

TRANSPORT FOR LONDON

LOWER THAMES CROSSING – DEADLINE 3 SUBMISSION

24 AUGUST 2023

1. Introduction

- 1.1 This document sets out comments from Transport for London (TfL) on submissions made at Deadline 2 of the Lower Thames Crossing Development Consent Order (DCO) examination.
- 1.2 This submission focuses on new information submitted and TfL has not repeated comments made in its Written Representation or other submissions made at previous deadlines. There have been no changes to TfL's Principal Areas of Disagreement Summary Statement so a further version has not been submitted at Deadline 3 and the version submitted at Deadline 1 remains valid (REPI-305).
- 1.3 TfL has limited its comments to a small number of submissions made at Deadline 2, so this document is structured with a section for each relevant document.

2. Applicant's comments on Written Representations Appendix C – Relevant local authorities and transport bodies (REP2-048)

- 2.1 The Applicant commented on TfL's Written Representation (REPI-304) in this document (REP2-048).
- 2.2 In response to TfL's comments on local junction modelling and wider network impacts, the Applicant states that it submitted localised traffic modelling to the examination at Deadline 1 (REPI-I88 to REPI-I94). However, this did not include local junction modelling undertaken by the Applicant for junctions in Havering, that has been shared with TfL but not submitted to the examination. As stated in Section 4 of TfL's Deadline 2 submission (REP2-095), TfL has serious concerns about this modelling due to the lack of validation, the reliance entirely on the strategic model to forecast local junction flows, and errors in the local junction models. TfL therefore maintains that the validated local junction modelling prepared by the London Borough of Havering and TfL (REPI-247 and REPI-304 Appendix A) provides a more robust assessment of local junction impacts of the Project. TfL's concerns about the robustness of the modelling for the Project shows that the strategic modelling cannot be relied upon to determine that no mitigation of the wider network impacts of the Project is needed, and therefore a robust approach to monitoring and mitigation is necessary.
- 2.3 TfL notes that the Applicant has not yet had time to review the local junction modelling submitted by the London Borough of Havering and TfL, and has reserved the right to comment on this at a later date during the examination.
- 2.4 TfL has reviewed the responses of the Applicant to TfL's comments in its Written Representation on noise, air quality and carbon. While TfL is not satisfied with the responses, it will not repeat the points previously made in paragraphs 3.32 to 3.41 of its Written Representation (REPI-304) in this submission. However, TfL notes the Applicant's dismissal of the draft National Policy Statement for National Networks (NPSNN), stating that the current designated NPSNN should have effect for DCO applications accepted prior to designation of the new NPS. TfL accepts that this position may be legally sound, but

considers that a Government agency such as the Applicant should be aiming for the Project to comply with the draft NPSNN given that is clearly the direction of travel for Government policy.

3. Applicant’s response to Interested Party comments made on the draft DCO at Deadline 1 (REP2-077)

London Borough of Havering’s comments (Table 7.I)

- 3.1 In response to the London Borough of Havering’s recommendation for an additional article in the DCO to establish an Implementation Group, and for an additional requirement for a monitoring and mitigation strategy, the Applicant contends that the circumstances are different for the Silvertown Tunnel, where such a group and strategy were established by the DCO, compared to the Lower Thames Crossing project.
- 3.2 Part of the Applicant’s justification for not establishing an Implementation Group is that “the interests of the various parties differ depending on the subject matter of the relevant control”. TfL considers that the Silvertown Tunnel potentially has more scope for the interests of parties to differ. This is because of the smaller geographical areas covered by local highway authorities within London compared to the impacts of the Silvertown Tunnel, which means that the Silvertown Tunnel Implementation Group has 14 highway authorities, including National Highways, as members. This includes highway authorities directly affected by infrastructure work (Greenwich and Newham) as well as those affected less directly by traffic impacts. TfL expects that fewer highway authorities would need to be members of an equivalent Implementation Group for the Lower Thames Crossing project provided an appropriate threshold was applied for membership of the group. While such a group for the Project would require officer time, TfL disagrees that this group would involve “duplication of work” and not “be in the public interest of a good use of taxpayer funds”. TfL contends that the group would in fact help ensure good use of taxpayer funds by ensuring mitigation of the impacts of the Project is funded appropriately and co-ordinated across highway authorities.
- 3.3 The Applicant also rejects the need for a requirement for a monitoring and mitigation strategy in Table 7.I. While the Silvertown Tunnel DCO requires such a strategy, the Applicant states this is not appropriate for the Lower Thames Crossing project because that project is delivered by TfL and “is not subject to the same processes for the development of road schemes on the Strategic Road Network”. TfL does not consider this to be a valid justification and sees no reason why the fact the Project is being delivered by a different promoter which has some different processes negates the appropriateness of this requirement. Both schemes are seeking consent via a DCO and have many other similarities, being new charged road tunnels under the Thames which have traffic impacts over a wider area affecting the networks of several local highway authorities.

Transport for London’s comments (Table 12.I)

- 3.4 TfL has previously welcomed the inclusion of the relevant local highway authority (and therefore TfL) as a consultee for the discharge of Requirements 3, 8 and 12. TfL notes that the Applicant “is considering whether it is appropriate to include TfL within the scope of Requirements 5 and 6 covering landscaping/ecology and contaminated land/groundwater respectively. TfL maintains that it needs to be consulted on these for matters relevant to its assets, as for example it is relevant to green infrastructure delivered by the Project which TfL will become responsible for maintaining.
- 3.5 In response to TfL’s comments regarding protective provisions and commuted sums, the Applicant has repeated its position which TfL considers not to be logical. The Applicant

states that the maintenance of local highways is funded by the Department for Transport (DfT), which TfL acknowledges is the case outside London. The Applicant then states that it “recognises that Transport for London may have different funding arrangements than those highways authorities outside London”, which suggests the Applicant recognises that TfL does not receive funding for highway maintenance from the DfT. However, it then reiterates its position without justification, stating: “the Applicant’s position is that it does not provide commuted sums to local highway authorities for any assets it provides as part of its major projects programme”. As such, the Applicant has yet to offer a valid reason why it should not fund increased maintenance costs that TfL will incur as a direct result of the infrastructure to be delivered by the Project. TfL submits that it would be appropriate to follow the precedent set in the M25 Junction 28 Improvements DCO where a similar situation arose and protective provisions for TfL were included in the made DCO.

4. London Borough of Havering comments on the Applicant’s amended draft DCO (REP2-087)

- 4.1 TfL notes that draft protective provisions for the protection of local highway authorities were submitted to the examination by the London Borough of Havering at Deadline 2. These protective provisions follow the precedent of the A303 Sparkford to Ilchester DCO. TfL agrees with the London Borough of Havering that it would be beneficial for such provisions to be in the public domain, allowing local residents and road users to understand the arrangements in place between the Applicant and other highway authorities. Indeed, the Applicant has secured protective provisions for itself (rather than a side agreement with the promoter) as an affected highway authority in other DCOs, for example the East Midlands Gateway Rail Freight Interchange and Highway Order 2016.
- 4.2 TfL supports the proposed inclusion of protective provisions for local highway authorities being included in the DCO for the Project. Recognising that the funding arrangements for highway authorities within London are different to those outside London, TfL will continue to seek protective provisions for TfL specifically to cover a commuted sum and costs, as described in paragraph 3.5 above, following the precedent of the M25 Junction 28 improvements DCO.