

## THE A122 (LOWER THAMES CROSSING) DEVELOPMENT CONSENT ORDER

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### Deadline 5 Submission – Comments on Applicant’s submissions at Deadline 4

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Interested Party	Northumbrian Water Limited (operating as Essex & Suffolk Water)
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The following table contains the responses of Northumbrian Water Limited (operating as Essex & Suffolk Water) ("ESW") to the Applicant's submissions at Deadline 4 of the Examination.

<u>Applicant's submission</u>	<u>Relevant text</u>	<u>ESW response</u>
<p>REP4-171 Deadline 4 submission – 9.77 ExQ1.15.1.1 Schedule of CA and TP Objections</p>	<p><i>The Applicant submitted an agreed draft Statement of Common Ground with Essex &amp; Suffolk Water [APP-107] which was submitted within the application and will be updated during the examination process.</i></p>	<p>1. ESW would refer the Examining Authority to paragraph 8 of its Relevant Representation (RR-0797).</p> <p>2. The parties agreed at a meeting on 22 August to submit a revised draft at a future deadline when the position between the parties is clearer.</p>
	<p><i>Discussions are ongoing regarding a separate side agreement between the Applicant and Essex and Suffolk Water, to provide further arrangements for the protection of Essex and Suffolk Water's apparatus and statutory undertaking.</i></p> <p><i>The latest draft of this agreement is under discussion, between Essex and Suffolk Water's / Northumbrian Water Limited's legal representatives and the Applicant's solicitors, supported by a series of progress meetings. Points to be concluded relate to Linford Well, namely: water quality, pollution and contamination risk and Linford Well compulsory acquisition over plot 24- 133, of which the last matter relates to PA2008 s127 and s138.</i></p> <p><i>The Applicant is confident that agreement will be reached during the Examination period.</i></p>	<p>3. Whilst ESW appreciates that, as promised in ISH5, the Applicant did provide a version of this draft side agreement on 7 September 2023, as noted in ESW's Deadline 4 response, ESW was disappointed that the 'amended' version supplied contained little substantive redrafting to cover the issues discussed at the most recent meeting on 22 August 2023. Additionally, the further comments provided on the document were confusing or contradictory.</p> <p>4. A meeting which had been scheduled for 21 September 2023 was cancelled by the Applicant after ESW's general concerns about the draft were raised with the Applicant's solicitor in order to enable them to produce a suggested further draft.</p>

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		<p>5. On 29 September 2023, the applicant provided a further revised draft of the agreement. ESW is reviewing this to determine whether it reflects ESW's understanding of the discussions on 22 August and whether its concerns have been met to its satisfaction, or at all. It will aim to provide the Examining Authority with an update on the position through the hearings scheduled for October.</p> <p>6. Given the above, ESW does not yet share the Applicant's optimism as to agreement on all matters being reached during the Examination period.</p>
<p>REP4-173 Deadline 4 submission – 9.79 ExQ1.15.1.3 PA2008 s127 Statutory Undertakers' Land/Rights</p>	<p><i>The Applicant is satisfied that the tests in s127(3)(a) or (b) are met. The tests in s127(3)(a) and/or (b) can be met by according with Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) and the Protective Provisions as contained within Schedule 14 Part 1 of the draft Development Consent Order [REP3-077] or in accordance with agreements made between the Applicant and Essex and Suffolk Water / Northumbrian Water.</i></p> <p><i>Furthermore, the test in s127(3)(b) can be met as the application contains provisions for land to be acquired via the compulsory acquisition powers contained within the draft Development Consent Order for the benefit of Essex and Suffolk Water / Northumbrian Water new and</i></p>	<p>7. ESW would refer the Examining Authority to paragraphs 5.5 to 5.7 of its Written Representation (REP1-265).</p> <p>8. Any form of compulsory powers extended over plot 24-133, the Linford Well site, has the potential to cause serious detriment for the carrying on of ESW's undertaking because it puts in doubt ESW's control of or ability to occupy the site so as to operate it in accordance with its statutory obligations.</p>

<u>Applicant's submission</u>	<u>Relevant text</u>	<u>ESW response</u>
	<p><i>relocated assets, and contains provisions that would enable Essex and Suffolk Water / Northumbrian Water to carry out its statutory duties with regard to its other existing apparatus or interests that are within the Order Limits.</i></p> <p><i>The Applicant is satisfied that the tests in s127(6)(a) or (b) are met. The tests in s127(6)(a) and/or (b) can be met by according with Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) and the Protective Provisions as contained within Schedule 14 Part 1 of the draft Development Consent Order [REP3-077] or in accordance with agreements made between the Applicant and Essex and Suffolk Water / Northumbrian Water.</i></p> <p><i>Furthermore, the test in s127(6)(b) can be met as the application contains provisions for rights to be acquired via the compulsory acquisition powers contained within the draft Development Consent Order for the benefit of Essex and Suffolk Water / Northumbrian Water new and relocated assets, and contains provisions that would enable Essex and Suffolk Water / Northumbrian Water to carry out its statutory duties with regard to its other existing apparatus or interests that are within the Order Limits.</i></p>	
	<p><i>Separate agreement(s) (confidential) between the Applicant and Essex and Suffolk Water / Northumbrian Water, which are ongoing.</i></p>	<p>9. ESW would like to make clear that no such agreement(s) are yet in place but rather are still under negotiation between the parties. As to the status of negotiations on the side agreement,</p>

<u>Applicant's submission</u>	<u>Relevant text</u>	<u>ESW response</u>
	<p><i>Discussions are ongoing regarding a separate side agreement between the Applicant and Essex and Suffolk Water, to provide further arrangements for the protection of Essex and Suffolk Water's apparatus and statutory undertaking.</i></p> <p><i>The latest draft of this agreement is under discussion between Essex and Suffolk Water's / Northumbrian Water's legal representatives and the Applicant's solicitors, supported by a series of progress meetings. Points to be concluded relate to Linford Well, namely water quality, pollution and contamination risk and Linford Well compulsory acquisition powers over plot 24-133, of which the last matter relates to the Planning Act 2008 s127(3) and s127(6).</i></p> <p><i>The Applicant is confident that agreement on all matters will be reached during the examination period.</i></p>	<p>please see paragraphs 3 to 6 of this response document.</p> <p>10. Please see paragraphs 3 to 6 of this response document.</p>
<p>REP4-174 Deadline 4 Submission - 9.80 ExQ1 15.1.4 PA2008 s138 Statutory Undertakers' Rights and Apparatus - LTC</p>	<p><i>Separate agreement(s) (confidential) between the Applicant and Essex and Suffolk Water / Northumbrian Water, which are ongoing.</i></p> <p><i>Discussions are ongoing regarding a separate side agreement between the Applicant and Essex and Suffolk Water, to provide further arrangements for the protection of Essex and Suffolk Water's apparatus and statutory undertaking.</i></p>	<p>11. Please see paragraph 9 of this response document.</p> <p>12. Please see paragraphs 3 to 6 of this response document.</p>

<u>Applicant's submission</u>	<u>Relevant text</u>	<u>ESW response</u>
	<p><i>The latest draft of this agreement is under discussion between Essex and Suffolk Water's / Northumbrian Water's legal representatives and the Applicant's solicitors, supported by a series of progress meetings. Points to be concluded relate to Linford Well, namely: water quality, pollution and contamination risk and Linford Well compulsory acquisition over plot 24-133, of which the last matter relates to the Planning Act 2008 s138(4).</i></p> <p><i>The Applicant is confident that agreement on all matters will be reached during the Examination period.</i></p>	
<p>REP4-177 Deadline 4 Submission – 9.81 Post-event submissions, including written submission of oral comments, for CAH1</p>	<p><i>AT briefly set out the position in relation to each of the relevant bodies. AT noted that in relation to Essex and Suffolk Water (part of Northumbrian Water), there are discussions relating to an agreement in relation to further arrangements for the protection of their apparatus, which is at an advanced stage in discussions.</i></p>	<p>13. Please see paragraphs 3 to 6 of this response document. ESW would not agree that the draft side agreement is yet at an <u>advanced</u> stage of discussions.</p> <p>14. ESW did not attend CAH1 following discussions with the Applicant on 22 August and in anticipation of wording removing or limiting the Applicant's occupation of plot 24-133 being included in the side agreement.</p>
<p>REP4-181 Deadline 4 Submission – 9.85 Post-event submissions, including written submission of oral comments, for ISH5</p>	<p><i>The water supplied to the tunnel boring machinery for the main tunnels construction shall be groundwater abstracted from a Northumbrian Water borehole at Linford and provided through a pipeline to the site (Work No MUT6). This supply to the TBM via Work No MUT6 would be raw water. In the eventuality that this water supply would not be available, potable water can be supplied via a pipeline that forms part of the permanent water supply to the North</i></p>	<p>15. ESW would like to make clear that any supply of water to the TBMs is subject to ESW's agreement and for that purpose negotiations on a works funding agreement and section 55 supply agreement outside the DCO process are still ongoing between the parties.</p>

<u>Applicant's submission</u>	<u>Relevant text</u>	<u>ESW response</u>
	<i>Portal Tunnel Services Building via Work No MU29.</i>	
	<i>In both instances, it is envisaged that there would be no impact to the existing potable water supply for residents and customers within the region, however any associated risk regarding this, i.e., rupturing of a water pipeline, or the TBM supply being 'turned off' to meet demands of others due to unforeseen circumstances such as drought, is significantly reduced via the use of raw water. The demands in both instances have been discussed and confirmed with Essex &amp; Suffolk Water, which is the operating company of Northumbrian Water in this region, as communicated with Section 4 of Northumbrian Water Limited's written representation.</i>	16. Please see paragraph 15 of this response document.
	<i>IT in response to the comments made by Northumbrian Water noted the positive comments are welcomed and are reflective of the positive, collaborative relationship between the two parties. The draft agreement mentioned is to be returned on the day of ISH5.</i>	17. Please see paragraphs 3 to 6 of this response document.
REP4-193 Submission Responses to the Examining Authority's ExQ1 Appx F – 10. Road Drainage, Water Environment & Flooding	<i>Deadline 4 9.89 Responses to the Examining Authority's ExQ1 Appx F – 10. Road Drainage, Water Environment &amp; Flooding</i> <i>Response to question 10.4.1: The draft agreement expires on the earlier of either five years from commissioning or the date 31 December 2031. The Applicant believes the construction of the tunnels, which uses water supplied from the Linford Well, will be completed in advance of 31 December 2031. In the unlikely event that the works overrun, and, if an extended agreement could not be agreed for the supply from the Linford Well, the proposed alternative would be to utilise the potable water supply</i>	18. ESW acknowledges the comments made and the sections of documents identified in this response. In ESW's view, whilst the assessment has concluded that there will be no significant effect, that does not mean that there is no risk of contamination to the Linford Well from the works.  19. ESW is seeking contingency measures where contamination of the Linford Well supply arises while it is in use for the supply of water to the

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	<p><i>provision from the Tilbury ring main, known as the Gun Hill supply (Work No MU29). This would be at an increased cost to the Project and would be combined with the range of water recycling provisions such as rainwater harvesting already implemented on the site.</i></p> <p><i>The water that will be taken from the Linford Well is classed as raw water. This water is of adequate quality for the tunnel boring machine (TBM) needs and will not require any further treatment. Due to no treatment of the incoming raw water being necessary for this use, no waste will be produced and, therefore, no assessment of such works is included within the Application. The slurry treatment plant and TBM slurry circuit form a generally closed system with no wastewater generated. At times, a small fraction becomes unsuitable for recirculation and is discharged to waste. Treatment prior to discharge would be through filter presses within the slurry treatment plant and if necessary to meet suspended solids limits, by tertiary sand filter. All proposals and methods in this regard would be subject to permitting by the Environment Agency.</i></p> <p><i>The potential effects of the abstraction of groundwater from the Linford borehole on groundwater levels, flows and quality has been assessed within Environmental Statement Appendix 14.5: Hydrogeological Risk Assessment [APP-458 and APP-459], whilst the potential effects on the River Thames, which would receive treated discharge waters, has been assessed in Environmental Statement Appendix 14.7: Water Framework Directive</i></p>	<p>tunnel boring machines.</p> <p>20. ESW is also seeking appropriate assurances in relation to risks posed by a road run off pond being located in the Source Protection Zone 1 of the Linford Well.</p>



<u>Applicant's submission</u>	<u>Relevant text</u>	<u>ESW response</u>
	<p><i>[APP-478].</i></p> <p><i>The assessments conclude that no significant effects would arise from these activities given the Applicant's commitments included within the Code of Construction Practice [REP3-104]:</i></p> <ul style="list-style-type: none"> <li><i>• RDWE003 which states that extraction rates would be agreed with Northumbrian Water prior to commencement of main tunnelling works and the supply of groundwater would be within the limits of the groundwater abstraction licence</i></li> <li><i>• RDWE023 which sets out that waste waters would be discharged under condition of an Environment Permit, in compliance with the Environmental Permitting (England and Wales) Regulations 2016</i></li> <li><i>• RDWE028 which confirms that the design of the temporary drainage outfall would be in compliance with measures agreed with Marine Management Organisation as detailed in the Deemed Marine Licence (DCO Schedule 15)</i></li> </ul>	
<p>REP4-162 Deadline 4          Submission – 9.3 Status of          Negotiations with Statutory          Undertakers (Clean          Version)</p>	<p><i>The Applicant is confident that agreement will be reached during the Examination period.</i></p>	<p>21. Please see paragraphs 3 to 6 of this response document.</p>