

DOCUMENT 4
HIGHWAYS ENGLAND RESPONSE TO
RELEVANT REPRESENTATIONS OF
THE GREATER LONDON AUTHORITY AND NETWORK RAIL

Key

	Local Authority
	Statutory Undertakers

<p>Greater London Authority ("GLA")</p>	<p>I refer to the DLA Piper letter of 28 May 2015, sent on behalf of Highways England, providing notice that the above application has now been accepted for Examination. Further to comments made at the Section 42 pre-application consultation stage, the Greater London Authority (GLA) and Transport for London (TfL) (collectively described here as the "Strategic Authorities") wish to take this opportunity to provide representations to the Planning Inspectorate in order to reflect their current position.</p> <p>On 19 December 2014 the Strategic authorities provided responses to pre-application consultation on the M4 Smart Motorway scheme (refer to GLA letter of 19 December 2014, reference</p>	
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D&P/3543/01, and TfL email of 19 December 2014). The responses noted that whilst there were relative benefits associated with the scheme, the proposal could not be supported until matters with respect to traffic, air quality and noise had been discussed and more fully considered. Since those comments were made, a number of minor revisions have been made to the scheme, and further information has been made available. The Strategic Authorities have also met with Highways England to discuss the Smart Motorway proposal in more detail.

After careful review of the aims of the scheme, the revised sections, and the methodologies used in terms of measuring the impact of the proposal, the Strategic Authorities are satisfied that the impact on traffic and journey times (on both surrounding local roads as well as destinations in central London) would be minimal and acceptable. It is nevertheless noted that (despite a minimal impact on traffic and journey times) the scheme would result in an increased volume of traffic. However, having regard to the forecast numbers provided, the Strategic Authorities are satisfied that this increased volume of traffic would not be significant.

Impact on Traffic and Journey Times:

Highways England welcomes the confirmation by the Greater London Authority and Transport for London (together, "Strategic Authorities") that they are satisfied that the impact on traffic and journey times (on both surrounding local roads as well as destinations in central London) would be minimal and acceptable.

Highways England welcomes the Strategic Authorities' confirmation that, whilst the Scheme will result in an increase in traffic, that increase will not be significant.

Table A-5 within Appendix A of the Traffic Forecasting Report (Appendix 1 Document 3 provided at Deadline 1) shows that the overall levels of induced trips, relative to the Do-Minimum scenario (without the Scheme), are less than 0.3 % in all time periods for both the opening (2022) and design (2037) years. Over a 12 hour day, the level of induced traffic would equate to some 6,500 additional trips out of a total of 465,000 or 0.14%.

	<p>Correspondingly, and having also had regard to the assessments within the published Environmental statement, the Strategic Authorities are similarly satisfied that the impact of the scheme in terms of air quality and noise/vibration would also not be significant.</p> <p>Accordingly the Strategic Authorities are now in a position to withdraw the concerns raised within the pre-application consultation responses of 19 December 2014, and wish to express their in principle support for the M4 Smart Motorway scheme in strategic planning terms.</p> <p>Pursuant to the above position the Strategic Authorities intend to enter into a statement of common ground with Highways England, with a view to assisting and expediting the examination process.</p>	<p><u>Air Quality, Noise and Vibration:</u></p> <p>Highways England welcomes the confirmation that the Strategic Authorities are satisfied that the impact of the scheme in terms of air quality and noise/vibration would also not be significant.</p> <p><u>In Principle Support:</u></p> <p>Highways England welcomes the withdrawal of the Strategic Authorities' concerns in relation to the Scheme and notes their in principle support for the Scheme.</p> <p><u>Statement of Common Ground:</u></p> <p>Highways England is the process of agreement a Statement of Common Ground with the Strategic Authorities, which will be provided to the Examination at Deadline II.</p>
Network Rail Limited	<p>Further to my email yesterday (below), this is the section 56 representation by Network Rail Infrastructure Limited ("Network Rail") to the proposed M4 Junctions 3 to 12 Smart Motorway project. I would be grateful if you could place this before the Examining Authority for consideration.</p>	

Network Rail owns and operates Great Britain's railway network and has statutory and regulatory obligations in respect of it. Network Rail is a statutory undertaker in respect of its railway undertaking.

Network Rail is also an affected land owner, its land and rights are listed within the Book of Reference and the Order provides powers to compulsorily acquire Network Rail land or use it temporarily. Network Rail objects to any proposed compulsory acquisition of its land or any rights in, over or under its land. It is understood that the project interfaces with the railway in a number of places and it will be necessary for the promoter to enter into the required asset protection agreements for those locations. It is also likely that any rights required over Network Rail land will require a grant of easement where appropriate and there may be other legal agreements required to protect the network.

Compulsory Acquisition

Highways England notes Network Rail's objection to the compulsory acquisition of its interests. Protective provisions for the benefit of Network Rail are provided at Part 3 of Schedule 9 of the Development Consent Order ("DCO"). Paragraph 23(1) of those protective provisions states:

"The undertaker must not exercise the powers conferred by articles 19 (authority to survey and investigate land), 20 (compulsory acquisition of land), 22 (compulsory acquisition of rights), 24 (private rights over land), 26 (acquisition of subsoil or air-space only), 28 (rights under or over streets), 29 (temporary use of land for carrying out the authorised development), 30 (temporary use of land for maintaining the authorised development), 31 (statutory undertakers) or the powers conferred by section 11(3) (powers of entry) of the 1965 Act in respect of any railway property unless the exercise of such powers is with the consent of Network Rail." (Emphasis added).

Highways England trusts that this provisions adequately addresses Network Rail's concerns in relation to the compulsory acquisition proposed as part of the Scheme.

Asset Protection Agreements and Easements

Highways England is aware that Asset Protection Agreements and the grant of easements may be required in relation to the works proposed for the Scheme and is liaising with Network Rail to put the appropriate arrangements in place.

	<p>There are standard protective provisions for the benefit of Network Rail which are well precedented in TWA Orders and now in DCOs. Prior to submission of the application, Network Rail was in contact with the promoter regarding the appropriate form that these provisions should take and is pleased to see that these have been incorporated within the draft Order. Network Rail would like to highlight to the Examining Authority the absolute need for these protective provisions to remain included in a DCO where Network Rail's operational infrastructure is affected by the proposal.</p>	<p><u>Protective Provisions</u></p> <p>Highways England can confirm that these protective provisions have been included in the DCO at Part 3 of Schedule 9. Highways England does not anticipate that these protective provisions will be amended. However, were any amendments required during the course of the Examination, Highways England would consult with Network Rail in relation to them.</p>
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