

# Lower Thames Crossing

## 5.4.3.9 Draft Statement of Common Ground between (1) National Highways and (2) the Health and Safety Executive (Tracked changes version)

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<u>1.0</u>	<u>31 October 2022</u>	<u>DCO Application</u>
<u>2.0</u>	<u>18 July 2023</u>	<u>Examination Deadline 1</u>

## **Status of the Statement of Common Ground**

National Highways considers that this Draft Statement of Common Ground is an accurate description of the matters raised by the HSE and the status of each matter, based on the engagement that has taken place to date.

A high-level overview of the engagement undertaken to date is summarised in Table A.1 Appendix A.

## Lower Thames Crossing

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#### List of contents

	Page number
<b>1 Introduction</b> .....	<b>1</b>
1.1 Purpose of the Statement of Common Ground .....	1
1.2 Principal Areas of Disagreement .....	1
1.3 Terminology .....	1
<b>2 Matters</b> .....	<b>2</b>
2.1 Movement of outstanding matters .....	2
<b>Appendix A Engagement activity</b> .....	<b>7</b>
<b>Appendix B Glossary</b> .....	<b>8</b>

#### List of tables

	Page number
<b>Table 2.1 Matters</b> .....	<b>2</b>
<b>Table A.1 Engagement activities between the Applicant and the HSE</b> .....	<b>7</b>

**Deleted: 1 Introduction 1¶**

- 1.1 Purpose of the Statement of Common Ground 1¶
- 1.2 Parties to this Statement of Common Ground 1¶
- 1.3 Terminology 1¶
- 1.4 Overview of previous engagement 2¶
- 1.5 Status of the Statement of Common Ground 2¶

**2 Matters 3¶**

- 2.1 Matters agreed, not agreed or under discussion 3¶

**Appendix A Documents considered within this Statement of Common Ground 6¶**

**Appendix B Glossary 7¶**

**Appendix C List of engagement activities 8¶**

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Page Break

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**Deleted: Table 2.1 Matters 3¶**

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- Table C.1 Engagement activities between National Highways and the Health and Safety Executive. 8¶

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# 1 Introduction

## 1.1 Purpose of the Statement of Common Ground

1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the Development Consent Order (DCO) application for the proposed A122 Lower Thames Crossing (the Project) made by National Highways Limited (National Highways) to the Secretary of State for Transport (Secretary of State) under section 37 of the Planning Act 2008 on 31 October 2022.

1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between National Highways (the Applicant) and the Health and Safety Executive (HSE), and where agreement has not been reached. Where matters are yet to be agreed, the parties will continue to work proactively to reach agreement and will update the SoCG to reflect areas of further agreement.

1.1.3 This version of the SoCG has been submitted at Examination Deadline 1.

## 1.2 Principal Areas of Disagreement

1.2.1 On the 19 December 2022 the Examination Authority made some early procedural decisions to assist the Applicant, potential Interested Parties and themselves to prepare for the Examination of the Application.

1.2.2 One of these procedural decisions was to use a tracker recording Principal Areas of Disagreement in Summary (PADS).

1.2.3 The PADS Tracker would provide a record of those principal matters of disagreement emerging from the SoCG and should be updated alongside the SoCG as appropriate throughout the examination with the expectation that a revised PADS Tracker should be submitted at every Examination deadline.

1.2.4 The HSE elected not to produce a PADS Tracker at pre-examination stage, indicating to the Applicant that they did not have any principal areas of disagreement and were content that Table 2.1 within this SoCG adequately presented their matters.

## 1.3 Terminology

1.3.1 In the matters table in section 2 of this SoCG, “Matter not agreed” indicates agreement on the matter could not be reached following significant engagement, and “Matter under discussion” where these points will be the subject of ongoing discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. “Matter agreed” indicates where the issue has now been resolved.

**Deleted:** <#>This SoCG does not seek to replicate information which is available elsewhere within the Application Documents. All documents may be available on the Planning Inspectorate website.¶

**Deleted:** <#>the parties named below,

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This SoCG has been prepared in respect of the Project by (1) National Highways, and (2) National Grid Electricity Transmission plc (NGET).¶

National Highways 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 National Highways made provision for all legal rights and obligations of the Highways Agency, including in respect of the Project, to be conferred upon or assumed by National Highways.¶

The Health and Safety Executive (HSE) is Britain's national regulator for workplace health and safety. In the context of the Project, HSE has a specific interest in issues relating to an explosive anchorage located adjacent to the Project within the Thames River and proposed hyperbaric working conditions associated with tunnelling works. HSE also have a broader interest in the approach to be adopted by the Project for compliance with health and safety regulations, including the Construction (Design and Management) Regulations 2015 and technical aspects including making safe of the Barking Power Limited pipeline, which transects the construction site.¶

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## 2 Matters

### 2.1 Movement of outstanding matters

### 2.2 Following submission of the previous version of this Draft SoCG between the Applicant and the HSE, further discussions on the outstanding matters have taken place. These discussions are summarised in Table A.1 in Appendix A and the outcome of these discussions is summarised below.

2.2.1 The following matter has moved from “matter under discussion” to “matter agreed”:

- a. 2.1.3 ‘the capping off and removal of sections of the former Barking Power Station gas pipeline’

2.2.2 Table 2.1 details and presents the matters which have been agreed, not agreed, or are under discussion between (1) the Applicant and (2) the Health and Safety Executive.

2.2.3 In Table 2.1, relevant issues relating to the dDCO articles and Requirements in Schedule 2 to the dDCO have been identified under the heading ‘DCO and Consents’.

2.2.4 At Examination Deadline 1, there are three matters in total of which all are agreed.

Table 2.1 Matters

Topic	Item No.	Health and Safety Executive comment	National Highways' Response	Application Document Reference	Status
<b>DCO and consents</b>					
Disapplication of existing explosive licence	2.1.1	The HSE notes that the proposed tunnel lies under the Higham bight anchorage designated under the licence dated 28 May 1992 with the reference 9/92. That licence permits berthing and	The Applicant takes seriously the safety of road users and agrees that the existing licence will need to be disapplied. The draft Development Consent Order	Article 48 of draft DCO [Additional Submission AS-038]	Matter Agreed

**Deleted: Overview**

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**Deleted:** A summary of the meetings and correspondence undertaken between the two parties in relation to the Project is outlined in Appendix C.¶

**Status of the Statement of Common Ground¶**

The Health and Safety Executive has not yet been able to complete their review of this Statement of Common Ground in line with their governance process. This Statement of Common Ground is therefore presented as an ‘unsigned’ Statement of Common Ground.¶ National Highways considers that this Statement of Common Ground is an accurate description of the matters raised the Health and Safety Executive and the status of each matter, based on the engagement that has taken place to date, as set out in Appendix C.

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**Matters¶  
Matters¶**

**Matters agreed, not agreed or under discussion¶**  
Table 2.1 details

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**Deleted:** where further discussion may take place during the detailed design stage

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**Deleted:** Article 48 of draft DCO(3.1)

Topic	Item No.	Health and Safety Executive comment	National Highways' Response	Application Document Reference	Status
		anchoring of vessels carrying explosives. The HSE has reviewed article 48 of the draft Development Consent Order and is content with the provisions included therein in relation to the existing licence.	includes a provision which ensures that the parts of the existing licence which would authorise the berthing or anchoring of vessels carrying mass explosion hazards and projection hazards cease to have effect from the date the Order is made.  <u>The Applicant</u> is keeping the Port of London Authority informed on discussion with the HSE.		
Hyperbaric working conditions - Dispensation for working above 3.45 Bar pressure in tunnelling	2.1.2	<u>The HSE considers that <a href="#">The Work in Compressed Air Regulations 1996 (the Regulations)</a> provides a framework for the management of health and safety risks for those undertaking tunnelling work and other construction work in compressed air. <a href="#">The Regulations require that all work in compressed air shall be undertaken by a Compressed Air Contractor who has been appointed by the principal contractor for the project. The Regulations require that with exception of an unforeseen emergency, the compressed air contractor must ensure that no person is subjected to a pressure exceeding 3.5bar. The Regulations permit the HSE, by way of a certificate in writing, to grant an exemption to a compressed air</a></u>	<u>The Applicant</u> takes seriously the safety of its tunnelling contractors and agrees to the HSE position that only a Compressed Air Contractor undertaking the tunnelling activities can apply for dispensation from the 3.5 bar working limit. <u>The Applicant</u> will continue to work with its contractors and HSE to mitigate the need for hyperbaric working conditions where possible, or in the event that this cannot be achieved, support its contractors in seeking dispensation from HSE for working above the working limit. <u>The Applicant</u> does not consider there is <u>a barrier to the grant of that permission in due course, should it be necessary.</u>	N/A	Matter Agreed

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Topic	Item No.	Health and Safety Executive comment	National Highways' Response	Application Document Reference	Status
		<p><del>contractor from any requirements of the Regulations, including the requirement that no work shall be carried out in a pressure greater than 3.5bar except in an emergency.</del></p> <p>The compressed air contractor may formally apply in writing to the HSE for an exemption from the Regulations to allow working in pressures above 3.5bar. The HSE will consider an application from the compressed air contractor, however the HSE will not grant any exemption to working above 3.5bar unless the HSE is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.</p>			
		<p><del>In order to consider any application for an exemption, the compressed air contractor must in the first instance demonstrate to the HSE that all reasonably practicable measures to avoid working above 3.5bar have been considered and demonstrate why it is necessary to carry out work above 3.5 bar. The HSE will require the compressed air contractor to provide a detailed safe system of work.</del></p> <p>Any exemption granted by the HSE, to permit the compressed air contractor to</p>			

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Topic	Item No.	Health and Safety Executive comment	National Highways' Response	Application Document Reference	Status
		<u>work in pressures in excess of 3.5bar, may be subject to conditions and to a time limit.</u>			
The capping off and removal of sections of the former Barking Power Station gas pipeline	2.1.3	<p><u>City of London is currently the pipeline operator for the Horndon to Barking Pipeline, irrespective of the decommissioned status of the pipeline and as the pipeline operator still has duties under The Pipeline Safety Regulations 1996, Regulation 14 to leave the pipeline in a safe condition.</u></p> <p><u>The current proposals from the pipeline operator include full decommissioning of the nitrogen fill system that has protected the pipeline since Barking Power Station was decommissioned, shutdown and removal of the cathodic protection system, removal of all above ground installations, removal of above ground marker posts and any pipeline markings and fully fill the pipeline with an adequate filler material.</u></p> <p><u>City of London are not planning to remove any sections of the pipeline and they will inform the HSE once the pipeline is deemed safe and ready for abandonment, they will also inform HSE's Land Use Planning team to remove the planning zones distances.</u></p>	<p>The <u>Horndon to Barking Power Limited (BPL)</u> pipeline formerly connected the Barking Power Station to the gas transmission network. The pipeline is now redundant. A section of the pipeline transects the Project.</p> <p><u>The Applicant</u> is engaging with the HSE on the basis that the BPL pipeline is categorised as a high-pressure pipeline at the point of works commencing, i.e. assuming that BPL's proposals have not progressed. However, <u>the Applicant</u> understands that BPL expects works to grout -fill the decommissioned pipeline will be done during 2023. If completed, that would facilitate the Project's proposed removal of certain sections of the pipeline, because there would be no need for capping. However, as <u>the Applicant</u> cannot be certain that the works would be carried out as currently envisaged, the DCO as applied for will contain</p>	N/A	Matter <u>Agreed</u>

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Topic	Item No.	Health and Safety Executive comment	National Highways' Response	Application Document Reference	Status
		<p><u>It is likely that the full decommissioning works of the pipeline will happen before the LTC project is under construction and in that case, it is right that LTC propose removing altogether the abandoned sections of pipeline, as the filler material would not have been designed for any particular loading other than the normal soil weigh and existing infrastructures with associated loading.</u></p> <p><u>If the pipeline is to remain in situ HSE would expect to see how the long term stability of the filled void is ensured.</u></p>	<p>sufficient powers, as a contingency, to enable the Project to cap the pipe such that all works as may be necessary to remove the relevant sections of pipeline are authorised by the DCO. <u>The Applicant</u> is engaging with the HSE on this basis and ensuring the consistency of messaging with BPL.</p>		

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## Appendix A Engagement activity

**Table A.1 Engagement activities between the Applicant and the HSE**

<u>Date</u>	<u>Overview of Engagement Activities</u>
<u>27/03/2019</u>	<u>General update between HSE and the Project</u>
<u>22/05/2019</u>	<u>General update between HSE and the Project</u>
<u>02/07/2019</u>	<u>Discussion on hyperbaric working conditions associated with tunnelling activities</u>
<u>04/09/2019</u>	<u>Discussion on hyperbaric working conditions associated with tunnelling activities</u>
<u>10/10/2019</u>	<u>Discussion on hyperbaric working conditions associated with tunnelling activities</u>
<u>15/11/2019</u>	<u>Discussion on hyperbaric working conditions associated with tunnelling activities</u>
<u>24/01/2020</u>	<u>Discussion on hyperbaric working conditions associated with tunnelling activities</u>
<u>05/08/2022</u>	<u>Discussion about disapplication of existing explosive licence as part of Project DCO</u>
<u>06/09/2022</u>	<u>Overall Project update with HSE Principal Inspectors and discussion of SoCG topics</u>
<u>11/11/2022</u>	<u>Email correspondence from HSE advising that based on legal advice, they would not sign a SoCG.</u>
<u>14/11/2022</u>	<u>Email correspondence from HSE providing updated commentary to the draft SoCG provided in the DCO application.</u>
<u>24/02/2023</u>	<u>Email correspondence from HSE requesting a copy of the current draft SoCG</u>
<u>06/03/2023</u>	<u>Email correspondence from the Applicant providing the original SoCG. Also provided confirmation of updated text for Table 2.1 Matters, seeking confirmation of no objection to updated wording.</u>
<u>07/03/2023</u>	<u>Email and phone conversation confirming HSE had not lodged as an Interested Party.</u>
<u>02/05/2023</u>	<u>Email correspondence from the Applicant providing link to Rule 6 letter and seeking confirmation of no objection to updated wording provided in updated SoCG. [As of Deadline 1, no response received from HSE]</u>
<u>13/06/2023</u>	<u>Email correspondence from the Applicant requesting an update on the status of the Alpha Jetty explosive licence</u>
<u>28/06/2023</u>	<u>Email correspondence from HSE confirming the Alpha Jetty explosive licence is being revoked.</u>

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**Documents considered within this Statement of Common Ground**  
**Documents considered within this Statement of Common Ground**  
 N/A

## Appendix B Glossary

Term	Abbreviation	Explanation
<del>Horndon to Barking Pipeline</del>	BPL	redundant high pressure gas pipeline between <del>Horndon and the</del> Barking Power Station and the gas transmission network
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
Health and Safety Executive	HSE	Britain's national regulator for workplace health and safety
Statement of Common Ground	SoCG	This document detailing the issues agreed, under discussion, or not agreed at the time of examination

**Deleted:** Power Limited

**Deleted:** Owner of the

**Deleted:** High pressure compressed air

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**List of engagement activities¶**

A summary of the meetings and correspondence undertaken between the two parties in relation to the Project is outlined in Table C.1 below.¶

**Engagement activities between National Highways and the Health and Safety Executive.¶**

**Date**

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