



Lower Thames Crossing

3.3 Consents and Agreements

Position Statement

(Tracked changes version)

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1 Executive summary

- 1.1.1 This Consents and Agreements Position Statement (this Statement) outlines National Highways' (the Applicant's) strategy for securing consents and associated agreements needed to implement the proposed A122 Lower Thames Crossing (the Project).
- 1.1.2 The purpose and objective of this Statement is to identify, at a high level, the consents and agreements needed to construct and operate the Project and how the consents and agreements would be obtained.
- 1.1.3 This Statement details the consents that would be included in the Development Consent Order (DCO) and identifies the consents and agreements that would be required for the Project and their timescales.
- 1.1.4 The consents and agreements that will be incorporated within the DCO are defined within paragraph 4.1.2 of this document. While the DCO will be the principal consenting mechanism for the Project, there are some consents and agreements that will need to be acquired outside of the DCO, which are detailed in paragraph 4.1.1 and Appendix A respectively.

2 Introduction

2.1 Purpose of this document

- 2.1.1 National Highways (the Applicant) has submitted an application under section 37 of the Planning Act 2008 for an order to grant development consent for the A122 Lower Thames Crossing (the Project).
- 2.1.2 This Consents and Agreements Position Statement (this Statement), submitted in accordance with Regulation 5(2)(q) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, sets out the Applicant's intended strategy for obtaining the consents and associated agreements needed to implement the Project.
- 2.1.3 The purpose and objective of this Statement is to identify what consents and agreements are expected to be needed for the Project, and how these will be obtained.
- 2.1.4 As requested by the Examining Authority in the Rule 8 Letter [\[PD-018\]](#) and the amended Rule 8 Letter [\[PD-020\]](#), this document will provide an update on the current status of consents, S106 agreements and other legal agreements needed for the Project.
- 2.1.5 This document will be provided at each Deadline in the Examination, or nil return.
- 2.1.6 A number of consents and agreements will be needed for delivery of the Project, set out as follows:
- a. Land agreements – details of land agreements are set out in the Schedule of Negotiations, which is Annex B to the Statement of Reasons [\[REP5-028\]](#)
 - b. Consents – Appendix A to this document
 - c. Agreements securing delivery of environmental mitigation and/or compensation requirements – Appendix A to this document
 - d. Section 106 agreements – Appendix B to this document
 - e. Protective Provisions (Statutory Undertakers) – included within the draft Development Consent Order [\[REP6-010\]](#) – current status update provided in the Status of Negotiations with Statutory Undertakers [\[REP6-052\]](#).
- 2.1.7 In preparing this Statement, consideration has been given to the former Department for Communities and Local Government's (2013) Planning Act 2008: Application Form Guidance (paragraphs 45 and 46). As required, this Statement summarises the Applicant's understanding on the likelihood of the relevant consents being granted.
- 2.1.8 Any consents required for specific construction activities will be required to be obtained by the Contractor in accordance with Schedule 2 (Requirements) of the draft Development Consent Order (DCO) [\[REP6-010\]](#).

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- 2.1.9 This Statement is part of a suite of documents which accompanies the application to grant development consent. A full description of all the Application Documents is provided in the Introduction to the Application [\[REP4-002\]](#) which also accompanies the application.

2.2 The need for the Project

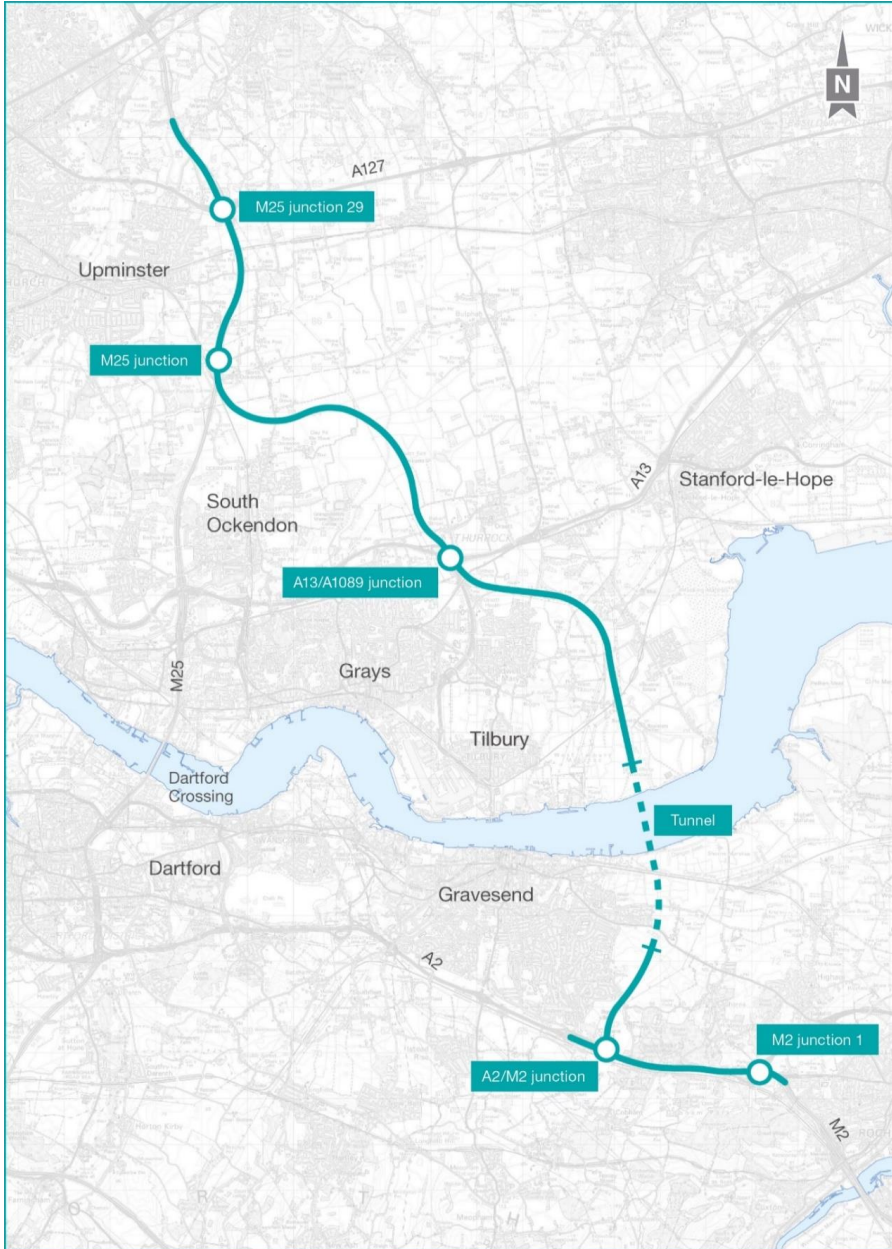
- 2.2.1 For over 58 years the Dartford Crossing has provided the only significant road crossing of the River Thames to the east of London. It is a critical part of the country's road network, connecting communities and businesses and providing a vital link for the nearby major ports. However, traffic flows on the Dartford Crossing are consistently in excess of the design capacity of the road which results in frequent congestion and poor journey time reliability, making it one of the least reliable sections of the strategic road network. The current operational challenges have significant negative impacts on users and non-users in terms of economic productivity and trade, social and user experience, and environmental impacts. For more information on the need case, refer to the Need for the Project [\[APP-494\]](#).

2.3 The Project

- 2.3.1 The Project would provide a connection between the A2 and M2 in Kent and the M25 south of junction 29, crossing under the River Thames through a tunnel. The Project route is presented in Plate 2.1.
- 2.3.2 The A122 would be approximately 23km long, 4.25km of which would be in tunnel. On the south side of the River Thames, the Project route would link the tunnel to the A2 and M2. On the north side, it would link to the A13, M25 junction 29 and the M25 south of junction 29. The tunnel portals would be located to the east of the village of Chalk on the south of the River Thames and to the west of East Tilbury on the north side.
- 2.3.3 Junctions are proposed at the following locations:
- New junction with the A2 to the south-east of Gravesend
 - Modified junction with the A13/A1089 in Thurrock
 - New junction with the M25 between junctions 29 and 30
- 2.3.4 To align with National Policy Statement for National Networks (Department for Transport, 2014) policy and to help the Project meet the Scheme Objectives, it is proposed that road user charges would be levied in line with the Dartford Crossing. Vehicles would be charged for using the new tunnel.
- 2.3.5 The Project route would be three lanes in both directions, except for:
- link roads
 - stretches of the carriageway through junctions
 - the southbound carriageway from the M25 to the junction with the A13/A1089, which would be two lanes

- 2.3.6 In common with most A-roads, the A122 would operate with no hard shoulder but would feature a 1m hard strip on either side of the carriageway. It would also feature technology including stopped vehicle and incident detection, lane control, variable speed limits and electronic signage and signalling. The A122 design outside the tunnel would include emergency areas. The tunnel would include a range of enhanced systems and response measures instead of emergency areas.
- 2.3.7 The A122 would be classified as an 'all-purpose trunk road' with green signs. For safety reasons, walkers, cyclists, horse riders and slow-moving vehicles would be prohibited from using it.
- 2.3.8 The Project would include adjustment to a number of local roads. There would also be changes to a number of Public Rights of Way, used by walkers, cyclists and horse riders. Construction of the Project would also require the installation and diversion of a number of utilities, including gas pipelines, overhead electricity powerlines and underground electricity cables, as well as water supplies and telecommunications assets and associated infrastructure.
- 2.3.9 The Project has been developed to avoid or minimise significant effects on the environment. The measures adopted include landscaping, noise mitigation, green bridges, floodplain compensation, new areas of ecological habitat and two new parks.

Plate 2.1 Lower Thames Crossing route



3 Strategy

3.1 National Highways' consents strategy

Background

- 3.1.1 It is possible for a wide range of matters to be included within the scope of a DCO. Section 33 of the Planning Act 2008 disappplies a number of consents required. In addition, section 120 of the Planning Act 2008 provides that a DCO may make provision for, or relating to, any matters listed in Schedule 5 of the Planning Act 2008, including the application, modification or disapplication of certain relevant statutory provisions where necessary or expedient for the purposes of giving full effect to the DCO. In addition, there are specific sections within the Planning Act 2008, which provide that a DCO may include certain other provisions.
- 3.1.2 There are however some limitations, most notably in section 150 of the Planning Act 2008, which stipulates that certain prescribed non-planning consents may only be disapplied or otherwise modified within a DCO with the agreement of the relevant consenting body.

Strategy

- 3.1.3 A DCO must be sought as the principal consent for the works (under the Planning Act 2008) including provision of the powers required for any necessary land acquisition and temporary land possession.
- 3.1.4 The Project benefits from the intent of the Planning Act 2008 and Government policy to enable development and construction-related consents to be included within the DCO. Therefore, where feasible and practical, additional consents have been included within the DCO. This would reduce the need for any further approvals before the works covered by the DCO can commence, as most of the consents required for construction would be in place at the point at which the DCO is granted.
- 3.1.5 The Project has been, and will continue to be, developed based on strong collaboration between the stakeholders, and any additional consents and agreements will be secured at relevant stages of the Project's development, as necessary. The progress on these items will be reported to the Examining Authority, with a summary of the current situation reported in Appendix A and [Appendix B](#).

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4 Consents and agreements

4.1 Consents

- 4.1.1 While the DCO will be the principal consenting mechanism for the Project, as described in paragraph 3.1.3, the DCO application may need to be supplemented by other applications if:
- a. a specific consent cannot be contained in the DCO
 - b. a consenting authority declines to allow a consent to be contained within the DCO under section 150 of the Planning Act 2008
 - c. it is not desirable, or it is inappropriate, to include a consent within a DCO due to the stage of design development meaning the detail required is unavailable
- 4.1.2 At the point of submission, most of the consents and all the powers required will have been included, or addressed, within the DCO as permitted by various provisions of the Planning Act 2008. These fall into the following categories:
- a. Authorisation of all permanent and temporary works and, where necessary, Listed Building Consent and Scheduled Monument Consent (including work in Conservation Areas)
 - b. Consent to carry out works in a Site of Special Scientific Interest
 - c. Compulsory acquisition of land (including subsoil) and/or rights over land such as easements, restrictive covenants and the temporary possession of land
 - d. Consent to construct works on open spaces and other special category land
 - e. Consent to carry out street works
 - f. Highways matters (such as the classification of highways)
 - g. Traffic regulation matters (such as speed limits, clearways and prohibitions on use)
 - h. Powers to permanently stop-up streets and private means of access
 - i. Powers to temporarily close, alter, divert or restrict the use by vehicles, or classes of vehicles, or pedestrians of any street or private means of access
 - j. Consent to use private roads for construction and maintenance
 - k. Consent to carry out tree works, such as felling (including works to trees subject to a Tree Preservation Order, or in a Conservation Area, or subject to a felling licence)
 - l. Consent to remove hedgerows, including any 'important hedgerows' (consent for which is not ordinarily required under The Hedgerows Regulations 1997 as National Highways benefits from the permission in Regulation 6(1)(h) of those regulations)

- m. Consent to undertake works in respect of flood risk activities
- n. Consent to undertake activities requiring drainage to ordinary watercourses
- o. Consents required under Water Resources Act 1991 and Land Drainage Act 1991 byelaws
- p. Consent to undertake works in and under the River Thames
- q. Consent to modify and maintain structures in, over or under a main river (subject to Deemed Marine Licence conditions)
- r. Consent to obstruct ordinary watercourses
- s. Consent to discharge to sewers
- t. Consent and powers to install and remove any apparatus belonging to utility undertakers and/or carry out utilities diversions
- u. Powers to make byelaws relating to the tunnel area

4.1.3 The draft DCO [REP6-010] also proposes the disapplication and modification of local legislation. This is explained in further detail in the Explanatory Memorandum [REP6-012].

4.1.4 A number of the above consents are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. As a result, under section 150 of the Planning Act 2008, the relevant consenting body must agree to the inclusion (that is, disapplication) of these consents within the DCO.

4.1.5 Discussions between the Applicant and consenting bodies are ongoing.

4.1.6 The Applicant is confident that the necessary consents and agreements will be obtained before or during the Examination of its DCO application, in exchange for the Applicant including the appropriate protective provisions in the DCO.

4.1.7 The permits, consents and agreements that may need to be sought separately from the DCO are identified in Appendix A.

4.1.8 The permits and consents included in Appendix A are largely dependent on finalisation of the detailed design, the detailed construction site set-up and methodologies, and discussions with the consenting authorities. These are not sufficiently developed at this stage to confirm the requirements, and therefore it is not practical to include them within the draft DCO.

4.2 Agreements

4.2.1 Agreements with relevant stakeholders may be required in parallel to the DCO process and may take a variety of forms.

Statements of Common Ground

4.2.2 A fundamental part of the DCO process is the preparation and agreement of Statements of Common Ground (SoCGs) with a variety of relevant stakeholders to identify the matters on which parties agree and disagree, to narrow the focus of the Examination and to make the Examination process more efficient.

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4.2.3 At the time of DCO application submission, SoCGs were being progressed with a number of parties as set out in the Statements of Common Ground [APP-093]. Since then, a number of additional SoCGs have been submitted with further parties and these are set out at each deadline in the Cover Letter that accompanies each set of deadline submissions [Document Reference 9.163]. At each deadline the Statement of Commonality [REP6-016] is also updated and submitted and this provides a matrix that sets out the broad position of matters under a number of headings to demonstrate where there is commonality in the matters being discussed with parties.

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4.2.4 Progress on finalising any new or updated SoCGs will be reported to the Examining Authority at each required deadline throughout examination phase or confirmation given that there is no update at that time.

Section 106 agreements

4.2.5 The Applicant is actively negotiating section 106 (S106) agreements with six local authorities to agree matters that may be required to make the proposal acceptable in planning terms.

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4.2.6 At the time of the DCO application submission, draft Heads of Terms were set out [APP-505] and have been subject to further discussion with the local authorities. An updated draft Heads of Terms was submitted at Deadline 4 [REP4-144].

4.2.7 The first draft S106 agreements were issued to the applicable local authorities for review and comment on 29 September 2023 with the expectation that agreements will be finalised by Deadline 9 in line with the Examination timetable.

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4.2.8 Following issue of the draft agreements and ongoing negotiations with each of the applicable local authorities, the draft S106 agreements have been submitted at Deadline 7 in accordance with the Examination timetable.

4.2.9 Further details on the S106 agreements can be found in Appendix B.

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Land agreements

4.2.10 To deliver the Project, both the temporary possession and permanent acquisition of land is required in accordance with section 120 of the Planning Act 2008. The case for the Project is set out in the Statement of Reasons [REP5-028].

4.2.11 Chapter 4 and Annex B (the Schedule of negotiations) of the Statement of Reasons [REP5-028] sets out the discussions the Applicant has had with land interest holders to acquire the land by agreement. The Applicant is satisfied that compulsory acquisition and temporary possession powers are required to ensure that the Project can be delivered in a reasonable timescale and in the event that it does not prove possible to acquire all of the land by agreement. The Schedule of Negotiations will be updated and submitted at future deadlines.

Environmental mitigation

- 4.2.12 All the environmental mitigation required and associated with the Project, including any aspects listed above, are secured under the DCO. See the Register of Environmental Actions and Commitments (REAC) within Environmental Statement (ES) Appendix 2.2: Code of Construction Practice [REP6-038], and the outline Landscape and Ecology Management Plan [REP4-140].
- 4.2.13 Letters of No Impediment (LONIs) are being sought with Natural England regarding the translocation of protected species and for works that may be undertaken in close proximity to protected species. Further detail is provided in Appendix A.
- 4.2.14 Discussions are ongoing on the following items with stakeholders to deliver the following mitigation and compensation (though this does not affect the fact that the mitigation measures themselves are secured by the DCO and the Applicant will be required to deliver such mitigation in the absence of an agreement):
- Natural England – where protected species licences are required, discussions are ongoing with Natural England to ensure the draft licence applications are robust, and that Natural England will be able to issue LONIs for the following species: bats, badgers, dormice, great crested newts and water voles. Further information on the status of these licences is included in Appendix A.
 - Coalhouse Point habitat creation – the creation of a wetland at Coalhouse Point and construction of an associated water inlet with self-regulating valve or equivalent structure to ensure appropriate water supply to the wetland in accordance with REAC items HR010 and HR011, unless a formal agreement with Thurrock Council to release water on request from the Coalhouse Fort moat system is secured. Further information on REAC items HR010 and HR011 can be found in the REAC within ES Appendix 2.2: Code of Construction Practice [REP6-038]. Further information on the status of these licences is included in Appendix A.
 - The Applicant is proposing to improve the pedestrian crossing infrastructure along Elaine Avenue in Strood, Brennan Road in Tilbury, and Valley Drive in Gravesend, following an operational assessment of severance (based on traffic modelling and population data). This infrastructure will be secured by S106 agreements (Appendix B) or side agreements (Appendix A) with local authorities, please refer to the relevant sections for further updates on progress.
 - Hole Farm Community Woodland – the creation of a community woodland that includes the early delivery of compensation for the Project. Refer to ES Chapter 2: Project Description [APP-140] for more information. The site would be managed by Forestry England on behalf of the Applicant, Forestry England in partnership with the Applicant, has submitted a planning application to Brentwood Borough Council under the Town and Country

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Planning Act 1990 for the hard infrastructure needed for the new community woodland. This application relates to elements of the community woodland which are not part of the Project (i.e. visitor infrastructure and access paths). The elements of the Project which are to be delivered at Hole Farm are ecological compensation and replacement of special category land. The ecological compensation, in the form of tree planting, is being delivered early under Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999.

- 4.2.15 In addition to the mitigation that must be delivered as detailed above, the Applicant is engaged in discussions with organisations relating to the delivery of mitigation outside the Order Limits, including the following:
- a. Water vole translocation – an agreement for a translocation site outside of the Order Limits is being discussed with Essex Wildlife Trust, in consultation with Natural England.
 - b. Barn owl habitat mitigation – an agreement for the provision of barn owl boxes for essential mitigation, outside the Order Limits, is being discussed with Essex Wildlife Trust.
 - c. Dormice – the Applicant has reached an agreement with Kent County Council and work has already begun within Shorne Woods Country Park to supplement dormouse mitigation, and to enhance habitat at the park.
 - d. Reptile translocation – the Applicant has reached an agreement with Enover over the use of their Mucking Landfill site as a receptor site for reptiles displaced during construction works. Other translocation sites outside of the Order Limits are also being discussed with private landowners.

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Highway Side Agreements

- 4.2.16 The Project is engaged in discussions with local highway authorities on draft highway agreements covering matters such as the handover of assets upon their completion. These matters have been superseded by the provision of protective provisions for Local Highway Authorities in the dDCO, but the Applicant is willing to continue discussions where requested to by a Local Highway Authority.
- 4.2.17 The Contractor delivering the works would seek to enter into Detailed Local Operating Agreements or Local Operating Agreements with local highway authorities in relation to maintenance and operational matters during construction. Further information on this is provided in the outline Traffic Management Plan for Construction [REP6-048].

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References

Department for Communities and Local Government (2013). Planning Act 2008: Application Form Guidance. Accessed September 2022.
<https://www.gov.uk/government/publications/planning-act-2008-application-form>.

Department for Transport (2014). National Policy Statement for National Networks.

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 [REP6-010] .
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.
Department for Communities and Local Government	DCLG	The former name of the Ministry of Housing, Communities and Local Government, now the Department for Levelling Up, Housing and Communities.
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'.
Environmental Statement	ES	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.
Health and Safety Executive	HSE	The government body responsible for health and safety regulation in Great Britain.
Letter of No Impediment	LONI	This is designed to provide the Planning Inspectorate and the Secretary of State with confidence that the competent licensing authority sees no impediment to issuing a licence in future, based on information assessed to date in respect of the proposals.
National Highways		A UK government-owned company with responsibility for managing the motorways and major roads in England. Formerly known as Highways England.
National Policy Statement for National Networks	NPSNN	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.

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Term	Abbreviation	Explanation
North Portal		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.
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 [REP6-010] .
Project route		The horizontal and vertical alignment taken by the Project road.
South Portal		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.
Statement of Common Ground	SoCG	A Statement of Common Ground is a written statement containing factual information about the proposal which is the subject of the appeal that the appellant reasonably considers will not be disputed by the local planning authority.
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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Appendices

Appendix A Permits and consents that may be required

Table A.1 Consents and permits

Issue	Consent/licence/agreement and legislation	Consenting authority	Requirement	Current Position at Deadline Z
Installation/operation/plant operation/solvent emissions activities	Regulation 12 of the Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2016 (as amended)	Environment Agency	Multiple permits are likely to be required for construction activities, e.g., storage and treatment activities such as materials crushing, concrete/bitumen plants, remediation plant, transfer stations, short-term (less than three years) material storage. Locations where such permits would be required are primarily construction compounds across the Project. During construction, construction compounds would be located along the Project route. Larger compounds would be required at the North and South Portals to allow for tunnelling operations and materials management.	The requirement for this consent is not disapplied under the DCO. These environmental permits will be sought following detailed design when more specific information regarding construction operations and activity locations will be available. The Environment Agency has been consulted on the likely nature of permits.
Water abstraction and impoundment	Water Abstraction: Licence under sections 24 and 25 of the Water Resources Act 1991	Environment Agency	Permits are likely to be required for construction activities, e.g., water abstraction for concrete processing; impoundment requiring changes to existing assets and de-watering. Locations where such permits would be required are primarily construction compounds across the Project. During construction, construction compounds would be	The requirement for this consent is not disapplied under the DCO. These environmental permits will be sought following detailed design when more specific information regarding construction operations and activity locations will be available. The Environment Agency has been consulted on additional water abstraction licensing

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Issue	Consent/licence/ agreement and legislation	Consenting authority	Requirement	Current Position at Deadline 7
			located along the Project route. Larger compounds would be required at the North and South Portals to allow for tunnelling operations and materials management.	requirements in relation to abstraction licences including the Coalhouse Point Wetland HRA mitigation area.
Environmental permits (water discharge and/or groundwater activity)	Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 (as amended)	Environment Agency	Permits will be required for dewatering, discharges to surface or groundwater from construction. At the northern tunnel entrance compound, a permit will be required for dewatering and discharge of groundwater, as well as for discharging other construction effluents, e.g. those generated by operation of the tunnel boring machine. At the southern tunnel entrance compound, a permit will be required for discharge of surface water runoff from the construction compound due to the potential for entrainment of chalk fines. The discharge would be received by a ditch that would convey flows to the River Thames. Additional permits may also be required for discharge of foul water to the sewage network under consent of the relevant utilities company. The Environment Agency will be consulted by the relevant Delivery Partners if other methods of foul water discharge are required.	These environmental permits will be sought following detailed design when more specific information regarding construction operations and activity locations will be available. Following the pre-application advice discussions with the Environment Agency, the Project will seek to re-engage in more detail with the Environment Agency when the main delivery partners are in place to progress the permit applications.

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Issue	Consent/licence/ agreement and legislation	Consenting authority	Requirement	Current Position at Deadline 7
Environmental Permit (using, treating, storing and disposing of waste)	Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 (as amended)	Environment Agency	Permits will be required where treatment or storage of waste is proposed during construction or operation where it exceeds the provisions/requirements of an appropriate waste exemption. At the northern tunnel entrance compound, a permit(s) will be required where construction activities interact with the extant and currently permitted waste activities (operated by others).	The requirement for this consent is not disapplied under the DCO. Due to the complexity of interactions between construction activities and existing waste operations at the North Portal, these consents are likely to be sought as a priority. Permit workshops have been undertaken between the Applicant and the Environment Agency permitting technical specialists. An outline Environmental Permitting Strategy has been shared with the Environment Agency and this document is currently being updated following Environment Agency review.
European Protected Species licensing	Conservation of Habitats and Species Regulations 2017	Natural England	Required for the translocation of species in the Order Limits prior to the commencement of construction.	Ecology surveys have identified that the Project may have an impact upon bats, great crested newts and dormice. The Project continues to be actively engaged with Natural England in providing regular updates on any amendments made to the submissions. The Project has received the Letter of No Impediment from Natural England for the Great Crested Newts.

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Issue	Consent/licence/ agreement and legislation	Consenting authority	Requirement	Current Position at Deadline 7
				<p>The Project has re-submitted the draft dormouse licence application and draft bat licence application to Natural England and is now awaiting responses. Further information can be found in ES Appendix 8.16: Draft EPS Mitigation Licence Application – Bats [APP-408]; ES Appendix 8.17: Draft EPS Mitigation Licence Application – Great Crested Newts [APP-409 to APP-413]; and ES Appendix 8.18: Draft EPS Mitigation Licence Application – Dormouse [APP-414].</p>
Water voles	Schedule 5 of the Wildlife and Countryside Act 1981 (as amended)	Natural England	Required for the translocation of species in the Order Limits prior to the commencement of construction.	<p>Ecology surveys have identified that the Project may have an impact upon water voles. The Project continues to be actively engaged with Natural England in providing regular updates on any amendments made to the submissions.</p> <p>The Project has submitted the draft water vole mitigation licence application to Natural England following a request for further information and is awaiting a response. Further detail on this licence can be found in ES Appendix 8.20: Draft Water Vole Conservation Licence Application [APP-416].</p>

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Issue	Consent/licence/ agreement and legislation	Consenting authority	Requirement	Current Position at Deadline 7
Badger licence	Protection of Badgers Act 1992 (section 10(1)(d))	Natural England	Badger setts have been identified within the Order Limits and it may be necessary to undertake the closure and removal of confirmed badger setts during construction. This consent is therefore likely to be required prior to commencement of construction activities.	Ecology surveys have identified that the Project may have an impact upon badgers. A Letter of No Impediment relating to this draft licence application was received from Natural England in March 2023. Further information can be found in ES Appendix 8.19: Draft Badger Development Licence Application (Confidential) [APP-415].
Delivery of mitigation outside the Order Limits	Conservation of Habitats and Species Regulations 2017 Wildlife and Countryside Act 1981 (as amended) A Highways Act 1980 Section 253 Agreement is proposed to secure the mitigation at both sites.	Natural England	Mitigation provision for various protected species where specific measures are being secured on land outwith the Order Limits	Water Vole Translocation: <ul style="list-style-type: none"> Negotiations are ongoing and we expect completion before the end of examination. Barn Owl habitat mitigation: <ul style="list-style-type: none"> Negotiations are ongoing and we expect completion before the end of examination. Dormice: <ul style="list-style-type: none"> Agreement completed. Reptile Translocation: <ul style="list-style-type: none"> Mucking Landfill, Enover (Adjacent to Thames Estuary, north bank) – Agreement complete. Little Belhus, Rural arisings Ltd (Adjacent to M25 / Thames Chase) – Positive discussions ongoing, completion of the agreement is anticipated to be before the end of examination.

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Issue	Consent/licence/ agreement and legislation	Consenting authority	Requirement	Current Position at Deadline 7
Coalhouse Point habitat creation – water inlet with self-regulating valve	Water resource licence (abstraction licence) under the Water Resource Act 1991	Environment Agency	Secure water to deliver proposed wetland mitigation at Coalhouse Point	<p>The water inlet secures the necessary water to ensure the ecological objectives of the mitigation will be achieved.</p> <p>Based on current water demand estimates. The Applicant will require a water resource licence (abstraction licence) under the Water Resource Act 1991 to achieve the wetland water demand via a supply directly from the River Thames through the new water inlet. The Applicant may also require an impoundment licence for the ditch and pond network where flow restrictions are put in place to maintain water levels.</p> <p>The agreed licensing routes for the water supply and maintaining water levels would be determined as part of the detailed design.</p>
Planning Obligations with Medway Council	Side Agreement with Medway Council	n/a	The Applicant has identified a small number of locations where there is a potential adverse severance effect on pedestrians during the operation of the Project as a result of changes to traffic flows on the surrounding road network. Where the Applicant holds appropriate land interests, opportunities to reduce severance will be secured by the applicable s106 agreement (see Appendix B)	<p>The Applicant has concluded the feasibility assessment identifying opportunities to reduce severance at Elaine Avenue. The Applicant has issued said draft Side Agreement to Medway including a financial offer to mitigate severance at Elaine Avenue. The Applicant awaits a response from the Council.</p>

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Issue	Consent/licence/ agreement and legislation	Consenting authority	Requirement	Current Position at Deadline 7
			<p>however, the Applicant does not have the appropriate land interests in Medway with respect of Elaine Avenue, Strood (between Watling Street and Galahad Avenue) to enter into a s106 agreement and therefore a separate side agreement will be entered into to ensure the provision of these improvements.</p> <p>The side agreement scope will not include Community Funding and Skills, Education and Employment Strategy as set out in the S106 Agreements – Heads of Terms [REP4-144]. This scope is included in the Kent County Council s106 Agreement (See Appendix B)</p>	
Planning Obligations with Tonbridge and Malling Borough Council	Side Agreement with Tonbridge and Malling Borough Council	n/a	The Applicant has identified an adverse operational impact on walkers and cyclists due to predicted increases in Heavy Goods Vehicle (HGV) movements on the A228 and a need to support the provision of active travel between Snodland station and Peters Village. Where the Applicant holds appropriate land interests, opportunities to reduce residual impacts will be secured by the applicable s106 agreement (see Appendix B). However, the Applicant does not have the appropriate land	The Applicant is progressing discussions with Tonbridge and Malling Borough Council to identify opportunities to mitigate the impact on walkers and cyclists.

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Issue	Consent/licence/ agreement and legislation	Consenting authority	Requirement	Current Position at Deadline 7
			interests in Tonbridge and Malling Borough Council to enter into an s106 agreement and therefore a separate agreement will be entered into to facilitate funding for walking and cycling improvements.	
Noise, vibration and environmental impact of construction works	Section 61 consent under the Control of Pollution Act 1974	Local authority	For construction works and associated operations to approve further controls for potential disruption and impacts.	This consent is usually gained (where appropriate) immediately prior to or during construction when a detailed description of the construction programme is available. The requirement for this consent is not disapplied under the DCO, but its application has been modified and an appeals mechanism is included within Schedule 2 (Requirements) of the draft DCO [REP6-010], relating to the Control of Pollution Act 1974 in the event an approval under section 61 is refused, or granted subject to conditions.
Self-Service Marine Licence	Marine and Coastal Access Act 2009	Marine Management Organisation	For works that may be undertaken in the River Thames, or on the foreshore, which are not addressed through provisions made in the Deemed Marine Licence, a Self-Service Marine Licence would be required in addition to the Deemed Marine Licence. Such works would	The requirement for this consent is not disapplied under the DCO. These consents will be applied for, following further detailed design when the required level of detail becomes available regarding river works.

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Issue	Consent/licence/ agreement and legislation	Consenting authority	Requirement	Current Position at Deadline 7
			include: reprofiling, moving material, specific construction activities, maintenance, dredging, and the deposit or removal of any substance or object.	
Permits for road works and street works	Schemes made under the Traffic Management Act 2004	Local authority	To book road space, enable the coordination of works and put in place temporary traffic management on local roads.	The DCO proposes to apply local authority permit schemes subject to modifications that are compatible with the precedented approach to disapplying provisions of the New Roads and Street Works Act 1991, and which would ensure that conditions which may conflict with an Order (if granted) could not be imposed on National Highways.
Hyperbaric working	The Work in Compressed Air Regulations 1996. Regulation 21 of the 1996 Regulation grants the Health and Safety Executive (HSE) the power to ' <i>exempt any person or class of persons from all or any of the requirements or prohibitions imposed by these [1996] Regulations</i> '.	HSE	HSE to sign off a derogation from the regulations to authorise work above 3.45 bar.	The requirement for this consent is not disapplied under the DCO. Outline requirements agreed with HSE and incorporated into Project specifications and scope. This is recorded in the Statement of Common Ground between National Highways and the Health and Safety Executive [REP1-070] .
Material assets and waste	The Control of Asbestos Regulations 2012	HSE	Required for any work with asbestos.	The requirement for this consent is not disapplied under the DCO. Given the age of some of the buildings to be demolished, it is possible that asbestos will be

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Issue	Consent/licence/ agreement and legislation	Consenting authority	Requirement	Current Position at Deadline 7
				encountered. As such, a licence may be needed. If required, a licence will be sought by the Contractor prior to work taking place.
Discharging waste	Trade Effluent Consent under the Water Industry Act 1991	Local water undertaker	For the purposes of discharging trade effluent from welfare facilities.	The requirement for this consent is not disapplied under the DCO. The requirement for a Trade Effluent Consent will be discussed with the relevant local water undertaker should it be required during the construction phase.

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Appendix B Update on s106 Agreements

- B.1.1 At Deadline 7 the Applicant submitted the draft S106 Agreements with the following local authorities:
- a. Brentwood Borough Council [Document Reference 9.164]
 - b. Essex County Council [Document Reference 9.165]
 - c. Gravesham Borough Council [Document Reference 9.166]
 - d. Kent County Council [Document Reference 9.167]
 - e. London Borough of Havering [Document Reference 9.168]
 - f. Thurrock Council [Document Reference 9.169]
- B.1.2 Alongside the draft agreement each submission also contains an indication of the status of negotiations and overview of the outstanding issues on the main clauses and schedules. The Applicant is mindful that, given the scale and complexity of the Project, there is a need for information submitted into the Examination to be provided in a manner which is proportionate and accessible for all Interested Parties, the Examining Authority (ExA) and the Secretary of State (SoS) to allow for appropriate consideration. In that spirit, the Applicant has not sought to repeat those overviews in this document.
- B.1.3 The S106 Heads of Terms submitted at Application [APP-505] and updated at Deadline 4 [REP4-144] set out the substantive details of obligations that the Applicant considered appropriate, and which should be considered alongside the Development Consent Order (DCO) requirements and other control documents included in the DCO application to give a complete picture as to how the implementation of the DCO will be governed.
- B.1.4 During ongoing negotiation and engagement with the Local Authorities, the Applicant has listened to concerns raised about the scope of the S106 and whether it can appropriately accommodate some of the proposed obligations and in response, has transferred the substantive obligations of 'Skills, Education and Employment' and 'Community Funds' out of the draft S106 agreements and placed them in the Stakeholder Actions and Commitments Register (SAC-R) [Document Reference 7.21 (5)] to provide security that they will be implemented.
- B.1.5 The SAC-R commitments are legally secured through article 61 of the draft DCO (Application Document 3.1). In addition to this transfer, the Applicant has amended the wording in Article 61 of the draft DCO [Document Reference 3.1 (9)] to require the Applicant to implement (previously 'take all reasonable steps') the measures set out in the SAC-R in order to align with the original wording of these obligations.

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