on any underground works they may wish to do themselves. The objectors operate only a small site which is land hungry for extensive recreational activities, and it is vital they preserve their ability to use their entire land to its full extent.
- 5) The land in question is frontage land rather than back land.
- 6) The objectors will get no benefit from the electricity cables. Indeed, the presence of the cables and their easement might well affect any plans the objectors have to lay services or drainage on these areas.
- 7) In future their land is likely to be entered for the maintenance of the cables or if any faults should occur. The site is currently secure. The objectors are going to be further inconvenienced in future.
- 8) The objectors are concerned about the health risks arising from the current proposed placement of the cables, albeit they are buried. They operate a fitness, health and leisure centre and as such receive a large footfall of people all over the site.
- 9) There must be an alternative route whereby these cables can be fixed without affecting the objectors' land.

14.10 The objector has not challenged the purpose of the Order or the policy support for Nemo Link.

14.11 The impacts on amenity and use of the affected land set out in grounds 1 to 3 were considered by the local planning authority, which held that the impacts, as proposed to be mitigated by the conditions attached to the planning permission, were acceptable. Grounds 4 to 7 set out the general impact on the landowner. While any impact on private individuals is unfortunate, in this case it is outweighed by the clear public interest in constructing Nemo Link and would be compensated. No evidence has been presented in support of ground 8, which was dealt with in the Environmental Statement accompanying the planning applications: no health impacts are anticipated. Route selection is considered at section 4 above. There is no reasonably appropriate alternative route to Richborough power station from Pegwell Bay that does not pass through this land.

14.12 The Acquiring Authority remains in negotiations with this objector and hopes to be able to acquire the necessary rights voluntarily. If, however, this cannot be achieved, the Acquiring Authority considers that it remains in the public interests to acquire the rights compulsorily and that the Order should be confirmed.

*Objection of the Paces and St Nicholas Court Farm Limited*

14.13 The Paces and St Nicholas Court Farm Limited objected in like terms as follows:

- 1) The proposed works could severely affect the maintenance, future use and expansion of their land as an anaerobic digester plant because the cables are to be drilled directly under their existing building and site. The site comprises a very modern facility but was constructed without the likelihood of having these cables underneath it. The cables pass under their building which sits on deep pile foundations.
- 2) The buildings and plant on the site have a value in excess of £4,500,000, and the objectors consider that National Grid should look at an alternative route so as to avoid the chance of affecting what is a very substantial capital investment.
- 3) Is in the same terms as point 3 of the Baypoint Sports Club's objection.
- 4) Is in similar terms to point 4 of that objection.
- 5) Is in the same terms as point 6 of that objection.
- 6) Is in similar terms to point 7 of that objection, with an additional point that access to cables located under the objectors' buildings does not make any practical sense.
- 7) Despite the likely depth of the cables it seems positively dangerous to have high voltage cables running beneath a building with potentially combustible materials stored within it. Indeed use of building may change with increased human activity within them.
- 8) Is in the same terms as point 9 of the Baypoint Sports Club's objection.

14.14 Again, the Objectors have not challenged the purposes of the Nemo Link project, or its policy support.

14.15 The cables will be drilled at a depth of 10m or below to avoid the existing piles beneath the existing silage clamp which are constructed to an approximate depth of 8m below ground. The Acquiring Authority considers that the presence of the cables at this depth will not interfere with the maintenance of the site or buildings. Nor is there likely to be any impact on the landowner's drainage systems by the installation of cables via horizontal directional drilling at this depth. As cable repair is likely to be via the drilled conduits, this is unlikely to have a significant impact either. Accordingly, even with occasional surface access for inspection, the presence of the cables is unlikely to have such a significant impact on the landowners that it outweighs the compelling case in favour of the Nemo Link scheme.

14.16 The Objectors have indicated an intention to extend the existing silage clamp to the south (subject to all necessary consents) which will involve construction over the Order Land. In

order to provide the Objectors with greater comfort about the future development of the land, the Acquiring Authority has proposed in negotiations for a voluntary settlement that any works to a maximum depth of 2m below ground could be undertaken without the Acquiring Authority's consent. This also means that trees and other vegetation will remain unaffected by the works.

- 14.17 As noted in the Environmental Statement, once the cables are installed, the present land uses are able to resume. The cables are not only 10m deep below the surface at this location (as the Objectors acknowledge), but are enclosed in a protective metal sheath. This is a well-understood technology, and high voltage cables are in place below many locations without significant safety risks. It is not considered to represent the danger suggested by the Objectors.
- 14.18 Alternatives considered were summarised in section 4 above and set out in more detail in the Environmental Statement. In short, there were no feasible alternatives to the Order Land for a cable route connecting the convertor station at Richborough and the landfall site at Pegwell Bay.

## **15 Conclusion**

- 15.1 The Acquiring Authority may be authorised to purchase compulsorily land or rights required to enable it to carry on the activities authorised by its licence and in particular to purchase land or rights required to enable it to construct the Nemo Link interconnector or for activities connected with the interconnector's construction, extension or operation.
- 15.2 The construction of the Nemo Link interconnector is in the public interest, it supports national energy policy and national planning policy, and does not conflict with local planning policy. None of the objections raised undermines this point.
- 15.3 All of the rights in land proposed to be acquired under the Order are needed for the purposes of constructing and operating the Nemo Link interconnector. The Acquiring Authority does not propose to acquire any greater rights than are needed.
- 15.4 There are no impediments to the implementation of the Order.
- 15.5 Accordingly, there is a compelling case in the public interest that the Order should be confirmed.

## **16 Availability of documents**

- 16.1 The Core Documents on which the Acquiring Authority will rely are listed in the Appendix to the Statement of Case and are available for inspection at Ramsgate Library, Guildford Lawn, Ramsgate, Kent CT11 9AY and Sandwich Library, 13 Market Street, Sandwich, Kent CT13 9DA.

**Bircham Dyson Bell LLP**  
**For and on behalf of Nemo Link Limited**  
**17 June 2015**

## APPENDIX

- 1 National Grid Nemo Link Limited (Pegwell Bay) Compulsory Purchase Order 2014
- 2 ODPM Circular 6/04 on Compulsory Purchase and the Crichel Down Rules
- 3 National Grid Nemo Link Limited's Interconnector Licence, Ofgem, 8 March 2013
- 4 Decision on the cap and floor regime for the GB-Belgium interconnector project Nemo, Ofgem, 2 December 2014
- 5 CLG Guidance on Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land
- 6 Third Package of Legislative Proposals for Electricity and Gas Markets, European Commission, 19 September 2007
- 7 European Commission Communication COM (2010), Europe 2020: A strategy for smart, sustainable and inclusive growth
- 8 Regulation (EU) No 347/2013 of 17 April 2013 on guidelines for trans-European energy infrastructure ('the TEN-E Regulation')
- 9 List of 'Projects of Common Interest' under the TEN-E Regulation, as set out in Commission Delegated Regulation (EU) No 1391/2013 of 14 October 2013
- 10 European Commission Communication COM (2010) 0677 'Energy infrastructure priorities for 2020 and beyond – A Blueprint for an integrated European energy network'
- 11 Transport, Telecommunications and Energy Council conclusions of 28 February 2011 (6950/11)
- 12 The European Parliament resolution of 6 July 2011 (2010/2242/(INI))
- 13 The European Council conclusion of 4 February 2011 (EUCO 2/1/11 REV 1 CO EUR 2 CONCL1)
- 14 Renewable Energy Strategy, Cm 7686, DECC, 15 July 2009
- 15 The Energy White Paper 2007 (CM 7124)
- 16 The Overarching National Policy Statement for Energy (EN-1), July 2011
- 17 The National Policy Statement for Electricity Networks Infrastructure (EN-5), July 2011
- 18 The National Planning Policy Framework
- 19 Dover District Local Plan 2002 saved policies and 2010 adopted Core Strategy
- 20 Thanet Local Plan 2006 saved policies, and preferred option pre-consultation draft Local Plan 2014

- 21 Kent Waste and Minerals plan saved policies
- 22 Planning permission granted by Thanet District Council (reference F/TH/13/0760) dated 18 December 2013
- 23 Thanet District Council's report on the application for planning permission and the representations received.
- 24 Planning permission granted by Dover District Council (reference 13/00759) dated 19 December 2013
- 25 Dover District Council's report on the application for planning permission and the representations received.
- 26 Copies of representations made in relation to the applications for planning permission.
- 27 Environmental Statement accompanying the applications for planning permission
- 28 Planning Statement accompanying the applications for planning permission
- 29 Design and Access Statement accompanying the applications for planning permission
- 30 Arboricultural Survey accompanying the applications for planning permission
- 31 Sustainability Appraisal Report accompanying the applications for planning permission
- 32 Marine Licence granted for the subsea cables within UK territorial waters by Marine Management Organisation dated 23 December 2013 (ref MLA/2013/00072)
- 33 Authorisation to lay offshore electricity cables in Belgian territorial waters by Belgian Federal Secretary of State for Energy dated 9 April 2014 (ref EB-2013-0019-A)
- 34 Consent for the part of Nemo Link which passes through French waters by French Ministry of Ecology, Sustainable Development and Energy dated 11 June 2013 (ref 13014350)
- 35 Statement of Reasons for making of the National Grid Nemo Link Limited (Pegwell Bay) Compulsory Purchase Order 2014
- 36 Application for confirmation of the National Grid Nemo Link Limited (Pegwell Bay) Compulsory Purchase Order 2014.
- 37 Objections to the confirmation of the Order:
- 38 Notice by the Secretary of State for Energy and Climate Change of the holding of an inquiry into the confirmation of the Order.