Decision

Phase 2 Tranche C Change in Scope Final Determination

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This document sets out our[1] Final Determination ('Final Determination') following a public consultation on our Draft Determination for Liverpool Bay CCS Limited's (the 'Licensee') Carbon Dioxide Transport and Storage Licence (the 'Licence') Change in Scope (CiS) submission (the 'Re-opener Submission'). The consultation ran from 15 May until 15 June 2026.

Unless otherwise defined in this Final Determination, capitalised terms shall have the meaning given to them in the Licence.

[1] The terms "we", "our", "Ofgem", "the Regulator", and "us" are used interchangeably in this document

Contents

1. Introduction

1.1 This determination follows Ofgem's consultation on our draft position regarding the Licensee's Change in Scope ('**CiS**') Submission to us on 23 February 2026, made pursuant to Special Condition J2 (Supervening Event Re-openers, Insured Risk Events and Relief Events) of the Licence.

1.2 The consultation ran from 15 May until 16 June 2026. During our consultation we received 156 responses on our minded to position. All were from interested members of the public. These were given due consideration in the formation of this final decision. The responses were primarily concerned with the costs associated with the ongoing Runcorn application for planning permission under the Town and Country Planning Act ('**TCPA**') and the Licensee's participation in the Cubico Frodsham Solar Project Development Consent Order (the '**Cubico DCO**') examination.

1.3 The CiS Submission was in response to the Department for Energy Security and Net Zero's ('**DESNZ**') Track-1 Expansion announcement HyNet expansion: project negotiation list - GOV.UK (the '**T1X Announcement**'). The T1X Announcement recategorised Viridor's Runcorn Carbon Capture Project ('**Viridor Project**') as a 'Standby' project and therefore removed the Viridor Project from DESNZ's current preferred configuration for the cluster. Accordingly, the Licensee made a CiS Submission to us on the basis that this classification constitutes a Change in Scope, as defined in Special Condition E1 of the Licence (specifically, limb (c) of that definition).

1.4 Unless otherwise stated, all costs referenced in this consultation are quoted in Base Year, as defined in the Financial Settlement Document ('**FSD**') as the period from 1 April 2021 to 31 March 2022 inclusive (2021/22).

1.5 The proposed Licence modifications arise from the need to ensure that the continued development of the Approved Transport and Storage ('T&S') Network proceeds efficiently, economically, and is able to respond to future changes in network configuration, such as a potential recategorisation of Viridor, consistent with our statutory duties.

Summary of modifications

1.6 The T1X Announcement recategorized the Viridor Project as a 'Standby' project. This removed the only user that required the Phase 2 Tranche C (**Runcorn Spurline**) infrastructure. As a result, the Runcorn Spurline is currently no longer part of DESNZ's configuration for the Approved T&S Network.

1.7 Following the T1X Announcement, the Licensee suspended the majority of Phase 2 Tranche C development activities. However, recognising that DESNZ may redesignate Viridor as a 'Priority' User (as "DESNZ retains the right to move projects between the two classifications" and "Standby projects will provide contingency against Priority projects and could benefit if and when capacity becomes available”) the Licensee continued the activities they believed to be the minimum required to progress planning rights and protect the existing consenting position to retain optionality in the user selection process.

1.8 Accordingly, it is necessary to review and consider the Licence provisions that previously governed Phase 2 Tranche C activities to determine whether they remain appropriate in the revised configuration and to update the relevant documents to provide for the continuation of the minimum planning-related activities.

1.9 For the avoidance of doubt, this Determination does not represent an Ofgem position on the value for money of the Runcorn Spurline, or of Viridor as a user of the network. The intended effect is to ensure the Licence reflects the current situation and is able to respond to further changes in the network configuration.

1.10 The consequential amendments to the Licence and Project Specific Documents that we consider are required to implement the CiS are summarised as follows:

- **Approved Project Development Plan (APDP)**: Removal of the Phase 2 Tranche C scope, milestones and diagrams, and introduction of a new category of Runcorn Spurline Development Activities. These activities allow the Licensee to maintain and progress (on a limited and timebound basis) essential planning activities and stakeholder engagement (including the Runcorn TCPA Application and participation in the Cubico DCO process).
- **Technical Details Document (TDD)**: Removal of all Phase 2 Tranche C milestone dates (including for appointment of an Independent Certifier, reporting, handover and acceptance).
- **Financial Settlement Document (FSD)**: Removal of Phase 2 Tranche C related construction, commissioning and ongoing allowances, and the inclusion of the efficient and ongoing devex allowances associated with the new category of remaining Runcorn Spurline Development Activities.
- **Schedule 10 (Project-Specific Conditions)**: Removal of Phase 2 Tranche C specific planning and land rights mechanisms, including the Uncertain Costs Event Re-opener for Phase 2 Tranche C.

Context and related publications

1.11 For further information on our minded to position please refer to the draft determination that underwent public consultation from 15 May to 15 June 2026.

Decision-making stages

1.12 The section below sets out the stages through which we have progressed our assessment of the Licensee’s CiS Submission relating to the proposed cancellation of Phase 2 Tranche C and the associated amendments to the Licence and Project Specific Documents as outlined in para 1.10.

1.13 Pursuant to Special Condition J2.3 of the Licence, the Licensee submitted a CiS Submission on 23 February 2026 in respect of the Phase 2 Tranche C activities.

1.14 On receipt of the CiS Submission, we considered the materials provided by the Licensee in accordance with Special Condition J2, including:

- the grounds for the CiS;
- the Licensee's assessment of the impact on the Approved T&S Network;
- the Licensee's proposals for implementing the CiS; and
- the proposed modifications to the APDP, TDD, FSD and Schedule 10.

1.15 Having considered the CiS Submission, we formed a draft determination outlining our minded to position which went out on public consultation from 15 May to 15 June 2026.

1.16 During the consultation period we received 156 responses on our minded to position. All were from interested members of the public. These were given due consideration in the formation of this final decision. The responses have been published separately to this Determination.

1.17 In accordance with Special Condition J2.9 of the Licence and following public consultation, we have formed a final position on the impact of the CiS on the Approved T&S Network and whether any adjustments are required, including whether consequential amendments to the Project Specific Documents are necessary to give full effect to the proposed CiS.

Stage 1 Consultation open: 15 May 2026

Stage 2 Consultation closes (awaiting decision): 15 June 2026

Stage 3 Responses reviewed and published: 29 July 2026

Stage 4 Final Determination: 29 July 2026

2. Implementation of the Change in Scope

Questions
Q1. Do you agree with our determination that grounds for a Change in Scope under limb (c) of Special Condition E1 have occurred and that therefore Phase 2 Tranche C should be removed from the Approved T&S Network?
Q2. Do you agree with our proposed modifications to the APDP, TDD, FSD and Schedule 10 of the Licence to implement the Change in Scope, as shown in redline drafting across all Appendices?
Q3. Do you agree with the proposal to provide an allowance for the new category of Runcorn Spurline Development Activities to ensure continued progression of the Runcorn TCPA Application and related DCO engagement process?
Q4. Do you agree with the proposal to formalise the consequential Licence and Project Specific Document modifications?
Q5. Do you have any other representations regarding the proposed Licence and Project Specific Document modifications and directions set out in this consultation?

2.1 As outlined in our draft determination, Special Condition E1 (together with the associated Licence conditions as primarily set out at Special Condition J2) of the Licence permits us to approve a CiS where a part of the Approved T&S Network ceases to be justified or aligned with its configuration.

2.2 Our draft determination set out our minded to position that a CiS had occurred and that Phase 2 Tranche C should be removed from the network on the following basis.

2.3 Given the reclassification of the Viridor Project as a standby user, continuation of the Phase 2 Tranche C Development activities is no longer considered justified under the Licence. It is therefore considered appropriate to remove Phase 2 Tranche C from the Approved T&S Network.

2.4 Removing Phase 2 Tranche C has the following consequences:

- the Licensee is under no obligation to construct the Runcorn Spurline;
- the Approved T&S Network is updated to reflect:
  - revised connectivity at Ince AGI and Protos AGI;
  - updated pipeline capacity assumptions; and
  - adjusted obligations for land rights, planning and consenting,
- project phasing, milestone reporting and independent certification obligations are simplified; and

- no expenditure relating to Phase 2 Tranche C shall be recoverable under the Licence other than the costs expressly approved through the Change in Scope.

2.5 Similarly, our draft determination outlined our position to amend project specific licence conditions to remove the Phase 2 Tranche C Uncertain Costs Event in Schedule 10 and to update Schedule 10 and the Project Specific Documents so that the Licence accurately reflects the revised configuration and remains capable of responding effectively should Viridor later be reprioritised.

Allowance

2.6 At licence award, the Ongoing Devex allowance for Phase 2 Tranche C was £6.1m, and the Capex allowance was £96.7m (Base Years).

2.7 The Licensee has reported a spend of £1.1m between licence award and December 2025 in relation to the Phase 2 Tranche C Runcorn development activities.

2.8 The Licensee has requested a further allowance of £0.8m (Base Year) for the modified Phase 2 Tranche C activities (i.e. the proposed new category of Runcorn Spurline Development Activities) as a result of the T1X announcement.

2.9 This results in a total of £1.9m (Base Year) Ongoing Devex associated with the Runcorn Spurline Development Activities. This represents a reduction of £4.2m (Base Year) from the Ongoing Devex allowance granted at Licence Award.

2.10 Additionally, the Licensee has also requested the removal of the SRAV Capex Construction and Commissioning and Ongoing Capex Allowances granted at Licence Award. This represents a reduction of £96.7m (Base Year) from the Capex allowances granted at Licence Award.

2.11 Table 1 below details the Licensee’s requested cost allowance from January 2026 through to end of Q4 2026 for the proposed new category of Runcorn Spurline Development Activities that will be required as a consequence of this Change in Scope. The activities are predominantly for the progression of planning consent related activities.

Table 1 Cost Breakdown of proposed new Runcorn spurline development activities

Runcorn Spurline Development Activities	2025/26 Costs (£)	Base Year Costs (£)
TCPA Planning Application: Supporting the Runcorn TCPA Application through to Q4 2026	344,254	279,753
Engagement with Cubico FSD process: Supporting the Runcorn Spurline position with the Cubico DCO through to the end of the DCO process at Q4 2026	397,162	322,747
Engagement with other relevant stakeholders through to the end of Q4 2026	185,021	150,355
Total	926,437	752,855

2.12 Our draft determination outlined our position that, subject to minor adjustments, we are satisfied that the proposed costs associated primarily with:

- supporting the Runcorn TCPA Application through to Q4 2026;
- engagement with the Cubico DCO process through to Q4 2026;
- engagement with Viridor (Runcorn) and responding to DESNZ queries relating to the Runcorn spurline through to the end of Q4 2026;

constitute expenditure that is both economic and efficient to effectively preserve the work completed to date and maintain flexibility for future connections.

2.13 This is on the basis that cessation or non-participation in the on-going Runcorn Spurline TCPA process, and the Cubico DCO process, could possibly increase rather than reduce total long-term costs in the event that the Runcorn Spurline was re-prioritised.

2.14 In particular, withdrawal from the planning or Cubico DCO process at this stage could risk:

- loss of planning momentum;
- increased future devex;
- unnecessary duplication of procedures triggering re-application costs in future regulatory cycles; and/or
- exposing the Licensee to adverse DCO determinations that could prejudice the Approved T&S Network.

Project Management Team Costs

2.15 Our draft determination also outlined our position on the Licensee's Manpower rate assumptions.

2.16 As part of our assessment the Licensee provided a breakdown of the all-inclusive personnel rate assumptions used to develop the staff costs in their estimate for the remaining development activities. These rates were based on the Licensee's international operating model, and thus inclusive of various expatriate fees. We challenged the Licensee on if this was an appropriate resourcing model given the additional cost associated with expatriate fees.

2.17 Our minded to position following engagement with the Licensee, was to accept their inclusion in this determination, on the basis that this resourcing model allows the Licensee to rapidly source and deploy qualified personnel for key roles during this stage of network development given the first of a kind nature of CO2 pipeline transport and storage.

2.18 However longer term we expect this resourcing model to evolve with the development of the project and Licensee.

Stakeholder Feedback

2.19 Our consultation invited responses on our draft determination from both Licensees, current and future network users, and anyone else interested in the topic, including members of the public. Key points raised by the consultation respondents have been summarised below.

Insufficient justification for additional cost recovery

2.20 Respondents objected to Ofgem's minded-to position to allow recovery of additional costs associated with the ongoing Runcorn TCPA Application and participation in the Cubico Frodsham Solar Project Development Consent Order examination i.e. £0.8m (Base Year). Main reasons included:

- lack of clear evidence that these costs could not reasonably have been anticipated and managed by the licensee as part of normal project development risk.
- Objection to allowances being granted to retain optionality around a project with no current priority user, no construction obligation and no confirmed future.
- Objection to the inclusion of personnel costs containing additional expatriate fees, given the substantive project has been suspended and the remaining work consists principally of planning and engagement activity.
- Objection to Ofgem's proposed J2.12 direction to preserve the applications, consents, rights, documentation and other assets for the purpose of

facilitating a future revival of the spurline as consumers may bear the cost of retention rather than the Licensee.

Weak incentives for efficient project management

2.21 Respondents expressed concern that allowing additional expenditure to be recovered through the Change in Scope mechanism risks reducing incentives for cost discipline. Respondents suggested regulated re-openers should be used sparingly and only where there is compelling evidence that the expenditure is necessary, efficient, and unavoidable. Respondents expressed concerns that developers will otherwise face limited financial consequences for project delays, planning complications, or changes in project scope.

Consumer protection concerns

2.22 Respondents questioned the consultation on its demonstration of sufficient consumer benefit to justify the proposed amendments. They expressed concern an increase in regulated allowances may ultimately be borne by network users and consumers. Given ongoing concerns regarding energy affordability and public expenditure associated with carbon capture and storage projects, they requested Ofgem apply a particularly high threshold before approving additional costs.

Poor Regulatory Precedent

2.23 Respondents expressed concerns that approval of this application may establish precedent for future Change in Scope submissions across the CCS sector resulting in progressive expansion of allowable expenditure without corresponding accountability.

Insufficient transparency on evidence underpinning LBCCS proposal and Ofgem decision making

2.24 Respondents requested that before approval is granted, Ofgem should publish more detailed information outlining the costs and assessments it has done to justify the allowances it has granted the licensee, and the consumer benefit.

Wider concern over the validity of the LBCCS Transport & Storage Network.

2.25 Further responses received were not in specific reference to the Phase 2 Tranche C consultation but rather; the cost and environmental impact of the construction and operation of the transport & storage network, particularly given the amendments to the scope since licence award, as well as the risk of the Licensee’s parent company passing on costs through to LBCCS it should not bear.

Our decision

2.26 We are grateful to all respondents for sharing their feedback on our draft determination and have summarised our final position regarding the key areas of concern below.

Insufficient justification for additional cost recovery

2.27 Overall, our draft determination, which is in effect the removal of Phase 2 Tranche C activities from the Approved T&S network results in a reduction of £4.2m (Base Year) from the Ongoing Devex allowance and the removal of £96.7m (Base Year) from the Capex allowances granted at Licence Award.

2.28 However, we acknowledge the concerns regarding the principle of allowing the remaining project closeout scope of work, and associated allowance, following the removal of Phase 2 Tranche C from the Approved T&S Network.

2.29 Ofgem's duties for CO2 T&S under the Energy Act 2023 include duties to:

- promote the efficient and economic development and operation of transport and storage networks, having regard to the need for licence holders to be able to finance their licensable activities; and
- protect the interests of current and future transport and storage network users.

2.30 The T1X announcement is clear that DESNZ may move projects between the Priority and Standby classifications and may discontinue negotiations with any project. Standby projects are therefore intended to provide contingency should capacity become available or Priority projects fall away. In light of this inherent uncertainty and flexibility within the user selection process, we considered it important to ensure the investment made to date remains viable if the project is reprioritised at a later date.

2.31 We considered the long-term impact of the following options on current and future users in the event of a Viridor re-prioritisation:

- Preserving planning, consenting, stakeholder engagement and development outputs at limited cost; OR
- The withdrawal of the relevant TCPA and DCO applications, potentially requiring redevelopment of both applications in the event of a Viridor reprioritisation.

2.32 The latter option risks materially higher costs and project delay for future users in the event of a Viridor re-prioritisation, compared to the higher flexibility gained and relatively minor cost incurred for completing and preserving these on-going outputs.

2.33 While cancelling all Phase 2 Tranche C activities would result in immediate cost reductions for current users, Ofgem, under our duties, must also consider the cost and implications for future users. This form of anticipatory spend, investing now to avoid higher costs later, is well established across the regimes we regulate[2].

2.34 Similarly, the concern over expatriate fees included in the close-out costs has been given due consideration given the scope of the outstanding work. The cost relates to LBCCS personnel equal to 1 Full Time Equivalent (FTE) working on Phase 2 activities prior to the DESNZ announcement. The Licensee's approved contracts at licence award include a secondment framework agreement, which enables the Licensee to second appropriate staff from its parent company ("Eni") to benefit from the experience of its staff members. We deemed it more efficient for existing personnel familiar with the Phase 2 Tranche C work completed to date, to manage the remaining project close out activities.

2.35 The costs associated with the project close out scope of work went through a rigorous assessment process in alignment with our published cost assessment guidance[3]. We commissioned a third party technical consultant to support a benchmarking exercise on the costs. The resulting analysis demonstrated that the costs associated with supporting the Runcorn TCPA Application through to Q4 2026, and associated engagement with relevant stakeholders at Viridor and DESNZ was deemed to be within the range of benchmarks available. It was highlighted that there were further queries around the costs associated with the Licensee's engagement on the Cubico DCO. We challenged the Licensee on this area, and they provided further information that provided us with further confidence on the costs associated with these activities. As outlined in our consultation, we determined that the contingency proposed by the Licensee was too high based on the scope of work, and thus adjusted it to reflect alignment with precedent for contingency in similar sectors.

2.36 In regards to the respondents concern on any costs associated with the direction to preserve the applications, consents, rights, documentation and other assets resulting from the close out activities. We can confirm that no allowance has been included in relation to this direction and has no impact on current or future users.

Weak incentives for efficient project management

2.37 The CO2 T&S licence has clear definitions of what constitutes a Change in Scope Event. Under Special Condition E1, limb (c) of the definition of Change in Scope is:

[2] https://www.ofgem.gov.uk/sites/default/files/2025-12/RIIO-3-Final-Determinations-impact-assessment.pdf

[3] https://www.ofgem.gov.uk/guidance/cost-assessment-guidance-carbon-dioxide-transport-and-storage-companies

- a proposed cancellation or decommissioning of part of, or of a change to the scope of, the Approved T&S Network, including the cancellation of Ongoing Devex in respect of a change to the scope of the Approved T&S Network;

2.38 Under Special Condition J2.9 as the regulator, following receipt of a CiS Submission and all Supporting Information required under Special Condition J2.6, we will review such CiS Submission and will either:

- determine that grounds for a Change in Scope has occurred and/or approve the implementation of a change in scope; OR
- determine that grounds for a Change in Scope has not occurred and/or not approve the implementation of a change in scope.

2.39 In this case we agree that the classification of Viridor as a Stand-by user in the T1X Announcement constitutes a proposed cancellation of part of the Approved T&S Network and, at this time given the long term uncertainty, it would not be in users interests to continue the full construction. Therefore, we determine that grounds for a Change in Scope have occurred.

2.40 Where we approve the implementation of a Change in Scope, we then determine the impact, or expected impact (if any) on the project of the relevant Change in Scope; and determine any adjustments to be provided to the Licensee to reflect such impact or expected impact (which may include new ex ante allowances).

2.41 As the development allowance is not subject to a cost sharing factor, any overspend above the Ongoing Devex allowance granted will be borne by the Licensee and will not accrue to the SRAV. Thus, they are incentivized to provide accurate cost forecasts and manage the projects efficiently.

Consumer protection concerns

2.42 We recognise respondents concerns regarding affordability and the cumulative impact of energy system investment on consumers. However, the proposed £1.8 million allowance should be viewed in the context of the wider decision, which removes £96.7 million of capex allowances and £4.2 million of devex allowances previously associated with Phase 2 Tranche C. Overall, this represents a substantial reduction in expenditure, while funding only the targeted activities necessary to preserve the value of work done to date. Users are therefore protected from unnecessary capital expenditure whilst retaining the option value of the existing development at a comparatively low cost.

2.43 The proposed expenditure supports efficient stewardship of prior funded development activity, preserves strategic flexibility, protects future users from avoidable duplication of cost, and supports the long-term development of an efficient transport and storage network. For these reasons, we consider the proposed allowance to be consistent with users interests, regulatory efficiency and our statutory duties.

Poor Regulatory Precedent

2.44 Respondents also expressed concern that approval may establish a precedent encouraging future applications. We agree that this risk requires careful consideration. For this reason, our determination should not be interpreted as establishing a general principle that planning, engagement or development expenditure associated with removed infrastructure will routinely be recoverable.

2.45 Our assessment reflects the specific circumstances of this case, including:

- the existence of a formal Change in Scope event;
- the removal of the sole user underpinning the infrastructure;
- the substantial reduction in allowance elsewhere;
- the limited and time-bound nature of the proposed activities;
- the preservation of previously funded/spent outputs; and
- evidence that cessation could increase future costs.

2.46 Future applicants cannot assume that similar costs will be recoverable. Any such applications would need to be justified on their own facts and would be subject to the same rigorous assessment against the licence framework and statutory economic, efficiency and consumer benefit tests.

2.47 Accordingly, we do not consider approval in this instance creates a material moral hazard risk.

Insufficient transparency on evidence underpinning LBCCS proposal and Ofgem decision making

2.48 We acknowledge the concerns expressed by respondents that the consultation does not disclose sufficient information to enable independent scrutiny of the evidence underpinning the proposed allowance and associated licence modifications. Respondents submitted that, without greater transparency regarding cost assessments, alternatives considered and evidential basis for our conclusions, it is difficult to assess whether the proposal represents value for money or whether the statutory tests for approving the Change in Scope have been satisfied.

2.49 We agree with the underlying principle that regulatory decisions affecting users/consumers should, wherever reasonably practicable, be transparent, evidence-based and capable of effective public scrutiny. Transparency is a fundamental characteristic of effective economic regulation as it enables accountability, promotes confidence in regulatory institutions and improves the quality of decision-making through informed stakeholder challenge.

2.50 However, transparency should not be understood to require publication of every document, assumption or commercially sensitive analysis considered during the assessment process. Rather, the relevant regulatory objective is to provide stakeholders with sufficient information to understand the Authority's conclusions and the basis on which it has exercised its statutory discretion. That objective must be balanced against the need to protect confidential commercial information, legally privileged material and information whose disclosure could prejudice efficient network development or future procurement.

2.51 Accordingly, the Authority has not based its Draft Determination solely upon assertions made by the Licensee. Rather, the requested expenditure has been subject to detailed regulatory challenge, including examination of underlying cost schedules, work breakdown structures, programme assumptions, manpower allocations, procurement approaches, contingency methodology, planning dependencies and the alternatives reasonably available to the Licensee.

2.52 In reaching our minded-to position, we have not accepted expenditure merely because costs have been incurred. We have followed the principles of assessment set out in our Cost Assessment Guidance.

2.53 Our Draft Determination summarises the conclusions of that assessment rather than reproducing the entirety of the evidential record. This reflects established principles of regulatory decision-making.

2.54 We nevertheless remain committed to continuous improvement in regulatory transparency and following consideration of stakeholder feedback we have endeavoured to provide additional aggregated commercial information in Table 1 of the determination to provide further clarity without undermining consumer interests or the effectiveness of the regulatory process.

Wider concern over the validity of the LBCCS Transport & Storage Network

2.55 Regarding other concerns related to the validity of the network, Ofgem does not have powers to award licences towards new users, nor decide which Transport & Storage networks to take to final investment decision. Such powers sit with DESNZ Secretary of State. Ofgem's duties are outlined the Energy Act 2023. Similarly, there is a full audit of the costs provided by LBCCS to ensure no excluded spend is part of their cost reporting. This would include costs incurred by their parent company. The two companies have an approved services agreement clearly outlining the circumstances by which LBCCS can contract work from their parent company.

Final Adjustments

2.56 Following the review of consultation responses, our final determination is to propose to maintain the adjustments outlined in our draft determination.

2.57 Thus, our Final Determination is to approve an Ongoing Devex Allowance of £1.8m (Base Year) for the new proposed Runcorn Spurline Development Activities. This allowance is £115,824 (Base Year) less than the Licensee requested in its Change in Scope Submission.

2.58 We approve the removal in full the Capex allowance of £96.7m (Base Year) granted at Licence Award for Phase 2 Tranche C works.

2.59 We maintain the implementation of the Direction on the treatment of outputs of the Runcorn Spurline Development Activities as outlined in our draft determination. The full direction is outlined in Appendix 5.

Send us your feedback

We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this decision. We would also like to get your answers to these questions:

- Do you have any comments about the quality of this document?
- Do you have any comments about its tone and content?
- Was it easy to read and understand? Or could it have been better written?
- Are its conclusions balanced?
- Did it make reasoned recommendations?
- Do you have any further comments?

Please send your feedback to stakeholders@ofgem.gov.uk.

Appendices Index

Appendix 1. Updated Approved Project Development Plan (Published separately)

Appendix 2. Updated Technical Details Document (Published separately)

Appendix 3. Updated Financial Settlement Document (Published Separately)

Appendix 4. Updated Licence (amendment to Schedule 10 (project specific documents) only) (Published separately)

Appendix 5. Special condition J2.12 Direction

A5.1 The Licensee shall retain, preserve, maintain and not knowingly do or omit to do anything that would materially prejudice the continuing availability, validity, enforceability or utility of, any data, design work, design rights, intellectual property rights, authorisations, approvals, consents, applications, documents, reports, surveys, stakeholder materials and other assets arising from, prepared for, or created as a result of, those Development Activities funded by Ongoing Devex, to the extent reasonably within the Licensee's control.

A5.2 Without prejudice to the generality of the foregoing, the Licensee shall:

- **Preserve and maintain** all such materials and rights in an orderly and accessible form, including all information, submissions and supporting materials relations to the Runcorn TCPA application and the Licensee's participation in the Cubico DCO process;
- **Take such steps as are reasonably necessary** to maintain in good standing, for so long as relevant to the Runcorn Spurline Development Activities, approved pursuant to the Change in Scope, any extant applications, approvals, consents, stakeholder positions and associated project materials, in each case to the extent that doing so is economic, efficient and consistent with the modified Licence and Project Specific Documents;
- **Not surrender, terminate, abandon, transfer, dispose of, waive, lapse or materially amend** any such data, rights, authorisations, approvals, consents or other assets, except:
  - with our prior written consent; or
  - where the Licensee is required to do so by law, by a competent authority, or by the terms on which the relevant right, approval, consent or asset is held;
- **Keep adequate records** of the status of, and any material restrictions affecting, such data, rights, approvals, consents and other assets, including any third-party ownership rights, licence restrictions, confidentiality obligations or other limitations on use, transfer, disclosure or reliance; and
- **Provide to us, on request**, such information and copies of documents as we may reasonably require in connection with the exercise of its functions under the Licence in relation to those materials, rights and assets.

A5.3 For the avoidance of doubt, nothing in this direction requires the Licensee to take any step which would:

- place it in breach of any applicable law, authorisation, consent, confidentiality obligation or legally binding restriction;
- require it to deal with any asset in a manner inconsistent with the rights of any third party; or
- require expenditure in developing the Runcorn Spurline beyond that which is provided for, or reasonably incidental to, the Runcorn Spurline Development Activities and the modified allowances approved by us pursuant to the Change in Scope.

A5.4 In making this direction, we have taken into account the need to preserve the benefit of work funded to date, to avoid unnecessary duplication of future development activity and cost, and to maintain flexibility in the event that the Runcorn Spurline or the relevant User is subsequently re-prioritised.