

## TRANSPORT FOR LONDON

### LOWER THAMES CROSSING – COMMENTS ON SUBMISSIONS MADE AT DEADLINE 4

#### DEADLINE 5: 3 OCTOBER 2023

#### **1. Introduction**

- 1.1 This document sets out comments from Transport for London (TfL) on submissions made at Deadline 4 of the Lower Thames Crossing (LTC) Development Consent Order (DCO) examination.
- 1.2 Where TfL has set out its position on a matter in previous submissions, TfL has signposted the relevant parts of those previous submissions rather than repeating its position in detail in this submission. TfL has limited its comments to a small number of submissions made by the Applicant, although some submissions made by other interested parties have been referenced where relevant. This document is structured with a section for each such relevant submission.

#### **2. Draft DCO v6.0 (REP4-095)**

- 2.1 TfL supports in principle the inclusion of protective provisions for the protection of local highway authorities in the draft DCO and welcomes that the Applicant has included these following requests from TfL and the other local highway authorities. This should ensure that there is sufficient input by TfL into the design and delivery of the Project, and that there is protection for TfL on matters relevant to its interests.
- 2.2 TfL is undertaking a detailed review of the draft protective provisions put forward by the Applicant and is therefore reserving detailed comment until Deadline 6, once a more thorough review can be completed. TfL considers that while it is satisfied with the overall structure of the draft protective provisions, a range of adjustments will be needed to secure a sufficient level of protection.

#### **3. Post-event submissions, including written submission of oral comments, for ISH3 (REP4-179)**

- 3.1 Section A.9 of the Applicant's submission responds to concerns raised by TfL that the design of the A2/M2/LTC junction may not provide sufficient resilience during a closure of the Dartford Crossing, as there are only single lane links between the A2 to the west and the LTC to the north. TfL has therefore questioned whether there is sufficient capacity for diverted traffic and, in turn, whether the LTC would be signed as a diversion route during a closure at the Dartford Crossing or whether traffic would continue to be directed via the Blackwall Tunnel as well as the future Silvertown Tunnel.
- 3.2 The Applicant has responded that a full closure of the Dartford Crossing would be a very rare event and that, in the majority of incidents, at least two lanes in each direction are maintained, meaning that not all traffic would be required to divert to an alternative route. The Applicant therefore concludes that the current junction design is sufficient to provide suitable resilience to manage the majority of incident scenarios.
- 3.3 While TfL accepts that a full closure or diversion of all traffic from the Dartford Crossing would be a fairly rare occurrence (although may increase in frequency due to increased

extreme weather events related to climate change), confirmation of network capacity along the A122 strategic diversion route to cope with even a partial traffic diversion would help TfL understand the resilience of the network and the wider traffic impacts of the scheme, including on its own road network. Because the link between the A2 to the west and the A122 to the north is proposed as only one lane in each direction, TfL seeks assurances about the level of traffic that would divert into London via the Blackwall and future Silvertown tunnels, compared to via the LTC. As TfL has previously stated, this is particularly relevant since one of the seven objectives of the scheme is “to improve the resilience of the Thames crossings and the major road network”.

#### **4. Post-event submissions, including written submission of oral comments, for ISH4 (REP4-180)**

4.1 The Applicant comments on the suitability of the Silvertown Tunnel DCO as a precedent for the approach to monitoring and mitigation in paragraph 4.1.17. TfL has focused its representations on this matter in its response to the Applicant’s written submission of oral comments for ISH7, covered in section 5 below, so has not provided comments in this section.

##### **Duration of road closures**

4.2 TfL disagrees with the statement made by the Applicant in paragraph 5.1.5 that the example TfL had cited from the M25 Junction 28 improvements scheme was an example of the governance process working well. TfL made its contrary views on this clear in paragraph 3.18 of its written summary of oral comments made at ISH4 (REP4-359). Furthermore, TfL notes the submission made by Gravesham Borough Council on proposed changes to the outline Traffic Management Plan for Construction (oTMPfC) to help ensure the duration and extent of road closures is minimised (REP4-298). TfL supports the principle of these proposed changes and recommends the Applicant updates the oTMPfC accordingly.

##### **Precedents on VISSIM not being re-used in SATURN**

4.3 TfL wishes to respond to a point the Applicant raises on iteration between strategic and microsimulation models in paragraph A.3.3. The Applicant is responding to the suggestion that delays forecast in microsimulation models of junctions should be used to inform an updated iteration of the strategic modelling. The Applicant states: “Nowhere in the TfL modelling guidelines or in practise do TfL pass modelled delays from microsimulation models back into either a tactical or strategic model.” TfL wishes to clarify that the approach it takes in practice is that, if a performance issue with the microsimulation model is identified, for example excessive delay experienced along a corridor, TfL may make adjustments to the traffic signal strategy or layout design to address this at the microsimulation model level. This would then be reflected in the strategic model, which would be adjusted accordingly, then be run again. The new flows and routings would then be extracted from the strategic model and input into the microsimulation model for a further confirmative iteration to be run. This is not necessarily always applicable and is outcome-dependent.

4.4 On this basis, while the approach adopted by the Applicant for iteration between the strategic and microsimulation models appears to be generally consistent with the TfL guidelines, TfL would expect some updates to the strategic model to be made if significant performance issues at specific junctions emerged from the microsimulation modelling.

### Mitigating the impacts of the Project

- 4.5 In response to submissions made by the London Borough of Havering, the Applicant cites TfL's Local Implementation Plan (LIP) funding as an example of alternative funding available to London boroughs (paragraph B.6.2). The Applicant has fundamentally misunderstood the purpose of LIP funding, which is specifically to help meet the objectives of the Mayor's Transport Strategy. It is allocated to projects that fit into one of several programmes, for example cycle network development, bus priority and liveable neighbourhoods. It is not intended to fund mitigation for the adverse impacts of third-party schemes such as the LTC Project. Furthermore, LIP funding available to boroughs has been very constrained over recent years, which shows that even if it was a valid funding source for LTC mitigation, its availability could not be relied upon. This is why it is so important that the DCO must secure funding for mitigation of the adverse impacts of the scheme on the local highway network.
- 4.6 In the same paragraph, the Applicant states that TfL "can in turn bid for additional funding from central Government". While this is correct, there is no guarantee that the Government would provide TfL funding for this purpose, again showing why mitigation must be secured in the DCO.
- 4.7 In section B.7, the Applicant makes statements about policy compliance with the London Plan and about the local junction modelling undertaken by the London Borough of Havering and TfL, in response to comments made by TfL.
- 4.8 In paragraph B.7.1, the Applicant states that regarding policy T4 of the London Plan, "it would be disproportionate and unreasonable for the Project to be held accountable for further investment to address adverse impacts, without considering the scale of the benefits provided by the Project". TfL does not accept this response. It is generally accepted in planning that the proponent of a scheme should work with local authorities and policy makers to address adverse impacts and to improve the viability and quality of the proposal – and this is regardless of the scale of benefits to be delivered. This occurs through sections of the Planning Act 2008 where developers contribute facilities (or funds in lieu thereof) to make their developments more acceptable in planning terms (whether socially, environmentally, economically, or otherwise). While national policy may take precedence over local policy from a hierarchical perspective, TfL submits to the ExA that local policy (including the London Plan) is an important and relevant matter for the purposes of section 104 of the Planning Act, and as outlined in both current and draft National Policy Statement for National Networks (NPSNN) policies (current NPSNN paragraph 5.203 and draft NPSNN paragraph 5.262).
- 4.9 TfL notes that other interested parties take a similar view, with the London Borough of Havering noting that the Applicant's claim that it is exempt from mitigation under the NPSNN is "a remarkable proposition (REP4-318 paragraph 3.3), while the Port of Tilbury states that "the Applicant's position is fundamentally misplaced and at odds with how the infrastructure planning regimes expect applicants to assess and mitigate impacts" (REP4-347 paragraph 5.3.4).
- 4.10 Paragraph B.7.2 covers the Applicant's views on the local junction modelling undertaken by the London Borough of Havering and TfL. The Applicant states that several junctions are either at or over capacity without the Project, so there is a case for intervention regardless. The Applicant goes on to say that "it is inappropriate for the Applicant to be held responsible for performance issues at these junctions, when the modelling demonstrates these issues exist without the Project". While this may be the case at some junctions, the Applicant is completely ignoring those junctions which do experience capacity and/or

safety issues as a direct result of the Do Something scenario (with the Project), as outlined in the joint TfL-Havering local junction modelling. The impacts directly caused by the Project are at the A127 / Hall Lane junction, the A127 / Ardleigh Green Road / Squirrels Heath Road and nearby Wingletye Lane junctions, and the A12 / North Street / Havering Road junctions, and were described in paragraphs 3.23 to 3.29 of TfL's Written Representation (REPI-304) with the detailed analysis included in Appendix A of that submission.

- 4.11 TfL does not accept that the modelling carried out for the Project provides, on its own, a sufficiently robust evidence base upon which to assess its impacts. TfL has articulated its position on this matter in its Written Representation (REPI-304 paragraphs 3.18 to 3.22) and written submission of oral comments for ISH 3 to 7 (REP4-359 paragraph 3.4) and in particular why updated modelling closer to the Project becoming operational is required – as opposed to relying on modelling undertaken a decade before opening as the sole basis for determine the impacts.

## **5. Post-event submissions, including written submission of oral comments, for ISH7 (REP4-183)**

### **Commuted sums**

- 5.1 The Applicant's position on commuted sums is set out in detail in paragraphs I.3.22 to I.3.37 of this document. TfL's principal issue with the argument laid out is that the Applicant continues to fail to acknowledge that the highway network is funded differently in London compared to elsewhere. The Applicant's statement in paragraph I.3.23 that "the maintenance of both local highways and the SRN is funded by the DfT" is not true in the case of London. The Applicant builds on its argument in paragraph I.3.30 by citing the ADEPT Guidance which states that "it is not appropriate to seek commuted sums where other specific sources of funding are provided to cover ongoing maintenance". Again, this is not the case in London. TfL questions why the Applicant has chosen not to acknowledge the different funding situation in London in its argument and suggests this may be because there is no justification for why an increased maintenance burden to be imposed on a local highway authority should not be funded in the London context.
- 5.2 The Applicant even uses the different funding situation for the road network in London to justify why it considers the approach to mitigation in the Silvertown Tunnel DCO to be inappropriate, stating that the "different funding arrangement provides for a different set of arrangements [for mitigation] that can properly be required" (paragraph I.3.61). Notwithstanding that TfL disagrees with the Applicant's justification for its position on mitigation, the Applicant is using the fact that there are different funding arrangements in place in London in an entirely inconsistent manner, adapted to fit the position it is seeking to take on different aspects of the Project.
- 5.3 The Applicant cites 11 examples of made DCOs for highway projects where commuted sums were not provided to local highway authorities in paragraph I.3.28. None of these DCOs are for projects in London. TfL therefore contends that the only relevant precedent in this context is the M25 Junction 28 improvements DCO, where the Secretary of State did identify that a commuted sum for TfL was justified. Paragraph I32 of the Secretary of State's Decision Letter and paragraphs 9.5.28 to 9.5.35 of the ExA's Recommendation Report for the M25 Junction 28 improvements scheme both set out the reasons why a commuted sum for TfL was considered justified, with TfL seeking only to mitigate against the additional burdens placed upon it. The situation and context are no different for the LTC Project, so the M25 Junction 28 improvements DCO remains a valid – and the most appropriate – precedent.

- 5.4 Part of the argument that the Applicant is now using against providing a commuted sum for the proposed walking, cycling and horse riding (WCH) bridge over the A127 west of M25 Junction 29 is that it has been included “primarily in response to a request from TfL and the London Borough of Havering in order to provide connectivity for non-motorised users, and to deal with a historic absence of safe/grade separated crossing at this location.” This misrepresents TfL’s position. The Project will result in an increased (albeit unquantified) number of pedestrians, cyclists and horse riders needing to cross the A127 west of M25 Junction 29 because the Project severs the existing route around the south side of the roundabout. Pedestrians and cyclists therefore need to navigate the north side of the roundabout, requiring them to cross the A127 which is a two-lane dual carriageway with a 70 miles per hour speed limit.
- 5.5 While the existing crossing is uncontrolled and the bridge will make it safer for existing users, TfL’s position is that the bridge is required to mitigate the fact that the project will force an increased number of walkers, cyclists and horse riders to cross this road, i.e. addressing its severance impacts. This was explicitly acknowledged in the Applicant’s Design Refinement consultation in 2020, where the change to provide the bridge was described as follows: “At supplementary consultation, we showed an existing path next to the south side of the A127 that was impacted due to the addition of segregated left-turn lanes. These lanes meant the existing crossing points to the south of the junction would no longer be feasible. We have been exploring solutions to maintain connectivity in this area and now propose a new footbridge over the A127, which would link to existing routes.” This consultation material can be found on page 110 of Appendix R to the Consultation Report (APP-086). The Applicant therefore acknowledges that the purpose of the bridge is to “maintain connectivity” which address the requirement for it to reduce community severance in the NPSNN (paragraphs 3.22 and 5.205).

#### **Monitoring and mitigation approach**

- 5.6 The Applicant sets out its position regarding the validity of the Silvertown Tunnel impact management framework to the Project in paragraphs 1.3.60 to 1.3.68. TfL has set out in detail why it considers a monitoring and mitigation approach based on that in the Silvertown Tunnel DCO to be relevant in paragraphs 6.16 to 6.23 of TfL’s written submission of oral comments for ISHs 3 to 7 (REP4-359). TfL does not repeat those representations here but does respond to some of the points raised by the Applicant.
- 5.7 The Applicant states in paragraph 1.3.63 that the draft DCO secures several forums and groups such as the Traffic Management Forum and Travel Plan Liaison Group that would involve the relevant highway authorities, so it states a further group “is likely to lead to duplication of work, further officer time and is therefore not considered to be in the public interest of a good use of taxpayer funds”. TfL disagrees with this position because the functions of the Silvertown Tunnel Implementation Group (STIG) are entirely different to the groups already specified in the draft DCO for the Project. It might be possible for the Applicant to adapt an existing group for this purpose. But what is essential is that there is a group performing a key role associated with a monitoring and mitigation strategy, bringing together the appropriate range of stakeholders. This is not covered by the currently proposed groups.
- 5.8 The Applicant also asserts that an equivalent to the STIG is unnecessary because it already monitors and manages the network and liaises with other stakeholders including highway authorities through its route strategies. The Applicant’s route strategies and licence do include engagement with other groups, but this is generally in the form of occasional consultation and in no way replicates the role that a formal LTC Implementation Group

such as that set up for the Silvertown Tunnel would perform. The volume of consultation undertaken for the route strategies is highlighted in paragraph I.3.66 but there is no surety for other highway authorities that their representations will be acted upon in a timely manner. Nor do the route strategies generally include highways not managed by the Applicant. As such, TfL does not consider the route strategies to be an effective means of securing mitigation for the adverse impacts of a major project – not least because these are long-term strategies when the mitigation may need to be implemented in a much shorter timeframe to address urgent road safety or congestion issues. The STIG is a tried and tested approach for mitigation of wider network impacts of a comparable strategic river crossing. It could enhance and improve upon existing processes and obligations, with an LTC-specific lens.

- 5.9 TfL also disagrees with the assertion in paragraph I.3.62 that an equivalent of STIG would “circumvent national processes and reduce the DfT’s ability to deliver the wider investment framework that it already has in place to prioritise funding”. TfL considers that the likely mitigation actions needed to address the impacts of the Project are not in themselves major schemes that would compete with national priorities. They will be targeted interventions at any specific junctions adversely affected. TfL’s position is that having a framework within the DCO, such as that used for the Silvertown Tunnel, would secure the mitigation of impacts associated with the Project, in line with national and local policy. The argument that a framework would hinder the Applicant’s ability to meet its commitments is not supported by TfL’s experience with the Silvertown Tunnel, where TfL has not been reduced in its abilities but has found the process to enhance and strengthen relationships with stakeholders, provide structure and ensure transparency. TfL has similar strategies and policies which are not fettered by the actions and requirements of the STIG.
- 5.10 TfL wishes to highlight the consistency between its own position and that of other interested parties on this matter. Gravesham Borough Council proposes a new article and requirement in the draft DCO to cover a Lower Thames Crossing Implementation Group in its post-hearing submission for ISH7 Appendix I (REP4-302). The Port of Tilbury similarly includes a draft requirement in its DCO drafting proposals submitted at Deadline 4 (REP4-350). The London Borough of Havering makes similar points to TfL about the validity of the Applicant’s arguments regarding the case for an equivalent of the STIG in section 4 of its ISH7 post-hearing submission (REP4-318). Thurrock Council cites the Silvertown Tunnel monitoring and mitigation strategy as an excellent example in its response to ExQI 4.2.7 (REP4-353) and has submitted the strategy as Annex A to its post-hearing submissions (REP4-350). There is a clear consensus among relevant interested parties that the Silvertown Tunnel DCO offers an appropriate and justified precedent to follow.

## **6. Responses to the Examining Authority's First Written Questions (ExQI) Appendix B (traffic and transportation) (REP4-I89)**

### **ExQI 4.2.1 - Draft National Policy Statement National Networks (NPSNN): Policy Approach to Mitigation**

- 6.1 TfL notes that, while not all adverse effects on the transport network can necessarily be mitigated, TfL’s interpretation of the following text in paragraph 5.280 of the draft NPSNN is different to that of the Applicant: “the Secretary of State should ensure that the applicant has taken reasonable steps to mitigate these impacts” and “Where the proposed mitigation measures are insufficient to reduce the impact on the transport infrastructure to acceptable levels, the Secretary of State should expect applicants to accept requirements and/or obligations to fund infrastructure or mitigate adverse impacts on transport networks”. The Applicant has not sufficiently addressed this in their response to the

question. TfL considers that the draft NPSNN does go further than the current NPSNN regarding the obligations of the Applicant. TfL regards the approach to mitigation that it seeks as falling within the classification of a “reasonable step” to mitigate the impacts of the Project. The Applicant’s response also misses reference to paragraph 5.275 of the draft NPSNN, which adds “any support or funding to the immediate surrounding area” as an additional mitigation measure, beyond design, layout or operational mitigation measures, and does in fact show a different, enhanced approach from the current NPSNN. This is contrary to the suggestion in the Applicant’s response that the draft NPSNN makes no difference to the policy position on mitigation.

- 6.2 Further comments regarding NPSNN policy compliance are noted in section 8 below.

#### **ExQI 4.2.2 - Monitoring Timing, Period and Frequency**

- 6.3 TfL remains of the view that only commencing the monitoring one year prior to the Project becoming operational is insufficient, as set out in paragraph 3.15 of TfL’s Written Representation (REPI-304). While the Applicant says monitoring would be undertaken “at least one-year pre-opening”, this would be during Project construction, and it is only committing to collect data across the last full year of construction (nothing earlier). It is stated by the Applicant that “changes to the network and local flow changes arising from new developments mean that there would be uncertainty over the nature of the baseline in the pre-opening period.” This is why TfL considers that as a minimum, monitoring must commence at least three years prior to the Project becoming operational, in line with the requirement in the Silvertown Tunnel Monitoring and Mitigation Strategy. This will allow a sufficiently robust baseline to be developed over a longer time period.

#### **ExQI 4.2.3 – Monitoring and Mitigation: Effects on Public Transport Services**

- 6.4 The Applicant points to existing control measures as sufficient. But if compensatory funding to local highway authorities is not provided to implement mitigation measures, TfL questions the ability to implement them. Transport mitigation measures often carry significant costs, for example adding buses to a route to maintain schedules during construction delays and constructing on-road facilities such as temporary bus stops. Opportunities for discussion are welcome, but this does not in and of itself lead to implementation, in the absence of supporting funding. TfL also notes the related concern of delays incurred by public transport in the operational phase, as outlined in paragraph 4.22 of TfL’s Written Representation (REPI-304).

#### **ExQI 4.3.5 – Diversion Routes**

- 6.5 The Applicant’s response to this question is high level, outlining processes and procedures for diversions such as signage and communications strategies, but does not provide detail on the strategic diversion routes themselves and whether these are resilient for major closure events, as requested by TfL. TfL provides further comments on its concerns in paragraphs 3.1 to 3.3 above.

### **7. Responses to the Examining Authority’s First Written Questions (ExQI) Appendix I (social, economic and land use considerations) (REP4-201)**

#### **ExQI I3.1.19 – Rights of Ways/Bridleways**

- 7.1 TfL welcomes the Applicant’s submission at Deadline 4 of a set of Protective Provisions for Local Highway Authorities which include procedures for such authorities inputting into the design of local roads, handover, and maintenance liabilities. TfL will respond in more detail on these at Deadline 6. This addresses part of the ExA’s question and response; however, the Applicant’s response regarding funding does not apply to or address the different

circumstances of TfL, as outlined in paragraphs 4.10 to 4.13 of TfL’s Written Representation (REPI-304) and paragraphs 5.1 to 5.5 above. TfL is seeking a commuted sum to cover the substantial increase in its ongoing management and maintenance costs that directly results from the new and modified assets for which TfL is required to take responsibility for.

## **8. Policy accordence assessment of the Project against the Consultation draft NPSNN (published March 2023) (REP4-209)**

- 8.1 In the response to paragraph 5.18 of the draft NPSNN regarding air quality considerations, TfL notes that the Applicant has not provided a new response despite this policy being re-drafted and expanded to give more importance to changes in air quality where legal limits are not exceeded. While the analysis in Chapter 5 of the Environmental Statement (APP-I43) indicates that air quality will remain within legal limits, modelled NO<sub>2</sub> levels are well above World Health Organisation guidelines, which Mayoral policy is seeking to move towards. TfL’s position remains that further mitigation to reach this aspirational guidance should be adequately considered by the Applicant, as this would be more in line with this draft NPSNN policy.
- 8.2 TfL’s main concern with the Applicant’s response to paragraphs 5.31 and 5.36 (carbon emissions management) is the lack of detail surrounding operational carbon emissions. The Applicant’s response on policy compliance notes, “Reducing operational emissions: The third iteration of the management plan will explain how carbon emissions will be managed and minimised during the operation and maintenance of the Project. This will be legally secured through DCO Requirement I6. The emphasis will be on continuous improvement and compliance with evolving best practice.” TfL considers that an updated plan must go further to encourage reduction in emissions from road users if the Project is to live up to its ‘Pathfinder’ status. TfL notes the draft policy wording that states “how operational emissions and, where applicable, emissions from maintenance activities, have been reduced as much as possible through the application of best available technology for that type of technology (recognising that in the case of road projects while the developer can estimate the likely emissions from road traffic, it is not solely responsible for controlling them)”. This indicates that there is an expectation that efforts must be made to encourage reduction of non-maintenance operational emissions, while accepting that the Applicant can only influence these, not control them.
- 8.3 Regarding paragraph 5.272 of the draft NPSNN, the Applicant’s response on compliance is entirely silent on facilitating journeys by public transport – one of the new references in the draft policy – responding only to active travel and cleaner fuels. TfL continues to question the policy alignment of the Project with the A12 / North Street junction as a particular example of where mitigation may be required to protect bus journey times. TfL questions whether the Applicant’s position on mitigating impacts on public transport is defensible under the draft NPSNN.
- 8.4 In the Applicant’s response on compliance with paragraph 5.274, no new evidence is provided to address TfL’s concern that in the absence of any approach to mitigate impacts should they arise, this does not fit with the draft NPSNN policy, which states: “the applicant should provide evidence that the development improves the operation of the network and assists with capacity issues”.
- 8.5 The Applicant’s response to paragraph 5.280 does not adequately address the draft policy regarding requirements and/or obligations to fund infrastructure or mitigate adverse impacts on transport networks, specifically regarding the funding circumstances of TfL. Paragraph 6.1 above provides more details on TfL’s views on the Project’s compliance with paragraph 5.280 in the draft NPSNN.



**9. Applicant’s responses to IP’s comments on the dDCO at Deadline 3 (REP4-212)**

- 9.1 Under section 4, in response to points raised by the London Borough of Havering, TfL disagrees that the Applicant’s response regarding the proposed additional article for an Implementation Group is sufficient to address the concerns raised. While National Highways’ route strategies and license do include engagement, this falls short of the role that an LTC Implementation Group – such as that set up for the Silvertown Tunnel – would perform and which is a precedented approach for monitoring and mitigation of wider network impacts for a comparable strategic river crossing. This is explained in further detail in paragraphs 6.16 to 6.23 of TfL’s written submission of oral comments for ISH 3 to 7 (REP4-359) and in paragraphs 5.6 to 5.10 above.
- 9.2 Under section 10, in response to points raised by TfL, TfL has no further comments as it has responded to the Applicant’s position on the Silvertown Tunnel approach and commuted sums in section 5 of this document, and on protective provisions in section 2 of this document.