

# Lower Thames Crossing 9.136 Applicant's Response to Comments Made by the Climate Emergency Policy and Planning at D3 to D5

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## Lower Thames Crossing

# 9.136 Applicant’s Response to Comments Made by the Climate Emergency Policy and Planning at D3 to D5

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# 1 Introduction

## 1.1 Introduction

- 1.1.1 At Deadline 5, the Applicant confirmed [\[REP5-087\]](#) that it was considering the matters raised by Climate Emergency Policy and Planning (CEPP) in CEPP’s Deadline 4 submission and intended to provide a response by Deadline 6. This document contains that response.
- 1.1.2 For completeness, and while recognising that a number of the issues raised by CEPP have previously been addressed by the Applicant as part of the response to CEPP’s written representation [\[REP2-052\]](#), the Applicant has also taken this opportunity to provide a response to CEPP’s submission at Deadline 3 [\[REP3-148\]](#) (which includes the appendices to that submission: [\[REP3-147\]](#), [\[REP3-149\]](#), [\[REP3-150\]](#), [\[REP3-151\]](#) and [\[REP3-152\]](#)), as well as CEPP’s submission at Deadline 4 [\[REP4-361\]](#).
- 1.1.3 Finally, at Deadline 5, CEPP also submitted comments on the Applicant’s submission at Deadline 4 [\[REP5-115\]](#). The Applicant has provided a response to those comments in this document.
- 1.1.4 The Applicant’s responses are set out in Table 2.1, Table 2.2 and Table 2.3 below in order of the Deadline at which the submission was made.

## 2 Applicant’s response to comments made by the CEPP at Deadlines 3 to 5

**Table 2.1 Applicant’s response to comments made by CEPP at Deadline 3 in response to the Applicant’s comments on CEPP’s written representation [REP3-148]**

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2 (prelude), paragraphs 4 -11	<p>2.1.1 The Applicant acknowledges the scale of the global climate change challenge referred to by CEPP in section 2 of its Deadline 3 submission. It has therefore sought to seize the opportunity which an infrastructure project of this strategic importance represents to design and implement the emissions reduction measures required to drive a step change in approach for road schemes of this scale and, in doing so, to perform a vital role in responding to that global challenge.</p> <p>2.1.2 This commitment is illustrated by the scope and nature of the measures which the Applicant is legally requiring itself to deliver to reduce emissions during the construction and operation of the Project, as set out in the Carbon and Energy Management Plan [APP-552]. That document is a first of its kind for a development consent order application and has been designed to create management processes that require a continued drive for emissions reduction through efficient design, focussing on reducing the use of highly emitting materials, measured against annual targets and reporting and encouraging ongoing innovation, to force even more emissions reduction during the lifetime of the Project. This is not greenwashing, as CEPP contend, but a genuine and binding commitment to reduce emissions by the Applicant to make this Project a driver for change in civil engineering.</p> <p>2.1.3 Alongside the policies which the Government has set out in its Decarbonising Transport Plan (Department for Transport, 2021) and the further measures which the Applicant is itself implementing across the strategic road network under Net zero highways: our 2030 / 2040 / 2050 plan (National Highways, 2021), these measures ensure that the Project is aligned with the required trajectory to net zero and that the Project’s emissions would not therefore be significant, in accordance with relevant guidance and policy.</p>
3 (policy context update), paragraphs 12 - 19	<p>2.1.4 At section 3.1 of its Deadline 3 submission, CEPP refer extensively to the House of Commons’ Transport Committee’s report on strategic road investment published on 27 July 2023. At the outset, it should be noted that the report has no formal legal status. . The Government’s response to this report was published on 20 October 2023 and supports the Applicant’s position.</p>

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	<p>2.1.5 In terms of specific comments made by CEPP in relation to the report, the Applicant notes that, at paragraph 15, CEPP state that <i>“it is significant that this high-level body of MPs highlighted that accommodating demand for new roads in the context of increasing forecasts of traffic on the SRN as a <u>risky strategy</u>”</i>. The Applicant considers that this characterisation of the report might imply that the Committee was suggesting that a strategy of road building is a risky strategy in and of itself. If this is CEPP’s position, it does not accurately reflect the wording of the report, which states that <i>“the Government’s determination to accommodate demand for new roads through investment <u>without also considering steps to manage that demand is a risky strategy</u>”</i> (emphases added). The Committee was therefore expressing a view about the Government’s strategy of accommodating demand in the absence of demand management, rather than the strategy of accommodating demand in the first instance.</p> <p>2.1.6 At paragraph 18, CEPP also state that <i>“there can be no justification to approve a scheme which forecasts significant traffic growth before such modelling has been undertaken and reported”</i>. The modelling referred to is that cited in paragraph 21 of the Transport Committee’s report, where it is recommended that <i>“the Government should model and report on scenarios where traffic levels on the SRN are a) reduced and b) maintained at current levels, alongside the transition to cleaner vehicle fleet, <u>in order to assess the potential contribution of demand management to reaching net zero</u>”</i> (emphasis added). The focus of the Committee’s interest was therefore to understand the potential effect of demand management measures in reaching net zero. It is abundantly clear that the Committee was in no way suggesting that decisions affecting the strategic road network should be deferred until this modelling is undertaken.</p> <p>2.1.7 The Government responded to this recommendation directly and noted the recommendation but did not accept it. They set out that:</p> <p>2.1.8 <i>“The Government’s approach to decarbonisation is not to stop people travelling, it is about enabling people to do the same things differently and more sustainably while still realising transport’s social and economic benefits. The current trajectory set out in the Carbon Budget Delivery Plan (CBDP), published in March 2023, presents a credible pathway to net zero without restricting growth.</i></p> <p>2.1.9 <i>The CBDP is a dynamic long-term plan for a transition that will take place over the next 15 years, setting the country on course to reach net zero by 2050. The complexity of the net zero system means there is inherent uncertainty in any forecasts. Consumer behaviour, future trends and the future economic context all play a huge role in meeting carbon budgets. The exact mix of proposals and policies needed to get</i></p>

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	<p><i>there is variable and will continue to be developed using analysis. As set out in the Transport Decarbonisation Plan, the Government will continue to adapt and take further action if needed to decarbonise transport – including publishing our progress and reviewing our pathway at least every five years.”</i></p> <p>2.1.10 The Applicant therefore considers the significance attached to the Committee’s report by CEPP in the context of decision making in relation to the Project, to be overstated and out of step with its terms.</p>
<p>4 (cumulative carbon assessment) – paragraphs 20 - 24</p>	<p>2.1.11 The Applicant has addressed in detail the implications of the judgement in <i>R (Boswell) v Secretary of State for Transport</i> [2023] EWHC 1710 (Admin) in its responses to the Examining Authority’s ExQ1 Appendix A – 1, 2, 3 <a href="#">[REP4-188]</a>.</p> <p>2.1.12 The Applicant would make two further observations here in response to CEPP’s Deadline 3 submission. The first relates to Dr Boswell’s confirmation that “... my lawyers have applied (on July 28<sup>th</sup> 2023) with what we submit is an arguable case for permission to appeal the Boswell judgement above”. The Applicant notes that Dr Boswell was given permission to appeal the Boswell judgment on 18 October 2023. It is important to emphasise, and the Examining Authority should be in no doubt, that the granting of this permission to appeal does not quash the Boswell decision. As far as the Applicant is aware, no date has been listed for the hearing of the substantive appeal and the High Court judgment remains extant unless and until it is overturned by the Court of Appeal.</p> <p>2.1.13 Second, at paragraph 24 of CEPP’s Deadline 3 submission, it is said that “<i>it is important to note that no evidence which I have made as an IP on the LTC application depends upon the success of my appeal</i>”. The Applicant does not agree. The criticism which Dr Boswell levels at the cumulative assessment undertaken in this case is precisely the same as that which was the focus of the challenge in <i>R (Boswell) v Secretary of State for Transport</i> [2023] EWHC 1710 (Admin), a criticism which was ultimately rejected by the court. Accordingly, the Applicant restates its firm view that any submissions by Dr Boswell in this case regarding the approach taken to assessing the cumulative carbon impacts of the Project must carry no weight in the decision to grant or refuse consent for the Project.</p>
<p>5 (two-year delay to start of proposed</p>	<p>2.1.14 The Applicant notes the “ballpark estimates” for construction emissions set out in Table 1 of CEPP’s Deadline 3 submission but makes no comment on them. Given the indicative nature of the construction programme at this stage, the Applicant has calculated and presented figures for construction emissions</p>

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construction and opening year) – paragraphs 25 - 28	against the relevant carbon budgets in accordance with the requirements of the National Policy Statement for National Networks (Department for Transport, 2014) (at paragraph 5.17).
6 (comments on CEPP’s written representation, <a href="#">[REP2-052]</a> )	<p><i>Generic comments</i></p> <p>2.1.15 CEPP criticises the Applicant’s response to its written representation <a href="#">[REP2-052]</a>, claiming <i>inter alia</i> that “<i>the Applicant has not engaged in my Written Representation in several key respects</i>”, that “<i>the response has cherry picked sections and paragraphs of my WR</i>” and that “<i>the responses are frequently repetitive and indirect</i>”. The Applicant does not accept those criticisms. The Applicant has sought to engage with the comments made by CEPP in its written representation in a constructive and proportionate manner, mindful of the need to present information in a way which is accessible to all interested parties and is directly relevant to this application for development consent. The Applicant would be happy to provide any further clarifications which the Examining Authority may find helpful, but notes there have been no such requests to date. However, the Applicant does not see it as its role to enter a detailed debate about the merits of government policy.</p> <p>2.1.16 The Examining Authority should also be aware that there are a number of inaccuracies and unsubstantiated criticisms in the comments made by CEPP at section 6.1 of its Deadline 3 submission. In particular, CEPP claims that “<i>evidence provided in bullets 1 – 140 [of CEPP’s written representation] has been ignored</i>”. This is not correct. The Applicant would highlight that much of what is said by CEPP in bullets 1 – 140 appears to have been provided by way of contextual background and clearly relates to strategic policy decisions and progress which extend beyond the scope of this Examination. This is, for example, true of many if not all of the submissions made at section 1 (introduction), section 2 (the scale and logistical impact of net-zero), section 3 (the revised net zero strategy), section 4 (climate change committee (CCC) 2023 progress report), section 5 (green alliance net zero policy tracker) and section 6 (carbon budget delivery plan (CBDP) of CEPP’s written representation. Indeed, it is only at section 10 of CEPP’s written representation that it begins to deal with issues which relate specifically to the Project.</p> <p>2.1.17 In other respects, however, it is abundantly clear that the Applicant has responded to relevant comments made by CEPP in bullets 1-140 of its written representation and in any event many of those points are then picked up in the narrative which follows from bullet 141, which the Applicant directly references in its</p>



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	<p>response. For example, the Applicant has responded to the comments made by CEPP in relation to the extent of the Project’s construction emissions (see bullets 116 – 121) and operation emissions (see bullets 122 - 131), as part of the response to the two key questions posed at bullet 140 of CEPP’s written representation.</p> <p>2.1.18 CEPP also consider that the Applicant’s response fails to address the issue of emissions during operation, claiming that the Applicant’s focus is almost entirely on construction emissions. Again, and as noted, this is not the case since the Applicant’s response does address the issue of road user emissions during the 60-year appraisal period and the use of the Emissions Factor Toolkit v11 (EFTv11) (Department for Environment, Food and Rural Affairs (Defra), 2021) and Transport Decarbonisation Plan upper and lower bound assessments.</p> <p>2.1.19 Accordingly, CEPP’s assertion that matters raised in its written representation have not been addressed is misleading.</p> <p>2.1.20 Elsewhere in section 6.1 of its Deadline 3 submission, CEPP state that “<i>Endlessly repeating a greenwash mantra does not somehow allow for the implications of the huge construction emissions footprint to be ignored</i>”. The Applicant does not consider that the pejorative language used here by CEPP to seek to undermine its proposals is constructive or in any way accurate. It entirely misses the point that the Applicant is not simply saying what it will do to minimise construction emissions with a view to then not delivering on those statements but actually legally committing to the measures necessary to achieve a reduction in emissions. No other application for development consent has sought to do this before, a fact which is consistently overlooked by CEPP. In addition, the Applicant has not sought to conceal or mislead interested parties as to quantification of the Project’s emissions, which are clearly and fully set out in Environmental Statement (ES) Chapter 15 – Climate <a href="#">[APP-153]</a>. In short, the Applicant’s approach is the opposite of greenwash.</p> <p><i>Claims of 1.5-degree compliant budgets</i></p> <p>2.1.21 In section 6.2 of its Deadline 3 submission, CEPP claim that the reliance placed by the Applicant on the notion or concept of “<i>the budgeted science-based 1.5°C trajectory set out through the UK carbon budgets</i>” is “<i>scientifically naïve in several respects</i>”. However, this is not a notion or concept of the Applicant’s making. For example, in <i>R (Boswell) v Secretary of State for Transport</i> [2023] EWHC 1710 (Admin), the carbon budgets were described in the following terms: “<i>The UK Carbon budgets are science-based targets</i>”</p>

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	<p><i>for the reduction of GHG emissions which have been created based on scientific projections and global carbon budgets. They sit within the UK’s legally binding GHG reduction target for 2050 and have been assessed by the Climate Change Committee to be compatible with the required magnitude and rate of GHG emissions reduction required in the UK to meet the goals of the Paris Agreement”. The Applicant can therefore hardly be criticised for adopting that language itself.</i></p> <p>2.1.22 The submissions made by CEPP at section 6.2 of its Deadline 3 submission in effect amount to a technical critique of the carbon budgets and the basis on which they are adopted. They are plainly not matters for this Examination and the Applicant does not consider it would be appropriate or proportionate to respond to them.</p> <p><i>Construction emissions and the UK Nationally Determined Contribution (NDC) and 5<sup>th</sup> carbon budget</i></p> <p>2.1.23 The essence of CEPP’s contention at section 6.3 of its Deadline 3 submission is that, because the Government’s CBDP (March 2023) highlights a shortfall of 8% in quantified emissions savings required to meet the UK’s Nationally Determined Contribution, “... <i>there is no credible way at present that Secretary of State can be certain that approving the scheme would lead to the UK being in breach of its international obligations</i>”. However, CEPP omit to reference the fundamental point that, at paragraph 29 of the CBDP, the Government has already stated that:</p> <p><u><i>“We have quantified emissions savings to deliver 88 Mt or 92% of the NDC. We are confident the delivery of emissions savings by unquantified policies detailed in this package will largely close this gap and the government will bring forward further measures to ensure that the UK will meet its international commitments if required” (emphasis added).</i></u></p> <p>2.1.24 The issue highlighted by CEPP has therefore already been considered by Government and a plan has been formulated to address it. While it has been overlooked by CEPP, the Examining Authority and Secretary of State are entitled to place significant weight on that confirmation in the CBDP.</p> <p>2.1.25 Under section 6.3 of its Deadline 3 submission, CEPP cite a “<i>massive shortfall in securing the necessary emissions reductions</i>” for the industry sector residual emissions trajectory in the 5<sup>th</sup> carbon budget, which in CEPP’s view is evidence that “<i>there is no credible way at present that Secretary of State can be certain that approving the scheme would not lead to him/her being in breach of his/her statutory duties</i>”. The Applicant would however highlight that, as explained in <i>R (Boswell) v Secretary of State for Transport</i></p>

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	<p>[2023] EWHC 1710 (Admin), <i>“The UK Government has decided not to set national targets on a sector-by-sector basis. There is, in particular, no sectoral target for transport”</i> (at para [70]). CEPP’s reference to the “industrial sector residual emissions trajectory” must therefore be seen in that context.</p> <p>2.1.26 Furthermore, the CBDP makes clear that, in relation to the 5<sup>th</sup> carbon budget to which CEPP refer, <i>“our quantified proposals and policies give us over 100% of savings required to meet Carbon Budget ... 5”</i> (at paragraph 30) and <i>“... the proposals and policies ... will substantially overdeliver against Carbon Budget 5”</i> (at paragraph 31). Again, these are matters which the Examining Authority and Secretary of State are entitled to place significant weight on and are plainly at odds with CEPP’s suggestion that there is no credible way that the Secretary of State can be certain that approving the scheme would lead to him/her being in breach of his/her statutory duties.</p> <p><i>Greenwashing the construction emissions</i></p> <p>2.1.27 The Applicant would refer to its comments at paragraph [2.1.17] above regarding the further criticism of greenwashing made by CEPP in section 6.4 of its Deadline 3 submission. The Applicant would note only that, at paragraph 39, CEPP state that <i>“... the project is not being assessed in the environmental statement on how it contributes to the construction industry as a whole”</i>. First, this is categorically not what the Applicant has sought to do in ES Chapter 15: Climate [APP-153]. Second, it is telling that CEPP give no credit for the measures which the Applicant is legally committing to deliver as part of this application for development consent to lead good practice in the construction industry, having highlighted at paragraph 36 of its Deadline 3 submission the step change in approach required by industry to support the transition to net zero.</p>
<p>7 (further comments on significance assessment and decision making by SoS)</p>	<p>2.1.28 In summary, in this section CEPP challenges that it is necessary first to establish that the UK carbon budgets and targets are secured before second being able to claim the Project does not have significant impacts on climate and will not have a material impact on the Government being able to deliver the carbon budgets. The Applicant sets out its position on the significance of the Project’s greenhouse gas emissions below.</p> <p>2.1.29 The Applicant addresses the Project’s greenhouse gas emissions in ES Chapter 15: Climate [APP-153], the Carbon and Energy Management Plan (C&amp;EMP) [APP-552] and in Planning Statement Appendix I Carbon Strategy and Policy Alignment [APP-504]. Planning Statement Appendix A NPSNN Accordance</p>

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	<p>Table [APP-496] demonstrates how the Project accords with relevant NPS policy including paragraphs 5.16 to 5.19 of the NPSNN on Carbon Emissions (pages 84-87).</p> <p>2.1.30 The Applicant does not agree that the GHG emissions assessment has based its conclusions of significance on paragraph 5.17 of the NPSNN (<i>‘It is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets’</i>), however this paragraph of the NPSNN is notable in the Applicant’s view and, it being an expression of Government policy, the Examining Authority and SoS are entitled to give weight to it. ES Chapter 15: Climate [APP-153] concludes in Section 15.6 (assessment of likely significant effects) that the Project’s GHG emissions would not have a material impact on the Government’s ability to meet its carbon reduction targets and would be not significant in that context. This conclusion is based on an assessment against the national carbon budgets and applying the significance criteria of the IEMA guidance ‘Assessing Greenhouse Gas Emissions and Evaluating their Significance’, 2nd edition (IEMA, 2022).</p> <p>2.1.31 Through the Climate Change Act 2008 (CCA), the UK commits to a robust mechanism to achieve net zero. The Government’s net zero policies are clear and the actions to achieve them are adaptable to new developments and priorities, and to address the (annual) advice of the CCC, an independent statutory body established under the CCA that reports periodically to Parliament on Government’s progress. This constitutes a robust ‘plan-do-check-act’ mechanism for the UK to keep on track for net zero and is clearly set out as such in the Government’s Net Zero Strategy: Build Back Greener (Department for Business, Energy &amp; Industrial Strategy, 2021) which states: <i>“This strategy is a long-term plan for a transition that will take place over the next three decades. Many of the policies in the strategy will be phased in over the next decade or longer. Given our success in decarbonisation to date we are confident in our approach, but this strategy does not intend to predict the exact shape of the British economy in 2050 and neither should it.”</i></p> <p>2.1.32 This adaptive and graduated implementation of net zero policies is inherent to the long-term trajectory that the required transition of the economy encompasses.</p> <p>2.1.33 The Applicant notes that the CCC progress report of 2023 does not calculate shortfalls as mentioned in CEPP’s WR [REP1-323] and DL3 [REP3-148] submissions. In their assessment of the CBDP, the CCC</p>

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	<p>identifies delivery risks for achieving the carbon budgets and NDC2030<sup>1</sup>. The progress report recommends contingency policy options to mitigate these risks and does not conclude that the carbon budgets and NDC2030 cannot be achieved.</p> <p>2.1.34 In addition, page 24 the IEMA guidance recognises the role of the carbon intensity of a project in determining significance by stating, <i>‘The crux of significance therefore is not whether a project emits GHG emissions, nor even the magnitude of GHG emissions alone, but whether it contributes to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050’</i>. The C&amp;EMP [APP-552] and ES Chapter 15: Climate [APP-153] present the secured (maximum) level of construction emissions (1.763 MtCO<sub>2</sub>e) and the assessment against the national carbon budgets is carried out on the basis of that secured figure, which requires the adoption of up-to-date and best practice carbon reduction measures, as presented in Table D.3 of the C&amp;EMP.</p> <p>2.1.35 The C&amp;EMP also sets a framework for ongoing carbon management during the operational phase (for non-road-user emissions). The Applicant will publish a third iteration of this C&amp;EMP explaining how carbon emissions will be managed and minimised during the operation and maintenance of the Project, to support the Applicant’s carbon policies, plans and strategies. It needs to be recognised, however, that broader operational impacts are not within the direct control of the application or the Applicant (for this or any other project). It is for this reason that Government has made the commitment and taken the responsibility to manage transport GHG emissions on a trajectory to Net Zero. In that context, a number of the representations criticising the Project are, in fact, criticisms of Government policy.</p> <p>2.1.36 In line with the IEMA guidance however, the Applicant does not consider this as an endpoint and would aim to further reduce carbon emissions from both construction and (where practical) operation as much as possible during the procurement, detailed design, construction and maintenance phases to remain compliant with up-to-date policy and ‘good practice’. The C&amp;EMP, a secured document, is instrumental to achieving this and is the first of its kind in the context of a large-scale infrastructure project in the UK.</p>

1

Department for Energy Security and Net Zero and Department for Business, Energy & Industrial Strategy (2023). Available: [UK’s Nationally Determined Contribution, updated September 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/uk-nationally-determined-contribution)

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	2.1.37 In relation to road user emissions, the Project cannot control the implementation of the policies related to reducing these emissions, as the levers to support the net zero trajectory in transport emissions are delivered by the Government.

**Table 2.2 Applicant’s response to comments made by the CEPP at Deadline 4 [\[REP4-361\]](#)**

Section no.	Applicant’s Response
3 (recent updates: policy and legal framework)	<i>The second Net Zero Strategy (NZS) legal case: Delivery risk and policy gap in securing delivery of net zero, and the undisclosed Risk Tables</i>
	2.1.38 CEPP claims, as in Section 7 of the deadline 3 submission of CEPP, that it has been assumed that the delivery of the NZS is fully secured by quantified policies.
	2.1.39 However, it is clear from the NZS and the CBDP that the Government has not made this assumption. Reference is made to paragraphs 2.1.23 and 2.1.24 of this response.
	2.1.40 Also, the Applicant has not made this assumption. In the Environmental Assessment the Applicant has referred to the CCA, through which the UK commits to a robust mechanism to achieve net zero. Reference is made to paragraph 2.1.31 of this response.
	2.1.41 It is furthermore noted that a permission for a full court hearing and listing a number of issues 'which are likely to be taken before the Court', must carry no weight in the decision to grant or refuse consent for the Project.
	<i>Material weight of the CCC Progress Report</i>
	2.1.42 As stated in the response to Section 6 of the deadline 3 submission of CEPP above, the adaptive and graduated implementation of net zero policies is inherent to the long-term trajectory that the required transition of the economy encompasses. Advice from the CCC is part of the mechanism set out in the CCA for the UK to keep on track for net zero. In their assessment of the CBDP in their 2023 progress report, the CCC identifies delivery risks for achieving the carbon budgets and NDC2030 and recommends contingency policy options to mitigate these risks. In the mechanism set out in the CCA, it is for the



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		<p>Government to respond to the CCC’s progress report. Reference is made to 'Responding to the Climate Change Committee's (CCC) 2023 Annual Progress Report to Parliament' (HM Government, 2023), in which the Government states (paragraph 4.2): <i>'Government is partly or fully acting upon 85% of the CCC’s priority recommendations and is acting on the majority of the remaining 273 recommendations...'</i></p>
<p>4 (IEMA – policy guidance)</p>	<p>2.1.43</p> <p>2.1.44</p> <p>2.1.45</p>	<p>In this section CEPP expresses their disagreement with the Applicant’s use of the IEMA guidance 'Assessing Greenhouse Gas Emissions and Evaluating their Significance', 2nd edition (IEMA, 2022) in determining significance and claims there is no merit in assessing Project emissions at a national level; and that further contextualisation should be provided at sectoral level. The Applicant sets out its position on its use of the IEMA 2022 guidance below.</p> <p>Page 27 of the IEMA guidance states: <i>'It is down to the practitioner’s professional judgement on how best to contextualise a project’s GHG impact.'</i> In ES Chapter 15: Climate [APP-153] the Project’s GHG emissions have been contextualised against the national carbon budgets. In Table 1 on page 27 IEMA states <i>'However, the contribution of most individual projects to national-level budgets will be small and so this context will have limited value'</i>. This does not mean that the approach of comparing the Project’s emissions against national carbon budgets is unlawful, without merit or that it would not provide a meaningful benchmark given the scale of the Project, especially as the national carbon budgets are those secured in law by the CCA. In R (Gosea Ltd) v Eastleigh Borough Council [2022] PTSR 1473, Holgate J held at para 122 that <i>"there is nothing unlawful in the decision-maker using benchmarks he considers to be appropriate in order to arrive at a judgement on those issues. The statutory carbon budgets are one example"</i>. At para 123, Holgate J concluded that, given current policy and law, <i>"it is permissible for a planning authority to look at the scale of GHG emissions relative to a national target and to reach a judgement, which may inevitably be of a generalised nature, about the likelihood of the proposal harming the achievement of that target"</i>.</p> <p>The Applicant refers to its response to Section 3.6 of CEPP’s Deadline 3 submission, which sets out the role of carbon intensity in the IEMA guidance in determining significance and how the carbon reduction strategy implemented by the Applicant through its C&amp;EMP demonstrates compliance with up-to-date policy and 'good practice' for both construction and operational (non-road-user) emissions.</p>

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	2.1.46 There are no statutory sectoral budgets. The Applicant does not therefore consider that it would be appropriate and meaningful to carry out an assessment against them.

**Table 2.3 Applicant’s response to comments made by the CEPP at Deadline 5 [\[REP5-115\]](#)**

Section no.	Applicant’s Response
2 (Prime Minister’s speech on net zero on 20 September 2023)	2.1.47 Reference is made to the Applicant’s response to ExQ2_Q2.1.2, ExQ2_Q5.1.1 and ExQ2_Q5.2.1 and ExQ2_15.1.1.
	2.1.48 Through its responses, the Applicant has confirmed that the recent announcement by the Prime Minister on the sale of petrol and diesel cars would not impact the assessment of road user carbon emissions presented in ES Chapter 15 Climate <a href="#">[APP-153]</a> , the air quality assessment presented in ES Chapter 5: Air Quality <a href="#">[APP-143]</a> or the assessment of likely significant effects on human health, ecological receptors and designated sites, including nitrogen deposition. The forecasts of future vehicle fleet used for the environmental assessments are based on the assumptions within the EFTv11 (Defra, 2021). This version of the toolkit remains the current version issued by Defra.
	2.1.49 The fleet mix assumptions within EFTv11 are based on the Department for Transport’s TAG Data Book sheet A1.3.9 version 1.17. The TAG data book sheet A1.3.9 and EFTv11 did not take account of the government’s previous policy of ending the sale of petrol and diesel cars by 2030 and therefore EFTv11 is not impacted by the recent policy change, delaying the phase out date to 2035.
	2.1.50 Further to this, in relation to road user GHG emissions, the data series for the fleet mix in both the TAG Data Book and EFTv11 ends in 2050. The remaining 40 years of the 60-year appraisal period are modelled assuming that the vehicle mix remains constant. Every year from 2050 to 2089 therefore uses the 2050 fleet mix, which is set out in the Applicant’s response to ExQ2_Q2.1.2.
	2.1.51 The Applicant’s position remains that the road user GHG emissions estimated using the TAG / EFTv11 method, presented in Table 15.16 of ES Chapter 15 Climate <a href="#">[APP-153]</a> , represents a conservative forecast, which would not change as a result of recent policy announcements.



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	<p>2.1.52 In response to Section 2.2 of [REP5-115] <i>Impact on BCR</i>, the Applicant would refer to paragraphs 2.1.44 to 2.1.48, which clarify that there would be no impact on the Applicant’s assessment of road user GHG emissions.</p> <p>2.1.53 In response to Section 2.3 of [REP5-115], the Applicant has provided comment on the approach taken within the CBDP to address any emissions shortfall. Paragraph 2.1.30 sets out the CCC’s position on the Government’s adaptive and graduated implementation of net zero policies. The CCC’s Progress Report does not conclude that the carbon budgets and NDC2030 cannot be achieved.</p>
3 (Comments on 9.89 [REP4-188])	2.1.54 Reference is made to Applicant's response to ExQ2_Q2.1.2, ExQ2_Q5.1.1 and ExQ2_Q5.2.1 and ExQ2_15.1.1 and the responses provided in paragraphs 2.1.44 to 2.1.50.
4 (ExQ1_Q2.3.1: Carbon and climate considerations: R(oao) Boswell v Secretary of State for Transport) – paragraphs 17 - 19, 24	<p>2.1.55 In response to Dr Boswell’s assertion that “no lawful cumulative assessment has been conducted” in relation to the A47 schemes, we note that in R (oao) Boswell v Secretary of State for Transport [2023] EWHC 1710 (Admin), the High Court held that the approach to assessment of the cumulative impacts of carbon emissions for three road schemes along the A47 in Broadland, Norfolk was consistent with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) and therefore lawful. Paragraph 6 of the judgement sets out that “<i>Consideration was given to the cumulative impacts of carbon emissions from the three road schemes. A figure was produced for the combined emissions from the three schemes (and other local schemes), thereby satisfying the requirement of Schedule 4 paragraph 5 of the Regulations for a ‘description’ of the likely significant effects of the development on the environment resulting from the cumulation of effects with other existing and/or approved projects (§78).</i>”</p> <p>2.1.56 In relation to the Project, ES Chapter 15: Climate [APP-153], the Applicant has assessed the cumulative effects of the Project in terms of greenhouse gas (GHG) emissions (see Section 15.7). The approach reported in the ES is consistent with that taken for other projects on the strategic road network, including the three A47 schemes considered in Boswell. The assessment compares the net GHG emissions of the Project during construction and operation against the national carbon budgets. Net GHG emissions are calculated by deducting the ‘do-minimum’ scenario, which presents the GHG emissions of the road network without the Project over the appraisal period and accounts for traffic growth and for traffic generated by developments classed as near certain or more than likely within the study area over the</p>

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	2.1.57	<p>appraisal period, from the ‘do-something’ scenario, which includes GHG emissions from both construction and operation of the Project.</p> <p>The rationale for this approach is set out in Section 15.7 of the ES. The Secretary of State has confirmed that the Applicant’s approach is valid across a number of applications for development consent, including most recently the decision letters for the A47 Wansford to Sutton Development Consent Order and the A57 Link Roads Development Consent Order. The High Court has also now confirmed in Boswell that this approach is lawful. In the Applicant’s view, these are matters to which the Examining Authority and Secretary of State should have regard in examining and determining the Application.</p>
	2.1.58	<p>We note that Dr Boswell was given permission to appeal the Boswell judgment on 18 October 2023. It is important to emphasise, and the Examining Authority should be in no doubt, that the granting of this permission does not quash the Boswell decision. As far as the Applicant is aware, no date has been listed for the hearing of the substantive appeal and the High Court judgment remains extant unless and until it is overturned by the Court of Appeal.</p>
4 (ExQ1_Q2.3.1: Carbon and climate considerations: R(oao) Boswell v Secretary of State for Transport) – paragraphs 20, 22, 23	2.1.59	<p>The Applicant rejects CEPP's claim that the calculated 'net GHG emissions' ('Do Something Scenario' (DS) – 'Do Minimum Scenario' (DM)) represent a scheme-only ('solus') quantification and would not be appropriate for a cumulative assessment. As demonstrated below, although the approach is different from other EIA topics, borne from the specific character of the impact of GHG emissions, the assessment is cumulative and complies with the EIA Regulations.</p>
	2.1.60	<p>The approach for the cumulative assessment in ES Chapter 15: Climate [APP-153] has been to assess whether the GHG emissions of the Project have an impact on the Government's ability to meet its carbon reduction targets. This is done through:</p> <ol style="list-style-type: none"> <li>a. a comparison of the net GHG emissions against the national carbon budgets; and</li> <li>b. an evaluation against the significance criteria set out in the IEMA guidance (IEMA, 2022), i.e. an assessment of whether the Project complies with the Government policies to meet its targets related to the net zero trajectory (in terms of carbon intensity).</li> </ol>

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	<p>2.1.61 The Project’s transport model is inherently cumulative as it includes future developments (in construction, approved, or with a live application), including road improvements, both in the Do Something (DS) and the Do Minimum (DM) scenarios. This is inherent to the selected method for the cumulative assessment. The forecast traffic growth for all vehicle types included in the Project’s transport model is set out in Section 4.3 of the Traffic Forecasts Non-Technical Summary (NTS) <a href="#">[APP-528]</a>.</p> <p>2.1.62 The net GHG emissions, forecast through the Project’s transport model, do contain a component that can be allocated to other new developments. Paragraph 4.4.2 of the Traffic Forecasts Non-Technical Summary (NTS) <a href="#">[APP-528]</a> states in that regard: <i>‘The transport model predicts how people would react to changes in the time and cost of their journeys. The possible changes include:</i></p> <ul style="list-style-type: none"> <li>a. <i>how often they make the same trip</i></li> <li>b. <i>the time of day they travel</i></li> <li>c. <i>whether they switch to or from public transport</i></li> <li>d. <i>where they travel to/from</i></li> <li>e. <i>what route they choose to take’.</i></li> </ul> <p>2.1.63 Furthermore, paragraph 4.4.3 of the Traffic Forecasts NTS states: <i>‘Government forecasts and evidence from schemes of a similar nature to the Project suggest that, in the main, people would continue to travel by car but may change where they travel to. As traffic speeds fall, or trips become more expensive, people tend to respond by making shorter journeys. Where journeys become quicker or cheaper, some people choose to travel to places further away; for example, they choose employment further away from home’.</i></p> <p>2.1.64 The Project, by providing additional road capacity across the River Thames, would on some parts of the road network lead to reduced congestion, reduced travel time and higher predictability of travel duration as compared to the DM scenario. As a result, some trips in the DM scenario which are currently exclusively south or north of the River Thames, would take advantage of these factors and cross the</p>

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	<p>River Thames (i.e. the destination would change), thereby resulting in more miles being travelled in the Lower Thames area as a result of the Project.</p> <p>2.1.65 Therefore, in the context of the selected methodology for the operational cumulative assessment, the Project’s net GHG emissions (DS-DM) include any changes in GHG emissions from the developments included in the DM that would be brought about as a result of the Project. Although different than for other EIA topics, this constitutes a cumulative component of the assessment.</p> <p>2.1.66 The methodology adopted by the Applicant, borne from the specific character of the impact of GHG emissions, is therefore compliant with the EIA Regulations, as these do not prescribe the methodology for the cumulative assessment.</p>

## Glossary

Term	Abbreviation	Explanation
<b>A122</b>		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)
<b>A122 Lower Thames Crossing</b>	<b>Project</b>	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.
<b>A122 Lower Thames Crossing/M25 junction</b>		New junction with north-facing slip roads on the M25 between M25 junctions 29 and 30, near North Ockendon.
<b>A13/A1089/A122 Lower Thames Crossing junction</b>		Alteration of the existing junction between the A13 and the A1089, and construction of a new junction between the A122 Lower Thames Crossing and the A13 and A1089, comprising the following link roads: <ul style="list-style-type: none"> <li>• Improved A13 westbound to A122 Lower Thames Crossing southbound</li> <li>• Improved A13 westbound to A122 Lower Thames Crossing northbound</li> <li>• Improved A13 westbound to A1089 southbound</li> <li>• A122 Lower Thames Crossing southbound to improved A13 eastbound and Orsett Cock roundabout</li> <li>• A122 Lower Thames Crossing northbound to improved A13 eastbound and Orsett Cock roundabout</li> <li>• Orsett Cock roundabout to the improved A13 westbound</li> <li>• Improved A13 eastbound to Orsett Cock roundabout</li> <li>• Improved A1089 northbound to A122 Lower Thames Crossing northbound</li> <li>• Improved A1089 northbound to A122 Lower Thames Crossing southbound</li> </ul>
<b>A2</b>		A major road in south-east England, connecting London with the English Channel port of Dover in Kent.
<b>Application Document</b>		In the context of the Project, a document submitted to the Planning Inspectorate as part of the application for development consent.
<b>Construction</b>		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.
<b>Design Manual for Roads and Bridges</b>	<b>DMRB</b>	A comprehensive manual containing requirements, advice and other published documents relating to works on motorway and all-purpose trunk roads for which one of the Overseeing Organisations (National Highways, Transport Scotland, the Welsh Government or the Department for Regional Development (Northern Ireland)) is highway authority. For the A122 Lower Thames Crossing the Overseeing Organisation is National Highways.
<b>Development Consent Order</b>	<b>DCO</b>	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.

Term	Abbreviation	Explanation
<b>Development Consent Order application</b>	<b>DCO application</b>	The Project Application Documents, collectively known as the ‘DCO application’.
<b>Environmental Statement</b>	<b>ES</b>	A document produced to support an application for development consent that is subject to Environmental Impact Assessment (EIA), which sets out the likely impacts on the environment arising from the proposed development.
<b>Highways England</b>		Former name of National Highways.
<b>M2 junction 1</b>		The M2 will be widened from three lanes to four in both directions through M2 junction 1.
<b>M2/A2/Lower Thames Crossing junction</b>		New junction proposed as part of the Project to the east of Gravesend between the A2 and the new A122 Lower Thames Crossing with connections to the M2.
<b>M25 junction 29</b>		Improvement works to M25 junction 29 and to the M25 north of junction 29. The M25 through junction 29 will be widened from three lanes to four in both directions with hard shoulders.
<b>National Highways</b>		A UK government-owned company with responsibility for managing the motorways and major roads in England. Formerly known as Highways England.
<b>National Planning Policy Framework</b>	<b>NPPF</b>	A framework published in March 2012 by the UK’s Department of Communities and Local Government, consolidating previously issued documents called Planning Policy Statements (PPS) and Planning Practice Guidance Notes (PPG) for use in England. The NPPF was updated in February 2019 and again in July 2021 by the Ministry of Housing, Communities and Local Government.
<b>National Policy Statement</b>	<b>NPS</b>	Set out UK government policy on different types of national infrastructure development, including energy, transport, water and waste. There are 12 NPS, providing the framework within which Examining Authorities make their recommendations to the Secretary of State.
<b>National Policy Statement for National Networks</b>	<b>NPSNN</b>	Sets out the need for, and Government’s policies to deliver, development of Nationally Significant Infrastructure Projects (NSIPs) on the national road and rail networks in England. It provides planning guidance for promoters of NSIPs on the road and rail networks, and the basis for the examination by the Examining Authority and decisions by the Secretary of State.
<b>Nationally Significant Infrastructure Project</b>	<b>NSIP</b>	Major infrastructure developments in England and Wales, such as proposals for power plants, large renewable energy projects, new airports and airport extensions, major road projects etc that require a development consent under the Planning Act 2008.
<b>North Portal</b>		The North Portal (northern tunnel entrance) would be located to the west of East Tilbury. Emergency access and vehicle turn-around facilities would be provided at the tunnel portal. The tunnel portal structures would accommodate service buildings for control operations, mechanical and electrical equipment, drainage and maintenance operations.
<b>Operation</b>		Describes the operational phase of a completed development and is considered to commence at the end of the construction phase, after demobilisation.

Term	Abbreviation	Explanation
<b>Order Limits</b>		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.
<b>Planning Act 2008</b>		The primary legislation that establishes the legal framework for applying for, examining and determining Development Consent Order applications for Nationally Significant Infrastructure Projects.
<b>Project road</b>		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).
<b>Project route</b>		The horizontal and vertical alignment taken by the Project road.
<b>South Portal</b>		The South Portal of the Project (southern tunnel entrance) would be located to the south-east of the village of Chalk. Emergency access and vehicle turn-around facilities would be provided at the tunnel portal. The tunnel portal structures would accommodate service buildings for control operations, mechanical and electrical equipment, drainage and maintenance operations.
<b>The tunnel</b>		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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