

LOWER THAMES CROSSING

WRITTEN REPRESENTATION OF SOUTHERN WATER SERVICES LIMITED (URN 20035389)

1. Southern Water's status and statutory responsibilities

- 1.1. We are instructed by Southern Water Services Limited (**Southern Water**) in relation to the application for a development consent order (**DCO**) made by National Highways (**the Applicant**) to authorise the Lower Thames Crossing and associated works (**the Project**). This written representation is made on behalf of Southern Water ahead of Deadline 1 of the Examination on 18 July 2023.
- 1.2. As detailed in its Relevant Representation [**RR-0997**], Southern Water is the appointed water undertaker under the Water Industry Act 1991 for certain areas in the south-east of England comprising the Isle of Wight and parts of Hampshire, Sussex and Kent. Southern Water is also the appointed sewerage undertaker for the purposes of that same Act, comprising a larger continuous area stretching from Hampshire to Kent, including the Isle of Wight. As a result, Southern Water is subject to a number of strict statutory duties for the supply of water to c. 2.6 million people and providing sewerage services to c.4.6 million people.
- 1.3. Southern Water is the appointed water and sewerage undertaker for areas within the Order limits as defined in article 2(1) of the draft DCO [**AS-038**] (and surrounding areas). Southern Water is therefore a statutory undertaker for the purposes of sections 127 and 138 of the Planning Act 2008 in relation to the Project.
- 1.4. Given its statutory duties, any development in areas where Southern Water is responsible for providing water and sewerage services, or over or near land in which Southern Water maintains assets and/or has other rights for the purposes of discharging its statutory duties, is carefully considered by Southern Water and the Project is no different.

2. Objection

- 2.1. At this present time, Southern Water maintains its objection (as first set out in its Relevant Representation [**RR-0997**]) to the Project. Whilst Southern Water does not object *in principle* to the Project, its statutory duties compel it to object to the Project on the basis that, absent of satisfactory protections for its benefit, the Project would cause serious detriment to Southern Water's undertaking. Southern Water has the following overarching principal issues with the DCO application at present:
 - 2.1.1. the proposed operation of powers contained in the draft DCO authorising the Applicant to construct, operate and maintain works on, across, under, above or adjacent to Southern Water's operational assets which may impede Southern Water's ability to ensure the safe, efficient and economical provision of water and sewerage services and for Southern Water to discharge its statutory duties;
 - 2.1.2. the proposed operation of powers contained in the draft DCO authorising the Applicant to compulsorily acquire land, to compulsorily acquire rights in or over land, extinguish rights in land or take temporary possession of land in which Southern Water maintains assets and/or has other rights for the purposes of discharging its statutory duties;
 - 2.1.3. the fact that the intention of the Applicant appears to be for Southern Water to have no formal input into mitigation measures that are directly relevant to its functions (e.g. under the proposed Environmental Management Plan (second

iteration) secured by Requirement 4 in Schedule 2 to the draft DCO or surface and foul water drainage details under Requirement 8 in that Schedule); and

- 2.1.4. the absence in the current draft DCO of satisfactory protective provisions for the benefit of Southern Water.

3. Engagement between Southern Water and the Applicant

- 3.1. Southern Water and the Applicant have been engaging constructively on technical matters relating to the Project.
- 3.2. Southern Water has also been positively engaging in discussions with the Applicant for some time regarding protective provisions for the benefit of Southern Water, with a view to securing satisfactory protections that enable Southern Water to withdraw its objection. Southern Water sees no impediment at this stage to it being able to reach a satisfactory arrangement with the Applicant during the course of the examination.

4. Further Detail on the impact of the Project on Southern Water

- 4.1. Below is a summary of the key issues that Southern Water has identified that need to be resolved.

Water Supply

- 4.2. It should be noted that whilst Southern Water and the Applicant have been positively engaging on technical matters relating to the Project, the precise impacts on Southern Water's water supply apparatus will very much depend on the detailed design of the Project, given the extent of the Order limits.
- 4.3. Given this, on-going engagement with the Applicant is required.
- 4.4. Southern Water notes the following stand-off distances that the Applicant will need to safeguard in respect of works in or near Southern Water's existing assets:

Fresh Water Main – Table of stand-off distance Requirements (m)

Depth to Crown (m)	Internal Diameter (mm)									
	<250	250-299	300-399	400-449	450-499	500-599	600-799	800-999	1000-1199	1200+
1.50	6	6	6	6	6	6	7	8	9	10
2.50	6	7	7	8	8	8	9	10	11	12
3.50	6	9	9	10	10	10	11	12	12	12
4.50	8	11	11	12	12	12	12	12	12	12

- 4.5. In addition, the Applicant is requested to engage with Southern Water on the impacts of any tree-planting proposals over or near Southern Water's re-laid assets.
- 4.6. It is acknowledged many (or all) of these points could be adequately addressed through satisfactory protective provisions for the benefit of Southern Water. As such, Southern Water wishes to engage with the Applicant on these as soon as possible.

Sewers

- 4.7. It should be noted that whilst Southern Water and the Applicant have been positively engaging on technical matters relating to the Project, the precise impacts on Southern Water's sewerage apparatus will very much depend on the detailed design of the Project, given the extent of the Order limits.

- 4.8. Given this, on-going engagement with the Applicant is required.
- 4.9. There also needs to be engagement with the Applicant on the surface water drainage proposals, as proposed to be secured by way of Requirement 8 in Schedule 2 to the DCO.
- 4.10. As with the water supply infrastructure, it is acknowledged that many (or all) of these points could be adequately addressed through satisfactory protective provisions for the benefit of Southern Water. As such, Southern Water wishes to engage with the Applicant on these as soon as possible.

Land Interests

- 4.11. Having reviewed the powers sought over land in the draft DCO, Southern Water does not have any specific concerns at this stage in respect of any of its land-holdings, aside from where it maintains rights to maintain apparatus (on which, see above).
- 4.12. However, suitable access to any existing operational land will need to be maintained during both construction and operation of the Project.

Water Sources

- 4.13. Southern Water has concerns in respect of the potential impacts from the Project on its water sources. Should the DCO be made, it would authorise works within certain of Southern Water's groundwater abstraction capture zones – there is a concern that the construction and operation of the Scheme would give rise to adverse effects on these zones, and therefore surety needs to be provided that sufficient mitigation measures will be put in place.
- 4.14. Further engagement with the Applicant on this point is required and welcomed.
- 4.15. Further information is also required on the proposed use of, for example, the powers contained in article 19 of the DCO (discharge of water).
- 4.16. As alluded to above, Southern Water wishes to engage further with the Applicant to ensure it has a sufficiently robust role in the development of mitigation measures relevant to its operations under, for example, the requirements contained in Schedule 2 to the draft DCO.

Dewatering and tunnel boring

- 4.17. As mentioned in its Relevant Representation [RR-0997], given the Project involves the construction of a tunnel and cuttings, Southern Water requires further information on dewatering activities and tunnel boring risk (and any proposed mitigations), given that these activities have the potential to give rise to impacts within and outwith the Order limits. Further engagement with the Applicant on this point is required and welcomed.

Other

- 4.18. All of Southern Water's professional fees, and any third-party compensation it is required to pay when implementing diversions or related works (or which arise from the Project), should ultimately be payable by the Applicant.

5. Protective Provisions

- 5.1. Southern Water notes the 'standard' set of protective provisions for the benefit of statutory undertakers contained in Part 1 of Schedule 14 to the draft DCO. As has been communicated to the Applicant, these are unsatisfactory to Southern Water in a number of areas. For example, Southern Water wishes to have an 'active' approval role in respect of

any works that have the potential to impact any of its retained apparatus, which is submitted is a reasonable request.

- 5.2. Southern Water will continue to engage with the Applicant with a view to reaching agreement on a satisfactory form of protective provisions for the benefit of Southern Water, to deal with the impacts on its interests so as to avoid serious detriment to its undertaking arising from the Project. It is considered likely that all the issues raised above could be resolved through such means.

6. Current Position

- 6.1. If the Applicant and Southern Water can reach agreement on the form of protective provisions to address the concerns detailed above, Southern Water considers that its objection could be resolved swiftly. However, Southern Water is compelled to maintain its objection to the Project at this stage absent such agreement with the Applicant.
- 6.2. Southern Water will seek to positively engage with the Applicant on these points.

Pinsent Masons LLP

18 July 2023