

Lower Thames Crossing

9.92 Draft Agreed Statement of Common Ground between (1) National Highways and (2) Melville Mott & Family

Infrastructure Planning (Examination
Procedure) Rules 2010

Volume 9

DATE: September 2023
DEADLINE: 4

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VERSION: 1.0

Revision history

Version	Date	Submitted at
1.0	19 September 2023	Deadline 4

Status of the Statement of Common Ground

This is a Draft Agreed Statement of Common Ground with matters outstanding.

National Highways and Melville Mott & Family agree that this draft Statement of Common Ground is an accurate description of the matters raised and the current status of each matter and should be considered together with the details contained in the Commitments Register.

From: [REDACTED]
Sent: Friday, September 8, 2023 12:53 PM
To: [REDACTED]
Subject: RE: LTC - Melville Mott & Family - Final draft SoCG for Review and Approval

[REDACTED]

I have reviewed and confirm I am happy for the current draft to be submitted to the ExA.

Kind regards

[REDACTED]

Lower Thames Crossing

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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 (the Applicant) 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 the parties named below, and where agreement has not (yet) 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 4.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared in respect of the Project by (1) National Highways, and (2) Melville Mott & Family which includes:

Melville Hamilton Lowe Mott of [REDACTED] [REDACTED]
David Glenn Mott of [REDACTED] [REDACTED]
Karin Misra of [REDACTED] [REDACTED]

- 1.2.2 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.
- 1.2.3 Melville Mott & Family own extensive areas of land affected by the Project. The majority of this land is farmed by the family under arable crops. There are further interests, rights and assets that would be impacted by the Project including extensive areas of land licensed and/or leased to Ingrebourne Valley Ltd (IVL) for pulverised fly ash (PFA) extraction and subsequent landfilling and restoration operations. See Section 2.2: Notes below.
- 1.2.4 The parties acknowledge that the Project will have a significant effect on the Mott family's current land use and business and their future business and other proposed alternative land uses during construction and post construction as a consequence of the area of land-take proposed as a proportion of the Mott family's ownership total area.

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, 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 been resolved.
- 1.3.2 It is agreed that any matters not specifically referred to in Section 2 of this SoCG are not of material interest or relevance to Melville Mott & Family. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to Melville Mott & Family. However, if new matters arise Melville Mott & Family reserves the right to comment on those matters as it considers appropriate.

1.4 Overview of previous engagement

- 1.4.1 A summary of the meetings and correspondence undertaken between the two parties in relation to the Project is outlined in Annex B of the Statement of Reasons (Version 3.0) [[REP1-051](#)].
- 1.4.2 It is agreed that this is an accurate record of the key meetings and correspondence undertaken between (1) the Applicant and (2) Melville Mott & Family in relation to the matters addressed in this SoCG.

2 Matters

2.1 Matters agreed, not agreed or under discussion

- 2.1.1 Table 2.1 details the matters which have been agreed, not agreed, or are under discussion between (1) the Applicant and (2) Melville Mott & Family.
- 2.1.2 It is acknowledged there are some matters where further discussion may take place during the detailed design stage of the Project to finalise detail, but the matter is agreed in principle. Matters to which this applies have an asterisk (*) next to them.

Table 2.1 Matters

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
Land and compulsory acquisition					
Ecological Mitigation Land (Generally)	2.1.1	<p>The landowner objects to the permanent acquisition of land for ecological mitigation purposes.</p> <p>The proposed SSSI designation is not a given position and remains the subject of further engagement between Natural England and stakeholders. The Applicant's Project should therefore fully recognise that SSSI designation is not in place and that it should not assume this in reaching its own mitigation conclusions or indeed in seeking to put mitigation proposals in place that seek to meet SSSI objectives which in their own</p>	As detailed in Environmental Statement (ES) Chapter 8: Terrestrial Biodiversity and the Habitats Regulations Assessment – Screening Report and Statement to Inform an Appropriate Assessment, the Project would result in significant effects on a number of ecological receptors including Low Street Pit Local Wildlife Site, great crested newts, reptiles, terrestrial invertebrates, and bird assemblages associated with the Thames Estuary and Marshes Ramsar and Special Protection Area. Much of this area	<p>ES Chapter 8: Terrestrial Biodiversity [APP-146]</p> <p>Habitats Regulations Assessment – Screening Report and Statement to Inform an Appropriate Assessment [APP-487]</p>	Matter Not Agreed

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
		<p>right may go beyond that which is absolutely necessary for the Applicant's Project.</p> <p>The objection relates to all land to be permanently acquired, including the 35 ha (approx.) at Coalhouse Point (Plot 19-09) and 21.6 ha (approx.) west of Princess Margaret Road (Plots 19-01 and 22-40).</p>	<p>also forms part of Natural England's Site of Special Scientific Interest (SSSI) scoping study which is considering notifying a North Thames Estuary and Marshes SSSI. Measures are required to mitigate these significant effects and these land parcels provide suitable sites for necessary habitat creation to both mitigate the loss of habitats supporting the ecological receptors and designated site listed above, and align with Natural England's SSSI study.</p>		
<p>Ecological Mitigation Land (Alternative land proposals)</p>	2.1.2	<p>To minimize the impact of the Project on the Mott / Mulberry Strategic development land and Masterplan (Phase 2), the landowner has proposed alternative land parcels for ecological mitigation which are owned by him and currently lie outside the Order Limits. There are two locations proposed, one to south-east of Bucklands Farm / south of Station Road / west of Princess Margaret Road and the other around the Old Battery to the east of Princess Margaret Road. See 2.2.7 in 'Notes' below for Plan 5 (Appendix A) showing</p>	<p>The Applicant has formally considered the landowner's suggestions of alternative locations for ecological mitigation land and is continuing to do so in a positive and constructive manner. See Section 2.2: Notes – paragraph 2.2.7 and Plan 5 (Appendix A) for more details.</p>	N/A	Matter Under Discussion

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
		existing and alternative ecological mitigation land areas.			
Ecological Mitigation Land (Long term Management)	2.1.3	<p>LTC to consider ownership arrangements post LTC along with management prescriptions and possible management agreement (e.g. s253 agreement under Highways Act 1980).</p> <p>The Applicant has been asked to provide a draft agreement and management prescriptions for each field parcel / mitigation use.</p> <p>The landowner has farmed the land for three generations and in respect of the management skills required, we consider is well placed to meet these requirements. The landowner is prepared to enter into management agreements for the term required by the Project.</p>	<p>The Applicant is currently considering matters relating to long-term management of ecological mitigation land; however, detailed management prescriptions and arrangements will not be known until the detailed design phase as undertaken by the Contractor.</p> <p>More generally, essential ecological mitigation is the Applicant's responsibility to maintain in perpetuity and therefore requires permanent acquisition. The Applicant has, by exception on other projects, agreed alternative delivery/ownership routes such as s253 agreements (Highways Act 1980). However, in practice these have often led to non-conforming implementation and/or maintenance issues which required the Applicant to exercise step-in rights. The Applicant's policy is increasingly to use such avenues only in exceptional circumstances. The Applicant's preference is to engage a 'competent authority' (for</p>		Matter Under Discussion

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
			<p>example a local authority or similar body) who has an established track record of maintaining such habitats. This is considered the most economical and robust approach to secure compliance with long-term management obligations in perpetuity.</p> <p>In terms of compliance risk, it is preferable for the Applicant to contract with an organisation rather than an individual in cases of non-performance or default.</p>		
Coalhouse Point	2.1.4	<p>Order Limits as drawn required >90% of Land Registry title EX721479 (Plot 19-09) but would have left the landowner with two narrow strips of unfarmable land. One strip adjoined the river Thames (including a flood bund) and (2) an access track down the eastern boundary to the National Grid gas compound.</p> <p>The strip along the river Thames has since been resolved and the landowner is still considering the access track to the National Grid compound.</p>	<p>The Order Limits have been extended to include the foreshore strip.</p> <p>The Applicant is open to further discussions regarding the acquisition of the land comprising the National Grid access track once the landowner clarifies its position.</p>	<p>Sheet 19 of Land Plans (Volume B) [REP1-009]</p>	Matter Under Discussion
Residential Property Blight	2.1.5	The values of the residential properties: 'Goshems Farmhouse',	The Applicant agrees that these properties may qualify as potential	N/A	Matter Agreed

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
		'Norrskan' and 'Pleasant View Bungalow' as owned by Melville Mott & Family may be negatively impacted by the scheme and compensation sought.	Part 1 Land Compensation Act 1973 claims post construction. Quantum of compensation will not be known until the impacts of the road 'in operation' are known. Any payments will be assessed in accordance with the Compensation Code.		
Tilbury Fields (1) Access to ecological mitigation land and wharf	2.1.6	Concerned that access to retained land west of the LTC alignment, including (i) s106 ecological mitigation land for the IVL land restoration works, (ii) access to Plot 16-44 to be provided as it will be severed which potentially includes a new wharf location, all of which will be lost, both during and after construction works.	Arrangements for access through Plots 20-45, 20-58, 20-62, 23-68, 16-36 and 16-37 both during construction and for permanent access track post construction are now secured under SACR-006 in the Stakeholder Actions and Commitments Register. Access arrangements to Plot 16-44 are under discussion.	Sheet 16 of Land Plans (Volume B) [REP1-009] Stakeholder Actions & Commitments Register [REP1-176]	Matter Agreed (i) Matter Under Discussion (ii)
Tilbury Fields (2) Thurrock Power Solar option	2.1.7	Ownership and management arrangements post LTC to be confirmed as far as LTC is able at this stage. See Plan 3 (Appendix A)	The Applicant to explore future ownership and management arrangements further, including that relating to Thurrock Power and land to be returned where Rendezvous Point (RVP) is located (which is already subject to a solar option agreement between the landowner and Thurrock Power). See Plan 3 annexed hereto (Appendix A) showing the land	N/A	Matter Under Discussion

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
			under option to Thurrock Power for solar purposes.		
North Portal (1) Emergency vehicle access track west of alignment	2.1.8	The landowner requests that the DCO shall not confer any rights to third parties to use the access track (Plot 20-45) other than strictly for the purposes for use as an emergency vehicle route to the northern portal building and the associated Rendezvous Point (RVP) as part of the LTC and no other third-party use save the Melville Mott & Family and their authorised users. If the track is permanently acquired by NH a restrictive covenant would be requested on the registered title for the benefit of Melville Mott & Family and their retained land - preventing use of the access track for any other purposes. The landowner made Written Representations to the ExA on the retention of the freehold of this access track under Deadline 1.	Matter currently under discussion. Meeting with Directors held on 16 August 2023.		Matter Under Discussion
North Portal (2) Location of Rendezvous Point (RVP)	2.1.9	Principle of RVP accepted by the landowner but exact location is not agreed. The landowner would prefer it located to the north of the drainage ditch in Plot 20-54 which is due to be returned to the landowner.	Permanent land-take area currently remains as required as a Rendezvous Point for emergency vehicles. The Applicant remains in conversation with the Emergency Services and Safety Partners	N/A	Matter Not Agreed

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
		<p>See 2.2.6 in Notes and Plan \$ (Appendix A) below showing the current proposed location of the RVP and the alternative location proposed by the landowner.</p> <p>The landowner is happy to meet with the ESSPSG to discuss alternative locations.</p>	Steering Group (ESSPSG) on this Rendezvous Point. See Plan 4 in Appendix A for more details.		
<p>Norther Tunnel Entrance Compound compound</p> <p>Access through Construction Compound CA5</p>	2.1.10	<p>Construction Compound CA5 impacts the Mulberry Strategic Land (Phase 2) development proposals. The date the land will be returned to the landowner and hence available for development is important.</p> <p>The Applicant has informally agreed to leave a 'corridor' to the east of Compound CA5 through Plots 22-02, 22-12, 22-17, 22-18, 22-26 to enable the landowner access to develop land to south of Station Road. This would mitigate a delay to the phasing of development to the south of Station Road.</p>	At the detailed design stage, the Contractor will use all reasonable endeavours to provide the landowner with controlled access through the north-east corner of compound CA5 to the land south of Station Road. However, access cannot be guaranteed at this stage.	N/A	Matter Under Discussion
Goshems Farm & Ingrebourne Valley Ltd	2.1.11	Compensation for any loss of revenue from Ingrebourne Valley Ltd's (IVL's) operations to be agreed as per the	The Applicant confirms that compensation for all permanent and temporary land-take, including	N/A	Matter Agreed

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
PFA / Infill & Restoration Operations		<p>Compensation Code as and when the impacts of the project are known.</p> <p>See Plan 1 (Appendix A)</p>	<p>any royalties foregone from IVL's PFA extraction/land-fill restoration operations will be assessed at time of entry/notice served with compensation being paid in accordance with the Compensation Code. See Plan 1 in Appendix A for more details.</p>		
<p>Walkers, cyclists and horse riders (WCH) routes (1) <i>(including Station Road & track at Bucklands Farm)</i></p>	2.1.12	<p>Routes of new WCH's and the upgrading of existing footpaths to bridleways and / or cycle paths is not agreed and objected to, including where they impact development opportunities.</p> <p>See Notes 2.2.4 and also Plan 2 (Appendix A) - Mulberry Strategic Land 'Masterplan' (Phase 2).</p>	<p>As well as reconnecting walkers, cyclists and horse riders (WCH) routes severed by the proposed new road, in accordance with Design Manual for Roads and Bridges (DMRB) HD 42/17 a Walking, Cycling and Horse Riding Assessment was carried out. This explored the existing public right of way (PRoW) network, national and local policies, local demographics and consultation feedback to determine where there might be strategic opportunities for enhancement. Please see the Project Design Report Part E: Design for Walkers, Cyclists and Horse Riders for details and rationale of the rights of way linkages.</p> <p>The Applicant will continue discussions with the landowner in respect of new and upgraded</p>	<p>Project Design Report Part E: Design for Walkers, Cyclists and Horse Riders [APP-512]</p>	Matter Not Agreed

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
			rights of way proposed over his land. See Plan 2 in Appendix A for more details.		
WCH routes (2)	2.1.13	Compulsory purchase of freehold title for new WCH's is deemed unnecessary by the landowner and is objected to. Without prejudice to this objection, there exists a statutory procedure for the dedication of new rights of way under the Highways Act 1980 <i>without</i> taking freehold ownership).	The Applicant's legal advice is that the permanent acquisition of the freehold of the land is required where <i>new</i> PRow's are being created. This advice is based upon the Secretary of State's comments in making a decision on the A303 Sparkford to Ilchester DCO project which referred to permanent acquisition for new PRow's as being 'best practice' and in line with Government guidance (Circular 02/97) and to do otherwise would be 'unprecedented'.		Matter Not Agreed
WCH routes (3)	2.1.14	Notwithstanding WCH (2) above, the landowner agrees to the Applicant investigating future ownership arrangements and dedication as a public rights of way (PRow's).	Draft Heads of Terms for a tri-partite agreement have been issued and will be progressed if agreement can be reached.	N/A	Matter Under Discussion
Special Category Land Tilbury Green (Drovers Road) Replacement Common Land	2.1.15	Permanent land take for replacement common land to the west of Bucklands Farm and the replacement trackway (Plots 20-70 and 23-117) are both objected to. The Applicant has been asked to investigate alternative options.	The Applicant's position on the acquisition of land at Tilbury Green is set out in Section 7.2 of the Statement of Reasons and paragraphs D.7.11 to D.7.23 of Planning Statement Appendix D: Open Space.	Statement of Reasons [REP1-049] Planning Statement	Matter Not Agreed

Topic	Item No.	Melville Mott & Family Comment	The Applicant's Response	Application Document Reference	Status
				Appendix D: Open Space [APP-499]	
Coalhouse Battery Land at Princess Margaret Road, East Tilbury	2.1.17	The landowner objects to loss of access (Plot 22-92) and frontage (Plot 22-93) off Princess Margaret Road to Coalhouse Battery as a consequence of permanent land take boundaries	The land is required for environmental mitigation works and also a new permissive path between existing footpath FP147 and Princess Margaret Road. SACR-005 of the Stakeholder and Actions Commitment Register secures a landowner's access rights during construction as follows: <i>'Where access to a significant area of a landowner's farmland is severed by construction works, the Contractor shall ensure that the farmer is provided with controlled access to their retained land.'</i> Permanent rights of access to be retained by being specifically excluded from the General Vesting Declaration GVD.	Stakeholder and Actions Commitment Register [REP1-176]	Matter Under Discussion
Land west of Princess Margaret Road (Plots 19-45 & 19-47)	2.1.18	The landowner objects to the permanent acquisition of these plots which would sever access to land not within the Order Limits.	Comments as for access rights in item 2.1.18 above.	N/A	Matter Under Discussion

2.2 Notes

- 2.2.1 The Mott family ownership at East Tilbury is shown edged red on the attached Plate 2.1 (Appendix A) and amounts to approximately 631.83 acres (255.70ha).
- 2.2.2 The extent of land-take (permanent, temporary possession and temporary possession with permanent rights) by the Project is overlaid on Plate 21 (Appendix A) and shown shaded yellow and amounts to approximately 477.03 acres (193.05ha).
- 2.2.3 The extent of existing land restoration and PFA extraction operations (as referenced under item 2.1.1.11 above) is shown as hatched black on Plate 2.1 (Appendix A).
- 2.2.4 The Mulberry Phase 2 Development area over the land in Mott family ownership (as referenced under item 2.1.12 above) is annexed as Plate 2.2 (Appendix A).
- 2.2.5 The Thurrock Power Solar Option area over the land in Mott family ownership (as referenced under item 2.1.7 above) is annexed as Plate 2.3 (Appendix A).
- 2.2.6 The current and alternative RVP locations plan (as referenced under item 2.1.9 above) is annexed as Plate 2.4 (Appendix A).
- 2.2.7 The current and alternative ecological mitigation land (as referenced under item 2.1.2 above) is annexed as Plate 2.5 (Appendix A) and includes an overlay of the Mulberry Phase 2 Development Area (hatched black) for context.

Appendix A Documents considered within this Statement of Common Ground

A.1.1 A summary of the documents which have been considered in the development of this SoCG outside of the DCO application documents is provided below:

Plate 2.1

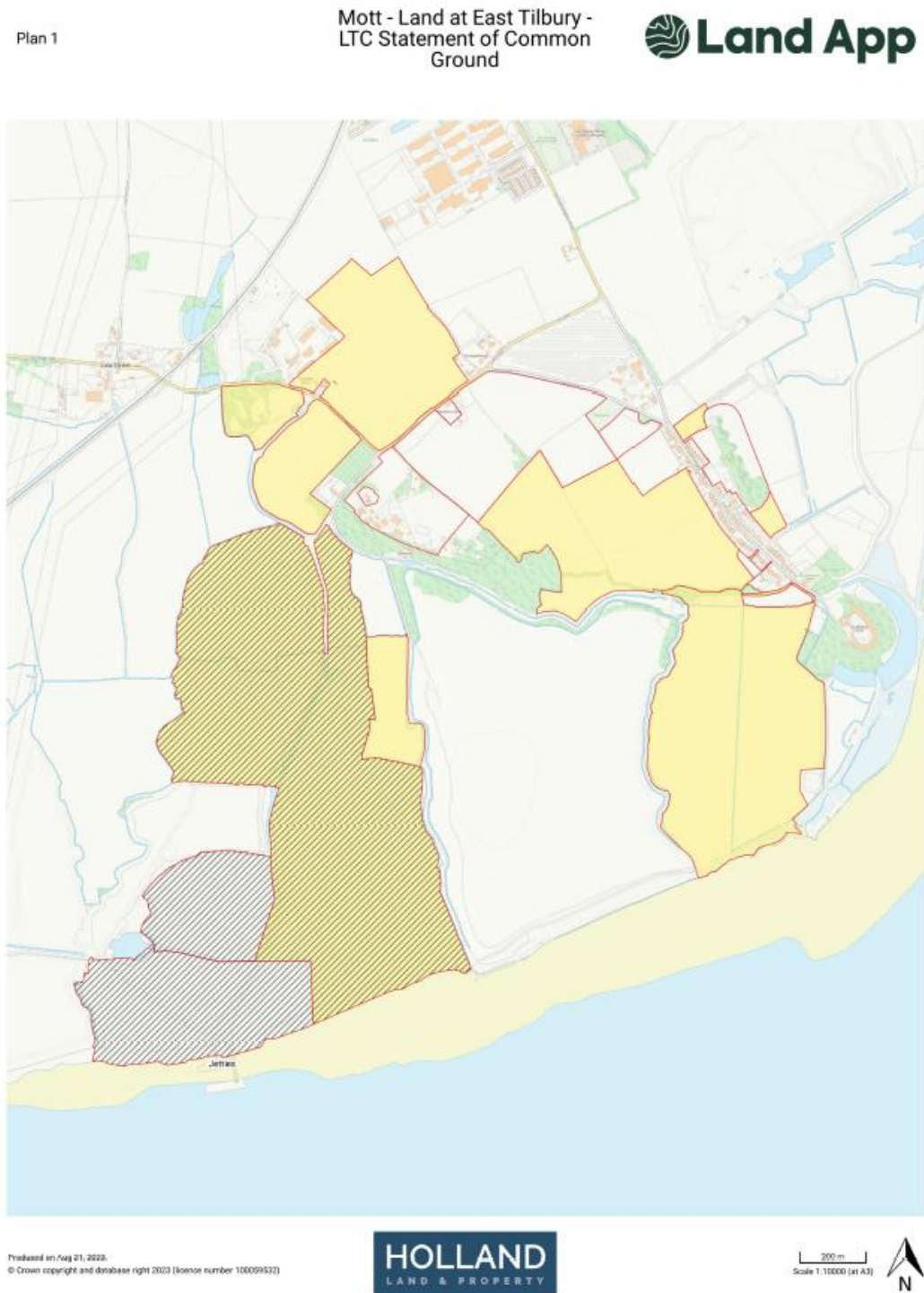


Plate 2.2



Mott Land - appox capacity study
 1.09.2022
 V2
 for Mulberry Strategic and Hollan Land and Property

	mssq			employment net assume plot ratio 0.5			Residential D/Ha 25		
	Msq	Ha	Ac	Msq	ftsq	Msq	Ha	Dwellings	
1A	171,234	17.12	42.31	0	0	171,234	17.12	428	
1B	221,358	22.14	54.70	0	0	221,358	22.14	553	
2	76,034	7.60	18.70	76,034	38,017	48,326	4.83	121	
3A	0	0	0	0	0	44,412	4.44	111	
3B	0	0	0	0	0	27,535	2.75	69	
3C	23,546	10.773	26.61	23,546	11,773	76,460	7.65	186	
3D	0	0	0	0	0	30,935	3.09	77	
4	30,935	3.09	7.64	0	0	0	0	0	
Total	525,187	52.52	131.36	97,580	48,790	525,187	52.52	1,425	

Employment based on 0.5 plot ratio
 Residential based on 25 D/Ha including open space requirements of about 1/3 of the land
 Uses – a portion of Parcel 3 is suggested to be residential.
 The bus gate has been moved to allow commercial westward access and residential eastward access.
 Further confirmation of utilities constraint required to confirm capacity.
 Further understanding of flood and RAMSAR impacts required to confirm capacity.
 Parcel 4 is in third party ownership but land locked.

Mott Land Capacity Study

Scale: 1:5,000 @ A2
 21/09/2022
 2,7/9,2022



Plate 2.3

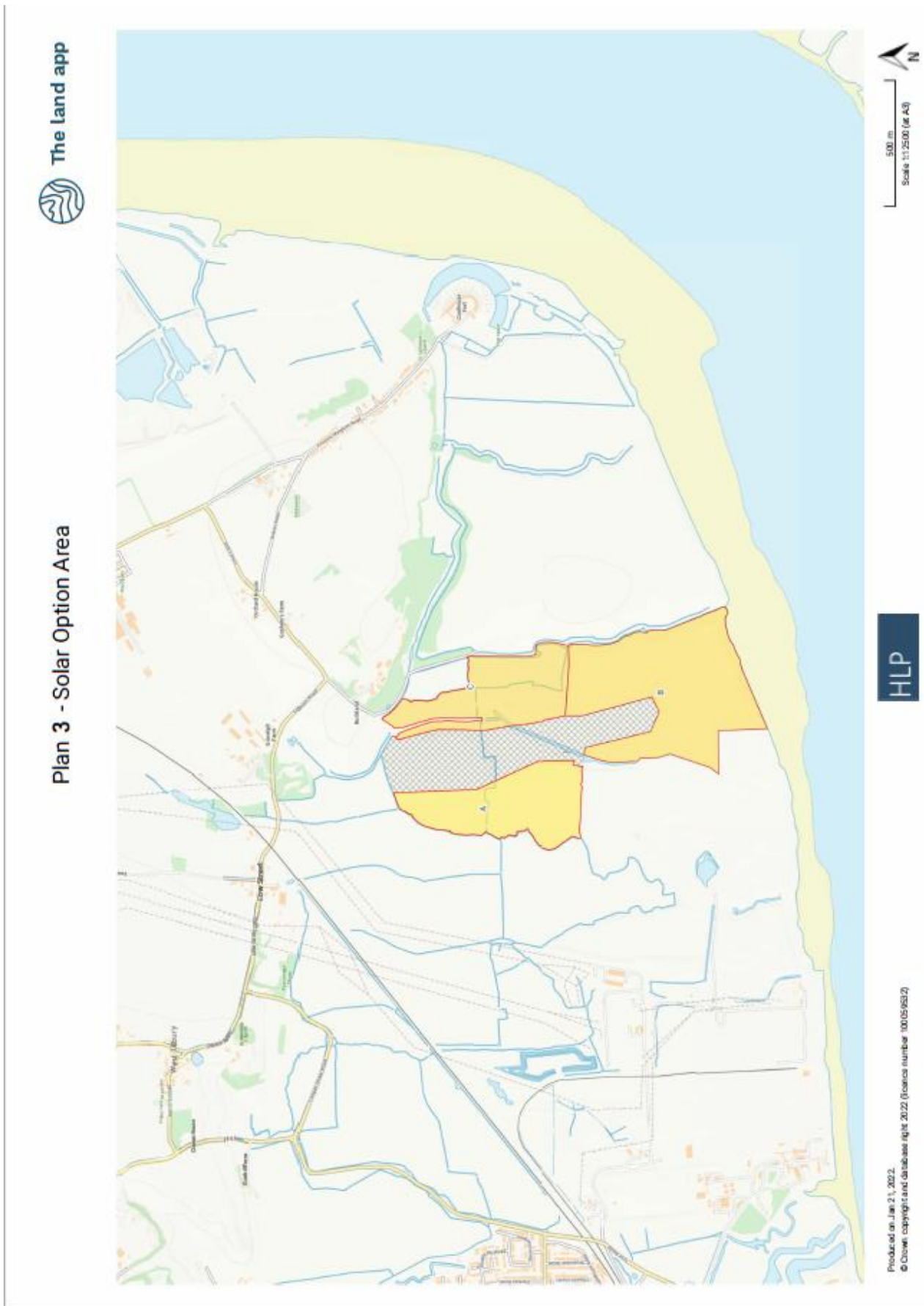


Plate 2.4

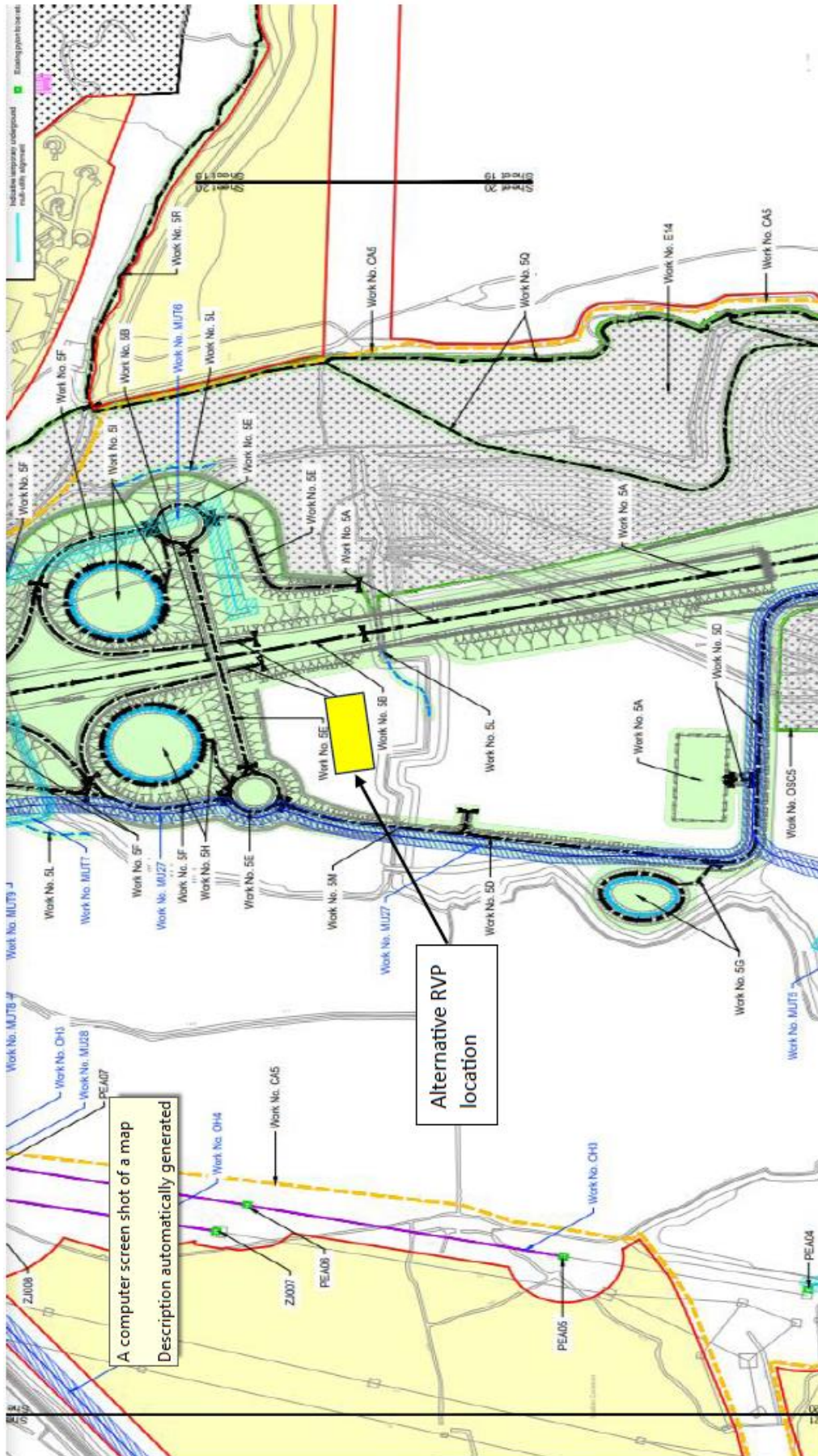
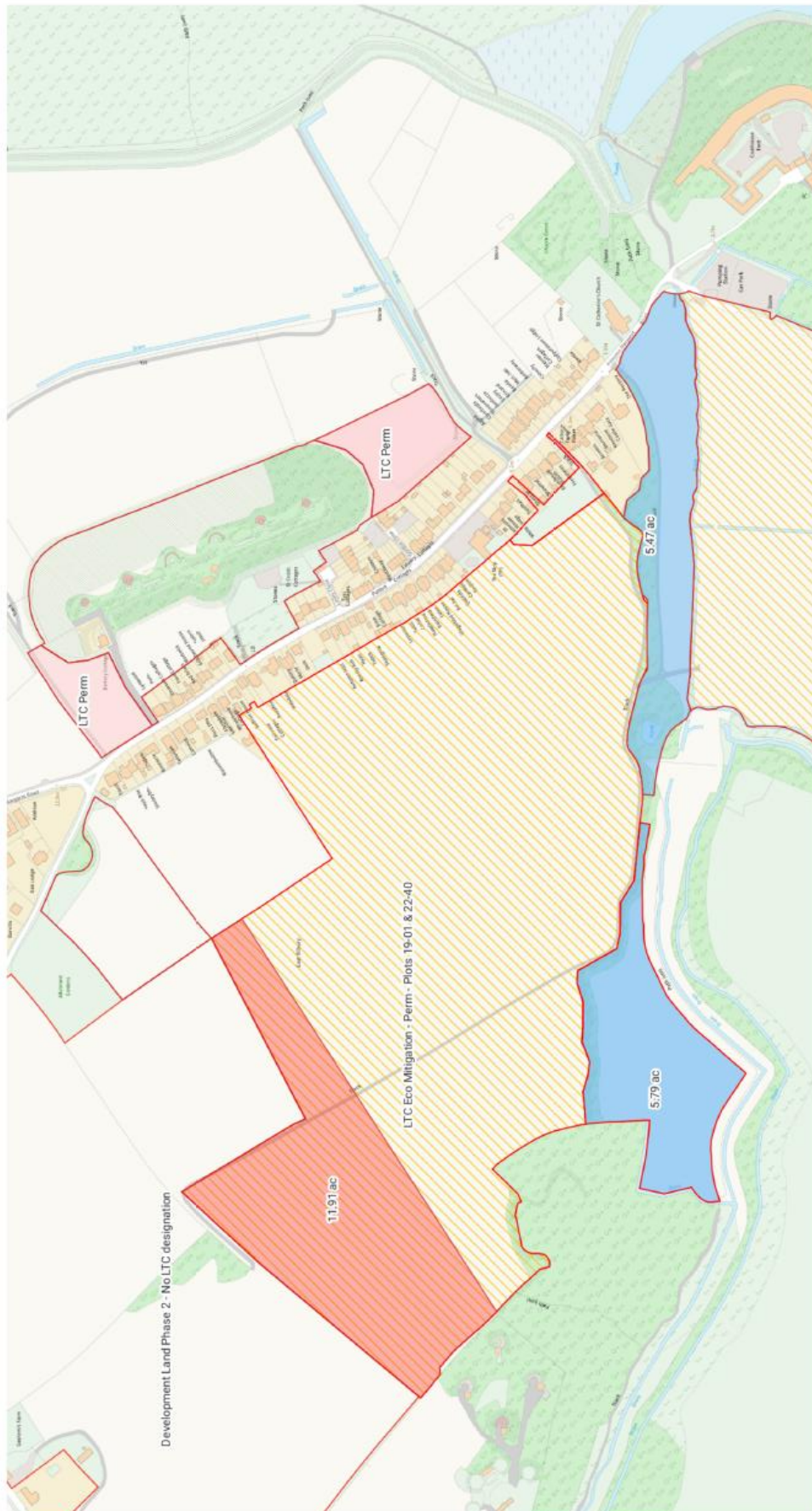


Plate 2.5



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Appendix B Glossary

Term	Abbreviation	Explanation
Design Manual for Roads and Bridges	DMRB	A comprehensive manual which contains requirements, advice and other published documents relating to works on motorway and all-purpose trunk roads for which one of the Overseeing Organisations (National Highways, Transport Scotland, the Welsh Government or the Department for Regional Development (Northern Ireland)) is the highway authority. For the A122 Lower Thames Crossing, the Overseeing Organisation is National Highways.
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
Emergency Services and Safety Partnership Group	ESSPG	The group of Emergency Services and Local Councils that formed the regular engagement group
Environmental Statement	ES	A document produced to support an application for development consent that is subject to Environmental Impact Assessment (EIA), which sets out the likely impacts on the environment arising from the proposed development.
Public Right of Way	PRoW	A right possessed by the public to pass along routes over land at all times. Although the land may be owned by a private individual, the public may still gain access across that land along a specific route. The mode of transport allowed differs according to the type of Public Right of Way, which can consist of footpaths, bridleways and open and restricted byways.

Term	Abbreviation	Explanation
Rendezvous Point	RVP	Used at locations (e.g. stations or airports) that would typically require the attendance of several or more emergency services vehicles and personnel in the event of a significant incident.
Site of Special Scientific Interest	SSSI	A conservation designation denoting an area of particular ecological or geological importance.
Statement of Common Ground	SoCG	A Statement of Common Ground is a written statement containing factual information about the proposal which is the subject of the appeal that the appellant reasonably considers will not be disputed by the local planning authority.
Walkers, cyclists and horse riders	WCH	Walkers, cyclists and horse riders.

Appendix C List of engagement activities

- C.1.1 A detailed record of all engagement between (1) the Applicant and (2) Melville Mott & Family in relation to the matters addressed in this SoCG is available in Annex B of the Statement of Reasons (Version 3.0) [[REP1-051](#)].

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