



Lower Thames Crossing

9.32 Final Agreed Statement of Common Ground between (1) National Highways and (2) Southern Water Services Limited (Tracked changes version)

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Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

DATE: December 2023

Deleted: July

DEADLINE: 8

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Planning Inspectorate Scheme Ref: TR010032
Examination Document Ref: TR010032/EXAM/9.32

VERSION: 2.0

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Revision history

Version	Date	Submitted at
1.0	18 July 2023	Deadline 1
<u>2.0</u>	<u>5 December 2023</u>	<u>Deadline 8</u>

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Status of the Statement of Common Ground

This is the Final Agreed Statement of Common Ground between (1) National Highways (The Applicant) and (2) Southern Water Services Limited. All matters have been agreed.

At Deadline 1, the Applicant and Southern Water Services Limited agreed that the Statement of Common Ground was an accurate description of the matters raised and the status of each.

The Statement of Common Ground was left open during Examination in case new matters emerged; however, no new matters have emerged and so the Statement of Common Ground has been converted to a final iteration.

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From: [REDACTED]
Sent: Thursday, 17 February 2022, 12:23 pm
To: [REDACTED]
Subject: RE: SOCG
Hi [REDACTED]
Thanks for sending an updated copy. Both [REDACTED] and I have reviewed the update version and we are happy to proceed.
Thanks for your patience
[REDACTED]

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From

Sent: Thursday, 17 February 2022, 12:23 pm

To

Subject: RE: ETC - Southern Water SOCG [HW/ACH/18-000010]

Hi [REDACTED]

Thanks – I have had confirmation from Southern that they are c

Kind regards,

[REDACTED]

A high-level overview of the engagement undertaken is summarised in Appendix A.¶

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1 Introduction

1.1 Purpose of the Statement of Common Ground

1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the Development Consent Order (DCO) application for the proposed A122 Lower Thames Crossing (the Project) made by National Highways Limited (the Applicant) to the Secretary of State for Transport (Secretary of State) under section 37 of the Planning Act 2008 on 31 October 2022.

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1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the Applicant and Southern Water Services Limited, and where agreement has not been reached.

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1.1.3 This final version of the SoCG has been submitted at Examination Deadline 8.

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1.2 Principal Areas of Disagreement

1.2.1 On 19 December 2022 the Examining Authority made some early procedural decisions to assist the Applicant, potential Interested Parties and themselves to prepare for the Examination of the DCO application.

1.2.2 One of these procedural decisions was to use a tracker recording Principal Areas of Disagreement in Summary (PADS).

1.2.3 The PADS Tracker would provide a record of those principal matters of disagreement emerging from the SoCG and should be updated alongside the SoCG as appropriate throughout the Examination with the expectation that a revised PADS Tracker should be submitted at every Examination deadline.

1.2.4 Southern Water Services Limited elected not to produce a PADS Tracker, indicating to the Applicant that they were content that the number of outstanding matters within the SoCG was insufficient to warrant the exercise.

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2 Matters

2.1 Final position on matters

- 2.1.1 A position statement on engagement undertaken between the Applicant and Southern Water Services Limited is presented in Appendix A.
- 2.1.2 The outcome of this engagement is presented in Table 2.1 which details and presents the matters that are agreed between (1) the Applicant and (2) Southern Water Services Limited.
- 2.1.3 In Table 2.1, relevant issues relating to the draft DCO articles and Requirements in Schedule 2 to the draft DCO have been identified under the heading 'DCO and Consents'.
- 2.1.4 In the column 'Item No' in Table 2.1, 'RRN' indicates a matter entered into the SoCG as a result of content in the Relevant Representation, 'RRE' indicates an existing SoCG matter that was also raised in the Relevant Representation.
- 2.1.5 At Examination Deadline 8, there are 19 matters in total, of which all are agreed.
- 2.1.6 This is the final Statement of Common Ground between the Applicant and Southern Water Services Limited.

Table 2.1 Final Position on Matters

Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
DCO and Consents					
Utility land/rights	2.1.1	Confirmation required regarding those rights associated with the Southern Water apparatus being acquired for the purposes of the Project.	The Applicant has provided details to Southern Water of all apparatus impacted by the Project. The draft DCO contains the appropriate powers necessary for the diversion of Southern Water Services Limited's (SWS's) apparatus, including the powers necessary to acquire the rights required	Draft DCO Document Reference 3.1 (10)	Matter Agreed

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In the matters table in Section Error! Reference source not found. of this SoCG, 'Matter Not Agreed' indicates agreement on the matter could not be reached following significant engagement, and 'Matter Under Discussion' where these points will be the subject of ongoing discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. 'Matter Agreed' indicates where the issue has now been resolved. ¶
In Table 2.1,

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In Table 2.1, relevant issues relating to the dDCO articles and Requirements in Schedule 2 to the dDCO have been identified under the heading 'DCO and Consents'. ¶

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Deleted: and 'DLX' indicates a new matter added during Examination at/around that deadline.

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Topic	Item No.	Southern Water Services Limited Comment	<u>The Applicant's Response</u>	Application Document Reference	Status
			<p>for that diversion, for any temporary works, and to extinguish rights for existing apparatus.</p> <p>The protective provisions <u>once agreed, will</u> make it clear that regardless of any provision in this Order or anything shown on the land plans, the Applicant must not acquire any apparatus otherwise than by agreement.</p>		
Utility land	2.1.2 RRE	Confirmation required regarding impacts on Southern Water's wider land interests, both directly and indirectly. Southern Water is currently undertaking a review of this.	<p>The Protective Provisions, <u>once agreed, will</u> sufficiently protect <u>SWS's</u> access to their apparatus. The detailed access arrangements will be set at detailed design.</p> <p>The Applicant understands that SWS are content with the extent of acquisition (as this predominantly relates to acquisition of land in which SWS have rights, rather than actual SWS land holdings). The Applicant understands that this is no longer a SWS concern on its side agreement discussions and therefore considers this point resolved.</p>	<u>Draft DCO [Document Reference 3.1 (10)]</u>	Matter Agreed
Division of responsibility	2.1.3	Confirmation required regarding the division of responsibility being in place ahead of start on site date.	The DCO, as drafted, makes the Applicant solely responsible for the discharge of Requirements and other obligations regarding the conduct of the works (see paragraphs 1.4.3 and 1.4.4 of ES Appendix 2.2: Code of Construction Practice (CoCP)). Where responsibility for the conduct of certain works is subsequently transferred to a third party (e.g. a utility in respect of significant works to their infrastructure), the division of responsibility for	<u>Draft DCO [Document Reference 3.1 (10)]</u> <u>ES Appendix 2.2: Code of Construction Practice [Document</u>	Matter Agreed

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Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
			the discharge of such obligations as between the Applicant and that third party would be determined on a contractual basis between them. Engagement between the parties on this matter is ongoing <u>and is expected to be concluded to satisfaction of both parties.</u>	<u>Reference 6.3 ES Appendix 2.2 (8)</u>	
Legal agreement	2.1.4	Confirmation required regarding the Construction Agreement for Southern Water Services Limited works being in place ahead of start on site date	The Applicant notes that SWS wish to progress the Construction Agreement but this matter sits outside the DCO process and is a matter for post consent/detailed design (although discussions may commence earlier). SWS and the Applicant's Legal and Commercial Teams are working on the agreements. It is proposed that the agreement will be in place prior to the commencement of works. SWS and their apparatus are otherwise protected by the protective provisions. This is not a matter that will be resolved through the Examination process.	N/A	Matter Agreed
Interface management	2.1.5	Confirmation required regarding the Interface management for Southern Water Services Limited works being in place ahead of start on site date.	Interface management for the SWS works is the responsibility of the Applicant's Contractor. Interface management and coordination of the works will be ongoing both pre and post DCO. This will be agreed between the parties as set out in item 2.1.4 above. SWS are to undertake works to their network associated with the diversions on the Applicant's behalf.	N/A	Matter Agreed

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 ES Appendix 2.2: Code of Construction Practice [Application Document [APP-336](#)]

Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
Dewatering and tunnel boring risk	2.1.6 RRN	Given the Project involves the construction of a tunnel and cuttings, Southern Water requires further information on dewatering activities and tunnel boring risk (and any proposed mitigations), given that these activities have the potential to give rise to impacts outwith the Order limits.	<p>Information on the tunnelling and proposed groundwater control activities are included in Environmental Statement (ES) Chapter 2: Project Description.</p> <p>The assessment of the impacts of the Project on groundwater levels, flows, groundwater quality and Groundwater Dependent Terrestrial Ecosystems (GWDTEs) south of the river Thames is addressed in ES Appendix 14.5: Hydrogeological Risk Assessment.</p> <p>The Project will not intercept the water table in the Chalk aquifer within the capture zones (either SPZ1, SPZ2 or SPZ3) of Southern Water groundwater abstractions and therefore no significant dewatering impacts (either temporary or permanent) are anticipated.</p> <p>The modelling of the effects of the tunnelling works and relative mitigations on groundwater to the south of the River Thames is detailed in Annex J: Ground Protection Tunnel and Main Tunnels Groundwater Model – Technical Note of ES Appendix 14.5.</p> <p>The assessment of the impacts of utilities works is covered in Annex Q: Utilities Assessment (Groundwater) of ES Appendix 14.5.</p> <p>The Applicant is committed to implement a number of mitigation measures through the Register of Environmental Actions and Commitments (REAC), which forms part of ES Appendix 2.2: Code of</p>	<p>ES Chapter 2: Project Description [APP-140]</p> <p>ES Appendix 2.2: Code of Construction Practice [Document Reference 6.3 ES Appendix 2.2 (8)]</p> <p>ES Appendix 14.5: Hydrogeologic al Risk Assessment [APP-458 and APP-459]</p> <p>5.4.1.1 Statement of Common Ground between (1) National Highways and (2) the Environment Agency [REP7-102],</p>	Matter <u>Agreed</u>

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Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
			<p>Construction Practice (CoCP). Groundwater control mitigation is captured under REAC commitments RDWE018a (Ground protection tunnel), RDWE018b (Ground protection tunnel), RDWE020 (Ground treatment), and RDWE027 (Tunnel lining specification).</p> <p>No groundwater control measures (including dewatering) are anticipated at the South Portal, because this structure would be above the maximum recorded water table in the Chalk.</p> <p>ES Appendix 14.5: Hydrogeological Risk Assessment concludes that the residual impacts of the Project on groundwater, with mitigation measures in place, would not be significant.</p> <p>ES Appendix 14.5: Hydrogeological Risk Assessment and its annexes have been accepted by the Environment Agency. The Environment Agency's position is reflected in Table 2.1 of the SoCG between the Applicant and the Environment Agency under the heading 'Hydrogeology and ground conditions'.</p>		
Groundwater abstraction zones	2.1.7 RRN	Southern Water note that the Project would authorise works within certain of Southern Water's groundwater abstraction capture zones – further information is required from National Highways to confirm that the construction and operation of the Scheme	<p>The assessment of the impacts of the Project on groundwater levels, flows, groundwater quality and Groundwater Dependent Terrestrial Ecosystems (GWDTEs) south of the River Thames is addressed in ES Appendix 14.5: Hydrogeological Risk Assessment.</p> <p>The assessment of the mobilisation of pre-existing contaminants from potential contaminated land</p>	<p>ES Chapter 10: Geology and Soils [APP-148]</p> <p>ES Appendix 2.2: Code of Construction Practice</p>	Matter Agreed

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Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
		<p>would not give rise to any adverse effects on these zones, and that sufficient mitigation measures will be put in place.</p>	<p>within the Order Limits on controlled waters is addressed in ES Chapter 10: Geology and Soils. The Applicant is committed to implement a number of mitigation measures through the REAC, which forms part of the ES Appendix 2.2: CoCP. Mitigation measures to avoid detriment to existing abstractions and water supply systems are captured under REAC commitments GS004 (Chemical and fuel storage), GS005 (Plant refuelling), GS026 (Foundation works risk assessment), GS030 (Temporary and permanent road location), RDWE002 (Temporary drainage design), RDWE012 (Operational drainage maintenance), RDWE019 (Ground treatment), and RDWE034 (Operational drainage – infiltration basins).</p> <p>A groundwater pollution risk assessment of the road runoff is included in Annex O: Operational Drainage Pollution Risk Assessment and Annex M: Infiltration Basins Detailed Assessment South of the River Thames – Technical Note of ES Appendix 14.5.</p> <p>With the proposed mitigation measures in place, the impacts of the Project on controlled waters would not be significant.</p> <p>ES Appendix 14.5: Hydrogeological Risk Assessment and its annexes have been accepted by the Environment Agency. The Environment Agency's position is reflected in Table 2.1 of the SoCG between the Applicant and the Environment</p>	<p>[Document Reference 6.3 ES Appendix 2.2 (8)] ES Appendix 14.5: Hydrogeological Risk Assessment [APP-458 and APP-459] 5.4.1.1 Statement of Common Ground between (1) National Highways and (2) the Environment Agency [REP7-102]</p>	

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Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
			Agency under the heading 'Hydrogeology and ground conditions'.		
Design – Road, Tunnels, Utilities					
Ground Investigation	2.1	Southern Water Services Limited assigned Clancy to carry out Ground Investigation [to inform the detailed design]. Clancy will not have access to some locations until LTC have full control and access to the land.	Supplementary Ground Investigation will be carried out before the undertaking of the works to inform the design. Access to all areas to carry out the Ground Investigation works is to be arranged with the Applicant.	N/A	Matter Agreed
Trial holes	2.1.9	The Project have provided data on 100 number trial holes to Southern Water Services Limited following a request for this information to enable validation of the design.	A design validation period has been included in the programme to validate the design based on the output of the trial holes and surveys. This will inform the final detailed design. If further trial holes or ground investigation are required, the locations and the undertaking of these will need to be subject to commercial discussions and agreement between the parties.	N/A	Matter Agreed ,
Coordination meetings	2.1.10	High Speed 1 (HS1) coordination meetings: some key interface issues have been raised during the conversations with HS1. However, Southern Water Services Limited is not able to respond to all the queries until a Contractor to undertake the works is assigned and onboard.	Upon appointment of the Applicant's Contractor and SWS's contractor, issues with HS1 will be worked through. It is expected that, by the end of the first quarter of 2024, SWS will have a contractor onboard and discussions regarding the interfaces relating to this asset (Asset ID W-SW-PW-0010) and the proposed mitigation measures can be implemented between relevant parties.	N/A	Matter Agreed

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Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
Coordination meetings	2.1.11	Conflict of works between the utilities at Thong Lane (South) / Inn on the Lake.	The Applicant understands that this concern relates to detailed design programming of works. The detailed design is to be coordinated <u>between</u> the <u>Applicant and the Applicant's</u> appointed Contractor <u>with input from SWS as required</u> . Contained within the draft DCO and Sheet 4 of the <u>Works Plans</u> there is adequate provision in which to resolve any clashes between the following Works: Work Nos. MU7, MU9, MU10, MU11, MUT1, MUT2, G1a and G1b.	<u>Draft DCO [Document Reference 3.1 (10)]</u> <u>Works Plans Volume B Composite [REP7-038]</u>	Matter <u>Agreed</u>
Temporary connections	2.1.12	Southern Water Services Limited need to run capacity checks and modelling. If the model indicates the need for network reinforcement, there will be a risk related to the timeline between the time to deliver the diversions, and time to deliver the temporary connections.	The Applicant acknowledges that SWS will need to undertake modelling with regards to the temporary connections that may be required to construct the Project. SWS business channels to discuss with the Applicant the temporary connections route. The Applicant acknowledges this scope may have implications but seeks to work with the Applicant's Contractor and SWS at the earliest opportunity to assess and mitigate these impacts so far as reasonably possible. <u>The Applicant has communicated this information in its response to ExQ1 10.3.1</u>	<u>Responses to the Examining Authority's ExQ1 Appx F - 10. Road Drainage, Water Environment & Flooding [REP4-193]</u>	Matter <u>Agreed</u>
Temporary diversions	2.1.13	Temporary diversions: uncertainty around Thong Lane. SWS is awaiting a confirmation from LTC of: 1 – if the bridge will be built then no need for temporary diversions.	Work No. MUT1, as shown on Sheet 4 of the <u>Works Plans</u> , is promoted within the DCO application as a temporary alignment of a multi-utility corridor across the existing Thong Lane Bridge over the A2 until such point that the new Thong Lane green bridge south is constructed, into which the permanent assets will be located. This	<u>Works Plans Volume B Composite [REP7-038]</u>	Matter Agreed

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 Work Plans Volume B Composite [Additional Submission AS-024]~~

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Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
		2 – if so, route of the temporary diversions.	provision was included to address concerns from SWS regarding the ability to maintain an operational network within this area. The Applicant believes this provision addresses the concerns of SWS regarding the alignment of temporary diversions during the construction of the Project.		
Water diversion	2.1.14	Batch 2: Trenchless Crossing at A2. SWS request that the LTC assess and consent for a horizontal directional drill for the installation of the diverted main west of Park Pale bridge passing beneath the A2.	This relates to Works No. MU2 which is assessed in the DCO application as being undertaken via trenchless methodology (see Table 1.2 of ES Appendix 2.1: Construction Support Information). The outline design has assumed the construction methodology for the A2 trenchless crossing will be via horizontal directional drilling techniques. Whilst this in principle is acceptable to the Applicant, it will have to be agreed with the Applicant's Contractor at the detailed design phase.	ES Appendix 2.1: Construction Supporting Information [AS-049]	Matter Agreed
Water diversion 09A and B for booster station	2.1.15	Water diversion 09A and B: temporary connection for the diversions have a power requirement that will need to be coordinated	The Applicant understands that this concern relates to the detailed design of the Project. The Applicant's Contractor is to consider UK Power Networks (UKPN) phasing and planning to ensure that power is provided in time to accommodate temporary connections. This is a Contractor-led activity that will inform the programme. The Protective Provisions <u>once agreed will</u> otherwise adequately protect to <u>SWS's</u> interests.	<u>Schedule 14, Part 1 of draft DCO [Document Reference 3.1 (10)],</u>	Matter <u>Agreed</u>
Multi-utility corridor division of	2.1.16	SWS Engineering Technical Services have developed a design following technical	The detailed design is to be coordinated by the Applicant's appointed Contractor. Contained within the draft DCO and the <u>Works</u> Plans there is	<u>Draft DCO [Document</u>	Matter Agreed

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Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
responsibility, contained within the Construction Works Agreement		engagement with National Highways. Any changes proposed by the Applicant now, will change the design and have time and cost impact.	adequate provision in which to resolve any clashes between the Works. The Applicant's Contractor and SWS shall work together at the detailed design phase to ensure all requirements and provisions required for SWS and their diverted assets are considered appropriately.	Reference 3.1 (10) Works Plans Volume B Composite [REP7-038]	
Design	2.1.17 RRE	Further work required to understand if protection methods can be implemented or a diversion is required to a SWS asset at the A226 Gravesend Road Compound.	The Protective Provisions <u>once agreed will</u> adequately protect SWS's existing assets. The Applicant will continue to engage with SWS regarding the asset in question to understand if the impact can be mitigated. If it is determined by SWS that the asset would need some form of remediation, whether via diversion or protection, this will be considered in the context of the draft DCO, the impacts assessed, and the necessary consents sought. <u>The Applicant believes that the asset in question passes through plot 13-04 and 13-11 which are only subject to temporary possession powers. Within Article 37 (Statutory Undertakers) of the draft DCO paragraph 3, states that '[subject to paragraph (5), where the power in paragraph (1)(b) is exercised in relation to any Order land in respect of which the undertaker takes temporary possession under article 35 (temporary use of land for carrying out the authorised development), the undertaker may only extinguish rights or restrictive covenants in respect of apparatus belonging to statutory undertakers removed or decommissioned</u>	Schedule 14, Part 1 of draft DCO [Document Reference 3.1 (10)]	Matter <u>Agreed</u>

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Work Plans Volume B Composite [Additional Submission AS-024]~~

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Topic	Item No.	Southern Water Services Limited Comment	The Applicant's Response	Application Document Reference	Status
			<p><i>where— (a) the undertaker, in agreement with the statutory undertaker, gives a notice to the landowner of the rights or restrictive covenants proposed to be extinguished; and (b) that notice has been provided prior to giving up temporary possession under article 35.]'</i></p> <p><i>Any works associated with this pipeline, will be authorised by the provisions contained within Schedule 1 Authorised Development, Ancillary Works paragraph (g) and or (p).</i></p> <p><i>Within Schedule 14 (Protective Provisions), Part 1 for the Protection of Electricity, Gas, Water and Sewerage Undertakers there are adequate provisions for the protection of SWS's assets and in provisions contained in paragraphs 10 and 11 for any expenses and costs incurred.</i></p>		
Design	2.1.18 RRE	Southern Water requires further confirmation on all aspects of its apparatus that may need to be diverted and/or may need protections in situ.	<p>The Protective Provisions <u>once agreed will</u> adequately protect SWS interests.</p> <p>Based on the engagement to date, the Applicant believes that there <u>will be</u> adequate provision contained within the DCO to undertake any works required to <u>SWS's</u> apparatus, and any outstanding issues are to be separately agreed between the parties.</p>	<u>Schedule 14, Part 1 of draft DCO Document Reference 3.1 (10)</u>	Matter <u>Agreed</u>
Protective Provisions					
Protective Provisions	2.1.19 RRE	Protective Provisions for SWS as an affected utility undertaker should be included in the DCO for	The Applicant remains in discussions with SWS on Protective Provisions and expects them to be agreed before the end of Examination.	<u>Schedule 14 of the draft DCO Document</u>	Matter <u>Agreed</u>

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		the Project. The Protective Provisions are currently under discussion.		Reference 3.1 (10)	

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Appendix A Engagement activity

A.1.1 The Applicant and Southern Water Services Limited have had extensive engagement since the inception of the Project. There has been engagement and dialogue through the statutory and non-statutory consultation, the various design iterations and releases. The engagement has been in the form of face-to-face meetings, Microsoft Teams meetings, telephone calls and email correspondence.

A.1.2 The parties are content for their engagement to be captured and presented in Table 2.1 of this SoCG.

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Appendix B Glossary

Term	Abbreviation	Explanation
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
High Speed 1	HS1	High Speed 1 is a 109-kilometre high-speed railway between London and the United Kingdom end of the Channel Tunnel. The line carries international passenger traffic between the United Kingdom and Continental Europe; it also carries domestic passenger traffic to and from stations in Kent and east London, as well as Berne gauge freight traffic.
Southern Water Services Limited	SWS	Southern Water Services Limited (SWS) provides over two and a quarter million of people throughout Kent, Sussex & Hampshire Counties providing an area of 4,500 square kilometres, with both clean & foul water management.
Statement of Common Ground	SoCG	This document detailing the issues agreed, under discussion or not agreed at the time of examination
UK Power Networks	UKPN	UK Power Networks is a distribution network operator for electricity covering South East England, the East of England and London.
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.

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Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

National Highways Limited registered in England and Wales number 09346363