

Statement of Common Ground between Transport for London and Natural England

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Silvertown Tunnel

Statement of Common Ground between Transport for London and Natural England

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		Deadline 6 Submission
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1. Introduction

1.1 Purpose of the document

1.1.1 This Statement of Common Ground (SoCG) is submitted to the Examining Authority in relation to the application by Transport for London (TfL) under section 37 of the Planning Act 2008 (the Act) for an order granting development consent for the construction of the Silvertown Tunnel (“the Scheme”).

1.1.2 The aim of this SoCG is to provide a clear record of the issues discussed and the current status of those discussions. The SoCG can be used as evidence of these discussions in representations to the Examining Authority as part of its examination of the DCO application.

1.2 Parties to this Statement of Common Ground

1.2.1 This Statement of Common Ground (SoCG) has been jointly prepared by the TfL and Natural England. It sets out matters which are agreed between both parties, as well as matters which are not agreed and matters which are under discussion.

1.3 Structure of the Statement of Common Ground

1.3.1 This SoCG comprises six sections:

Section 1 is an introduction to the SoCG and the Scheme;

Section 2 provides an overview of consultation to date between TfL and Natural England;

Section 3 provides a summary of the main areas and topics covered by this SoCG;

Section 4 provides a list of matters agreed;

Section 5 provides a list of matters not agreed; and

Section 6 contains the parties’ signatures.

1.4 The proposed scheme

- 1.4.1 The Scheme involves the construction of a twin bore road tunnel providing a new connection between the A102 Blackwall Tunnel Approach on Greenwich Peninsula (Royal Borough of Greenwich) and the Tidal Basin roundabout junction on the A1020 Lower Lea Crossing/Silvertown Way (London Borough of Newham). The Silvertown Tunnel will be approximately 1.4km long and will be able to accommodate large vehicles including double-deck buses. It will include a dedicated bus, coach and goods vehicle lane, which will enable TfL to provide additional cross-river bus routes.
- 1.4.2 The Scheme also includes the introduction of free-flow user charging at both the Blackwall Tunnel (northern portal located in London Borough of Tower Hamlets) and the new Silvertown Tunnel. This measure will play a fundamental role in managing traffic demand and supporting the financing of the construction, maintenance and operation of the Silvertown Tunnel.
- 1.4.3 On the north side, the tunnel approach road connects to the Tidal Basin Roundabout, which will be altered to create a new signal-controlled roundabout linking the Silvertown Way, Dock Road and the Lower Lea Crossing. Dock Road will be realigned to accommodate the new tunnel and approach road. On the south side, the A102 will be widened to create new slip road links to the Silvertown Tunnel. A new flyover will be built to take southbound traffic exiting the Blackwall Tunnel over the northbound approach to the Silvertown Tunnel. The Scheme includes minor changes to Tunnel Avenue including the removal of the bus-only gate allowing access for all vehicles between Blackwall Lane and Ordnance Crescent. The Boord Street footbridge over the A102 will be replaced with a pedestrian and cycle bridge.
- 1.4.4 New portal buildings will be located close to each tunnel portal to house the plant and equipment necessary to operate the tunnel.
- 1.4.5 Main construction works could commence in late 2018 and will last approximately 4 years with the new tunnel opening in 2022/23. A Tunnel Boring Machine (TBM) will be used to bore the main tunnel sections under the river with shorter sections of cut and cover tunnel at either end linking the bored sections of the tunnel to the portals. The proposal is to erect and launch the TBM from specially constructed chambers at Silvertown and Greenwich Peninsula where the bored sections and cut and cover sections of the tunnel connect. The main construction worksite will be located at Silvertown, utilising

the existing barge facilities at Thames Wharf along with a new temporary jetty for the removal of spoil and delivery of materials by river. A secondary worksite will be located adjacent to the alignment of the proposed cut and cover tunnel on the Greenwich Peninsula.

1.5 Introduction to Natural England

- 1.5.1 Natural England is a non-departmental public body, with the objective of ensuring that the natural environment is conserved, enhanced and managed for the benefit of present and future generations. TfL has engaged with Natural England on the Scheme during the pre-application process, including both non-statutory engagement and formal statutory consultation carried out pursuant to section 42 of the Planning Act 2008.

2. Record of key engagement undertaken

2.1 Key meetings

2.1.1 A summary of the meetings and correspondence that has taken place between Transport for London and Natural England in relation to the Scheme is outlined below.

Date	Form of correspondence	Key outcomes and points of discussion
03/07/14	Response to Scoping Report	Points of advice provided on the general EIA methodology including: <ul style="list-style-type: none">- Biodiversity and Geology- Landscape- Air quality- Climate change
17/12/14	Response to non statutory consultation	Comments on the Introductory Environmental Assessment Report covering issues including: <ul style="list-style-type: none">- Epping Forest air quality- Bat emergence surveys
9/9/15	Comments on the draft Preliminary Environmental Information Report (PEIR)	Comments on the draft PEIR, covering issues including: <ul style="list-style-type: none">- Black Redstart Phase 1 surveys- Bat surveys- Mitigation for Streaked Bombardier Beetle

Date	Form of correspondence	Key outcomes and points of discussion
27/11/15	Meeting	<p>Consultation meeting to discuss assessment methodology and mitigation proposals, and how mitigation can be secured. Specific issues covered included:</p> <ul style="list-style-type: none"> - Notable invertebrate species and potential habitat enhancement - Black Redstarts - Approach to valuing land
30/11/15	Section 42 response letter to Statutory Consultation	<p>Natural England's response to the PEIR, covering issues such as:</p> <ul style="list-style-type: none"> - Open Mosaic Habitat - Habitat deficit - Habitats Regulations Assessment
16/5/16	Email with comments on Habitats Regulations Assessment	Minor typological comments on the draft Habitats Regulations Assessment
8/9/2015	Email with comments on draft Statement of Common Ground	Minor typological comments and confirmation of agreement of matters.
27/10/2016	Teleconference Call	Confirmation of agreement of matters relating to first written questions and progression of SoCG

Date	Form of correspondence	Key outcomes and points of discussion
09/01/17	Email	Confirmation of agreement of matters relating to first written questions
30/01/17	Teleconference Call	Agreement of marine ecology issues relating to first written questions and progression of SoCG
23/02/17	Email	Confirmation of agreement of matters relating marine ecology
09/03/17	Teleconference Call	Agreement in relation to SWQ and terrestrial and marine ecology.
15/03/17	Email	Confirmation of matters relating to SWQ terrestrial and marine ecology.
04/04/17	Email	Confirmation of matters relating to the Outline Ecology Management Plan and NERC Section 41 Species and habitats of principal importance.

2.1.2 Transport for London has aimed to address all the points raised by Natural England during consultation.

3. Topics contained within this SoCG

3.1 Topics included in SoCG

3.1.1 The following topics have been discussed with Natural England with regards to Chapter 9 and 10 of the Environmental Statement (Terrestrial & Marine Ecology) and the relevant appendices – including the Habitats Regulations Assessment:

3.1.2 Matters Agreed:

- Assessment Methodology
- Environmental Design Measures and Mitigation
- Assessment Findings and Conclusions
- Examination First Written Questions – Terrestrial Ecology
- Examination First Written Questions – Habitats Regulation Assessment
- Examination First Written Questions – Marine Ecology
- Examination Second Written Questions - Terrestrial Ecology
- Examination Second Written Questions - Marine Ecology

3.1.3 Matters not Agreed:

- Examination First Written Questions – Marine Ecology

4. Matters agreed

Ref	Description of matter	Details of agreement	Record of agreement
4.1 Assessment Methodology			
4.1.1	<p>Study area</p> <p>Potential impacts of the Scheme on the Epping Forest Special Area of Conservation (SAC) were raised in Natural England's response to the non statutory consultation on 17 December 2014.</p> <p>Epping Forest is under constraints with regards to air quality, exacerbated by transport pollution and should be considered as part of any assessment (as noted by NE during meeting on 27 November 2015).</p>	<p>As noted in Chapter 9 – Terrestrial Ecology, Table 9.2 of the Environmental Statement (Document Reference 6.1), this matter was discussed with Natural England in a meeting in November 2015. Epping Forest SAC was scoped in for further assessment in the Habitats Regulations Assessment (HRA) (Document Reference 6.3.9.1).</p> <p>It is agreed that the impact of air pollution as a result of the Scheme upon the Epping Forest SAC would be unlikely to be direct due to the distance between this SAC and the Scheme.</p>	Email 8 th September 2016
4.1.2	<p>Bat surveys</p> <p>Within their response to the non statutory consultation, Natural England expressed a concern that only one emergence bat survey was undertaken (Response to non statutory</p>	<p>As set out in Appendix 9.B - Bat Activity Survey of the Environmental Statement (Document Reference 6.3.9.2), a bat emergence survey was undertaken in May 2014 at a building identified as being suitable for roosting bats on the ASD Metals site (note that the building is now not included</p>	Email 8 th September 2016

Ref	Description of matter	Details of agreement	Record of agreement
	consultation, 17 December 2014). Natural England's recommendation was that at least another one or two surveys are undertaken.	<p>within the Order Limits). No bats were recorded during this survey.</p> <p>Further Bat activity surveys were undertaken in core bat activity season in 2015 (August and September) to confirm the usage of the site. Both sites presented generally low levels of bat activity.</p> <p>It is agreed that the further bat surveys undertaken by TfL and reported in Appendix 9.B - Bat Activity Survey of the Environmental Statement (Document Reference 6.3.9.2) are sufficient to establish the level of bat activity in the Order Limits.</p>	
4.1.3	<p>Black Redstart surveys</p> <p>Natural England advised that there are known to be populations of Black Redstarts in the Silvertown area using the various brownfield and industrial sites along the Thames (NE comments on draft Preliminary Environmental Information Report, via email 9 September 2015). Therefore despite the</p>	<p>It is agreed that targeted black redstart surveys were undertaken in April - June 2014, as detailed in Appendix 9.F: Dedicated Species Assessment for Reptiles and Black Redstart (Document Reference 6.3.9.6). No black redstarts were recorded during the surveys.</p> <p>It is agreed that TfL subsequently undertook an extended Phase 1 Habitat survey (paragraph</p>	Email 8 th September 2016

Ref	Description of matter	Details of agreement	Record of agreement
	lack of evidence of direct use on site during survey periods, there should be another extended Phase 1 Habitat survey undertaken to establish if there is habitat suitable for use by nesting birds or foraging black redstart.	9.4.35 of Appendix 9.F), which confirmed that within the Order Limits there is habitat suitable for use by nesting birds and in particular, areas of Open Mosaic habitat, which are considered suitable for foraging black redstart.	
4.1.4	<p>Overall approach</p> <p>The overall methodology adopted to undertake the assessment of effects on terrestrial ecology (Chapter 9 Terrestrial Ecology of the Environmental Statement (Document Reference 6.1)).</p>	<p>The overall methodology adopted to undertake the assessment presented in Chapter 9 Terrestrial Ecology of the Environmental Statement (Document Reference 6.1) is agreed.</p> <p>It is agreed that the methodology reflects appropriate legislation, guidance and advice provided by Natural England during the pre-application stage.</p>	Email 8 th September 2016
4.2 Environmental Design Measures and Mitigation			
4.2.1	<p>Black Redstart (<i>Phoenicurus ochruros</i>)</p> <p>Natural England considers that the mitigation proposed in the ES should assume Black Redstarts are present as a precaution, notwithstanding that the surveys</p>	It is agreed that Black Redstart monitoring will be undertaken weekly between April and July during the construction period and that this is set out in paragraph 7.2.1 of the Code of Construction Practice (Document Reference 6.10).	Email 8 th September 2016

Ref	Description of matter	Details of agreement	Record of agreement
	undertaken by TfL have not identified their presence (NE comments on draft PEIR, via email 9 September 2015).	It is agreed that the further controls set out in paragraph 7.2.1 of the Code of Construction Practice (Document Reference 6.10) appropriately avoids any potential impact on Black Redstarts. These controls require that, should black redstarts be recorded, the Contractor will determine the need for additional mitigation, demarcation of exclusion zones or whether discrete elements of the works, proximate to the recorded sighting area and which may give rise to local disturbance, are required to stop temporarily until the birds have left the area (i.e. following the breeding period).	
4.2.2	<p>Streaked Bombardier Beetle (<i>Brachinus sclopeta</i>)</p> <p>Natural England noted that the Streaked Bombardier Beetle is known to have a number of populations in the area and isn't found elsewhere in the UK, with London's brownfields being its last stronghold (NE comments on draft PEIR, via email 9</p>	It is agreed that operational ecological mitigation for the Scheme will include replacement habitat which would be targeted towards suitable foraging and sheltering habitat for terrestrial invertebrates (i.e. invertebrate hotels and dead wood loggeries), including for the Streaked Bombardier Beetle (paragraph 9.5.22 of the Environmental Statement (Document Reference 6.1) and paragraph 5.7.3 of	Email 8 th September 2016

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	September 2015). Rubble piles should be incorporated in open land within the Order Limits to help this beetle cement its foothold in the area.	Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy (Document Reference 6.3.9.8). It is agreed that this is suitable mitigation for potential impacts on these species.	
4.2.3	Replacement habitat Environmental design measures and mitigation for invertebrates, the key habitat approach adopted for invertebrates and Black Redstarts, and the replacement habitat approach.	It is agreed that the quantum of replacement habitat required is identified based on the findings of the Terrestrial Ecology impact assessment. The mitigation aims to deliver the same proportions of habitats to those that are permanently lost, particularly for notable invertebrates and Black Redstart (paragraph 9.5.19 of the Environmental Statement (Document Reference 6.1) and Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy (Document Reference 6.3.9.8). It is agreed that compliance with the Biodiversity Action Plan and Mitigation Strategy is secured by the Design Principles (Document Reference 7.4).	s42 response letter 30 November 2015
4.2.4	Overall approach The mitigation measures set out in Chapter	It is agreed that the mitigation measures and enhancements have been recommended based on the findings of the surveys and the	Email 8 th September

Ref	Description of matter	Details of agreement	Record of agreement
	9 Terrestrial Ecology, Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy, and the Code of Construction Practice.	<p>assessment. These measures have been incorporated into Section 7 of the Code of Construction Practice (Document Reference 6.10) and Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy (Document Reference 6.3.9.8).</p> <p>It is agreed that these are appropriate and adequately mitigate the impacts on terrestrial ecology resulting from the Scheme.</p>	2016
4.3 Assessment Findings and Conclusions			
4.3.1	<p>Notable invertebrate species</p> <p>Natural England noted (Meeting 27 November 2015) that that the Terrestrial Ecology Chapter should adequately address the quality of the existing habitat with regards to notable invertebrate species.</p>	<p>It is agreed that notable terrestrial invertebrate species and their potential habitat (Open Mosaic on Previously Developed Land) are adequately addressed throughout Chapter 9 - Terrestrial Ecology of the Environmental Statement (Document Reference 6.1) and Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy (BAP&MS) (Document Reference 6.3.9.8, refer to Section 5.7).</p> <p>It is agreed that potential impacts to Open Mosaic</p>	Email 8 th September 2016

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		habitat and notable invertebrate species would be mitigated via measures specified in Chapter 7 of the Code of Construction Practice (for construction impacts) and the BAP&MS (for operational impacts).	
4.3.2	<p>Black Redstart (<i>Phoenicurus ochruros</i>)</p> <p>Natural England noted (Meeting 27 November 2015) that although land is of low quality, it requires thorough assessment as species such as Black Redstart favour low grade habitat.</p>	<p>It is agreed that section 9.4 of the Environmental Statement (Document 6.1) appropriately considers Open Mosaic Habitat on Previously Developed Land within the Order Limits in terms of its value for Black Redstarts.</p> <p>The conclusions of the assessment are agreed; specifically that there would be a temporary Slight Adverse effect on Black Redstarts during construction but overall there would be a permanent Slight Beneficial effect for Open Mosaic Habitat and Black Redstarts due to proposed mitigation. Refer to Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy (Document Reference 6.3.9.8).</p>	Email 8 th September 2016

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4.3.3	<p>Tiered approach to land valuation</p> <p>Natural England suggested (Meeting 27 November 2015) TfL consider a tiered approach to valuing land based on: Borough Importance, Metropolitan Importance and Local importance.</p>	<p>It is agreed that a tiered approach to valuing land has been adopted by TfL. Table 9-3 of the Environmental Statement (Document Reference 6.1) assigns an importance classification to each ecological category from international to site importance.</p> <p>It is agreed that the approach to valuing habitats calculated in Annex 1: Natural Capital Assessment of Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy (Document 6.3.9.8) is appropriate. Table 5-2 of the Natural Capital Assessment identifies the scale of importance for the ecological receptors, nominating Site, Local or Country scales.</p>	Email 8 th September 2016
4.3.4	<p>Open Mosaic Habitat</p> <p>Natural England stated that the Preliminary Environmental Information Report reported nationally important Biodiversity Action Plan species and Open Mosaic Habitat (OMH)</p>	<p>It is agreed that the extended Phase 1 Habitat Survey (Appendix 9A of the Environmental Statement, Document Reference 6.3.9.1) identifies areas of Open Mosaic Habitats on previously developed land (rather than wasteland)</p>	Email 8 th September 2016

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	<p>within the Order Limits (s42 response letter 30 November 2015). This should be identified as such within the Environmental Statement - as the PEIR referred to this habitat as 'wasteland' which would undervalue its importance.</p>	<p>which provides suitable habitat for notable invertebrates and Black Redstarts.</p> <p>It is agreed that Section 9.5 of the Environmental Statement (Document Reference 6.1) and Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy (Document Reference 6.3.9.8) outline the requirement to replace Open Mosaic Habitat in the Order Limits.</p> <p>It is agreed that this mitigation is secured by Design Principles SUEN.02, SUEN.04 and SCP.11 (Document Reference 7.4). It is agreed that requirement 3(1) of the draft DCO requires the authorised development must be designed and implemented in accordance with the Design Principles.</p>	
4.3.5	<p>Habitats Regulations Assessment (HRA) (s42 response letter 30 November 2015).</p>	<p>The conclusions of the Habitats Regulations Assessment (HRA) (Appendix 9G of the ES, document reference 6.3.9.7) are agreed. Given</p>	<p>Email 8th September</p>

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		<p>the distances to the nearest Natura 2000 (N2k) sites, such as the Epping Forest SAC, it is agreed that the Scheme is not likely to give rise to significant effects upon any N2k sites or their qualifying features, either alone or in combination with other known plans and projects. It is therefore not necessary to carry out an 'Appropriate Assessment' / Stage 2 HRA.</p> <p>It is agreed that the hydrological linkages between any of the N2k sites and the Scheme are not direct and as such wouldn't be likely to affect the designated sites.</p> <p>In respect to functional habitat and mobile species it is agreed that there will not be any birds or bats from the nearest N2k sites that would be likely to venture far enough to be affected by the proposal.</p>	2016
4.3.6	<p>Overall assessment and findings</p> <p>The overall assessment and findings of the</p>	<p>It is agreed that the overall assessment and findings of the likely effects of the Scheme and the conclusions reached within Chapter 9 of the</p>	<p>Email 8th September</p>

Ref	Description of matter	Details of agreement	Record of agreement
	likely effects of the Scheme and the conclusions reached within Chapter 9 of the Environmental Statement and the Habitats Regulations Assessment.	Environmental Statement and the Habitats Regulations Assessment are robust and reflect advice provided by Natural England during the pre-application stage.	2016
4.3.7	<p data-bbox="421 671 824 703">Section 41 of the NERC Act</p> <p data-bbox="421 740 1048 986">Potential impacts on habitats and species listed under Section 41 of the NERC Act have been evaluated as part of this assessment through a desk study to identify records of these species within 2km of the Order Limits.</p> <p data-bbox="421 1023 1055 1348">Surveys have been undertaken to assess the presence/likely absence of species listed under Section 41 of the NERC Act within the Order Limits. Where likely absence cannot be confirmed, specific mitigation has been incorporated into the Scheme design through replacement habitat or other measures where appropriate, as described</p>	NE are content that the scheme has taken NERC Act 2006 Section 41 species and habitats of principal importance into account.	Agreed 04/04/2017

Ref	Description of matter	Details of agreement	Record of agreement
	in Section 9.5 of the chapter and the CoCP (Document Reference 9.10).		
4.4 Examination First Written questions – Terrestrial Ecology			
TE1	<p>The Examining Authority’s first written questions published on the 18th October 2016 for TE1 states;</p> <p>a) The Biodiversity Action Plan and Mitigation Strategy (BAPMS) [APP-065] states that compliance with this document would be secured by the design principles for the landscaping proposals, which in turn are secured by the dDCO Requirement 6. Should this document be secured directly by a Requirement in the dDCO as ecological matters are not always directly related to landscape matters?</p> <p>b) Has a draft landscaping scheme been</p>	<p>(a) ES paragraph 9.5.19 [APP-031] states that, with regards to ecology, “Residual significant effects will be mitigated within the Order Limits or offset within the wider area as set out in Section 9.6 and according to the principles set out in Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy [APP-065]”. The measures of the BAPMS are secured by Design Principles LSCP.11; SUEN.02; SUEN.03; and SUEN.04 (Pages 21 and 28) [APP-096], which relate to landscaping design, tree planting, the provision of green infrastructure and habitat offsetting. Compliance with these principles is secured by requirement 3 (detailed design) of the dDCO. However, to bring clarity on the face of the Order the applicant has added a new</p>	Teleconference Call 27/10/16

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	<p>prepared and submitted to the Examination? If not, why not?</p> <p>c) How does the BAPMS differ from the Ecology Management Plan which is to be “prepared in consultation with Natural England” pursuant to Requirement 5(2)(h), as currently worded in the dDCO?</p>	<p>requirement to the dDCO which directly secures the implementation of the BAPMS.</p> <p>(b) A draft landscaping scheme has not been submitted to the Examining Authority. A concept illustrative design has been provided within the Design and Access Statement [APP-095], which has informed the assessment presented in the ES Chapter 9 Terrestrial Ecology [APP-031]. The illustrative design indicates one way that the relevant design principles can be applied. The Design Principles [APP-096], secured by the dDCO through requirement 3 in Schedule 2 to the dDCO, will guide the detailed landscaping arrangements to be developed in line with the BAPMS and submitted to the relevant planning authority for approval under requirement 6, when the contractor has been appointed.</p> <p>(c) The requirement to provide an Ecological</p>	

Ref	Description of matter	Details of agreement	Record of agreement
		<p>Management Plan is set out in the Code of Construction Practice (CoCP) [APP-092]. It will detail the mitigation for ecology during the construction phase, including measures such as black redstart monitoring and the requirement for an ecologist to be on site during clearance. The BAPMS [APP-065] secures the operational mitigation by ensuring that the detailed landscape design maximises the biodiversity potential of the on-site habitats and the offsetting to ensure net gain.</p> <p>NE requested that some of the wording in the design principles should be changed from “shall/would be” to “will be”.</p> <p>However it is agreed that the Design Principles and the BAPMS, can only ensure that this mitigation forms part of the detailed design, and the principles by which the mitigation should be designed. It is only after the detailed design process is complete that the exact specification</p>	

Ref	Description of matter	Details of agreement	Record of agreement
		can be confirmed.	
TE6	<p>The Examining Authority's first written questions published on the 18th October 2016 for TE6 states;</p> <p>Do you agree with the Applicant's statement in paragraph 9.4.4 of the ES, that none of the nearby Sites of Special Scientific Interest (SSSIs), National Nature Reserves (NNRs) and non-statutory Sites of Interest for Nature Conservation (SINCs) would be directly affected by the proposed development?</p>	Natural England is in agreement with the Applicant's statement in paragraph 9.4.4.	Teleconference Call 27/10/16
TE7	<p>The Examining Authority's first written questions published on the 18th October 2016 for TE7 states;</p> <p>Japanese Knotweed was found within the Order limits, as were other non-native species including Virginia Creeper and Butterfly-bush. Are Interested Parties (IPs) satisfied with the specific mitigation for these species as described in the Code of</p>	<p>Natural England is in agreement, on the basis that the removal of Japanese knotweed is in accordance with the Environmental Protection Act 1990.</p> <p>Provided in Section 2.7.1 Appendix E Site Waste Management Plan of the CoCP.</p>	Teleconference Call 27/10/16

Ref	Description of matter	Details of agreement	Record of agreement
	Construction Practice (CoCP) (Document reference 6.10) [APP-092]?		
TE8	<p>The Examining Authority's first written questions published on the 18th October 2016 for TE8 states;</p> <p>The ES [APP-031] states in section 9.4 that birds and bats were found within the Order limits.</p> <p>Are IPs satisfied with the specific mitigation for these animals as described in the CoCP (Document 6.10)[APP-092]?</p>	<p>NE requested that the wording for the timing of the breeding bird season relating to vegetation clearance is amended to February to August inclusive.</p> <p>The revised CoCP submitted at Deadline 1 will incorporate this amendment.</p>	Teleconference Call 27/10/16
TE9	<p>The Examining Authority's first written questions published on the 18th October 2016 for TE9 states;</p> <p>The ES describes two Red Data Book invertebrate species that were found within the Order limits.</p> <p>Is Natural England satisfied with the specific mitigation for this species as described in the CoCP (Document 6.10) [APP-092]?</p>	<p>NE agreed that the following response is acceptable.</p> <p>Section 3 of the Construction Method Statement (CMS) [APP-046] envisages site clearance to start as part of the advanced works in late 2018. As set out in paragraph 7.1.3 of the CoCP updated at Deadline 1 [APP-092], site clearance would take account of seasonal constraints and will be carried out in accordance with a Site Clearance</p>	Email 09/01/17

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		<p>Plan which will form part of the Ecology Management Plan prior to carrying out the works. Construction activities are envisaged to start in March 2019 and will to be phased as shown on Drawings in Appendix B of the CMS. Landscaping will start during phase 3 (November 2021 to March 2022) and completed in phase 4 (March 2022 to June 2023). Such phasing of construction activities would create temporary open mosaic habitat and ensure continual suitable open mosaic habitat is provided for the invertebrate assemblage. In addition, Appendix 9.H: Biodiversity Action Plan and Mitigation Strategy (BAPMS) [APP-065] identifies open mosaic habitat as a key receptor and is the focus of the on-site mitigation and the off-site compensation. Compliance with this document is secured by the dDCO, as updated at Deadline 1 (REP1-095). The landscaping for the operational phase of the Scheme , which, as secured by a requirement of the dDCO, will be approved by the relevant</p>	

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		<p>planning authority ,will be developed with the input of an ecologist (as set out in the BAPMS) and in line with the parameters set in the BAPMS principles. These principles ensure that this open mosaic habitat is either present due to temporary habitat created as part of the phased clearance, construction programme / activities or as permanent habitat either on site or offsetting habitat loss outside of the Order Limits.</p>	
TE11	<p>The Examining Authority's first written questions published on the 18th October 2016 for TE11 states;</p> <p>The East India Dock Basin SINC is only 50m away from a construction traffic track-out route.</p> <p>Are IPs satisfied with the dust suppression measures that are proposed in the CoCP [APP-092] to protect this SINC from fugitive dust? If not, why not?</p>	<p>NE is in agreement with the dust mitigation measures proposed in the CoCP.</p>	<p>Teleconference Call 27/10/16</p>

Ref	Description of matter	Details of agreement	Record of agreement
TE12	<p>The Examining Authority's first written questions published on the 18th October 2016 for TE12 states;</p> <p>Are IPs satisfied with the measures set out at section 7.2 of the CoCP [APP-092] proposed by the Applicant for checking whether there are any black redstarts breeding within the Order limits before construction commences?</p> <p>Are IPs content with the proposed mitigation for this species, (and all other species of breeding birds)? If not, why not?</p>	<p>NE is in agreement with the mitigation proposed for black redstarts set out in the CoCP.</p> <p>NE requested that the wording for the timing of the breeding bird season relating to vegetation clearance is amended to February to August inclusive.</p> <p>The revised CoCP submitted at Deadline 1 will incorporate this amendment.</p>	Teleconference Call 27/10/16
TE13	<p>The Examining Authority's first written questions published on the 18th October 2016 for TE13 states;</p> <p>Has the Applicant discussed the need for protected species licences with NE? If so, can the Applicant provide an agreed list of any that are required.</p>	<p>It was agreed between NE and TFL that there are no requirements for terrestrial protected species licences based on existing information provided within the ES.</p> <p>It is agreed that it is not currently envisaged that a marine wildlife licence will be required to undertake the marine works; however, following further pre construction benthic sampling,</p>	Teleconference Call 30/01/17

Ref	Description of matter	Details of agreement	Record of agreement
	Can NE confirm, in relation to each licence required, whether there is any known impediment to the issue of such licences?	applicants should confirm in consultation with MMO and NE whether a wildlife licence for protected species is required.	
4.5 Examination Second Written questions – Terrestrial Ecology			
TE2.2	<p>The Examining Authority's second written questions published on the 10th February 2017 for TE2.2 states;</p> <p>Given the Applicant's response to the Panel's FWQ DC98 (at paragraph 98.8) [REP1-177], which states, "<i>It is not incumbent on the Applicant to ensure that landowners retain the restored landscaping or terrestrial ecology on land that is returned, and the ES does not assume that it will. As such, Requirement 6(1) does not need to make any reference to land which is subject to the powers of temporary possession.</i>" Please could RBG and NE</p>	<p>NE requested further information on the use of land temporarily possessed as part of the project and future management plans. The response below was provided in a meeting dated 09/03/17 and was agreed to be acceptable.</p> <p>Sections 4.5.62 and 4.5.67 of the ES details the differences between permanent and temporary mitigation proposed. Temporary landscaping does not mitigate the effects of permanent residual habitat loss as result of the Scheme.</p> <p>Temporary land take would be returned to landowners in its previous state and condition however any habitat replaced would be of better quality than what is being lost.</p> <p>Permanent landscaping within the highway</p>	Email 15/03/17

Ref	Description of matter	Details of agreement	Record of agreement
	provide their views on the importance and likely effectiveness of the Applicant's proposals to provide off- site ecological mitigation when there is no commitment to it being retained in situ?	boundary of the TFL network would be maintained as part of TFL's general duties. The BAP MS considers operational mitigation and includes habitat management techniques.	
4.6 Examination First Written questions – Habitats Regulation Assessment			
HRA1	<p>The Examining Authority's first written questions published on the 18th October 2016 for HRA1 states</p> <p>Section 7.5 of the HRA Report [APP-064] reports on in-combination effects and notes that nine proposed plans/projects within or adjacent to the scheme have been considered, as detailed in Table 7-2. Has the list of projects to be considered in the in-combination assessment been agreed with Natural England?</p>	NE are in agreement with the list of projects to be considered for the in-combination assessment within the HRA Report (APP-064).	Teleconference Call 27/10/16
HRA 2	<p>The Examining Authority's first written questions published on the 18th October 2016 for HRA2 states</p> <p>The justification for the conclusions reached</p>	<p>NE are in agreement with the approach provided below.</p> <p>The Applicant recognises that the Local Plans of Greenwich and Newham didn't include Silvertown</p>	Email dated 09/01/17

Ref	Description of matter	Details of agreement	Record of agreement
	<p>in the in-combination assessment provided in section 7.5 of the HRA Report [APP-064] is on the basis that the Greenwich and Newham local plans have had their own HRA screening assessment which concluded no significant effect and that policies in the Core Strategies are to enhance biodiversity.</p> <p>Has NE agreed with this approach taken by the Applicant?</p>	<p>Tunnel. However, the Scheme ES and the HRA have assessed the Scheme in combination with other developments. In line with the ES Chapter 9: Terrestrial Ecology (APP-031), nine proposed developments located within or adjacent to the Scheme have been considered in the HRA cumulative assessment and the developments are summarised in Table 7 2 within the ES. The HRA for Newham and Greenwich Local Plan which included these developments concluded no significant effects alone or in combination from these development sites upon Natura Sites. Potential in combination effects although not significant were identified in Greenwich Local Plan HRA. These included:</p> <ul style="list-style-type: none"> • increased visitor/adjacent recreational pressure resulting in disturbance to bird populations and supporting habitat; • and potential for pollution effects downstream. <p>The Silvertown HRA in combination assessment screened out these identified effects for the following reasons.</p>	

Ref	Description of matter	Details of agreement	Record of agreement
		<p>As stated in paragraph 7.2.6 of the Transport Assessment (APP-086), the available evidence indicates that the overall impact of the Scheme is a reduction in daily traffic demand on the road network, and in particular a reduction in and a moderating regulation of, cross-river highway demand. Although the tunnel would add highway capacity to address the transport problems of the Blackwall Tunnel, the imposition of the proposed user charge, and the potential provision of improved cross-river bus services will result in the overall impact of the Scheme resulting in a net reduction in daily traffic demand on the highway network. Therefore in terms of recreational pressure there would not be any in combination effect with the Silvertown Tunnel as the Scheme will not lead to an increase in daily traffic demand.</p> <p>With regard to any potential for pollution effect downstream, NE have already acknowledged <i>“The distances to the nearest Natura 2000 sites are great enough that there is not likely to be a significant impact upon any of the screened sites.”</i></p>	

Ref	Description of matter	Details of agreement	Record of agreement
		The Silvertown HRA in combination assessment therefore concluded that there is no potential for in combination effects upon Natura 2000 sites.	
HRA3	<p>The Examining Authority's first written questions published on the 18th October 2016 for HRA3 states</p> <p>The EA has raised concerns regarding the mobilisation of contaminants in its RR [RR-299] in relation to Water Framework Directive (WFD) compliance. The Thames Estuary and Marshes SPA and Ramsar site are downstream of the Silvertown tunnel proposal and has features which could potentially be sensitive to changes in water quality.</p> <p>a) Can the Applicant provide commentary on whether mobilisation of contaminants could open up pathways for effects to the Thames Estuary and Marshes SPA and</p>	<p>NE are in agreement with the response provided below.</p> <p>Chapter 16 Water quality and Flood Risk and Chapter 10 - Marine Ecology of the ES [APP-031] provides full details of the predicted effects on water quality from mobilisation of contaminants during the construction of the Scheme. As set out in Paragraph 16.6.13 of the revised Chapter 16 Water quality and Flood Risk submitted at Deadline 1, the proposed works at Silvertown are not expected to lead to a long-term deterioration of the assessed contaminants (i.e. specific pollutants, priority substances or priority hazardous substances) within the Thames Middle transitional water body, nor prevent the water body from meeting its WFD objectives.</p> <p>Section 7.3 of the HRA [APP-064] presents further</p>	Email dated 09/01/17

Ref	Description of matter	Details of agreement	Record of agreement
	<p>Ramsar site; and</p> <p>a) Please can the EA expand on their concerns in relation to this SPA and Ramsar site?</p> <p>Please can NE provide their views on this matter?</p>	<p>the assessment of the potential effects (direct and indirect) on European Sites as a result of changes in water quality or changes of flow, concluding that:</p> <p><i>The Thames Estuary and Marshes SPA and Ramsar site is sufficiently far removed at 30km east of the Scheme not to be within the zone of influence of water quality effects.</i></p> <p>Due to no hydrological connectivity between the Scheme and the site, the residual effects are recorded as Neutral. Furthermore it should be noted, there is not sufficiently functionally linked wetland within the zone of influence of the Scheme. Therefore, no likely significant effects upon the Natura 2000 sites from water quality or flow have been identified resulting from the Scheme, either alone or in combination with other known plans and projects.</p> <p>NE are in agreement that no anticipated effects</p>	

Ref	Description of matter	Details of agreement	Record of agreement
		will occur to downstream sites	
HRA4	<p>The Examining Authority's first written questions published on the 18th October 2016 for HRA4 states</p> <p>The HRA lists a number of air quality exceedances at Epping Forest SAC.</p> <p>a) Can the Applicant please confirm the source of this information; and</p> <p>b) Do NE have any views on this information?</p>	<p>Section 7.2 of the HRA [APP-064] cites evidence of these air quality exceedances:</p> <ul style="list-style-type: none"> • footnote number 6 (page 36) "Air Pollution Information system; www.apis.ac.uk; Accessed 01 September 2015" and; • footnote number 7 (page 37) "Essex County Council and the City of London Corporation; Epping Forest Transport Strategy 2012-2016". <p>NE considers that the impacts upon Epping Forest SAC would be minimal given the distances involved and based on the screening criteria for local air quality impacts as stated in the Design Manual for Roads and Bridges Volume 11 by Highways England.</p>	Teleconference Call 27/10/16
4.7 Marine Ecology			
ME1	No surveys were undertaken to establish the	CEFAS and MMO were satisfied with the	Email dated

Ref	Description of matter	Details of agreement	Record of agreement
	<p>marine mammal, fish and shellfish baseline; this was limited to desk based research.</p> <p>Can NE confirm that they are content with this approach?</p>	<p>methodology impact assessment undertaken and it was considered sufficient to inform the ES. However, they have recommended further benthic sampling to be undertaken pre construction to corroborate the findings of the ES. TFL prepared a Benthic Ecology Mitigation and Monitoring Strategy and NE confirmed they were satisfied within its contents.</p> <p>It has been agreed that all features have been fully considered within the assessments provided in the ES. This includes the habitat and species features as cited within the rMCZ.</p>	23/02/17
ME2	<p>The Examining Authority's first written questions published on the 18th October 2016 for ME2 states</p> <p>a) Please can the MMO/NE give the anticipated timescales for designation of the Thames Estuary recommended</p>	<p>Natural England provided further information regarding the rMCZ however it was agreed that this would not alter the information within the ES assessment.</p> <p>It was agreed that there is sufficient information</p>	Telecall 30/1/2017 and email dated 20/1/17.

Ref	Description of matter	Details of agreement	Record of agreement
	<p>Marine Conservation Zone (rMCZ) and comment on whether the Silvertown tunnel development could delay any such designation?</p> <p>b) Please can the MMO/NE/Applicant provide a view to the ExA on how the rMCZ should be weighted as part of the planning examination?</p> <p>c) Please can the MMO/NE explain the process and timescale for the designation of the MCZ and whether it is possible that the designation would not occur?</p>	<p>within the ES that considers the rMCZ.</p> <p>Even though NE and TFL have not agreed the weighting of the rMCZ, it is agreed that if the rMCZ was given equal weighting, and the importance of the habitat as cited within the rMCZ were raised to high, this would increase the significance of the effects to minor adverse at worst. TFL and NE are in agreement that this would not materially change the conclusions of the assessment as presented in Chapter 10 Marine Ecology of the ES.</p>	
ME7	<p>The Examining Authority's first written questions published on the 18th October 2016 for ME7 states</p> <p>The EA, in its RR [RR-299] identifies a discrepancy between the information</p>	<p>MMO are satisfied that a construction method statement is now held within condition 5 of the DML.</p> <p>NE's marine team has reviewed the DML and is content with the relevant conditions as included.</p>	Email dated 15/03/17

Ref	Description of matter	Details of agreement	Record of agreement
	<p>provided in the CMS [APP-046] in relation to the techniques to be used in piling and those described in paragraph 10.6.69 of the ES [APP-031]. The EA also makes a request for a piling method statement to be secured through the dDCO.</p> <p>c) Do other IPs consider that there should be a piling method statement secured through a Requirement in the dDCO or condition in the dDML which identifies piling methods, locations, duration (number of days and hours per day), seasonal limitations on piling and where/how soft start procedures would be implemented?</p>		
<p>4.8 Examination Second Written Questions – Marine Ecology</p>			
ME2.5	The Examining Authority's second written questions published on the 10 th February	It is agreed that there was an error in Natural England's written representation dated 6 th March	Email dated 15/3/2017

Ref	Description of matter	Details of agreement	Record of agreement
	<p>2017 for ME2.5 states;</p> <p>Further to the Applicant's written summary of oral case for the ISH on the 18 Jan 2017 [REP3-016, section 8.2 and 8.3]:-</p> <ol style="list-style-type: none"> 1. Please could NE and the Applicant provide an update at D4 regarding whether any further assessments in relation to the proposed features of the recommended Marine Conservation Zone (rMCZ) are necessary and update the ExA on progress regarding their discussions/agreements in relation to matters related to the rMCZ; and 2. Please could NE and the Applicant provide an update regarding whether there is agreement regarding the weight to be given to the rMCZ? 	<p>2017 and the lagoon sea slug is not a feature put forward for consideration under the rMCZ however it is protected under the Wildlife and Countryside Act (WACA) 1981 Schedule 5. The rMCZ features being considered are tentacled lagoon worm (<i>Alkmaria romijni</i>) (plus intertidal mud as supporting habitat) and smelt (<i>Osmerus eperlanus</i>). The sediment features for consideration under the rMCZ are listed in DEFRA Marine Conservation Zones: Consultation on proposals for designation in 2013, Annex A.3 – Balanced Seas sites requiring further consideration.</p> <p>It is agreed that the features of the rMCZ have been fully considered within the marine ecology assessment and there is sufficient information within the ES that considers the rMCZ.</p> <p>It is agreed that the rMCZ, has been considered at all stages even there is no statutory obligation to</p>	

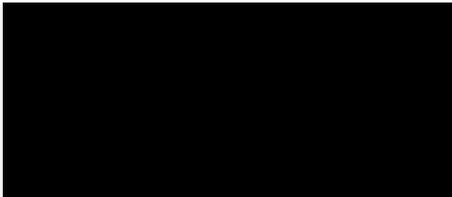
Ref	Description of matter	Details of agreement	Record of agreement
		consider any of its features.	
4.9 Outline Ecology Management Plan (OEMP)			
	NE requested that temporary areas of brownfield are acknowledged in the OEMP.	Following discussions with Natural England, the Outline Ecological Management Plan has been amended to include reference to brownfield habitats and returning temporary land to its previous state and condition. The relevant section will be updated in the version of the CoCP submitted at Deadline 6.	Agreed 04/04/2017

5. Matters not agreed

5.1.1 There are elements of the topics identified within Section 2 of this SoCG that are not agreed and is presented below.

	Description of stakeholder issue	Transport for London response	Natural England Position
5.2 Examination First Written Questions –Marine Ecology			
ME2	<p>The Examining Authority’s first written questions published on the 18th October 2016 for ME2 stated</p> <p>c) Please can the MMO/NE/Applicant provide a view to the ExA on how the rMCZ should be weighted as part of the planning examination?</p>	<p>The weighting of the rMCZ in the planning examination is not agreed with NE.</p> <p>MMO, stated in their written representation submitted at Deadline 1 {REP1-046}, that until a rMCZ is formally designated, there is no statutory obligation to consider the proposed features of the rMCZ that are to be afforded protection. However the Applicant considers that the features of the rMCZ have already been fully considered within the marine ecology assessment.</p>	<p>The rMCZ should be equally weighted throughout the planning examination.</p>

6. Agreement

Signed	
Name	
Position	
Company	Transport for London
Date	
Signed	
Name	Piotr Behnke
Position	Adviser
Company	Natural England

Date	04/04/2017
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