

Lower Thames Crossing

9.119 ISH5 Action Point 2 – Impact on the navigation of river traffic

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1 Executive summary

1.1 Executive summary

- 1.1.1 This document has been prepared in response to Issue Specific Hearing 5 (ISH5) Action point 2 [[EV-044a](#)]: relating to ‘Impact on the navigation of river traffic’.
- 1.1.2 The Applicant is in productive and continued dialogue with the Port of London Authority on the drafting of their Protective Provisions in the draft Development Consent Order [[REP4-094](#)], and this document provides an update on matters relevant to this.
- 1.1.3 The Applicant considers that there is one area of disagreement with the Port of London Authority regarding this matter, in relation to lighting of the river (see Section 2.8). In other areas, there is continued engagement on drafting, but the Applicant is confident that agreement can be achieved before the end of the Examination.

2 ISH5 Action Point 2 Response

2.1 Introduction

2.1.1 Following Issue Specific Hearing 5, the Examining Authority issued Action Point 2 [\[EV-044a\]](#):

“Impact on the navigation of river traffic

Please provide an update on the outcome of the ongoing discussions on Limits of Deviation, and construction, operation, monitoring, mitigation and remediation which could affect the navigation of river traffic on the River Thames.

Cross referencing to discussion at ISH7 (the dDCO), this should include any proposed alterations to the relevant Protective Provisions within the dDCO and/or other alterations to the dDCO and related Certified Documents. Any remaining areas of disagreement should be set out with associated justification/reasoning for each party’s position.”

2.1.2 This document provides the response to that Action Point.

2.1.3 The Applicant maintains that there is no long-term impact on the navigation of river traffic arising from the construction or operation of the A122 Lower Thames Crossing, and the Applicant understands that the Port of London Authority (PLA) agree in principle with the Applicant on this matter. However the Applicant also recognises that the PLA are seeking additional security on certain matters relating to this through the drafting of the draft Development Consent Order (dDCO) [\[REP4-094\]](#) and the Applicant is continuing to make amendments.

2.1.4 The Applicant also recognises the Port of Tilbury London Limited (PoTLL) have concerns on this matter, but the Applicant is primarily engaging with the PLA to resolve their concerns and understands that PoTLL is satisfied with this approach.

2.1.5 The Applicant last met with the PLA on 29 September 2023, at which further without-prejudice discussions were held, and is now considering further drafting amendments to address certain matters that remain under discussion.

2.2 Areas for consideration

2.2.1 There are six areas that are considered by the Applicant to be relevant to the navigation of river traffic:

- a. The limits of deviation – in relation particularly to the area of minimum cover as described in the Tunnel Depth Report [\[REP3-146\]](#)
- b. The approach to consultation of the tunnel design – as secured by paragraph 99 of the Protective Provisions for the Protection of the Port of London Authority within Schedule 14 of the dDCO [\[REP4-094\]](#)
- c. The approach to consultation on the construction methodology
- d. The approach to consultation on the works in respect of potential unexploded ordnance in the River Thames

- e. The controls applicable to article 18 (Powers in relation to relevant navigations or watercourses)
- f. River safety lighting management plan

2.3 Limits of deviation

- 2.3.1 The Applicant understands that the Port of London agree in principle to the Limits of Deviation, and have not raised a specific concern in relation to the drafting of the dDCO but are seeking reassurance on the following matters:
- a. That the 0.5m allowed for scour protection (considered on a precautionary basis only) in the calculations set out in the Tunnel Depth Report [\[REP3-146\]](#) is sufficient.
 - b. That the flotation considerations set out in the Tunnel Depth Report [\[REP3-146\]](#) remain valid during construction, considering the increased face pressure of the tunnel boring machine during tunnel construction.
- 2.3.2 The Applicant remains in discussion on these matters with the PLA, and is next meeting to discuss these matters on 6 October 2023. For completeness, the Applicant's position on these matters is set out in the Applicant's response to IP comments made on the draft DCO at Deadline 1 [\[REP2-077\]](#).

2.4 Approach to consultation on the tunnel design

- 2.4.1 At ISH5 the PLA expressed concern at the approach taken in paragraph 99 of the Protective Provisions for the Protection of the Port of London Authority within Schedule 14 of the dDCO [paragraph 99, [EP4-094](#)]. One specific concern was that the drafting required the Applicant to issue the PLA relevant information on the tunnel design prior to commencing construction, and that the PLA could, if not satisfied with the proposed design, seek arbitration. The Applicant understands that the PLA were generally satisfied with the approach, but considered that proceeding directly to arbitration would not be the most collaborative approach [page 24 of [EV044g](#)].
- 2.4.2 The PLA's Protective Provisions were updated at Deadline 4 to include, within paragraph 99, an escalation involving senior representatives from the Applicant and the PLA as an intermediate step prior to arbitration.
- 2.4.3 The Applicant understands these drafting changes are welcomed but is waiting for the PLA to confirm their position on the revised drafting.

2.5 Approach to consultation on the construction methodology

- 2.5.1 At ISH5 the PLA stated [page 25 [EV-044g](#)] that they considered there was a need for the dDCO [\[REP4-094\]](#) to require the provision of additional information on the proposed construction methodology, including management of risk during construction, and the provision of information throughout construction, following their experiences with other projects where the existing drafting had in practice not provided sufficient security.

- 2.5.2 The PLA's Protective Provisions were updated at Deadline 4 to require the Applicant to provide information on the construction methodology to the PLA and to have regard to any representations made by the PLA (paragraph 99 Schedule 14 of the dDCO [[REP4-094](#)]).
- 2.5.3 In addition, further measures securing communication prior to construction, throughout the construction period and following completion were added.
- 2.5.4 The Applicant discussed this revised paragraph with the PLA on 29 September 2023. The Applicant understands that the PLA support the general approach, but are seeking clarity on the scope of the consultation carried out. The Applicant has noted that the consultation in the dDCO follows the approach taken to consultation in relation to Schedule 2 (where a consultee is consulted on matters related to their functions) and awaits to hear from the PLA on this matter.

2.6 Approach to works in respect of potential unexploded ordnance in the River Thames

- 2.6.1 At ISH5 the PLA stated [page 104 of [EV-044g](#)] that they considered there was a need for the dDCO [[REP4-094](#)] to require decisions regarding the treatment of any potential unexploded ordnance found in the River Thames to take account of both the tunnel and also the operation and maintenance of the navigational channel.
- 2.6.2 The PLA's Protective Provisions were updated at Deadline 4 to require the Applicant to provide information on measures to be taken in connection with those works in respect of unexploded ordnance in the River Thames to the PLA and to have regard to any representations made by the PLA (included within paragraph 99).
- 2.6.3 The Applicant understands these changes are welcome, but the PLA are seeking clarity on the scope of the consultation carried out. The Applicant has noted that the consultation in the dDCO follows the approach taken to consultation in relation to Schedule 2 (where a consultee is consulted on matters related to their functions) and the Applicant is waiting for the PLA to confirm their position on the revised drafting.

2.7 Controls on article 18

- 2.7.1 During ISH7 [page 32 of [EV-046e](#)] the PLA advised that they had concerns about the application of article 18, and that it allowed for extensive interference, as a consequence of the definition of the relevant navigation being the River Thames. The Applicant set out its position that the application of this article had been narrowed so that they can only be exercised where it is reasonably necessary in connection with authorised development. The PLA set out their view that this article should be constrained to the Order Limits in their Written submissions of oral comments made at ISH5, ISH7 and CAH1 [[REP4-345](#)].
- 2.7.2 The Applicant discussed this article with the PLA on 29 September 2023. The Applicant set out its position that it would not be appropriate to restrict this article to the Order Limits, but agreed to consider drafting that would provide further clarity that the article would not apply to the full extent of the River Thames.

2.7.3 The Applicant's position on Article 18 is contained in Section 6.4 of [\[REP4-212\]](#).

2.7.4 The Applicant will continue to engage with the PLA on this matter, and anticipates agreement can be achieved.

2.8 River safety lighting management plan

2.8.1 The PLA have suggested that Requirement 4(2) of the dDCO should be amended so that it includes 'river safety lighting' as one of the areas for which a management plan should be required. The Applicant's position on this matter is set out in Section 6.9 of [\[REP4-212\]](#). This matter is not agreed between the parties.

Glossary

Term	Abbreviation	Explanation
A122		The new A122 trunk road to be constructed as part of the Lower Thames Crossing project, including links, as defined in Part 2, Schedule 5 (Classification of Roads) in the draft DCO (Application Document 3.1)
A122 Lower Thames Crossing	Project	A proposed new crossing of the Thames Estuary linking the county of Kent with the county of Essex, at or east of the existing Dartford Crossing.
Application Document		In the context of the Project, a document submitted to the Planning Inspectorate as part of the application for development consent.
Construction		Activity on and/or offsite required to implement the Project. The construction phase is considered to commence with the first activity on site (e.g. creation of site access), and ends with demobilisation.
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
Development Consent Order application	DCO application	The Project Application Documents, collectively known as the 'DCO application'.
National Highways		A UK government-owned company with responsibility for managing the motorways and major roads in England. Formerly known as Highways England.
Operation		Describes the operational phase of a completed development and is considered to commence at the end of the construction phase, after demobilisation.
Order Limits		The outermost extent of the Project, indicated on the Plans by a red line. This is the Limit of Land to be Acquired or Used (LLAU) by the Project. This is the area in which the DCO would apply.
Planning Act 2008		The primary legislation that establishes the legal framework for applying for, examining and determining Development Consent Order applications for Nationally Significant Infrastructure Projects.
Project road		The new A122 trunk road, the improved A2 trunk road, and the improved M25 and M2 special roads, as defined in Parts 1 and 2, Schedule 5 (Classification of Roads) in the draft DCO (Application Document 3.1).
The tunnel		Proposed 4.25km (2.5 miles) road tunnel beneath the River Thames, comprising two bores, one for northbound traffic and one for southbound traffic. Cross-passages connecting each bore would be provided for emergency incident response and tunnel user evacuation. Tunnel portal structures would accommodate service buildings for control operations, mechanical and electrical equipment, drainage and maintenance operations. Emergency access and vehicle turn-around facilities would also be provided at the tunnel portals.

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