

M25 junction 28 improvement scheme

TR010029

9.11 Statement of Common Ground with Transport for London

Rule 8(1)(e)

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M25 Junction 28 improvement scheme Development Consent Order 202[x]

9.11 STATEMENT OF COMMON GROUND WITH TRANSPORT FOR LONDON

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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Highways England Company Limited and (2) Transport for London

Signed.....


Project Manager
on behalf of Highways England
Date: [DATE]

Signed.....

[NAME]
[POSITION]
on behalf of Transport for London
Date: [DATE]

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1. Introduction

1.1 Purpose of this document

- 1.1.1. This Statement of Common Ground ("SoCG") has been prepared in respect of the application ("the Application") for the M25 junction 28 improvement scheme ("the Scheme") submitted by Highways England Company Limited ("Highways England") to the Secretary of State for Transport ("Secretary of State") for a Development Consent Order ("the DCO") under section 37 of the Planning Act 2008 ("PA 2008").
- 1.1.2. This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All Application documents are available on the Planning Inspectorate website.
- 1.1.3. The SoCG has been produced to confirm to the Examining Authority (ExA) where agreement has been reached between the parties to it, and where agreement has not (yet) been reached. SoCGs are an established means in the planning process of allowing all parties to identify, and so focus on specific issues that may need to be addressed during the examination.

1.2 Parties to this Statement of Common Ground

- 1.2.1. This SoCG has been prepared by (1) Highways England as the Applicant and (2) Transport for London ("TfL").
- 1.2.2. Highways England became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing Highways England made provision for all legal rights and obligations, including in respect of the Application, to be conferred upon or assumed by Highways England.
- 1.2.3. TfL is the integrated transport authority for London with responsibilities including the maintenance, management and operations of London's main roads, known as the Transport for London Road Network ("TLRN").

1.3 Terminology

- 1.3.1. In Table 3-1 in the Issues section of this SoCG:
 - "Agreed" indicates area(s) of agreement
 - "Under discussion" indicates area(s) of current disagreement where resolution remains possible, and where parties continue discussing the issue to determine whether they can reach agreement by the end of the examination
 - "Not agreed" indicates a final position for area(s) of disagreement where the resolution of divergent positions will not be possible, and parties agree on this point.

- 1.3.2. It can be assumed that any matters not specifically referred to in the Issues section of this SoCG are not of material interest or relevance to TfL, and therefore have not been the subject of any discussions between the parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to TfL.

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2. Record of engagement

2.1.1. A summary of the meetings and correspondence that has taken place between Highways England and TfL in relation to the Application is outlined in Table 2-1.

Table 2-1: Record of engagement

Date	Form of correspondence	Key topics discussed and key outcomes
28/11/2018	Letter / email out to TfL (Road Space Management)	To inform TfL of scheme and statutory consultation.
29/01/2018	Letter out to TfL	Confirmation that the January 2018 consultation was postponed to allow further development work on the design, taking into account all the key considerations. Confirmation that this process is nearly complete and that the dates of the 6 week consultation period and how you can get involved will be provided before August 2018.
30/11/2018	Email out to TfL	Notification of statutory consultation.
30/11/2018	Letter out to TfL	Notification of statutory consultation as prescribed consultation bodies and statutory undertakers.
26/07/2019	Email out to TfL	Request for comment on Transport Assessment scoping report.
30/10/2019	Letter out to TfL	Notification of supplementary consultation as prescribed consultation bodies and statutory undertakers.
11/05/2020	Email exchange with TfL	Highways England provided latest versions of various documents to TfL including Road Safety Audit, copies of draft DCO Works Plans and other DCO documents for review and comment.
22/05/2020	Email from TfL	Providing high level comments on the draft DCO.
29/06/2020	Meeting with TfL.	Meeting to go through issues raised by TfL following an email from TfL dated 21/05/20.
15-16/07/20	Email exchanges with TfL	Clarifying meeting arrangements.
21/07/2020	Letter out to TfL	Notification under section 56 of Planning Act 2008 of accepted application.
27/07/2020	Email out to TfL	Provision of draft minutes from June meeting and a plan of existing Cadent gas pipeline beneath A12.
28/07/2020	Meeting via Teams with TfL	Progress meeting.
19/08/2020	Meeting via Teams with TfL	Traffic modelling meeting.

Date	Form of correspondence	Key topics discussed and key outcomes
26/8/2020	Email out to TfL	Provision of draft agenda for September meeting and draft minutes of August traffic modelling meeting.
27/8/2020	Email in from TfL	Provision of example draft Cost Recovery Agreement from Lower Thames Crossing project.
03/09/2020	Meeting via Teams with TfL	Progress meeting.
3-8/9/2020	Email in from TfL and subsequent exchange	TfL provided a draft copy of their relevant representation with a follow up response from Highways England.
4/9/2020	Email out to TfL	Provision of shapefiles showing Highways England's interests following August meeting.
11/9/2020	Email out to TfL	Provision of minutes from September meeting.
14/9 – 21/01/2021	Email exchanges	Cost Recovery Agreement.
2/10/2020	Email out to TfL	Provision of draft agenda for October meeting, minutes of September meeting, and modelling information.
05/10/2020	Meeting via Teams with TfL.	Progress meeting.
7-8/10/2020	Email exchange with TfL	Sharing modelling information with LB Havering.
23–26/10/2020	Email exchange Highways England / TfL	Maintenance responsibilities.
26/10/2020	Email in from TfL and subsequent exchanges	Book of Reference clarifications.
28/10/2020	Email exchanges with TfL	Provision of draft agenda for forthcoming meetings and draft minutes of October meeting and subsequent follow up.
29/10/2020	Meeting via Teams with TfL	Meeting to focus on maintenance and land issues.
02/11/2020	Meeting via Teams with TfL	Progress meeting.
4/11/20	Letter in from TfL	Letter providing further details regarding maintenance of the A12 eastbound slip road.
20/11 – 2/12/2020	Email exchanges between TfL / Highways England	Clarifications regarding maintenance responsibilities.
23/11/2020	Email to TfL	Provision of draft minutes of November meeting and agenda for December meeting.
2–8/12/2020	Email chain with TfL	Correspondence with TfL seeking regarding contact with the GLA and their role.
6/12/2020	Email out to TfL	Provision of draft agenda for January meeting.

Date	Form of correspondence	Key topics discussed and key outcomes
7/12/2020	Meeting via Teams with TfL.	Progress meeting.
8/12/2020	Email out to TfL	Provision of draft contractor's programme and Highways England's maintenance details.
8/12/2020	Email in from TfL and subsequent exchange	Clarifications on maintenance responsibilities.
23/12/2020-12/1/2021	Email exchanges with TfL	First draft SoCG provided to TfL, and subsequent correspondence on Book of Reference / land clarifications.
29/12/2020	Letter out to TfL	Formal response to TfL's letter of 4/11/20 concerning maintenance aspects on the A12 eastbound slip road.
06/01/2021	Email out to TfL and subsequent exchange	Provision of draft minutes from December meeting and agenda for January meeting and clarification re SoCG and Cost Recovery Agreement.
11/01/2021	Meeting via Teams with TfL.	Progress meeting.
18/01/2021	Email exchange with TfL	TfL's position would be to accept responsibility for maintenance of the new A12 eastbound off slip road and associated assets to be agreed, subject to receiving a commuted sum from Highways England.
20/01/2021	Email in from TfL and related exchange	TfL's response and comments to the first draft SoCG with related emails regarding dates and the deadline for Highways England to respond to that.
04/02/2021	Letter in from TfL	Confirmation that TfL do not have any comments pursuant to the targeted consultation for Changes 1-4.

2.1.2. It is agreed that this is an accurate record of the key meetings and other forms of consultation and engagement undertaken between (1) Highways England and (2) TfL in relation to the issues addressed in this SoCG.

3. Issues

3.1 Introduction and general matters

- 3.1.1. This document sets out the 'issues' which are agreed, not agreed, or are under discussion between TfL and Highways England.
- 3.1.2. On 12 November 2020, the Examining Authority issued a letter under Section 88 of the PA 2008 and Rules 4, 6 and 9 of The Infrastructure Planning (Examination Procedure) Rules 2010 (known as the '*Rule 6 Letter*'). Annex D sets out a request for SoCGs between Highways England and various parties, including TfL. For TfL the '*Rule 6 Letter*' advises that the following issues should be in the SoCG:
- The effects on the highway network from construction and operational phases
 - Scope of works and design information
 - Landownership and rights
 - Environmental impacts
 - The draft DCO.
- 3.1.3. The '*Rule 6 Letter*' also advises that the SoCGs should cover where relevant:
- Methodology for environmental assessments including assessment of cumulative effects
 - Data collection methods
 - Baseline data
 - Data/statistical analysis, approach to modelling and presentation of results
 - Full expression of expert judgements and assumptions
 - Identification and sensitivity of relevant features and quantification of potential impact
 - Likely effects, including construction and operational effects
 - Feasible and deliverable mitigation and method of securing such mitigation within the DCO.
- 3.1.4. Table 3-1 shows those matters which have been agreed or yet to be agreed by the parties, including a reference number for each matter, and the date and method by which it was agreed (if relevant).

Table 3-1: Issues and matters to be agreed

3.1.5. Table 3-1 has been discussed with TfL, but as of 15 January 2021, written feedback is awaited.

SoCG reference number	Document reference	Relevant issue	Position as regards agreement Highways England and Transport for London and reasons for any difference in views	Matters to be addressed/agreed
1.0 EFFECTS ON THE HIGHWAY NETWORK FROM CONSTRUCTION AND OPERATIONAL PHASES				
1.1	RR-028 paras 7.1 to 7.6 5.6, 26.16 APP-015	The proposals set out in the Requirements of the draft DCO (APP-015) to minimise traffic impacts of the Scheme during construction are appropriate.	<p>Under discussion.</p> <p>TfL request that a review be undertaken to determine any conflicts with the construction programme of other Highways England, TfL or local authority schemes within the area.</p> <p>TfL request that a review be undertaken to determine any conflicts with the construction programme of other Highways England, TfL or local authority schemes within the area. The Transport Assessment Report for the Scheme (APP-098) includes a review of all known highways schemes in the wider area to ensure they were accounted for in the traffic modelling. (RR-028 para 28.16).</p> <p>As the local highway authority, TfL is already a consultee to Requirement 10 on the Traffic Management Plan. In response to TfL's requests, Requirement 4 of the dDCO has been</p>	

SoCG reference number	Document reference	Relevant issue	Position as regards agreement Highways England and Transport for London and reasons for any difference in views	Matters to be addressed/agreed
			amended to include 'local highway authority' as a consultee on the CEMP (refer to the revised wording of the updated dDCO submitted to the ExA at Deadline 2 TR010029/EXAM/9.32).	
1.2	RR-028 paras 3.8, 7.3 and 7.5	The construction and operation of the Scheme will not give rise to significant adverse effects on the TLRN as presented in the Transport Assessment Supplementary Information Report (TASIR) (PDB-003) submitted on 21 December 2020.	Under discussion.	
1.3	RR-028 paras 4.1 and 5.6 APP-015	The impact of the Scheme on traffic during the construction phase would be managed through the Traffic Management Plan that is secured in the dDCO (APP-015) through Requirement 10 and would involve consultation with TfL as the relevant highway authority. The proposed traffic management of the Scheme during construction would ensure the safety of road users and minimise additional traffic congestion and delay as far as reasonably practicable.	Under discussion	
2.0 SCOPE OF WORKS AND DESIGN INFORMATION				
2.1	RR-028 paras 3.6 and 5.5	The Scheme has been designed to meet all appropriate standards as set out in the DMRB.	Under discussion. Agreed. TfL has raised concern regarding the ground stability in the local area and is seeking evidence that the design of the	

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	APP-032		Scheme takes that into account. <u>TfL is liaising with the Applicant about the technical standards being used to design the infrastructure. TfL is also reviewing the Ground Investigation Report submitted to the Examination at Deadline 1.</u>	
2.2	<u>RR-028 paras 2.2 and 4.2</u>	<u>To enable detailed design to come forward, the drafting of Requirement 3 is appropriate for the Scheme.</u>	<u>Under discussion.</u> <u>TfL does not agree that the wording in Requirement 3 is sufficient and seeks further assurances about how TfL will be consulted about detailed design and how TfL's comments will be taken into account.</u> <u>Highways England is currently in ongoing discussions with TfL regarding the proposed responsibilities of both organisations in particular regarding ownership and maintenance responsibilities. This, in turn, will inform discussions on any consultation with TfL that may be appropriate under Requirement 3.</u>	
2.3	RR-028 para 7.6	The non motorised user (NMU) proposals within the Scheme are proportionate and appropriate.	<u>Agreed. Under discussion.</u> <u>TfL is seeking assurance that the design of the NMU route is consistent with the upgrade to be provided if the Road Investment Strategy 2 bid is successful,</u>	

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			<u>with particular regard to the crossings of the A12 and M25 slip roads at the Junction 28 roundabout.</u>	
2.4	RR-028 paras 5.4 and 9.1	TfL should be consulted upon the details for diversion of the high-pressure gas pipeline beneath the A12.	Under discussion.	
3.0 LAND OWNERSHIP AND RIGHTS				
3.1	RR-028 paras 6.1 to 6.4	The Book of Reference correctly records the land ownership and highway authority responsibilities.	Under discussion. Highways England are intending to refresh the Book of Reference and submit this to the ExA at Deadline 3 (18 February 2021) to address some identified inconsistencies. <u>TfL is seeking for TfL and Highways England land ownership boundaries to be made consistent with existing highway authority boundaries.</u>	
3.2	RR-028 paras 2.2, 6.2 and 6.3	The scope of the compulsory acquisition powers sought in the DCO are required for the development, are required to facilitate or are incidental to the development.	Under discussion. TfL has requested further information regarding the proposed temporary possession and permanent acquisition of rights over TfL land. Highways England are reviewing the powers being sought in the DCO and will submit the results of this to the ExA at Deadline 3 (18 February 2021) to address concerns raised by TfL.	

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4.0 ENVIRONMENTAL IMPACTS				
4.1 Policies				
4.1.1	RR-028 paras 5.1 and 8.1 APP-095	The correct policies and guidance have been taken into consideration in assessing the Scheme as presented in section 5 of the Case for the Scheme (APP-095), and the Scheme is compliant with the relevant policies.	Not agreed. Under discussion. TfL has asked that TfL's Vision Zero be reviewed by Highways England and their contractors to ensure that the Scheme is consistent with that approach (see paragraph reference 28.12 in Highways England's response to TfL's Relevant Representation (RR-028)). TfL has also asked that evidence be given to show how the Scheme is compliant with the London Environment Strategy and Mayor's Transport Strategy. (see paragraph reference 28.28 in Highways England's response to TfL's Relevant Representation (RR-028)).	
4.1.2	Himalayan balsam	The DCO incorporates appropriate mitigation measures in relation to Himalayan balsam.	<u>Agreed.</u>	
4.2 Cumulative and in-combination effects on, and with, other major projects and proposals				
4.2.1	RR-028 paras 2.2 and 7.2	Appropriate assessments in accordance with Department of Transport's (DfT) Transport Analysis Guidance (TAG) have been undertaken to assess the potential cumulative and in-combination effects of the Scheme on, and with, other major projects	Under discussion. Not agreed TfL has advised it needs to review in more detail the performance of the new layout for Junction 28 with the Lower Thames Crossing in place.	

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		and proposals.		
4.3 Traffic Modelling and Transport Assessment				
4.3.1	RR-028 paras 7.2 to 7.4 APP-098	<p>The methodology and scope of the traffic modelling carried out for the Scheme has been undertaken in accordance with DfT's TAG and is robust and appropriate in respect of:</p> <ul style="list-style-type: none"> • Baseline monitoring (Chapter 3 of the Transport Assessment Report (TAR) (APP-098)) • Demand forecasting (section 5.3 of the TAR (APP-098)) • Future year modelling (Chapter 5 of the TAR (APP-098)). <p>The TASIR (PDB-003) submitted on 21 December 2020 presents information that demonstrates that:</p> <ul style="list-style-type: none"> • the Scheme would provide journey time benefits under both the low and high traffic growth forecast scenarios • the Scheme would improve journey times for all traffic including buses on the A1023 • the Scheme would not have a significant impact on the operational performance of Gallows Corner. 	<p>Under discussion - TfL has asked for further detail regarding different growth scenarios. Also, as TfL buses operate on the A1023, TfL have advised that they do not wish to see any increase in bus journey times. Lastly, TfL seeks to ensure that Gallows Corner (the A12 / A127 junction) is not adversely affected by the Scheme.</p> <p>Highways England is currently in ongoing discussions with TfL regarding the Scheme, including traffic modelling issues and has prepared a TASIR (PDB-003) which was submitted to the ExA at Procedural Deadline B on 21st December 2020.</p> <p><u>TfL has reviewed the TASIR and the additional information provided has resolved some of TfL's concerns. However, TfL has some further queries on some issues and continues to seek additional sensitivity tests regarding usage of the loop road, which requires further discussion.</u></p> <p><u>HE does not consider there to be a need for sensitivity tests to be undertaken. Highways England are confident that the</u></p>	

SoCG reference number	Document reference	Relevant issue	Position as regards agreement Highways England and Transport for London and reasons for any difference in views	Matters to be addressed/agreed
			<p><u>traffic modelling already completed provides the most reliable method of forecasting the proportional split of traffic between the two alternative routes.</u> <u>Further it is not possible to force traffic to use a particular route within the strategic traffic model as this would be incompatible with the fundamental basis on which the strategic model works, i.e. reassignment of traffic until equilibrium is reached.</u></p>	
		<p>The 2015 base flows used in the traffic modelling and reported in Chapter 3 of the TAR (APP-098) are robust and derived from reliable sources.</p>	<p>Agreed.</p>	
<p>5.0 THE DRAFT DCO</p>				
<p>5.1</p>	<p>RR-028 paras 3.1, 3.3 to 3.5, 4.4 and 9.1, APP-015</p>	<p>The articles and schedules in the dDCO (APP-015) are appropriate for the Scheme.</p>	<p>Under discussion – <u>TfL has raised concern regarding the drafting of articles 9 (consent to transfer benefits to Cadent Gas), 11 (maintenance responsibilities for new / altered streets) and 16 (classification of roads and the eastbound A12 off slip becoming a GLA road).</u></p> <p><u>Highways England's position is that: Article 9 is well precedented and is also</u></p>	

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			<p><u>included in the Silvertown Tunnel DCO, promoted by TfL (see article 59(5) of that Order). The persons listed in Article 9(4) can only receive the benefit of the Order for the purposes of the works specified. TfL is concerned that it would not have a role in approving the design and construction of works that affect its assets under the current drafting of the DCO. Highways England considers that the concerns of TfL are addressed in the dDCO.</u></p> <p>–</p> <p><u>Article 11 will be reviewed alongside discussions on ownership and maintenance responsibilities.</u></p> <p><u>Article 16 has followed the precedent set by TfL in the Silvertown Tunnel DCO 2018 (see Art 50 of that Order). TfL is requested to provide further clarity over concerns with the wording of Article 16.</u></p> <p><u>TfL has also raised concern over some of the proposed timescales specified in the dDCO:</u></p> <ul style="list-style-type: none"> <u>• Consultation on discharge of requirements where details need to be submitted to the</u> 	

SoCG reference number	Document reference	Relevant issue	Position as regards agreement Highways England and Transport for London and reasons for any difference in views	Matters to be addressed/agreed
			<p><u>Secretary of State for approval (Schedule 2 paragraph 17) – TfL considers that 8 weeks is more appropriate.</u></p> <ul style="list-style-type: none"> • <u>Notice to access to TfL's land for survey (Article 22 (2)) – TfL considers that 28 days would be more appropriate.</u> • <u>Notice to take temporary possession of land (Article 35 (2)) – TfL consider that 28 days would be appropriate</u> • <u>Notice in the event of a permanent prohibition or restriction (Article 18 (5)) – TfL considers that up to six months may be required to plan any closures.</u> • <u>Traffic regulation (Article 18 (11)), after which consent is deemed to have been given – TfL consider that 56 days would be more appropriate.</u> • <u>Applications regarding drainage proposals (Article 19 (9)) – TfL consider that 56 days would be more appropriate.</u> <p><u>Highways England considers the proposed timeframes to be appropriate</u></p>	

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			<p><u>and well precedented – see Highways England's response to TfL's Relevant Representation (RR-028). TfL considers that though there are precedents from other DCOs, that does not necessarily mean that the timescales are justified in this case.</u></p> <p><u>However, Highways England has revised the time period under Schedule 2 paragraph 17 to 21 days to address concerns raised by TfL- refer to dDCO submitted at Deadline 2 TR010029/EXAM/9.32.</u></p>	
5.2	RR-028 paras 4.2 to 4.3 and 7.5. APP-015	The Requirements set out in Schedule 2 of the dDCO (APP-015) are appropriate for the Scheme.	<p>Under discussion.</p> <p>TfL has asked that TfL be consulted on the detailed design under Requirement 3 and should be added as a consultee under Requirement 4 - the CEMP, Requirement 5 Landscaping, Requirement 6 contaminated land, and Requirement 8 - surface and foul water drainage.</p> <p><u>Highways England is currently in ongoing discussions with TfL regarding the proposed responsibilities of both organisations, in particular regarding ownership and maintenance responsibilities. This, in turn, will inform discussions on any consultation with TfL.</u></p>	

SoCG reference number	Document reference	Relevant issue	Position as regards agreement Highways England and Transport for London and reasons for any difference in views	Matters to be addressed/agreed
			<p><u>that may be appropriate within the requirements.</u></p> <p><u>Highways England has added consultation with 'local highway authority' to Requirement 4 to address TfL's concerns. Refer to dDCO submitted at deadline 2 TR010029/EXAM/9.32</u></p> <p><u>TfL has also suggested that ongoing traffic monitoring should be undertaken to identify other measures or works which might be required to be undertaken by Highways England as a consequence of the Scheme to ensure that the surrounding road network continues to operate at an acceptable level following opening of the Scheme to traffic.</u></p> <p><u>As no wider significant adverse traffic impacts are predicted, Highways England considers that no ongoing traffic monitoring is required.</u></p>	
5.3	RR-028 para 2.2, 3.6, 3.8, 7.4 and 7.5.	The draft DCO does not need to include protective provisions for the benefit of TfL.	Under discussion - TfL has requested a separate agreement with Highways England to provide clarity and secure agreement on the ownership and	

SoCG reference number	Document reference	Relevant issue	Position as regards agreement Highways England and Transport for London and reasons for any difference in views	Matters to be addressed/agreed
			<p>maintenance responsibilities of TfL and Highways England, and assurances to safeguard TfL's interests and the safety and Integrity of the TLRN.</p> <p>Highways England has listened to TfL's concerns and is currently engaged in ongoing discussions with TfL regarding the proposed responsibilities of both organisations, including ownership and maintenance responsibilities, with a view to entering into an agreement to document these matters.</p>	

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3.1.6. The list below states the relevant examination documents used in Table 3-2.

Table 3-2: Examination documents

Examination reference	Document title
RR-028	Transport for London Relevant Representation
APP-015	3.1 Draft Development Consent Order
APP-032	6.1 Environmental Statement - Chapter 10 - Geology and Soils
APP-095	7.1 Case for the Scheme and Schedule of Accordance with National Policy Statement
APP-098	7.4 Transport Assessment Report
PDB-003	9.5 Transport Assessment Supplementary Information Report

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