

TRANSPORT FOR LONDON

LOWER THAMES CROSSING – COMMENTS ON SUBMISSIONS MADE AT DEADLINE 7

DEADLINE 7: 17 NOVEMBER 2023

1. Introduction

- 1.1 This document sets out comments from Transport for London (TfL) on submissions made at Deadline 6 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 (IPs) have been referenced where relevant. This document is structured with a section for each relevant submission.

2. Outline Traffic Management Plan for Construction v6.0 (tracked changes) (REP6-049)

- 2.1 TfL supports the changes that have been made to the outline Traffic Management Plan for Construction at Deadline 6. In particular, TfL welcomes the additional clarity provided over the role of the Traffic Manager in Table 2.2 and Paragraph 3.3.14, which now specify that the role covers the full construction period starting from mobilisation. Paragraph 2.3.1 has been updated accordingly to specify that the Traffic Management Plan (TMP) will cover this full period.
- 2.2 TfL also considers the addition of Paragraph 4.4.6 to be helpful, which specifies the need for the programmed periods for road closures and temporary traffic management to be consistent with the approved TMP, and the process for notifying members of the Traffic Management Forum of the need for any extensions.

3. Applicant's responses to IPs' comments on the draft DCO at Deadline 5 (REP6-085)

- 3.1 TfL recognises the Government's expectation that it achieves financial sustainability, as stated in the August 2022 Settlement Letter referred to by the Applicant in Paragraph 10.1.2 of its submission¹. The Applicant is correct to state that the Government expects TfL to fund operating expenditure, renewals and capital enhancements itself (other than major enhancements and renewals, a point omitted by the Applicant). However, this expectation does not open the door to TfL being required to fund any changes to its transport network itself. If the Applicant's logic was applied in this way, it would be expecting TfL to fund all aspects of the LTC Project that affect the TfL Road Network (TLRN), i.e., any of the works on or affecting the A127 or its west facing slip roads at M25 Junction 29. TfL remains clear that it requires funding for the ongoing maintenance costs for assets it will become

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1101713/tfl-long-term-funding-settlement-30-august-2022.pdf

responsible for that will be delivered as part of the Project, namely the proposed walking, cycling, and horse-riding (WCH) bridge over the A127 west of M25 Junction 29.

- 3.2 TfL has already demonstrated in its submissions at Deadline 6 that the Applicant has previously acknowledged that the WCH bridge is required to mitigate the severance caused by the Project on the south side of M25 Junction 29 (see REP6-170 Paragraphs 3.1 to 3.4).
- 3.3 Furthermore, the Funding Settlement which the Applicant refers to is time-limited, and would not still apply following the construction and operation of the LTC. As noted in Paragraph 5 of the Settlement Letter, “The terms of this Funding Settlement shall remain in effect until 31 March 2024”. This does not mean that TfL is not expected to be financially sustainable by this time. But it does demonstrate that additional funding from the Department for Transport (DfT), including provision for renewals and enhancements, is not guaranteed following this date and is not a predictable revenue source for TfL. TfL therefore questions the relevance of its current Funding Settlement with Government in the context of the future maintenance burden to be imposed on it once the LTC Project becomes operational several years into the future.
- 3.4 The Applicant also cites previous TfL bids to obtain roads funding from Government as an example of how there are processes in place for TfL to obtain additional funding it may require from the DfT. While TfL acknowledges funding bids can play a role, the very nature of the potential funding sources mean that they are also neither predictable nor sustainable. Moreover, TfL is not eligible to bid for many funds, including four of the five sources listed in the link provided in Paragraph 10.1.4 and the associated footnote in the Applicant’s response². The one-off 'Highways Maintenance - Budget 2018' funding, which was a formula-based allocation and did include London, is noted by the Applicant; however, this was an exception and has not been a recurring revenue source.
- 3.5 Where TfL can bid for funding, primarily in the case of the Government’s Major Roads Network (MRN) fund, it must compete with other highway authorities and therefore does not have certainty on funding being made available to it. This can be contrasted with annual, formula-based funding allocations available to highway authorities outside London, which by their nature are predictable and allow for longer-term budget certainty for maintenance and renewals.
- 3.6 The Applicant cites the MRN fund as a potential source of roads funding for TfL in Footnote 2 to Paragraph 10.1.4 of its submission. TfL has bid for funding from this source for works at several major junctions, including for the renewal of the Gallows Corner flyover at the junction of the A127 and A12 in Havering. However, while a business case has been submitted to the DfT, no decision has been made or funding awarded yet. The criteria for MRN funding specified by the Government³ also indicate that the new WCH bridge over the A127 would not be eligible for funding from this source, being for capital investment rather than ongoing maintenance costs. For a location to be in the MRN programme it also needs to be agreed by the DfT upfront – bids for funding need to go through a detailed process. The MRN fund is therefore also not a realistic source to cover TfL’s ongoing maintenance costs arising from the Project.
- 3.7 Given the above, TfL would submit that the Applicant’s response in Section 10.1 of its submission regarding the commuted sums issue is not convincing, nor does it adequately

² <https://www.london.gov.uk/who-we-are/what-london-assembly-does/questions-mayor/find-an-answer/roads-funding-l-0>

³ Major Road Network and Large Local Majors Programmes: programme investment planning, Paragraph 3.2: <https://www.gov.uk/government/publications/major-road-network-and-large-local-majors-programmes-investment-planning>

address the financial realities faced by TfL or the cost burden being placed on it by the LTC Project.

4. Post-event submissions, including written submission of oral comments, for Issue Specific Hearing 10 (ISH10) (REP6-091)

- 4.1 TfL has already commented in detail on oral statements made by the Applicant about wider network impacts and public rights of way at ISH10 in its Deadline 6 submission (REP6-170). These comments are not repeated in this submission in response to the Applicant's written submission of oral comments, except where the written comments draw out further aspects of the Applicant's position. These further aspects cover five areas and are set out in the following paragraphs. Many of these comments are also relevant to the Applicant's Wider Network Impacts Position Paper, which TfL responds to in Section 5 below.

Misrepresentation of the mitigation being sought

- 4.2 The Applicant's comments either state or imply that Interested Parties are seeking for the Applicant to deliver 'free flow conditions' or to follow a 'predict and provide approach' in its submission. For example, Paragraph 3.1.26 states that the Applicant "acknowledged that a number of people aspire to free flow conditions", and that it is not government policy to "plan or expect free flow conditions" or to "meet unconstrained traffic growth, by predict and provide."
- 4.3 TfL wishes to reiterate that it neither aspires to free flow traffic conditions nor to meet unconstrained traffic growth. Such unconstrained traffic growth would run counter to Mayoral policy in London. As stated previously by TfL in Paragraph 2.7 of REP6-170, TfL is only seeking for the Applicant to address the adverse traffic impacts of the scheme on the safe and efficient operation of the road network in London as well as associated environmental impacts, not to address background growth or traffic impacts unrelated to the Project.
- 4.4 While TfL cannot speak for other Interested Parties, TfL has observed that its position is consistent with that of the other local highway authorities who are simply seeking for a mechanism to be in place to address unforeseen direct impacts of the Project that may arise once it becomes operational.

Modelling uncertainty

- 4.5 The primary reason why unforeseen impacts of the Project may arise is because of questions over whether the modelling undertaken by the Applicant is sufficiently robust to forecast the impacts of a scheme of such scale creating new transport links around ten years before it opens. This would be challenging for any strategic transport model.
- 4.6 TfL has previously questioned the robustness of the modelling in London: see, for example, Paragraph 3.20 of its Written Representation (REPI-304) which questioned the ability of the Lower Thames Area Model (LTAM) to forecast delays at junctions on the TLRN in Havering robustly. The local junction modelling commissioned by the London Borough of Havering and TfL, appended to TfL's Written Representation, also identified notable differences with the Applicant's forecasts, further drawing the robustness of the Applicant's modelling into question.
- 4.7 TfL notes that several other Interested Parties are continuing to question the robustness of the Applicant's modelling in their own geographical areas of interest at Deadline 6. For example, DP World London Gateway highlights the lack of convergence between the strategic and local models at the Orsett Cock junction, concluding "that the LTAM is most

likely in error” (REP6-I76 Paragraph I.3.I2). Thurrock Council comments that “the fact remains that inadequate traffic modelling has been completed to date by the applicant to understand the impacts of LTC on the local transport network” (REP6-I66 Paragraph A.4.I). The Port of Tilbury London Ltd highlights that “there are a lot of uncertainties inherent in any new road scheme as it creates new connections that did not previously exist” (REP6-I63 Paragraph 4.3), indicating the increased likelihood of unforeseen traffic impacts arising in a scheme of the scale and nature of the LTC Project.

- 4.8 In contrast to these views, the Applicant is maintaining its position that the modelling undertaken has accurately forecasted all significant traffic impacts of the Project and, therefore, other environmental impacts related to traffic as well. Paragraph 3.I.46 of the Applicant’s submission states that such adverse impacts of the Project have already “been assessed in the application, in the economic appraisal and also in the environmental assessments”. TfL does not agree that unforeseen impacts cannot arise in future given the uncertainties about the robustness of the modelling, as well as because of the nature of the scheme. TfL therefore continues to maintain that an approach to mitigate unforeseen impacts of the Project remains justified.

Suitability of the Route Investment Strategy (RIS) process in securing mitigation

- 4.9 TfL provides a full response to the Applicant’s Wider Network Impacts Position Paper in Section 5 of this submission below. However, TfL wishes to comment here on statements made by the Applicant about the suitability of the RIS process for securing mitigation for the impacts of the Project.
- 4.10 Paragraph 3.I.I6 of the Applicant’s submission addresses “calls from local authorities and others to add further investment to this Project and solve pre-existing issues on the SRN”, pointing to funding strategies such as the Road Investment Strategy (RIS) as sufficient to address scheme impact mitigation. TfL wishes to clarify again that its calls for an approach to mitigation to be put in place, such as that used for the Silvertown Tunnel, are to address issues that will arise as a direct result of the Project, rather than to address pre-existing issues.
- 4.11 The RIS process does not address issues that may arise on the TLRN or local road network. The Applicant’s claim that “this Examination cannot only assume that the government’s Road Investment Strategy process will work, but it can see it clearly working in practice” can only be regarded as being valid for the Strategic Road Network (SRN) – but even then funding is not certain for the next iteration (RIS 3). Adopting a mitigation approach like that for the Silvertown Tunnel cannot be claimed to fetter the Secretary of State’s investment decisions through the RIS process with regard to the TLRN and local roads since they are not included in the RIS. A more detailed response on these points can be found in paragraphs 2.3-2.4 of TfL’s written submission of oral comments made at ISH10 (REP6-I70).

Mitigation in the London context

- 4.12 The Applicant states in Paragraph 3.I.32 of its submission that “London does not have a comparable road investment strategy process which already involves consultation with other parties through the route strategies and initial report which feed into road investment strategy decisions; so a similar process was invented through the DCO.” As stated in Paragraph 2.8 of TfL’s written submission of oral comments at ISH10 (REP6-I70), in London the Mayor’s Transport Strategy (MTS) has clear objectives about traffic and environmental impacts which inform investment decisions. There is consultation with stakeholders and the public on the MTS to inform the development of the strategy. TfL also consults extensively on any major road schemes it seeks to implement. As such, TfL

can draw on equivalent processes that inform road strategy investment decisions including stakeholder engagement. Indeed, the Applicant itself states in Paragraph 3.1.33 that “in London, the Mayor and TfL retain control over investment decisions” just like the Secretary of State and the Applicant do outside London. The driver for the Silvertown Tunnel Monitoring and Mitigation Strategy (MMS) being put in place was not the lack of a wider road investment strategy for London.

- 4.13 TfL also wishes to clarify that the Wider Network Impacts Management and Monitoring Plan (WNIMMP) does not “do all the things suggested” by TfL, despite wording to this effect being stated in Paragraph 3.1.45 of the Applicant’s submission. The timing, duration and frequency of traffic monitoring and a commitment to air quality monitoring are examples of items that TfL has flagged in previous submissions as needing to be added to the WNIMMP to address key concerns (see for example REPI-340 Paragraph 3.32).

New WCH bridge over the A127 west of M25 Junction 29

- 4.14 The Applicant states in Paragraph 4.1.22 of its submission that “the new crossing at the A127 to the west of junction 29 of the M25 is to deal with historic severance, and it is not part of mitigation for the Project.” TfL continues to dispute that the bridge is required only to deal with historic severance and not also to mitigate the severance caused by the Project due to the introduction of free-flow slip roads at M25 Junction 29 removing the Non-Motorised User route around the south of the roundabout. TfL’s position on this matter and list of documents where the Applicant has previously acknowledged the severance caused is set out in Paragraphs 3.1 to 3.4 of its written summary of oral comments at ISH10 (REP6-I70).

5. Wider Network Impacts Position Paper (REP6-092)

- 5.1 TfL has reviewed the Wider Network Impacts Position Paper submitted by the Applicant. This section is structured to provide comments on each relevant sub-section of the Applicant’s position paper.

Background (Section 2.1)

- 5.2 Paragraph 2.1.4 of the Applicant’s paper states that neither “Thurrock Council, nor any other party, has engaged with the analysis presented by the Applicant which identifies the impacts and the relevant tests, providing definition of impacts which must be mitigated”. TfL has not provided a definition of impacts that require mitigation, but TfL has reviewed in detail the submissions made by the Applicant in this regard and provided proposed mitigation solutions. These solutions are specific to the local circumstances, for example at the A127/Hall Lane junction where TfL identified queuing from the junction extending back to almost the main carriageway due to the extra traffic generated by the Project, causing a potential safety issue (see REPI-304 Paragraph 3.25). TfL considers that it is unrealistic to define which impacts need mitigating, so it has not attempted to do so, as the requirement for mitigation depends on the local circumstances, the type, and the scale of impact.

The policy framework (Section 2.2)

- 5.3 TfL recognises that major SRN projects requiring a DCO are part of an incremental programme (the RIS) as stated by the Applicant and that these projects are not intended to facilitate unconstrained growth. The Applicant goes on to state in Paragraph 2.2.7 of its paper that these facts are “highly material when considering calls from local authorities and others to add further investment to this project to solve issues on the road network”. TfL has set out in Paragraphs 4.2 to 4.4 above its concerns about the apparent misconception of the Applicant that TfL and other local highway authorities are seeking for the Project to mitigate all manner of non-Project-related impacts on the road network to

provide substantial extra road capacity. This is counter to Mayoral policy in London and is not TfL's position – all TfL is seeking is for an approach to be in place to address unforeseen impacts directly caused by the Project.

- 5.4 Paragraph 2.2.8 of the Applicant's paper repeats the position referred to in Paragraph 4.11 above: "This Examination should not only assume that the Government's Road Investment Strategy process will work; it is apparent that it is working in practice." Regardless of whether the RIS process is working or not, TfL emphasises that improvements to the TLRN or local road network are outside the scope of the RIS, so this is largely immaterial to any mitigation requirements in London.

The approach to mitigation (Section 2.4)

- 5.5 Paragraph 2.4.1 comments that no party has been able to define whether an impact is "unacceptable" and therefore requires mitigation. TfL agrees that it would be extremely difficult to provide such a definition as the level of acceptability is dependent on the local circumstances (see also Paragraph 5.2 above). This is why TfL's view is that, like for the Silvertown Tunnel, a monitoring and mitigation approach is needed so that determining whether an impact needs mitigating is a collective decision of an implementation group, informed by relevant triggers / thresholds, and agreed by the Secretary of State. The Silvertown Tunnel MMS gives a useful framework that could be adapted for the LTC Project.
- 5.6 Several parts of Section 2.4 of the Applicant's paper continue to set out why the National Policy Statement for National Networks (NPSNN) does not require the provision of free flow traffic conditions (see for example Paragraphs 2.4.10 and 2.4.21). Again, this is not what TfL is seeking. This section also states that the NPSNN does not require the adverse impacts of a nationally significant to be mitigated, only to be "assessed and taken into account" (Paragraph 2.4.4 of the Applicant's paper). TfL acknowledges the point that not all adverse impacts require mitigation, but this does not mean the Applicant is correct in taking the position that no adverse impacts require mitigation. Where congestion caused has a substantive unforeseen impact on safety, severance, accessibility and/or the environment (as set out in the NPSNN and referred to in Paragraph 2.4.23 of the Applicant's paper) there needs to be a means in place to develop and fund the necessary mitigation. The known mitigation that TfL considers is necessary is all aligned with the NPSNN priorities for mitigation, e.g. safety (see comments on the A127/Hall Lane junction in Paragraph 5.2 above), severance (for example the ability to cross the road at the A127/Ardleigh Green Road/Squirrels Heath Road junction, see REPI-304 Paragraph 3.27), etc. TfL expects any unforeseen mitigation it would seek to also be aligned with the NPSNN priorities.

The purpose of the Wider Network Impacts Management and Monitoring Plan in this context (Section 2.6)

- 5.7 In Paragraph 2.6.3 of the Applicant's paper, it states that "the Government is aware of the principle that further investment will be necessary in the regional road network to supplement and consolidate the investment in the Lower Thames Crossing. It has a process in place for that purpose." While it can be argued that a process is in place for the SRN via the RIS, TfL argues that no such process is in place for the TLRN and local road network. It is true that TfL is eligible to bid for MRN funding as stated in Paragraph 2.6.4, but the types of mitigation necessary may not fall under the criteria for that fund, and even if the mitigation needed does meet the criteria there is no guarantee of success.
- 5.8 TfL has repeatedly raised concerns about the Applicant's view in Paragraph 2.6.7 that the LTC Wider Network Impacts Management and Monitoring Plan will provide evidence to

support bids for funding for mitigation. This is unhelpful in the London context when the opportunities for securing Government funding are so limited with very little certainty of securing funding.

How the assessments take account of the forecast impacts (Section 3.1)

- 5.9 This section of the Applicant’s paper focuses on the level of uncertainty that is inherent in traffic forecasts and the policy requirements related to this. TfL needs to highlight the particular concerns about the modelling forecasts for the LTC Project that it and other Interested Parties have highlighted (see Paragraphs 4.5 to 4.8 above). It is in this context that the TfL has concerns about the robustness of the modelling and therefore the greater level of uncertainty in the impacts of the LTC Project than there will have been for other major highway projects seeking consent through a DCO.

Benefits or otherwise of the “Silvertown Alternative approach” (Section 4.1)

- 5.10 TfL is not convinced that the Applicant is correct to suggest that “parties appear to believe that the Silvertown approach somehow secures a particular scale of mitigation and/or that the local authorities will be able to determine that mitigation through their role in STIG [the Silvertown Tunnel Implementation Group]” (Paragraph 4.1.7 of the Applicant’s paper). TfL considers the relevant Interested Parties to be well informed about how the Silvertown Tunnel approach works, with several putting it forward as a model for the mitigation approach for the LTC Project, including amended versions of Article 66 and Requirement 7 of the Silvertown Tunnel DCO. A key benefit of the Silvertown Tunnel approach for the Applicant is that it retains control of the strategy for mitigating the impacts of the scheme but must consult with members of the Implementation Group to inform the mitigation that is agreed to be necessary, with the Secretary of State approving the scheme of mitigation.
- 5.11 Paragraph 4.1.9 of the Applicant’s paper raises its concern that there are unknown factors that could arise, such as approval of developments and changes in Government policy, that combined with the impacts of the LTC Project, could lead to the need for further mitigation. This issue is addressed by the Silvertown Tunnel MMS. The MMS contains triggers which identify when investigation of impacts is needed to determine whether mitigation is necessary where the monitoring shows that impacts have varied sufficiently from the baseline. Crucially, the baseline is established by monitoring that takes place in the three years prior to the scheme opening, taking account of developments, policy changes, etc. that have happened since the modelling for the DCO application was undertaken. In this way the unforeseen impacts of the Project can be identified, and the Applicant’s concerns over being held responsible for impacts the Project has not caused can be allayed.
- 5.12 Yet again the Applicant claims the RIS process can on its own determine the investment decisions that are needed in Paragraph 4.1.17 of its paper without acknowledging that impacts on the TLRN and local road network need to be considered.

Proposed Requirement (Section 4.2)

- 5.13 The Applicant has proposed a requirement for a Network Management Group (NMG) on a without prejudice basis in Section 4.2 of its paper. In TfL’s view, this proposed requirement is wholly inadequate in providing any security that any unforeseen impacts of the Project that arise in London will be mitigated. This is primarily because:
- the only mitigation within scope that can be delivered is that within the Applicant’s permitted development rights ((3) (d) (i)), which therefore is only relevant to the SRN;

- if not achievable through permitted development rights then it will be put forward for consideration through the RIS process ((3) (d) (ii)), again only relevant to the SRN; and
- for interventions needed on the local road network, the commitment to co-operate with the local highway authority to seek funding ((3) (d) (iii)) provides no surety that the mitigation will be delivered and offers no more security than the WNIMMP that is already an application document (APP-545).

5.14 TfL also considers that the proposed annual meeting of the NMG is far too infrequent to actively monitor the impacts of the Project that arise immediately after opening.

Application of the proposed Requirement (Section 4.3)

5.15 Table 4.1 of the Applicant's paper provides further evidence of the inadequacy of the without prejudice approach for the local road network. For all six examples of the nature of the intervention that the NMG identifies as being necessary, the outcome is providing advice to or co-operating with the local highway authority rather than providing any form of commitment to securing mitigation.

Conclusion

5.16 On the basis of the evidence provided in this section, and despite the additional considerations in the Applicant's paper, TfL does not agree that the proposed mitigation routes for impacts to the local highway network put forward by the Applicant achieve the degree of commitment to mitigation required to address the Project's adverse impacts as, for example, exemplified by the Silvertown Tunnel approach.

6. Applicant's response to comments made on Outline Traffic Management Plan for Construction (REP6-103)

6.1 The Applicant's response to TfL's comments on construction vehicle safety standards under ID 2 are noted but remain an area of disagreement. For clarification, TfL is not requesting the Direct Vision Standard to be implemented nationwide, but across the Project area. This could also assist and provide clarity to the supply network, rather than "severely impact" suppliers as is suggested by the Applicant. This is because it would provide consistency of vehicle requirements for the whole Project area both inside and outside London, potentially reducing administration needs and risks of confusion for suppliers..