

THE A122 (LOWER THAMES CROSSING) DEVELOPMENT CONSENT ORDER

Procedural Deadline B Submission – written submission on the Examination procedure and draft timetable

Interested Party	Northumbrian Water Limited (operating as Essex & Suffolk Water)
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1. This is a submission on behalf of Essex & Suffolk Water (“ESW”), the operating name in the south-east of England of Northumbrian Water Limited, in advance of Procedural Deadline B, providing its written comments on the Examination procedure and draft timetable contained within the Rule 6 letter dated 25 April 2023.

2. ESW’s comments are limited to Annex B: Initial Assessment of Principal Issues. ESW notes the inclusion of issue 10 – ‘Road drainage, water environment and flooding’ – which recognises the importance of the water environment and some of the potential impacts of the Lower Thames Crossing project on it. However, as regards the key issues that relate to ESW, none of the matters currently included under issue 10 properly characterises the nature of the concerns of ESW in relation to the project. Having carefully considered the other issues listed in Annex B, nor do any of the other principal issues appear relevant. ESW therefore requests that an additional water topic be added to issue 10 or elsewhere, specifically ‘the effects of the DCO on the Linford Well and security of public potable water supply’.

3. ESW requests that the scope of this topic covers ESW’s three key concerns in relation to powers in the draft Development Consent Order (“the DCO”) and supporting application documents. Those concerns are: the compulsory acquisition of the Linford Well, issues relating to the supply of water from the Linford Well and issues concerning water quality and contamination of the water source both during and following the construction of the works authorised by the DCO.

4. These are not matters properly within the scope of the “standard” protective provisions for Water undertakers of the sort included in Part 1 of Schedule 14 to the DCO and ESW is not satisfied that there are any or any adequate provisions elsewhere within the DCO and associated application documents to sufficiently protect both its statutory undertaking and the water source.

5. The Linford Well is located in ESW’s Essex water resource zone (WRZ) which has a population of 1.78 million. The Essex WRZ extends from Witham in the north, down to Grays in the south, and from the east London boroughs across to Southend-on-Sea to the east. Linford well is a chalk aquifer groundwater source located near Grays. The Linford well draws water from the chalk aquifer, which is overlain by permeable strata (the river terrace deposits and the thanet formation). Although the well is not currently in use for potable water supply due to elevated levels of manganese which risks causing discoloured water events, the well is subject to an abstraction licence from the Environment Agency for potable water supply which imposes obligations on ESW, including monitoring water quality.

Compulsory acquisition and water supply

6. The draft DCO includes powers of acquisition over plot 24-133 which contains the Linford Well. National Highways intends to use the Linford Well to supply at least some of the water to its tunnel boring machines (“TBMs”) to be used to construct the tunnel.

7. ESW is especially concerned by the proposed compulsory acquisition powers included in the DCO to acquire this strategically important asset and to facilitate the supply of water for the project in this way.

8. The use of compulsory powers would allow National Highways to exclude ESW from a licensed abstraction asset and prevent access for the carrying out of ESW’s usual inspection, maintenance, monitoring and safety procedures, during the construction of the works authorised by the DCO. If ESW is excluded from the site once National Highways is in occupation ESW will not be able to fulfil its current abstraction licence obligations. Whilst the protective provisions in the DCO would cover damage to ESW apparatus and pipes, they do not cover for other liabilities

arising, such as damage to the water source or to liabilities arising from any escape of water or flooding.

9. The inclusion of the Linford Well within the compulsory acquisition limits of the DCO also causes ESW great concerns as to the potential future use of the Linford Well for public potable water supply. ESW is the appointed water undertaker for 1.8 million people in parts of Essex and Suffolk by virtue of an appointment under the Water Act 1989 (now the Water Industry Act 1991) and therefore has statutory obligations as to public water supply.

10. The Linford Well is included within ESW's Draft Water Resources Management Plan 2024 (WRMP) submitted to DEFRA and Ofwat on 21 December 2022 (and the finalised WRMP, due to be submitted in August 2023) as an essential future source of up to 6 Megalitres a day of public potable water supply. ESW has received funding from Ofwat for associated design development works to meet these objectives with intended operation due in the period 2025 to 2030. It is therefore of crucial importance to ESW that notwithstanding any compulsory powers National Highways might have over it, the Linford Well be returned to ESW no later than 31 December 2031. The announcement by the Secretary of State on 9 March 2023 to delay construction of the Lower Thames Crossing project by two years serves only to exacerbate this issue.

Water Quality

11. The topic of water quality is linked to that of public potable water supply but raises a further distinct set of issues which are not covered by other principal issues listed in Annex B and, ESW asks to be addressed specifically as part of its proposed further category within issue 10 or elsewhere.

12. As explained in its Relevant Representation, the aquifer for the Linford Well is unconfined within a high water table, meaning that there is a pathway for surface waters to permeate the soil and reach the aquifer. It is therefore at a higher risk of contamination causing a detrimental impact on water quality and, consequently, the output from the Linford Well. ESW has concerns that the DCO contains powers not only for compulsory acquisition of the Linford Well (and control of it) to enable its use to supply the TBMs, but also for the carrying out of construction of permanent works in the source protection zone for the Linford Well. Each has the potential to contaminate the source yet there are insufficient mechanisms and protections included within the DCO application, such as monitoring the water quality and contingent arrangements, if the water supply is contaminated during construction or operation of the scheme.

13. As explained above, ESW intends to reinstate the Linford Well to public potable water supply and so will require it to be returned by no later than 31 December 2031. At the point at which it is returned, it is very important that the Linford Well is in the same state it would have been but for its use during the construction of works authorised by the DCO. If the Linford Well water source has suffered detriment this could jeopardise the potential future use of the asset and therefore the security and resilience of public potable water supply of the Essex Water Resource Zone, which ESW has a statutory obligation to maintain.

14. Although there have been discussions between the relevant technical teams at ESW and National Highways, ESW's concerns about water quality and potential contamination risk have not been resolved. ESW could be put potentially in breach of its commitments made to DEFRA in its WRMP relating to public water supply and to Ofwat, and have to bear the costs arising if there is detriment to the quality of the water source as a result of the project. There is currently no adequate means within the DCO and other application documents to address these concerns nor to compensate ESW for any loss or damage to the water source.

15. ESW considers that these topics are not covered within the list of issues identified in Annex B but are of such weight and scope to request their inclusion as a distinct principal issue, either within issue 10 or elsewhere.

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