

# Lower Thames Crossing

## **Applicant's summary of oral submissions and comments made at the Preliminary Meeting held on 6 June 2023**

The Infrastructure Planning  
(Examination Procedures)  
Rules 2010

Volume 8

**DATE: June 2023**

Planning Inspectorate Scheme Ref: TR010032  
Application Document Ref: TR010032/APP/8.9

**VERSION: 1.0**

# **APPLICANT'S SUMMARY OF ORAL SUBMISSIONS AND COMMENTS MADE AT THE PRELIMINARY MEETING HELD ON 6 JUNE 2023**

## **A122 LOWER THAMES CROSSING**

*Please note: this document contains the Applicant's written summary of oral evidence and post-hearing comments on submissions made by others at the Preliminary Meeting held on 6 June 2023. Where the comment is a post-hearing comment submitted by National Highways, this is indicated.*

*This document uses the headings for each item in the agenda published for the Preliminary Meeting by the Examining Authority in Annex A of the Rule 6 letter dated 25 April 2023.*

### **1 Item 1: Introduction**

1.1 National Highways (the **Applicant**) which is promoting the A122 Lower Thames Crossing (the **Project**) was represented at the Programming Meeting by Isabella Tafur (**IT**) of Counsel, instructed by BDB Pitmans LLP. The following persons were also introduced to the Examining Authority (**ExA**):

1.1.1 Dr Tim Wright, A122 Lower Thames Crossing, Head of Consents (**TW**);

1.1.2 Tom Henderson, BDB Pitmans LLP, Partner (**TH**); and

1.1.3 Mustafa Latif-Aramesh, BDB Pitmans LLP, Partner and Parliamentary Agent (**MLA**).

### **2 Item 2: The Examining Authority's remarks about the Examination process and following the Programming Meeting**

2.1 The Applicant did not make any submissions under this agenda Item.

### **3 Item 3: The Examining Authority's remarks about written submissions received by Procedural Deadline B (26 May 2023)**

3.1 In relation to the Planning Performance Agreement (**PPA**) variation with Thurrock Council, IT referred to the Joint Position Statement with Thurrock Council submitted at Procedural Decision B [[PDB-004](#)] which confirms the PPA has been agreed and is currently subject to Thurrock Council's internal approvals process. The Applicant has confirmed that it will continue to honour the agreement in advance of its final execution.

3.2 IT noted that the Applicant attempted to submit a Navigation Document to the Planning Inspectorate website as an accompanying document to the Cover Letter submitted at Procedural Deadline B [[PDB-027](#)], but that this was rejected by the Case Officer team, as the Navigation Document was not submitted at a deadline assigned by the ExA. The Applicant acknowledges the comments from the ExA on this matter.

3.3 ***[Post-meeting note: the Applicant acknowledges, and will accede to, the request from the ExA to use ‘short’ document titles for document submissions to avoid technical error in the Planning Inspectorate’s submission portal].***

#### **4 Item 4: Initial Assessment of Principal Issues – Annex B to Rule 6 letter**

4.1 IT noted that the Applicant is content with the Principal Issues identified in Annex B to the Rule 6 letter [[PD-013](#)] and that the Applicant considers these to be comprehensive. IT identified one typographical error contained in Item 4 of the Principal Issues, where “objection” should read “objectives” in the second bullet point. The Applicant is grateful for the ExA’s confirmation that this would be corrected.

#### **5 Item 5: Draft Examination Timetable – Annex D to Rule 6 letter**

##### *Delay to the start of Examination*

5.1 In response to the request to delay the start of Examination, IT referred to the Applicant’s submission at the Programming Meeting [[PDB-002](#)] which set out five powerful reasons for avoiding further delay. IT added that since that submission was made, the position of Thurrock Council had improved further with the agreement of the PPA and the re-engagement of their full consultant team. The Applicant’s position is that these developments are positive developments since the ExA’s Procedural Decision 12 [[PD-012](#)], which further militate against any delay to the Examination.

##### *Draft Development Consent Order*

5.2 IT confirmed that it is the Applicant’s intention to explain any proposed amendments to the draft Development Consent Order (dDCO) [**Additional Submission** [AS-038](#)] at Issue Specific Hearing 2 (ISH2) and noted that the proposed changes to the dDCO at this stage are minor. On that basis, IT provided reassurance that carrying out a review of the dDCO as it currently stands would not entail significant abortive work for Interested Parties.

##### *Accompanied Site Inspections*

5.3 IT noted that the Applicant had issued its proposed itinerary for the Accompanied Site Inspection [[PDB-001](#)] and that the Applicant is required to

submit an amended itinerary at Deadline 1 (18 July 2023), to take account of any comments received. IT queried whether it would be appropriate for the ExA to issue guidance to the Applicant in respect of the comments and feedback that should be accommodated prior to the submission of the amended itinerary. The Applicant noted that the ExA's provisional position was that it would be prepared to issue such guidance.

### *Statements of Common Ground*

- 5.4 IT acknowledged that the ExA's request to provide new Statements of Common Ground (**SoCGs**) with the parties identified in Annex F to the Rule 6 letter [[PD-013](#)]. The Applicant noted the ExA's request that the new SoCGs will be submitted by Deadline 1 (18 July 2023) and will seek to ensure that this deadline is met, where possible.
- 5.5 IT provided an update on the Applicant's position in relation to SoCGs. IT noted that the parties identified by the ExA fall into five categories:
- 5.5.1 Those in respect of which engagement on an SoCG was taking place prior to the Rule 6 letter;
  - 5.5.2 Those in respect of which the Applicant has made contact following the issuing of the Rule 6 letter and who have confirmed they are willing to enter into SoCGs and where SoCGs are currently in development;
  - 5.5.3 Those with whom the Applicant has made contact since the issuing of the Rule 6 letter and who are considering an SoCG but have not yet confirmed their willingness to enter into an SoCG;
  - 5.5.4 One party with whom the Applicant has made contact in relation to an SoCG but is yet to receive a response; and
  - 5.5.5 Those who have confirmed that they do not wish to enter into an SoCG.
- 5.6 The status of each of the parties identified in Annex F to the Rule 6 letter [[PD-013](#)] can be seen in the table below.

Relevant party	SoCG status
Dover District Council	Engagement on an SoCG was taking place prior to the Rule 6 letter. <b>[Post-meeting note: the Applicant anticipates an SoCG will be submitted at Deadline 1]</b>

Relevant party	SoCG status
Maidstone Borough Council	Engagement on an SoCG was taking place prior to the Rule 6 letter. <b>[Post-meeting note: the Applicant anticipates an SoCG will be submitted at Deadline 1]</b>
Sevenoaks District Council	The Applicant has made contact following the issuing of the Rule 6 letter and the party has confirmed they are willing to enter into an SoCG, which is currently under development. <b>[Post-meeting note: the Applicant anticipates an SoCG will be submitted at Deadline 1]</b>
Swale Borough Council	The Applicant has made contact following the issuing of the Rule 6 letter and the party has confirmed they are willing to enter into an SoCG, which is currently under development. <b>[Post-meeting note: the Applicant anticipates an SoCG will be submitted at Deadline 1]</b>
Cuxton Parish Council	The Applicant has made contact following the issuing of the Rule 6 letter and the party has confirmed they are willing to enter into an SoCG, which is currently under development. <b>[Post-meeting note: the Applicant anticipates an SoCG will be submitted at Deadline 1]</b>
Meopham Parish Council	The Applicant has made contact following the issuing of the Rule 6 letter and the party has confirmed they are willing to enter into an SoCG, which is currently under development. <b>[Post-meeting note: the Applicant anticipates an SoCG will be submitted at Deadline 1]</b>
Essex Police	The Applicant has made contact following the issuing of the Rule 6 letter and the party has confirmed they are willing to enter into an SoCG, which is currently under development. <b>[Post-meeting note: the Applicant anticipates an SoCG will be submitted at Deadline 1]</b>
Kent Police	The Applicant has made contact following the issuing of the Rule 6 letter and the party has confirmed they are willing to enter into an SoCG, which is currently under development. <b>[Post-meeting note: the Applicant anticipates an SoCG will be submitted at Deadline 1]</b>

Relevant party	SoCG status
	<b>anticipates an SoCG would will be submitted at Deadline 1]</b>
North Kent Marshes Internal Drainage Board	The Applicant has made contact following the issuing of the Rule 6 letter and the party has confirmed they are willing to enter into an SoCG, which is currently under development. <b>[Post-meeting note: the Applicant anticipates an SoCG would will be submitted at Deadline 1]</b>
Kent and Medway Economic Partnership	The Applicant has made contact following the issuing of the Rule 6 letter and the party has confirmed they are willing to enter into an SoCG, which is currently under development. <b>[Post-meeting note: the Applicant anticipates an SoCG would will be submitted at Deadline 1]</b>
North East London Integrated Care Board	The Applicant has made contact following the issuing of the Rule 6 letter and the party has confirmed they are willing to enter into an SoCG, which is currently under development. <b>[Post-meeting note: the Applicant anticipates an SoCG would will be submitted at Deadline 1]</b>
Luddesdown Parish Council	The Applicant has made contact following the issuing of the Rule 6 letter and the party is considering an SoCG, but has not yet confirmed their willingness to enter into an SoCG.
Kent and Medway NHS Integrated Care Board	The Applicant has made contact following the issuing of the Rule 6 letter and the party is considering an SoCG, but has not yet confirmed their willingness to enter into an SoCG.
Mid & South Essex NHS Integrated Care Board	The Applicant has made contact with this party in relation to an SoCG but is yet to receive a response.

Relevant party	SoCG status
Maritime & Coastguard Agency	Confirmed they do not wish to enter into an SoCG.
Trinity House	Confirmed they do not wish to enter into an SoCG.
Hutchinson Ports (London Thamesport)	Confirmed they do not wish to enter into an SoCG.
Peel Ports	Confirmed they do not wish to enter into an SoCG (though the Applicant notes that Peel Ports have not yet confirmed this to the ExA, unlike the three bodies directly above, though the Applicant understands Peels Ports will do so in due course).
Metropolitan Police	The Metropolitan Police have confirmed they do not wish to enter into an SoCG (though the Applicant notes that the Metropolitan Police have not yet confirmed this to the ExA).

5.7 IT explained that there are a number of additional stakeholders that were not identified in Annex F to the Rule 6 letter [PD-013] with whom the Applicant is engaging in respect of potential SoCGs. The Applicant noted that if these were sufficiently developed, they would be submitted to the ExA by Deadline 1 (18 July 2023); otherwise, the Applicant would consider submitting these at Deadline 2 (3 August 2023).

5.8 The Applicant noted that in addition to the SoCGs, there would be a number of additional amendments to some Application Documents to reflect agreements reached with stakeholders as part of the SoCG negotiations, which will also be submitted at Deadline 1. These include:

5.8.1 the River Restrictions Plan [Document Reference 2.14 (2)] – this has been amended to give effect to a request by the Port of London Authority;

5.8.2 the outline Traffic Management Plan for Construction [Document Reference 7.14 (2)] – this has been amended to reflect a restriction on temporary closure of Ockenden Road at the request of the London Borough of Havering; and

5.8.3 the Stakeholder Actions and Commitments Register [**Document Reference 7.21 (2)**] – this contains a commitment the Applicant is making in respect of Ockenden Road.

*ExA request for SoCG to address articles and requirements in the dDCO*

- 5.9 IT noted the ExA’s procedural decision at Annex F of the Rule 6 letter [[PD-013](#)] which indicates that “all” SoCGs should address articles and requirements of the dDCO and that any proposed amendments to the wording by Interested Parties should be provided. IT explained that some Interested Parties had not raised any concerns in respect of articles and requirements in the dDCO and that, in such cases, the Applicant does not propose to amend the SoCGs. The Applicant’s understanding was that the ExA was content with this approach.
- 5.10 IT further stated that where Interested Parties have proposed amendments to the wording in the dDCO, the Applicant would amend the introductory text to the relevant SoCG to acknowledge the comments and request that the Interested Party provides proposed wording to be included in the SoCG. The Applicant welcomes the ExA’s confirmation that this approach was acceptable.

*Emergency Services & Safety Partners Steering Group (ESSPSG)*

- 5.11 The Applicant wished to clarify that the submission made by ESSPSG at Procedural Deadline B [[PDB-012](#)] was incorrect insofar as it stated that the Applicant had indicated that they would not be progressing an SoCG with ESSPSG. The Applicant confirmed the position remained the same as at the Programming Meeting on 16 May 2023, as stated in the Applicant’s written summary [[PDB-002](#)], that it would progress an SoCG with the ESSPSG, as well as individual SoCGs with certain participants of the ESSPSG.

*Time for responding to Local Impact Reports (LIRs) and Written Representations*

- 5.12 IT noted the request made by the Applicant at Procedural Deadline B [[PDB-027](#)] that the current 16-day period for responses to LIRs and Written Representations, suggested in the draft Examination Timetable, be extended to 21 days. The Applicant considered this to be appropriate and proportionate on the basis that:

5.12.1 there would be *at least* 9 LIRs which would require a response;

5.12.2 the Applicant agrees with the ExA’s preliminary consideration, expressed at the Programming Meeting, that the absorption of information earlier in the process would avoid a larger number of Written Questions; in the Applicant’s view, the provision of further time would mean the Applicant could provide thorough responses to LIRs and Written Representations, thereby ultimately narrowing the potential questions and issues which the ExA may wish to probe further; and



5.12.3 other projects of comparable or arguably lesser complexity provided a longer period of time (e.g. during the course of the Sizewell C Nuclear Power Station Examination, 43 days were provided for responses to LIRs notwithstanding there was only one LIR; and during the course of the A12 Chelmsford to A120 Widening Scheme Examination, 24 days were provided for the Applicant to provide responses to LIRs despite only 4 LIRs being submitted).

#### *Agendas for hearings*

5.13 The Applicant requested that the ExA consider publishing agendas for Issue Specific and Compulsory Acquisition Hearings earlier than the currently proposed 5 days before any such hearing. The Applicant suggested a period of at least 8 days' notice be provided. The Applicant notes that other Interested Parties had requested up to 21 days. ***[Post-meeting note: the Applicant respectfully requests that the minimum period is confirmed by the ExA so that it can forward-plan its preparations for future hearings]***

#### *Final comments on the dDCO*

5.14 The Applicant notes that the current Draft Examination Timetable envisages the ExA making comments on, or issuing a schedule of changes to, the dDCO shortly before Deadline 7 (14 November 2023), with the Applicant to respond at Deadline 8 (5 December 2023). IT suggested that it would be helpful if the ExA could provide further comments on the dDCO following the amendments proposed by the Applicant at Deadline 8 so as to understand whether the Applicant's response had properly reflected and addressed the ExA's comments. IT suggested that the further comments from the ExA would be most usefully provided between Deadline 8 (5 December 2023) and Deadline 9 (15 December 2023). The Applicant would then submit its final draft DCO at Deadline 9 (as currently proposed in the draft Examination Timetable), and all Interested Parties would have the opportunity to comment on the final draft at Deadline 10 on 20 December 2023 (as currently proposed in the draft Examination Timetable).

5.15 IT noted that all parties would be able to comment on the second round of commentary from the ExA at Deadline 9, thereby ensuring fairness to all parties. IT explained that the rationale for the request was the concern that in other DCO projects further amendments had been made by ExAs and/or the Secretary of State in the post-Examination phases which had caused issues with the implementation of the DCO itself.

## **6 Other matters**

#### *Current consultation and further changes*

6.1 IT noted the Applicant's consultation on potential changes ends on 19 June 2023, before the Examination period begins. A period in which consultation

responses are considered will follow, and pending that, the formal change request would be made in early August.

- 6.2 IT confirmed the Applicant's position that the proposed tunnel boring methodology does not constitute a change to the powers sought under the DCO.
- 6.3 The Applicant acknowledges the ExA's request that any further change requests be made expeditiously to ensure that any proposed changes can be fully considered in the Examination process.

*Documents to be provided, where relevant, at regular deadlines*

- 6.4 IT noted that Section 17 of Annex F to the Rule 6 letter [\[PD-013\]](#) sets out a number of documents which would be provided on a 'rolling basis'. The Applicant requested that the Stakeholder Actions and Commitments Register [**Application Document [APP-554](#)**] be added to that list given the intention to utilise that document for securing commitments to stakeholders. The Applicant is grateful for the confirmation from the ExA that this would be acceptable.