

TRANSPORT FOR LONDON

LOWER THAMES CROSSING – WRITTEN SUBMISSION OF ORAL COMMENTS MADE AT ISSUE SPECIFIC HEARINGS 3 TO 7

DEADLINE 4: 19 SEPTEMBER 2023

1. Introduction

- 1.1 This document summarises the oral submissions made by Transport for London (TfL) at the Issue Specific Hearings (ISHs) held between 5 and 11 September 2023 in relation to the application for development consent by National Highways (the Applicant) for the Lower Thames Crossing (LTC) project (the Project).
- 1.2 Oral submissions by all parties attending the hearings were made pursuant to the agendas published by the Examining Authority (ExA). In setting out TfL's position on the issues raised in the agenda, as submitted orally at the hearings, the format of this submission follows that of the agendas. TfL has also commented on points raised by interested parties, the Applicant, or the ExA during the hearings on which TfL did not make oral submissions, where these are relevant to TfL's responsibilities.
- 1.3 In addition to covering the agenda items as noted above, this submission also relates to the ExA's list of action points arising from the hearings. These are referred to in this submission under the relevant agenda item.

2. Issue Specific Hearing 3: Project design

Introduction

- 2.1 ISH3 was held on Tuesday 5 September 2023. TfL was represented by Matthew Rheinberg, Major Projects & Urban Design Manager.
- 2.2 TfL's oral submissions related to several agenda items. TfL also responds to Action Point 1 from the ISH below.

Agenda item 3 (c) (i) – A2/M2/LTC intersection – Design mitigations

- 2.3 The ExA's agenda item asked whether sufficient measures have been taken to "meet the principal objectives of the scheme by eliminating or substantially mitigating the identified problems by improving operational conditions and simultaneously minimising adverse impacts" in this location, with reference to paragraph 4.31 of the National Networks National Policy Statement (NNNPS).
- 2.4 TfL noted that this junction is significantly outside TfL's geographical area of responsibility, but there is one element of the design of this junction that is quite significant for London.
- 2.5 One of the benefits of the scheme for London is to improve the resilience of the strategic road network, because when there is planned or unplanned disruption at the Dartford Crossing, there are major impacts on the road network within London as traffic diverts to the Blackwall Tunnel and also will divert to the Silvertown Tunnel in the future. TfL therefore has a strong interest in the LTC being available as a diversionary route for the Dartford Crossing at times of disruption. Furthermore, in relation to paragraph 4.31 of the NNNPS, one of the seven objectives of the scheme is "to improve the resilience of the Thames crossings and the major road network", as set out in Table I.1 of the application document covering the Need for the Project (examination reference APP-494).

- 2.6 This is relevant to the design of the A2/M2/LTC intersection, and specifically whether the design of this junction provides sufficient capacity for it to be used as a diversionary route for the Dartford Crossing. TfL's particular concern is the links between the A2 to the west and the LTC to the north, where at least parts of these connections are designed with one lane in each direction. This draws into question whether the LTC does provide a realistic alternative route, particularly at times of unplanned disruption, without causing significant tailbacks, which could result in it not being advertised as an alternative route in the event of the Dartford Crossing being closed. This in turn would imply that the Blackwall and future Silvertown Tunnels would continue to provide the advertised diversionary route.
- 2.7 TfL has been seeking more clarity on the approach to strategic diversion routes, as referred to as item 2.1.15 in its draft Statement of Common Ground with the Applicant (REPI-I08). TfL is seeking to understand whether the design of this junction actually does help meet the stated objective of the Project to improve the resilience of the major road network in this regard.

- 2.8 The Applicant did not respond on this point at the hearing.

Agenda item 4 – A13/A1089/LTC intersection

- 2.9 TfL confirmed at the hearing that it had no comments to make on this junction.

Agenda item 5 – M25/LTC intersection

- 2.10 TfL's submissions in this area regarded the proposed works in the vicinity of M25 Junction 29 which the ExA confirmed should be covered under agenda item 6 (b) below.

Agenda item 6 (b) – Alignment choices – The proposed M25 improvements

- 2.11 Part (i) of the ExA's agenda item asked whether sufficient measures have been taken to "meet the principal objectives of the scheme by eliminating or substantially mitigating the identified problems by improving operational conditions and simultaneously minimising adverse impacts" in this location, with reference to paragraph 4.31 of the NNNPS.
- 2.12 TfL initially noted that there are some enhancements at M25 Junction 29 as part of the Project that had not been covered by the Applicant's overview at the hearing, particularly widening the circulatory carriageway and fully signalling the junction. Building on comments made previously by Essex County Council and others, TfL stressed the importance of works for the Project at M25 Junction 29 being closely coordinated with the proposals for Brentwood Enterprise Park, which also requires enhancements to that junction.
- 2.13 Regarding the changes to the walking and cycling routes in this area, TfL stated that it supports the provision of the walking, cycling and horse-riding bridge that is proposed to the west of M25 Junction 29. This is required to address the severance caused by the new direct links between the M25 to the south and the A127 to the east and west, that require the east-west route for pedestrians and cyclists to move to the northern side of the junction. It is also required given the substantial extra traffic on the A127 that the Project generates, making the existing uncontrolled surface level crossing at the junction with Front Lane and Folkes Lane less safe.
- 2.14 Further submissions regarding the need for the walking, cycling and horse-riding bridge over the A127 were provided at ISH7 (see paragraphs 6.11 to 6.15 below).
- 2.15 Part (ii) of the ExA's agenda item asked whether there is sufficient design resolution for the structures proposed. TfL explained that it does have some concerns about the design resolution. TfL had been hoping that the design would be developed further in advance of

the DCO application, but TfL understands the Applicant's position, that this will not happen until the contractor develops the design further at the detailed design stage. This makes it very difficult for TfL to understand the maintenance requirements for a structure that TfL, as the local highway authority for the A127, is being asked to maintain. TfL's understanding is that the Structures Plans covering the bridge are illustrative only, as stated in note I on Sheet 76 of the Structures Plans that shows the bridge (REPI-039). The Applicant has advised TfL that the structural form and the materials used could change and this could have a fundamental impact on how TfL would need to maintain that structure, which in turn can impact on the amount of land required around that structure to maintain it. The area available for maintenance around the bridge in the Structures Plans is very tight to the DCO boundary in certain locations on both the north and south sides of the A127. This is a concern that TfL has raised in paragraphs 4.4 and 4.5 of its Written Representation (REPI-304).

- 2.16 Overall, Transport for London is satisfied that it will be consulted on the design of structure, as part of Requirement 3 of the draft DCO, but TfL stated it is of the view that protective provisions for local highway authorities such as Transport for London are needed to ensure that it can be fully comfortable with the process of detailed design and handover of assets that it will be asked to adopt in the future. TfL made clear this does include the need for a commuted sum, as has been mentioned by other parties. TfL therefore suggested to the ExA that the need for protective provisions for local highway authorities would merit being included on the agenda for ISH7 on the draft DCO.
- 2.17 The Applicant noted in response that it was drafting its preferred form of protective provisions for the protection of local highway authorities which it intended to submit at examination Deadline 4.

Action Point I – Reflections on the Applicant's additional submissions – visual representations of intersections for ISH3

- 2.18 The ExA requested detailed written observations on these submissions from local highway authorities and other selected interested parties.
- 2.19 TfL has reviewed the Applicant's additional submissions which assist in understanding traffic movements through the new junctions. For example, slide 4 of the visual representations for the A2/M2/LTC junction (AS-I45) assists in understanding the routeing of traffic between the A2 to the west and the LTC to the north, required as a diversionary route when the Dartford Crossing is closed, as discussed in paragraphs 2.3 to 2.8 above.
- 2.20 Regarding slides 5 to 8 of the visual representations for the M25/LTC intersection (AS-I47), TfL is unclear why the traffic movements from the A127 in either direction are regarded as strategic connections, while traffic movements to the A127 in either direction are classed as major connections. However, TfL is not aware of any material impact this classification has on the outcomes delivered by the Project.
- 2.21 TfL has no further comments to make on the visual representations.

3. Issue Specific Hearing 4: Traffic and transportation

Introduction

- 3.1 ISH4 was held on Wednesday 6 September 2023. TfL was represented by Matthew Rheinberg, Major Projects & Urban Design Manager and Shamal Ratnayaka, Strategic Analysis Manager.
- 3.2 TfL's oral submissions all relate to several agenda items.

Agenda item 3 (a) (ii) – Traffic modelling – Applicant to explain its approach to modelling uncertainties and whether any additional work is necessary in light of the recent publication of the “TAG Unit M4 – Forecasting and Uncertainty”

- 3.3 TfL noted that while it would have preferred the Applicant to have used London Plan growth forecasts within London, which it considers to be more detailed and robust, it accepts that the approach the Applicant has adopted in using TEMPro forecasts is consistent with national policy.
- 3.4 TfL’s concern is regarding the uncertainty inherent in the modelling, particularly given the long period of time between the modelling being undertaken in 2022 (with some of the observed data it is based on dating back several years earlier) and the Project becoming operational in around 2032. There is a whole range of unforeseen changes that can happen in that period, whether new projects coming forward, changes in general travel patterns or major new developments. These are not changes that any promoter of a major project could reasonably foresee. TfL emphasised that this demonstrates why there needs to be a further stage of modelling closer to the scheme opening to inform what mitigation may be needed. There is too much uncertainty over such a long period to rely on modelling from ten years earlier. Looking back at the previous ten years, there are policies, schemes and changes in travel patterns that have happened that were not committed and could not have been foreseen ten years ago.
- 3.5 TfL’s position on the need for mitigation is set out in more detail under agenda item 4 (paragraphs 3.6 to 3.14) below.

Agenda item 4 (a) (i) – Wider network impacts management and monitoring – Applicant’s approach to mitigation – NPSNN policy position in terms of wider mitigation of highway impacts

- 3.6 TfL pointed out its strong alignment with the position made in previous representations by Kent County Council, Thurrock Council, Gravesham Borough Council, and the London Borough of Havering, including their detailed dissection of the NNNPS as it relates to mitigation. In addition to the references in the NNNPS to mitigation, TfL also notes that local plans and policies are important and relevant in this regard; with London Plan Policy T4 also clear on the need for mitigation.
- 3.7 TfL noted that much of the emphasis has been, reasonably, on the question of the extent of the mitigation of impacts. But even before addressing the mitigation of the impacts, there is a key question that needs to be considered: can we be certain of the extent of those impacts?
- 3.8 The sheer scale of the endeavour – as noted by the Applicant, the Project is the largest highway scheme in the South East since the M25 – coupled with the inherent and considerable uncertainties that were discussed under agenda item 3 (a) (ii), means that even the most comprehensive modelling exercise, pre-DCO submission, would inevitably have struggled to definitively capture the scheme impacts.
- 3.9 However, TfL noted the legitimate concerns about the robustness of modelling undertaken and the handling of uncertainties raised by many parties earlier in ISH4. TfL considers it to be very risky to rely on modelling that many parties consider to be insufficiently robust, and which will be a decade old when the Project becomes operational, as the sole basis for determining the impacts and any mitigation necessary. This is not a rigorous approach to ensuring the adverse impacts of the Project are mitigated.
- 3.10 The Applicant has made it clear that if its monitoring shows that traffic congestion issues do emerge, it will be left to the local highway authorities to identify, fund and deliver the

necessary mitigation, suffering the impacts for years into the future, with no certainty that any funding will be secured. The Applicant has cited its general statutory duty to address any impacts, but this duty has been limited to its own roads – and does not extend to the major and local roads that are the responsibility of the local highway authorities, including the TfL Road Network (TLRN).

- 3.11 TfL explained there are several types of impact that are relevant. Traffic congestion has been extensively discussed at ISH4 – and though not explicitly referenced in the current NNNPS, it is in the draft NNNPS which has been acknowledged as an important and relevant consideration, with paragraph 5.274 stating “the applicant should provide evidence that the development improves the operation of the network and assists with capacity issues.” With a clear direction of travel from Government, TfL considers it inappropriate that the Applicant, as a Government agency, continues to disregard this future policy by ignoring the need for an approach to mitigating unforeseen impacts of the Project. TfL considers that the Project will also impact on the effective functioning of the highway network, with the likelihood of severe issues at local junctions such as those on the A127 in Havering or the challenges at Orsett Cock discussed in the morning session. The NNNPS is explicit on the need to mitigate other factors – such as safety impacts, but also environmental impacts – with carbon, air quality and noise emissions each being exacerbated by increased congestion.
- 3.12 The Applicant stated at ISH4 that the proportional and reasonable course of action would be to consider the planning balance, that the benefits outweighed the impacts, and on that basis that no further consideration of mitigation was required. But it is not clear how the Applicant can justify such a position in the absence of a robust understanding of those impacts. The impacts at Orsett Cock and their potential to substantially hinder access to the national gateway ports in its vicinity suggest that there is a risk that the potential strategic benefits of the Project might be eroded too.
- 3.13 The sheer scale of the Project, rather than the basis for legitimate concerns about the degree of unforeseen impacts, appears to have been cited by the Applicant as a reason for it to be absolved of responsibility for its impacts, with the Project merely part of the wider Road Investment Strategy. TfL considers that to seek to draw such a conclusion is not tenable.
- 3.14 However, TfL does recognise the reasonable concern on the part of the Applicant that any approach to mitigation is not limitless in scope. The mechanisms in the Silvertown Tunnel DCO for mitigating impacts after scheme opening has been proposed by TfL, the London Borough of Havering and other local highway authorities as a suitable approach for the LTC project. TfL is agnostic on whether the precise design of the Silvertown Tunnel approach needs to be adopted for the LTC project – it is the outcomes and ensuring that mitigation is secured that TfL is primarily concerned with. However, the Silvertown Tunnel approach does demonstrate that, for a broadly comparable highway scheme, a mitigation mechanism is feasible that both meets the expectations of local highway authorities that impacts will be addressed, while reserving final responsibility for the design of any mitigation to be with the Applicant.

Agenda item 4 (a) (v) – Wider network impacts management and monitoring – Applicant’s approach to mitigation – The Silvertown Tunnel approach

- 3.15 TfL offered to provide further information on how the Silvertown Tunnel Implementation Group (STIG) was currently working. However, this agenda item was deferred for further discussion at ISH7 on the draft DCO. TfL provided further detail on the Silvertown Tunnel approach to mitigation during ISH7, described in paragraphs 6.16 to 6.22 below.

Agenda item 5 (a) – Construction traffic management

- 3.16 In response to questioning from the ExA, Gravesham Borough Council noted that contractors were not always incentivised to minimise the duration of road closures during construction. In response to this, TfL raised similar concerns, citing an example from the M25 Junction 28 improvements project. In that case, the contractor had proposed a nine-month full closure of the M25 northbound on-slip road, even though the outline Traffic Management Plan for Construction had indicated this slip road would need to be closed for only 70 nights. TfL understands this was proposed to make the overall construction programme more efficient, but this would have been at the expense of significantly increased disruption during the construction phase.
- 3.17 In response to objections from TfL, the London Borough of Havering and others that the change would result in materially different environmental impacts, National Highways eventually conceded that the prolonged full closure would be inconsistent with the DCO, with the contractor reverting to its original construction plan. TfL considers that this example demonstrates that, while flexibility for contractors is necessary, it is vital that the final Traffic Management Plan for the Project is in accordance with the outline Traffic Management Plan for Construction.
- 3.18 The Applicant responded at ISH4 that TfL's example showed the governance process worked very well as a contractor suggested a change, the stakeholders disagreed and the contractor therefore changed its plan. TfL would suggest that the final outcome was achieved in spite of, rather than because of, the governance process, which National Highways had seemingly initially attempted, at least in part, to circumvent.

Action Point 8 – Innovative construction practice

- 3.19 TfL does not have any specific proposed wording to include within the DCO or certified documents to support innovative construction practices from contractors. However, TfL notes that for any proposals there is a need for an appropriate balance between flexibility for contractors as the design develops and assurances for local highway authorities about the impacts on their networks in the DCO and control documents. TfL will review any proposals put forward for changes to the DCO and provide comments if necessary.

4. Issue Specific Hearing 5: Tunnelling

- 4.1 TfL was not represented at ISH5 as the tunnelling works under the River Thames are not within or close to TfL's geographical area of responsibility.

5. Issue Specific Hearing 6: Mitigation, compensation and land requirements

- 5.1 ISH6 was held on Friday 8 September 2023. TfL was represented by Matthew Rheinberg, Major Projects & Urban Design Manager.
- 5.2 TfL intended to make oral submissions on agenda item 9 (delivery), an item that was deferred to a future hearing. TfL did not make any oral submissions regarding the agenda items covered at the hearing.

6. Issue Specific Hearing 7: The draft Development Consent Order

- 6.1 ISH7 was held on Monday 11 September 2023. TfL was represented by Matthew Rheinberg, Major Projects & Urban Design Manager and Shamal Ratnayaka, Strategic Analysis Manager.
- 6.2 TfL's oral submissions all relate to agenda item 3 (c) regarding draft DCO matters arising from ISHs 3 to 6, but TfL has made comments related to representations made by other parties in this section. TfL also responds to the ExA's action points 3 and 4 in this section.

Agenda item 3 (a) – Changes proposed to the draft DCO since ISH2

- 6.3 TfL did not make oral representations on this agenda item but wishes to make the following two points.
- 6.4 The Applicant confirmed at the hearing that local highway authorities had been added to the scope of consultation for several requirements, most recently Requirement 6 (contaminated land and groundwater) in the version of the draft DCO submitted at Deadline 3 (REP3-078), with TfL added as a consultee in the outline Landscaping and Ecology Management Plan at the same time (REP3-107 Table 2.1). TfL welcomes these changes which were considered necessary for TfL to be consulted on matters which affect its infrastructure.
- 6.5 TfL also notes the points made by the London Borough of Havering seeking for the Traffic Management Plan to be ‘in accordance with’ the outline Traffic Management Plan rather than ‘substantially in accordance’ with it. This follows the precedent adopted for the M25 Junction 28 improvements DCO and TfL considers the same approach is justified here. The recent experience with proposed changes to road closures for the M25 Junction 28 scheme, described in paragraphs 3.16 to 3.18 above, further emphasises the importance for the final plan to be in accordance with the draft plan, to avoid major changes to the management of traffic while still providing the contractor an appropriate degree of flexibility.

Agenda item 3 (b) – Changes not yet submitted but under consideration

- 6.6 As noted in paragraph 2.17 above, the Applicant stated at ISH7 that it would be submitting its preferred form of protective provisions for the protection of local highway authorities at examination Deadline 4. TfL welcomes this change in approach from the Applicant and will provide comments on the draft protective provisions at Deadline 5.

Agenda item 3 (c) – Draft DCO matters arising from ISHs 3 to 6

Commuted sums

- 6.7 TfL noted the Applicant’s position that the draft protective provisions for local highway authorities that it will put forward at Deadline 4 will not cover commuted sums for future maintenance costs, which is a key issue for TfL. TfL noted the precedent of the M25 Junction 28 improvements DCO which includes protective provisions for the protection of TfL which chiefly focus on the provision of a commuted sum by the Applicant to cover TfL’s increased maintenance costs directly resulting from that project. TfL considers the situation to be no different for the LTC Project, where TfL is being asked to maintain a substantial new walking, cycling and horse riding bridge over the A127, which is required due to severance as a result of the Project and which will require additional funding.
- 6.8 TfL also noted that there are precedents for the reverse situation where National Highways has sought and secured a commuted sum from other DCO developers, for example in the East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (see schedule I9 paragraph I0 of that Order). While TfL recognises that there will be some variations in the situation between any two schemes, it demonstrates further precedent, in this case that the Applicant has previously successfully pursued the principle that affected highway authorities should receive sufficient funds from the infrastructure project undertaker to cover future maintenance costs of infrastructure it will assume responsibility for.
- 6.9 Regarding funding for TfL, TfL endorsed the points made by the London Borough of Havering that highway authorities within London are funded differently for highway maintenance than local highway authorities outside London. TfL itself does not receive any funding from the Government for the maintenance of its own highway network (the TLRN).

The applicant has acknowledged that TfL's funding arrangements are different from other highway authorities in its responses to TfL. For example, in the draft Statement of Common Ground between the Applicant and TfL (REPI-I08), the Applicant states for issue 2.1.II: "The Applicant recognises that Transport for London may have different funding arrangements than those highways authorities outside London. However, the Applicant's position is that it does not provide commuted sums to local highway authorities for any assets that it provides as part of its major projects programme." TfL considers this to be an incoherent position to take. It implies that while the Applicant recognises that TfL does not receive highway maintenance funding from the Department for Transport (the Applicant's justification for not providing commuted sums in general), it will still not provide TfL with a commuted sum as a point of principle, without any justification for why this would not be appropriate for TfL specifically.

- 6.10 TfL is in a similar position to that stated by the London Borough of Havering: TfL is being asked to maintain a substantial new walking, cycling and horse riding bridge over the A127, but in the absence of the financial resources to adequately maintain that bridge, TfL cannot provide the assurance that that bridge can be adequately maintained. For this reason, TfL requires assurance that its costs will be covered via a commuted sum.
- 6.11 TfL was questioned by the ExA about the need for the bridge given it will have a substantial capital cost, and whether a surface level crossing might be suitable instead. TfL made clear that it was the highway authority for this section of the A127 and it needs to ensure that it is safe for users, including pedestrians and cyclists. The Project is severing the pedestrian and cycle route around the south side of the M25 Junction 29 roundabout, so it is forcing additional pedestrians, cyclists and, potentially, horse riders to cross the A127 to access the alternative route around the north side of the roundabout. The requirement for a crossing of the A127 here is a direct result of that severance caused by the Project.
- 6.12 In response to the question of whether an at-grade crossing, e.g. a zebra crossing would be a potential alternative, TfL stated that this is a section of road which is operating at the national speed limit of 70 miles per hour, with two lanes in each direction. Furthermore, as a direct result of the project, there is an additional 700 PCUs per hour in each direction forecast to use this section of road at peak times from the opening year of the Project (an increase of up to 34 per cent in the morning peak), so the A127 becomes much busier at this location. An at-grade crossing of this form would therefore not be a safe option.
- 6.13 TfL has not undertaken any analysis on a signalised crossing e.g. a toucan crossing. However, that would likely have a major impact on delays and disbenefits for the operation of a highway network as a whole. The speed limit for the main carriageway would likely need to be reduced for road safety reasons. It is not an option that is likely to emerge as being value for money or a sensible option to progress.
- 6.14 In summary, TfL's position is that as a direct result of a severance created by the Project, a bridge is required over the A127 at this location, and that TfL would need funding to cover the long term maintenance of that bridge. This is consistent with the NNNPS, for example paragraph 5.216 which states: "There is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated." Furthermore, paragraph 5.205 requires applicants to use "reasonable endeavours to address any existing severance issues that act as a barrier to non-motorised users". There is a clear policy requirement for the Applicant to address the problems it is creating.
- 6.15 TfL added that it has not put any specific requirements on the design of the bridge, other than it needs to follow appropriate highway standards and TfL needs to be able to maintain it in an efficient way. TfL suggested that the Applicant could explore alternative designs

that have a reduced capital cost, but that is the Applicant’s responsibility to consider in liaison with TfL.

Mitigation of impacts and the Silvertown Tunnel approach

- 6.16 TfL noted its position on mitigation was strongly aligned with the points made at ISH7 by the Kent County Council, Thurrock Council, Gravesham Borough Council and the London Borough of Havering. The clear need for a suitable mitigation mechanism was set out in ISH4 (see paragraphs 3.6 to 3.14 above) and this principle enjoys the support of every local highway authority participating in this process. TfL’s experience with other projects means that it understands the perspective both of the stakeholder seeking that impacts are addressed but also that of the promoter seeking a mitigation approach which does not place unreasonable burdens on it.
- 6.17 As previously discussed, even before addressing the mitigation of the impacts, a key question must be considered: are the extent of those impacts certain? When the Applicant again says it “(does) not consider there to be any unacceptable impacts,” it is unclear how it can assert this with any certainty; to do so, based on modelling ten years in advance of scheme opening, and with the modelling issues and limitations that have been set out at some length, is unrealistically optimistic.
- 6.18 TfL asserts that a mechanism which is capable of identifying and addressing the actual impacts, particularly with regard to congestion, air quality, carbon and noise, is required. Regardless of the specific approach adopted in the Silvertown Tunnel DCO, the key principles that should underpin any such approach to mitigation should be considered. A mechanism must be:
- Credible – it must provide a mechanism to mitigate the impacts which is acceptable to the Applicant, local highway authorities and other interested parties, without unfairly leaving the Applicant responsible for securing mitigation for impacts not directly a result of the Project.
 - Workable – the approach must work in practice without the risk of getting mired in disagreements or the ability of one party to block or unduly delay delivery of mitigation. The process must allow for sufficient input and buy-in for all the relevant local highway authorities – even if the overall responsibility lies with the Applicant.
 - Timely – mitigation must be delivered in good time, before the significant adverse impacts have fully materialised. Thresholds can be set conservatively in a way that helps ensure this.
 - Evidence-based – the need for mitigation must be based on more robust modelling undertaken shortly before the Project becomes operational, a robust monitoring strategy, and clearly understood thresholds or definitions about what type and size of impact results in a need for mitigation. The evidence will need to show that impacts are a direct result of the Project.
 - Transparent – the evidence used and decisions made as part of the mitigation approach must be available to all, which provides a further safeguard to the Applicant that any mitigation required is fully justified.
- 6.19 TfL does not consider that the mitigation approach for the LTC Project has to exactly follow the Silvertown Tunnel mitigation mechanism – but it is a tried and tested approach for a comparable strategic river crossing scheme in a highly sensitive, capacity constrained context.
- 6.20 The clear parallels between the Project and the Silvertown Tunnel suggest a similar mitigation mechanism would be particularly applicable to this scheme. The Applicant has gone to great lengths to stress the differences in organisational set-up between itself as

promoter of the LTC Project and TfL as promoter of the Silvertown Tunnel. It has claimed that such a mechanism would somehow undermine its ability to plan strategically. The Applicant has its Road Investment Strategy 3 but TfL is no different with its own strategic context, including the Mayor's Transport Strategy. Such a mechanism in no way serves as an "alternative" (i.e. rival) framework but can operate to ensure specific impacts can be addressed, alongside the wider strategic network framework.

- 6.21 The Applicant has also stated that such a mitigation mechanism would be "too complicated". However, the STIG consists of 14 highway authorities and several other members – a reflection of the small geographical scale of local authorities within London – and any equivalent group for the Project would likely entail fewer members, and with a comparable diversity of views. The Applicant has stated that different stakeholder groups it maintains negate the need for an LTC Implementation Group and, by extension, a mitigation mechanism. But it is a secondary question whether such a mitigation mechanism is managed by an existing group or a new one – the key point is that such a group can review impacts and input into proposed mitigation.
- 6.22 The Applicant has made the case that under its licence, it already has a responsibility to address any impacts arising. But this is, for the most part, limited in scope to its own strategic road network and therefore excludes the smaller roads which are the responsibility of the the local highway authorities – assessment of which has been least robust in the Applicant's use of its strategic highway models. It refers to its "ongoing duty" but this is no different from TfL's ongoing duty on London's highway network which is wholly compatible with the Silvertown Tunnel mitigation mechanism, if not enhanced by it.
- 6.23 TfL notes that the ExA has subsequently requested that the Applicant, without prejudice to its position on mitigation, submit by Deadline 6 its preferred form of drafting of an approach to mitigation covering the functions included in requirement 7 of the Silvertown Tunnel DCO, that could be included in the DCO should the ExA and Secretary of State decide this was necessary. TfL welcomes this request and will comment on the wording put forward at a suitable future examination deadline.

Action Point 3 – Commuted sums

- 6.24 The ExA requested examples of made DCOs where commuted sums have been paid to local highway authorities in respect of the maintenance of new structures.
- 6.25 TfL has cited the example of the M25 Junction 28 improvements scheme in paragraph 6.7 above. The protective provisions for the protection of TfL are set out in Schedule 9 Part 7 of that DCO. TfL considers this example wholly relevant to the Project.
- 6.26 The other example that TfL is aware of is the A303 Sparkford to Ilchester Dualling DCO (see Schedule 8 Part 4). The Protective Provisions for TfL with regard to a commuted sum that are included in the M25 Junction 28 Improvements DCO were based on the equivalent provisions in the A303 Sparkford to Ilchester DCO.

Action Point 4 – Article 10 of the draft DCO

- 6.27 The ExA requested submissions from the local highway authorities on the drafting of Article 10 of the draft DCO and to what extent this could or should include verges and landscaping. TfL has no specific submissions to make on this matter but will review and comment on any proposed changes put forward by the Applicant in future iterations of the draft DCO.